

GETTING SERIOUS ABOUT GUNS

FRANKLIN E. ZIMRING

Mr. Zimring is an associate professor of law at the University of Chicago and associate director of the university's Center for Studies in Criminal Justice. In 1968-69 he served as director of Research for the Task Force on Firearms of the National Commission on the Causes and Prevention of Violence and co-authored that task force's report, "Firearms and Violence in American Life."

Gun control is a subject considerably more complex than dinner party conversations or speeches at police chiefs' conventions might indicate. And two aspects of the usual gun control argument cast doubt on the quality of data and the depth of insight on both sides of this loudly polar conflict. First, despite the diversity of gun control strategies, people are either firmly "for" or determinedly "against" gun laws in general, but are largely uninterested in the specifics of any particular law. Second, on both sides of the debate the hypothesis of conspiracy is advanced to explain why the position supported has not achieved national dominance. Advocates of gun laws talk of the highly organized National Rifle Association (NRA) and its palatial eight-story headquarters in Washington, D.C., as if this one corporate shell were thwarting gun laws with vast popular support. By contrast, NRA members complain, perhaps a bit defensively, of an "anti-gun faction" or "anti-gun cabal," in cahoots with the Americans for Democratic Action and financed by federal money during the later years of the Johnson administration.

In this embittered atmosphere the arguments have changed little over the years, and the debate has proceeded in almost a factual vacuum. Proponents of laws that would register guns point out that last year there were only three gun murders in Tokyo, which implies, presumably, that registration would produce similar benefits in Detroit. NRA people vacillate between arguing that guns have little to do with the problem of violence in the United States and warning that the problem is so serious that no control could possibly have any effect.

There is, in fact, an important relationship between guns, particularly handguns, and violence in the United States. At the same time, it is far from easy to pass and administer laws that promise to have a salutary effect on gun violence. To defend this conclusion, no doubt unsatisfying to gun "lovers" and gun "banners" alike, I propose to discuss the relationship between guns and violence, the purpose and limits of different types of control laws, and a few of the things that must be learned before we can find sensible solutions to our gun problems.

What exactly is the "gun problem"? Advocates of control start by pointing out that more than one-third of all robberies, one-quarter of all serious assaults, and 65 per cent of all homicides are committed with firearms. Their opponents reply that the vast majority of the country's 100 million guns are not involved in violence, that what we really have is a crime problem, not a gun problem. (Guns don't kill people, people kill people.) In a trite sense this reply is to the point: firearms would not

contribute to the seriousness of our crime problem if we had no crime. But guns are not just another weapon used in crime. Serious assault with a gun is five times as likely to cause death as a similar attack with a knife, the next most dangerous weapon. And gun robberies are four times as likely to result in the death of a victim as are other kinds of robbery.

It is difficult to understand this lethal relationship without referring to the motivational background of the typical homicide. Obviously, if most of the 16,000 killings in this country last year were the result of single-minded attempts to kill at any cost, the presence or absence of a gun would make little difference, because a number of other potentially lethal weapons are available, and attackers would merely shift to these. But most killings are the result of disputes between people acquainted with each other, where spontaneous violence is generated and the weapon is used to win a fight or wreak vengeance or injury, whether or not this means that death will result. About two-thirds of all gunshot killings in Chicago involve only one wound, and there is a great deal of similarity between attacks that kill and serious assaults that do not: fatal attacks and nonfatal attacks involve the same kinds of people in the same kinds of situations, and take place during the same days and hours. Our violence problem might be thought of as a national lottery involving 250,000 victims a year, of which 16,000 are selected by chance to die. There are exceptions to this pattern—coldblooded assassinations that are beyond any weapons control—but the great majority of homicides, and the bulk of the recent increase in homicide, are precisely the kind of killings that can be substantially reduced by getting guns out of the hands of potential attackers.

So far I have been discussing guns as a general category, making no distinctions among handguns, rifles and shotguns. In a sense that is appropriate, because a rifle or a shotgun, if used in an attack, is at least as dangerous as a handgun; but even a cursory study of statistics on firearms and violence suggests that the handgun is a special problem that merits a special set of solutions. The handgun—small, easy to conceal, unimportant in hunting—accounts for about one-quarter of the privately owned firearms in the country, but is involved in three-fourths of all gun killings. In the big cities, handguns account for more than 80 per cent of gun killings and virtually all gun robberies.

If crime statistics suggest that the handgun is a special kind of weapon in this country, statistics on gun ownership confirm this impression. Eight years ago a national sample of people with some shooting experience was asked what were good reasons for owning long guns and handguns. Ninety-five per cent mentioned hunting as a good reason for owning a long gun; only 16 per cent mentioned hunting with a handgun. But 71 per cent of the shooters mentioned self-defense as a good reason for owning a handgun. This figure strikes close to the central irony of the handgun problem in the cities. As fear of crime and racial violence increases, handgun sales triple;

as the number of loaded guns increases, the use of firearms in crime increases; as gun use increases, the death rate from violent crime increases; when this happens, citizen fear of crime increases still more.

The self-defense aspect of this "vicious circle" deserves further attention. Even though the great majority of handguns are kept for household self-defense, it is absolutely clear that the handgun in your house is more likely to kill you or a member of your family than to save your life. In Detroit more people died in one year from handgun accidents alone than were killed by home-invading robbers or burglars in four and a half years. And it is rare indeed that a household handgun actually stops the burglar who tries to elude you or the robber who counts on surprise and a weapon of his own. So the gun that will not save your life, more than ninety-nine times out of a hundred, will not save your color television either. The discovery that self-defense handguns are a poor investment, dismal though the news may be to the fearful urban dweller, does yield one promising conclusion: giving up your gun makes sense, even if nobody else gives up his gun. But if unilateral disarmament is rational, why don't people just give up their guns voluntarily? And why do handguns continue to proliferate in the cities?

To some extent, the vicious circle of urban guns is the result of misinformation about the risk of accidental death and the usefulness of guns in defense of the home. But it is foolish to think that millions of American families keep handguns merely because they have not read the statistics, or to suppose that shipping them the latest gun control article will change their minds. The risk of accidental or homicidal death from a gun in your home—though far greater than the chance that the gun will save life—is nevertheless small. In the great majority of gun-owning homes, the only real use of the gun is to make its owner feel less uneasy about the possibility that a hostile stranger will invade his home. This feeling of well-being is a statistical illusion, but an emotional reality. People will fight the statistics that show otherwise because, if their guns do not give them any real measure of protection, they have no other way to deal with their fears. In addition, everything that makes the handgun a special problem in America also makes it hard to understand that the handgun is not effective against the home-invading criminal. How can something so deadly be so ineffective? Trying to persuade someone that the gun in his house is not really protecting him is like trying to persuade a nervous friend that flying in a jet plane—7 miles above ground and going 600 miles an hour—is really safer than driving the family car to Florida.

There is one other point about gun use in this country

that must be understood before it is possible to discuss sensibly the effects that various gun laws might have. There seems to be a strong relationship between the general level of handgun ownership for self-defense and the extent to which guns are used in offensive violence. That is what makes the vicious circle vicious. Evidence on this point comes from two sources. First, those parts of the country with the highest levels of gun ownership also have the highest percentage of offensive violence with guns. Second, as self-defense gun ownership increased in the 1960s, so did the extent to which guns were employed in robberies and other criminal attacks. The most striking data on this trend come from Detroit, where racial disorders in 1966 and 1967 set off a wave of gun purchases. Accidental gun deaths tripled from 1966 to 1967, criminal gun attacks increased twice as fast as did all other types of attack, and criminal gun killings increased ten times as fast as killings by all other means in the four-year period from 1965 to 1968.

But just because the problems are real does not mean that solutions will come easily. Indeed, the extent of the gun problem in this country should be a warning that to reduce gun violence will be a difficult and expensive task. We already have thousands of gun laws in this country to match the thousands of gun killings, and why should gun laws decrease the rate of criminal killings when criminals, by definition, do not obey laws? These sober reminders from the local rifle association should be a guide in reviewing a number of different types of gun control strategies that have been discussed in recent years. How are these various laws supposed to work? What evidence do we have that they will? How much will they cost?

Stiffer penalties for gun violence. It is not true that the National Rifle Association opposes all laws intended to reduce gun violence. In fact, the members of that organization have been the most vocal supporters of laws that would increase and make mandatory prison sentences for committing crimes with guns. Such laws do not make it harder for potential criminals, or anybody else, to obtain guns. But the law is supposed to reduce gun crime by making it so much more costly than crime without a gun that potential criminals will either commit the crime without a gun or not commit the crime.

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 extra punishment work? There is very little hard evidence on this question, but there is also no reason to believe, out of hand, that such marginal deterrence is impossible. Perhaps the robber could be deterred from using a gun if the punishment for gun robbery were three times as great as for nongun robbery. But there are problems.

First, do we want to make the punishment for gun robbery so high that the extra punishment risked if the robber kills his victim seems relatively small? Second, it may be that the only way to make the distinction important is to reduce the punishment for nongun robbery. Third; punishment for robbery is already quite severe, at

NOTICE TO SUBSCRIBERS

Because of postal regulations, *The Nation's* mailing list must be arranged according to Zip Codes. Therefore—with any correspondence about address changes, renewals, etc.—please enclose the address label from your *Nation*. If you don't have a label, be sure to include your Zip number, and *be sure it is correct*. Without it, we cannot find your name plate.

least on the books. How much more potential deterrence do we have left in the system?

The issue of extra deterrence is more complicated when the crime of gun assault, that is, an actual shooting, is discussed, because he who attacks with a gun is already risking the maximum punishment of the law if his victim dies. How much extra deterrence can come from making lesser penalties for nonfatal attack mandatory? Proponents of this approach suggest that while the penalties for crime look severe at present, in reality light punishments are often given. Granting the truth of this observation leads, however, to the further question of whether the same pressures might not eat away at mandatory penalties for gun crime. One is left feeling that there may indeed be some hope of reducing gun crime, particularly gun robbery, by increasing the gap between the penalty for that crime and

to own a gun; the ownership ban is supposed to be effective because the ineligible person will be subject to criminal penalties if he is caught possessing a gun. That is some improvement over just passing stiffer penalties for gun crime, because the law attempts to separate the potential criminal from his gun before he commits a crime with it. And if such laws could reduce the number of guns owned by people subject to the prohibition, they would indeed reduce gun violence. But trying to separate out a small group of "bad guys" (who can't have guns) from a large group of "good guys" (who will continue to own millions of them) is neither an easy nor a very effective project. It is not easy, since if the purchaser doesn't have to prove he is not in the prohibited class, the law is still trying to use the threat of future punishment as a substitute for a system whereby it is physically more difficult for high-risk groups to obtain guns. It is not effective, since most homicides are committed by "good guys," that is, persons who would qualify for ownership under any prohibition that operated on only a small part of the population.

Permissive licensing. About half the jurisdictions that forbid ownership of guns by high-risk groups try to enforce this ban by requiring that people must have licenses to buy guns. That is thought to be an advantage over a simple ban on ownership because a person must prove that he is eligible to own a gun before he can get a license. Such a system no longer depends solely on the prudence of the people barred from ownership precisely because we do not think they are good risks. But such a system is also precisely where gun enthusiasts draw the line and start opposing controls because licensing imposes costs on all gun owners. 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 qualify for ownership. But would it at least keep guns from high-risk groups? The problem with permissive licensing is that it leaves some 30 million handguns in circulation. Half of all the handguns in the country are acquired secondhand, and more than half of these are purchased from private parties, who may not ask to see licenses. Then there is the fact that there are 30 million handguns available to steal. It is, in short, extraordinarily difficult to let the good guys have all the guns they want and at the same time keep the bad guys unarmed. And it does not appear that states with permissive licensing systems made much of a dent in gun violence during all the years when the federal government failed to control interstate traffic in most firearms. With stronger federal aid, we know that the potential of such laws is still limited, but we do not know how limited.

Registration. This procedure records that a particular gun is the property of a particular licensed owner. Gun registration thus requires that the owner provide information about the guns he owns in addition to the information about himself that is required to obtain a license. For reasons that I find obscure, registration is one of the most feared of all types of gun control proposals, and the one that gun owners find hardest to understand. In part, the fear is based on anxiety about "Big Brother" keeping information about details of personal life, and in part on the belief that registration is some kind of subversive plot to



other crimes. At the same time, it is difficult to believe that such a program will have a major effect on the rate of gun killings.

Prohibiting high-risk groups from owning guns. Another approach endorsed by the NRA is to forbid certain high-risk groups from owning guns. The groups usually covered include those with serious criminal records, the very young, alcoholics and drug addicts. Forty-six states and the federal government have some type of high-risk ownership prohibition on their books. Many of these laws do not go so far as to make a person *prove* his eligibility

lower the country's ability to resist invasion by a foreign power. But the center of the debate is about the purpose of registration: if criminals, who, it is to be remembered, don't obey the law, do not register their guns, how can registration possibly reduce gun crime? The answer is that registration is designed only as a support to any system that seeks to allow some people to own guns but not others. 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 pass on guns through the secondhand 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.

There is also a theory that gun registration will deter the qualified owner from misusing his gun, since it can be traced to him, but nobody is quite sure how much prevention this technique will achieve. All in all, it is difficult to estimate how much extra prevention a licensing system will obtain by requiring registration, but it seems perverse not to require registration of some kind in any system that seeks to prevent gun violence by barring certain groups from gun ownership.

Cutting down on the handgun. The most extreme solution that has been proposed in the gun control debate is the substantial reduction of the number of handguns owned by civilians. This proposal reacts to the frustrations of distinguishing the good guys from the bad guys by suggesting that nobody should be permitted to own a handgun unless he has a special need for it. Since the only people who can show that a handgun is less likely to kill them than save their lives are small shopkeepers, security guards and police, this approach would make nine out of ten handguns illegal. An interesting variation of this theme is Rep. Abner Mikva's plan to ban the manufacture and transfer of all handguns and wait patiently for the civilian supply to dry up. Another variation is the proposed ban on producing cheap .22 caliber handguns, "Saturday night specials." Gun owners, who have always feared that gun control groups were secretly planning to confiscate weapons, felt vindicated when this proposal emerged in the late 1960s. They doubt that such a plan will work because, first, "when guns are criminal, only criminals will have guns," and, second, if handguns are illegal, criminals will switch to other kinds of guns, which will not reduce gun crime but will result in moves toward confiscating all kinds of civilian firearms.

Both of these arguments have some appeal, but both ignore important facts about the relationship between guns and violence in the United States. It is, after all, the case that the use of guns in crime tends to rise and fall with the general level of gun ownership. Thus, substantially reducing the number of handguns will substantially reduce the amount of handgun violence, even though some criminals will undoubtedly continue to use handguns. Second, it is harder than one might suspect for the handgun robber or attacker to switch to the long gun. For that reason the average handgun is nine times as likely to kill as the average long gun, and states which try to restrict

handguns find that their major problem then becomes not the long gun but the illegal handgun.

The real problem with the case for restricting the handgun is the question of whether any law can reduce the number of such guns in circulation enough to make a dent in gun violence, and, if so, how long it will take and at what cost. We could, by law, stop the manufacture of handguns next year, but studies show that some of the guns we made last year would still be killing people in the 21st century. Under the best of conditions, collecting the vast arsenal of civilian handguns would be neither an easy nor swift task. And gun control is necessary right now precisely because we do not live under the best of conditions—the very crime rate that makes gun control most necessary also makes gun control extremely difficult to achieve. How many citizens will turn in their guns when the clock strikes twelve? How long will it take to get the guns off the streets, where they do the most harm? Do we really want to leave urban households fearfully defenseless? Is it desirable to add yet another victimless and unenforceable crime (possession of a handgun) to the depressingly large list of such crimes that we have already accumulated?

I have belabored the various gun control options in the hope that such a discussion can help to inform some basic questions. How far do we want to go in controlling guns? Should controls be federal, state or local? These will be the pressing questions of the 1970s, and the time is ripe for setting out at least some tentative answers. The reader may have noticed that the more a particular gun control strategy hurts, the more likely it is to achieve substantial reduction in gun violence. Stiffer penalties for gun violence hurt only gun criminals and don't achieve much. Permissive licensing and registration are more inconvenient for gun owners, but not all that much more. The problem is that they may not be a sufficient curb on the handgun epidemic in the cities. Laws that attempt to cut down on the number of handguns would cut down on gun violence if they really made a dent in our handgun population, but they would also leave millions of American homes with no defense against crime stronger than fingernail biting. Of course, abolition of the handgun is rational, in the sense that it would make life safer in the homes that give up their guns; but I have yet to convince my next-door neighbor that my definition of safety, as distinct from a sense of security, should necessarily be his. And even if those of us in the cities must impose gun control on ourselves, should we demand this as a nationwide solution to the problem?

Perhaps the stickiest problem in the gun control debate is what role the federal government should play. The four-member violence commission minority suggested that "each state should be permitted to determine for itself . . . the system which best meets its needs," a deferential bow to the federal system that seems attractive. The only problem is that such a system might not work. Before the federal government passed a ban on interstate shipment of weapons, states like New York and Massachusetts, which tried to reduce their handgun populations, found that the great majority of the guns used in crime came from out of state. Even with the new federal controls, New York City is living through a handgun epidemic of considerable proportions.

It may be that states and cities will not be free to decide their own gun control policies until the federal government establishes at least a system of permissive licensing and registration to cut down on the interstate "leakage" of guns. It also may be that even that system would not be enough—that a national handgun policy is necessary if any of our states is to make any real progress in the gun problem. We do not know the answer to this question. We do not even know where those New York handguns are coming from. The sad fact is that it is not just the NRA that is holding up progress in gun control. Some of our finest, most liberal big-city legislators passed a law in 1968

and have not bothered to find out how it is working or why it is not. They just call for more laws. It's almost enough to make a man join the NRA.

Almost, but not quite. Any gun control policy, even attempts to cut down drastically on the number of handguns on a nationwide basis, will be something of an experiment in the coming years. We do not know how effective any law can be with so many guns in circulation and so much pressure to keep them there, but if gun control will be an experiment in the 1970s, the blood that flows from the mounting toll of homicide suggests that it will be a necessary experiment for a civilized nation. □

THE TWO GERMANYS

Lurching Toward Confrontation

JOE ALEX MORRIS, Jr.

Mr. Morris is Bonn correspondent for the Los Angeles Times.

Question: What is two states but one nation?

Answer: Willy Brandt's Germany.

Bonn

The idea of one German nation, like the "one" Arab nation, is not Willy Brandt's. It is enshrined in the Basic Law, which serves in West Germany as a constitution pro tem until the day of deliverance into reunification. What Brandt has added is the awkward idea of two German states coexisting within the single German nation. Previous governments in West Germany have evaded that anomaly by refusing to concede the existence of a second German state "over there." That was equally awkward, perhaps, but more in line with popular emotions during the 1950s and early 1960s.

Brandt's innovation has not been very successful, although it is a big step toward accepting the permanence of the *status quo*. But by paying lip service to the idea that the two Germanys will some day become one by free expression of their people's wishes, he has perpetrated the Alice-in-Wonderland quality of German politics. He has also confused, and in part embittered, a public that doesn't really know what his *Ostpolitik* is all about. The polls show that some 20 per cent fluctuate wildly on the subject, depending on who made the last points in the political slugfest.

Brandt was awarded the Nobel Peace Prize last year for his efforts to break the rigid cold-war patterns of relations between Eastern and Western Europe. He was doing in the East what Konrad Adenauer had done in the West to remove the bitter remnants of Hitler's war. He was prepared to accept new relationships and new understandings, provided that his Communist negotiating opponents did not force him into politically "hot" corners. That meant continuing the myth that there could be no official revision of the European map until there was a European peace treaty; it meant also that Brandt would continue to assert that Germany must keep its option for reunification.

And it presupposed that Bonn's ties to NATO and the West would remain intact. The idea of a unified but neutralized Germany died long ago, having last been heard of when Stalin tried it out on Adenauer, and the old man refused to bite.

All these confusions and contradictions make the average West German feel the ground shifting under his feet. Almost everyone favors a rapprochement with Eastern Europe, but few citizens are confident that they know where Brandt is taking them. It is largely the government's own fault. Its public education efforts have been miserable and directed more to pretending that no changes are being made than to explaining and justifying what is in store. As a result, the public and the Bundestag are caught up in the most bitter and ill-informed public debate since the Federal Republic was formed. The heat of the argument far exceeds that engendered over West Germany's accession to NATO and Western Europe in the mid-1950s. Despite Brandt's assurances that his treaties with Moscow and Warsaw fundamentally change nothing, many Germans are convinced that they seal the fate of vast regions to the east that were at one time part of Germany.

With the exception of the die-hard expellees from these lands, the debaters have focused on a more basic obscurity—whether or not the treaties will mean that Germany is to be permanently divided into two states whose antipathetic systems of government guarantee that they will gradually drift farther apart. The fact that John Foster Dulles, by refusing to aid the Hungarian rebellion in 1956, settled the political future of East Germany and all of Eastern Europe tends to be ignored. Rainer Barzel, the Christian Democratic opposition leader, doesn't talk about rolling back communism, but he does talk about somehow persuading the Russians to allow 17 million East Germans to vote on whether or not they want reunification. Brandt pays lip service to this notion as well, but the widespread suspicion is that he accepts the two Germanys and will eventually abandon the one nation, even as a concept. Richard von Weizsaecker, one of the more enlightened

Copyright of Nation is the property of Nation Company, L. P. and its content may not be copied or emailed to multiple sites or posted to a listserv without the copyright holder's express written permission. However, users may print, download, or email articles for individual use.