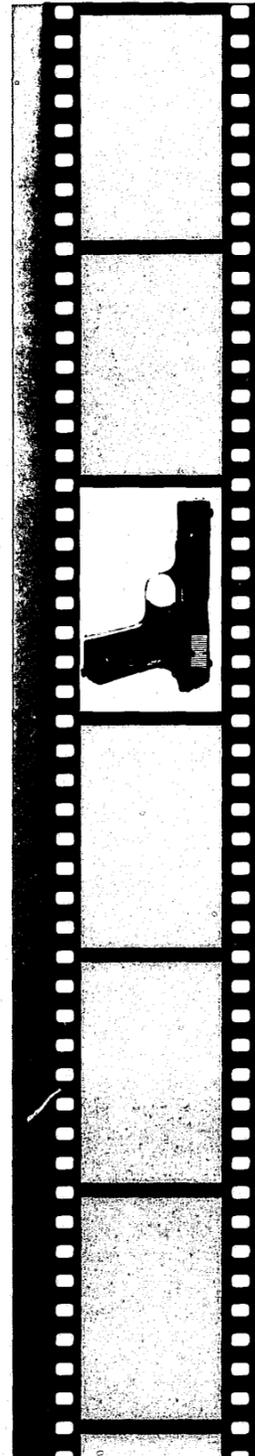


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CRIME FILE
Gun Control

A study guide written by:
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**Moderator: James Q. Wilson, Professor of Government,
Harvard University**

**Guests: J. Warren Cassidy, National Rifle Association
Mark Moore, Harvard University
Nelson T. Shields, Handgun Control, Inc.**

Your discussion will be assisted by some background concerning the ownership and illegal use of firearms in America, and by a review of the strategies that have been proposed, and attempted, for reducing the illegal use of firearms.

Firearms and Violence

Americans own a greater number and variety of firearms than do the citizens of any other Western democracy, and they also use their guns against one another much more often. This special significance of firearms in American life has led to a protracted and acrimonious conflict about gun control. Gun control laws in the United States have not achieved the levels of public safety that their supporters had hoped for. Firearms continue to multiply, and deaths from guns have increased since the early 1960's to roughly 30,000 per year. From the failure of existing gun control laws, opponents conclude that controls cannot work, while proponents declare that existing laws must be better enforced or different kinds of controls tried.

The central task of firearms controls through public law is to reduce the hundreds of thousands of occasions each year when guns are used illegitimately without unduly disrupting the millions of occasions when guns are used legitimately—including hunting, target sports, self-defense, and collecting. A perfect gun control law would eliminate the unlawful use of guns and leave all legitimate users undisturbed. Real world choices involve harder tradeoffs.

What exactly is the "gun problem"? Advocates of control begin by pointing out that more than 20 percent of all robberies and about 60 percent of all homicides are committed with firearms. Their opponents reply that the vast majority of the country's 130 million firearms are not involved in violence, and that crime rather than firearms is the real problem. "Guns don't kill people," they assert, "people kill people."

Serious assault with a gun is, according to the best estimates, three to five times as likely to cause death as a similar attack with a knife, the next most dangerous weapon. And gun robberies are three to four times as likely to result in the death of a victim as are other kinds of robbery.

Firearms are often discussed as a general category, without distinguishing among handguns, rifles, and shotguns. In some respects that approach is appropriate because a rifle or a shotgun, if used in an attack, is at least as dangerous as a handgun. Even a superficial study of statistics on firearms and violence, however, suggests that the handgun presents special problems. The handgun—small, easy to conceal, and relatively unimportant in hunting—accounts for about one-fourth of the privately owned firearms in the country, but it is involved in three-fourths of all gun killings. In the big cities, handguns account for more than 80 percent of gun killings and virtually all gun robberies.

Even though the most common reason for owning a handgun is for household self-defense, studies suggest that loaded household handguns are more likely to kill family members than to save their lives. A Detroit study found that more people died in 1 year from handgun accidents alone than were killed by home-invading robbers or burglars in 4 1/2 years. The discovery that self-defense handguns are from this standpoint a poor investment suggests that rejecting handgun ownership makes sense from a safety perspective.

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even if other families retain their guns. But if unilateral disarmament is rational, why do people not give up their guns voluntarily, and why do handguns continue to proliferate in the cities?

To some extent, urban gun ownership for self-defense results from misinformation about the risk of accidental death and the usefulness of guns in defense of the home. However, it is foolish to think that millions of American families keep handguns merely because they have not read the statistics, or to suppose that showing them data will change their minds. The risk of accidental or homicidal death from a loaded gun in the home—although greater than the chance that the gun will save lives—is nevertheless small. In the majority of homes with handguns, the only real use of the gun may be to make its owner feel safer. People will reject statistics that show otherwise because, even if their guns do not give them any real measure of protection, they have no other way to deal with their fears.

Gun Control Strategies

Simply because the problems are real does not mean that the solutions are easy. Indeed, the extent of the gun problem in the United States should be a warning that reducing gun violence will be difficult and expensive. There are already more than 20,000 gun laws in the Nation to match the thousands of gun killings. Why should gun laws decrease the rate of criminal killings when criminals, by definition, do not obey laws?

A number of different types of gun control strategies have been attempted and proposed. How are these various laws supposed to work, and is it likely that they will?

1. **Place and manner restrictions.** Most of the gun laws in the United States attempt to separate illegitimate from legitimate gun use by regulating the "place and manner" in which firearms may be used. They prohibit the carrying of firearms within city limits or in a motor vehicle, the carrying of concealed weapons on one's person, or the discharging of a firearm in a populated area. Such laws attempt to reduce firearm violence by authorizing the police to intervene before violence or crime actually takes place. Since there are obvious limits to the ability of police to prevent firearm violence and to discover persons who violate place and manner laws, these laws may deter at most a limited amount of gun violence.

2. **Stiffer penalties for firearm violence.** Members of the National Rifle Association have been among the most vocal supporters of laws that increase prison sentences, or make them mandatory, for persons committing crimes with guns. Such laws do not make it harder for potential criminals, or anyone else, to obtain guns, but they are intended to reduce gun crime by making punishments for crimes with guns so severe that potential criminals either will commit the crime without a gun or will not commit the crime at all. More than half of the States have laws providing for longer sentences for criminals who carry or use a gun while committing a felony.

In order to reduce the number of gun crimes, such laws would have to deter persons who would not be deterred by the already stiff penalties for gun crimes. Can the threat of additional punishment succeed? Perhaps the robber could be deterred from using a gun if the punishment for gun robbery were several times greater than that for nongun robbery.

The issue is especially complicated for the crime of gun assault, that is, actual shootings: he who attacks with a gun is already risking the law's maximum punishment if his victim dies. How much additional deterrence can come from lesser mandatory penalties for nonfatal attacks? Proponents of this approach suggest that the apparently severe penalties for crime are misleading; in reality light punishments are often given. Of course, the same thing can happen with mandatory sentences; one way or another they may not be imposed.

There may be some hope of reducing gun crime by increasing the gap between the penalty for that crime and the penalty for other crimes. At the same time, there is reason to doubt that such a program will have a major effect on the rates of gun killings and assaults.

3. Prohibiting high-risk groups from owning guns

Another strategy is to forbid certain high-risk groups from owning firearms. The groups usually covered include those with serious criminal records, the very young, alcoholics, drug addicts, and mental patients. Nearly every State and the Federal Government prohibit some type of high-risk ownership. However, many of these laws do not require proof of eligibility to own a gun before purchase. Instead, the ineligible person will be subject to criminal penalties if caught possessing a firearm. If such laws could reduce the number of guns owned by people subject to the prohibition, they would indeed reduce gun violence. But enforcing such laws is neither easy nor effective. It is not *easy* because, by not requiring purchasers to prove that they are not in the prohibited class, the law is still trying to use the threat of future punishment as a substitute for making it more difficult for high-risk groups to obtain guns. It is not *effective* since most homicides are committed by persons who would qualify for ownership under any prohibition that operated on only a minority of the population.

4. **Permissive licensing.** Many States try to enforce the ban on gun ownership by high-risk groups by requiring people to qualify themselves before they can buy guns. This type of restriction takes one of two forms: a license to buy a gun, or an application to purchase coupled with a waiting period. Permissive licensing is thought to be an advantage over a simple ban on ownership because it makes persons prove that they are eligible to own a gun before they can obtain a license. Such a system does not depend solely on the prudence of the people barred from ownership because they are not thought to be good risks. However, adoption of such a system is also precisely where opponents of gun control draw the line because licensing imposes costs and inconveniences on all gun owners.

Finding appropriate gun control strategies also involves constitutional considerations and the balance between Federal and State responsibility for crime control. The second amendment to the United States Constitution provides for a right of the people to bear arms, and many State constitutions contain similar provisions. While there is dispute as to what that provision of the second amendment means, it has never been held to invalidate Federal or State gun control legislation. Nonetheless, the "right to bear arms" is frequently invoked as a reason to avoid restrictions on legitimate gun ownership and use.

Would licensing work, assuming that the opponents could be outvoted? Like ownership prohibitions, it would not prevent the majority of gun killings, which are committed by persons who would qualify for ownership. But would it at least keep guns from high-risk groups?

The problem with permissive licensing is that it leaves some 35 million handguns in circulation. Half of all the handguns in the United States are acquired secondhand, and most of these are purchased from private parties, who may not ask to see licenses. Moreover, there are 35 million handguns available to steal. In short, it is extraordinarily difficult to let the "good guys" have all the firearms they want and at the same time to keep the "bad guys" unarmed. It does not appear that States with permissive licensing systems made much progress in reducing gun violence during the years when the Federal Government failed to control interstate traffic in most firearms. With stronger Federal aid, the potential of such laws is still limited, but it is not known how limited.

5. **Registration.** Under registration laws, every gun is registered as the property of a particular licensed owner. Several States and cities have such laws, often coupled with other types of gun controls. Gun registration thus usually requires owners to provide information about the guns they own, in addition to the information about themselves that is required to obtain a license. An analogy to the registration system for automobiles is often drawn by supporters of such controls.

The best argument against registration is clearly its cost, but the debate centers on the purpose of registration. If criminals—who, it must be remembered, do not obey the law—fail to register their guns, how can registration possibly reduce gun crime? The answer usually offered is that registration is designed only as a support to any system that seeks to allow some people, but not others, to own guns. If such a system is to prove workable, then some method must be found to keep guns where they are permitted by making each legitimate gun owner responsible for each gun he owns. After all, some of the "good guys" would otherwise transfer guns through the second-hand market to "bad guys" and thus frustrate permissive licensing systems. If registration helped to keep the "good guys" good, it could help prevent gun violence, even if not a single criminal were polite enough to register his gun.

It is also possible that gun registration will deter the qualified owner from misusing his gun since it can be traced to him; yet no one is quite sure how much deterrence would result. All in all, it is difficult to estimate how much additional prevention a licensing system obtains by requiring registration, but it seems self-defeating not to require registration of some kind in any system that seeks to bar certain groups from gun ownership.

6. **Cutting down on the handgun.** The most extreme solution to firearms violence is to reduce substantially the number of handguns owned by civilians. Under this proposal, no one would be permitted to own a handgun unless he had a special need for it. Two approaches have been enacted: restrictive licensing and handgun bans. Under restrictive licensing, persons who want to own a gun must establish their need for one before they can receive a license. Under a handgun ban, certain classes of persons (for example, police officers and members of gun clubs) are exempted from the operation of the law. Thus, a handgun ban is not necessarily a more restrictive control than restrictive licensing; whether it is depends on the classes allowed to possess guns. Moreover, handgun bans usually exert no direct control over those who are exempt from its coverage, whereas a restrictive licensing system licenses those who would probably be exempted under a ban. A significant minority of American cities have experimented with either restrictive licensing or handgun bans.

Many gun owners doubt that such plans will work because "when guns are criminal, only criminals will have guns." Moreover, they argue, if handguns are illegal, criminals will switch to other kinds of guns, a development that will not reduce gun crime but will spur efforts to confiscate all kinds of civilian firearms.

Both of these arguments have some force, but they must be balanced against important facts about the relationship between guns and violence in the United States. First, guns are more lethal than other weapons. Thus, substantially reducing the number of handguns should reduce the number of homicides resulting from accidental weapon use and the use of a weapon to settle an argument, even though some criminals will undoubtedly continue to use handguns. Second, it appears to be harder than one might suspect for the handgun robber or attacker to switch to a rifle or other "long" gun. For this reason, the average handgun is many times more likely to kill than the average long gun. States that try to restrict handguns find that their major problem becomes not the long gun but the illegal handgun.

The real difficulty in restricting the handgun is how to reduce the number of such guns in circulation enough to make headway against gun violence, and, if it can be done, how long this will take and what its cost will be. It is possible, by law, to put a stop to the manufacture of handguns at any time, but even if this were done, some of the 35 million handguns in the civilian inventory would still be killing people in the 21st century. Under the best conditions, collecting the vast arsenal of civilian handguns would be neither easy nor swift. Americans do not live under the best of conditions—the very crime rate that makes many people want gun control also makes gun control extremely difficult to achieve. How many citizens would turn in their guns when the law took effect? How long would it take to remove the guns from the streets, where they do the most harm? Should urban households be left fearfully defenseless? Is it desirable to add yet another victimless and unenforceable crime—possession of a handgun—to the depressingly long list of such crimes that have already accumulated? These are not easy questions to answer.

Finding appropriate gun control strategies also involves constitutional considerations and the balance between Federal and State responsibility for crime control. The second amendment to the United States Constitution provides for a right of the people to bear arms, and many State constitutions contain similar provisions. While there is dispute as to what that provision of the second amendment means, it has never been held to invalidate Federal or State gun control legislation. Nonetheless, the "right to bear arms" is frequently invoked as a reason to avoid restrictions on legitimate gun ownership and use.

The traditional division of authority for crime control between the Federal Government and the States also limits the extent of Federal involvement in gun control. Street police work is the province of local government in the United States. Gun control laws that require police enforcement must be carried out by municipal police.

But whatever gun control strategies are tried, it seems that local initiatives must have State and national support if they hope to achieve their goals. When jurisdictions pass strict laws against certain kinds of gun sales and resales, guns leak in from other jurisdictions that do not have the same controls. Moreover, the existing Federal law designed to assist States and localities has not been adequately enforced.

Any gun control policy will be something of an experiment in the coming years. It is not known how effective any law can be when there are so many guns in circulation and so much pressure to keep them there.

References

Cook, Philip. 1983. "The Influence of Gun Availability on Violent Crime Patterns." In *Crime and Justice: An Annual Review of Research*, vol. 4, edited by Michael Tonry and Norval Morris. Chicago, Illinois: The University of Chicago Press.

Newton, George D., Jr., and Franklin E. Zimring. 1969. *Firearms and Violence in American Life: A Staff Report Submitted to the National Commission on the Causes and Prevention of Violence*. Washington, D.C.: National Commission on the Causes and Prevention of Violence.

Wright, James D., Peter H. Rossi, and Kathleen Daly. 1983. *Under the Gun: Weapons, Crime, and Violence in America*. New York: Aldine Publishing Company.

Discussion Questions

1. Why are rates of gun ownership and criminal use of guns higher in the United States than in other Western countries?
2. If handguns were outlawed, would firearm violence decrease?
3. Which would be the most effective way to control the illegal use of guns:
 - a. by imposing stiffer penalties for firearm violence;
 - b. by denying guns to high risk groups; or
 - c. by increasing control of ownership by licensing or registration?
4. Would you support a ban on handguns? Why? Why not?

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