Continuity and Change in the American Gun Debate

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April 12, 2001

My assignment at this conference is a tribute to accumulated seniority: I have been associated with the study of firearms and violence for more than three decades now, and the hope was that experience of that length might generate perspectives useful in a debate not known for its awareness of history or sense of proportion. What has changed over thirty-five years in debates about firearms and violence? What is constant? Are there long range trends so far, or just cyclical fluctuation? Is the great American gun policy debate heading toward any clear destination or dancing in circles?

The paper's path to addressing these questions involves three tasks. A brief first section provides my version of the debate on gun policy I came upon in 1967 and 1968. A second section discusses some of the characteristics of gun ownership, gun policy preferences, and the politics of guns that have remained constant over a generation. The third section identifies some changes in the gun debate and speculates on the impact of these changes on future policy. A concluding sermon addresses the current condition of the firearms debate as a prologue to future policy.

I. The Gun Debate in the 1960s.

Prior to the late 1960s, guns and gun control had not been a major issue at any level of American government for a generation. State and local control efforts in the urban northeast were a product of the early decades of the twentieth century, most famously with New York's Sullivan law in 1911. Serious federal control proposals first appear in the early years of the Roosevelt administration and produce two federal laws within five years, a 1934 act which all-but-banned automatic weapons and sawed-off shotguns, and 1938 legislation which created a thin layer of regulation over firearms

dealers and the sale of more popular firearms as well as prohibitions against minors, felons, and other disqualified classes of citizens acquiring weapons (Zimring 1975, Part I). What happened after 1938 in the United States on the legal regulation of firearms was practically nothing. The second world war effectively ended federal anti-crime concerns until 1965. Rates of criminal homicide, after peaking in 1933 fell during the depression and war years and drifted downward thereafter until the early 1960s. Two New England senators, Kennedy in the 1950s and Dodd in the 1960s held hearings on the dangers of cheap foreign guns, but the threats that inspired this were as much to the domestic firearms industry as to the public health.

The mid-1960s witnessed a series of events that created concern about guns, beginning with the assassination of President John F. Kennedy and the increases in urban violent crime reported from 1964 onward. Blue ribbon commissions were appointed first on crime then on riots and on violence. Gun legislation proposals were taken much more seriously after 1965, and crime was, by 1967, an issue that attracted sustained national attention. Then came the watershed year of 1968. Whatever the slow progress toward federal firearms legislation from earlier events, a new dynamic emerged from the Martin Luther King, Jr. and Robert Kennedy assassinations, the urban riots, and public anxiety about violent crime. The Congress that had passed no federal firearms legislation in 30 years passed two major acts in one year, and created the new federal enforcement presence that the Bureau of Alcohol, Tobacco and Firearms was to become. 1968 witnessed also the birth of the symbolic politics of gun control, and the basic regulatory framework upon which the incremental politics of gun control would play out for the remainder of the 20th century.

My concern here is more with the nature of the debate about guns that was generated in the late 1960s than with the details of the 1968 act (see Zimring 1975 for the legislative details). The firearms control issue had taken the nation and the federal Congress by surprise. No agency of government had the responsibility for information about guns other than the Commerce Department's census of manufacturers. There were no academic experts on firearms and violence in criminology in the United States or anywhere else in research universities. Prior to mid-1968, there were no published studies on the relationship between gun use and the death rate from assault. No credible estimate of the number and kind of firearms in the U.S. had been published. No taxonomy of firearms control laws had been attempted. No studies of the impact of various regulations of gun ownership and use had been attempted.

The politics of gun control was predictable and symbolic. Big city liberals were pro-control and rural and small town conservatives were anti-control -- the specific nature of the control proposal did not matter much to the support and opposition elements. The only special firearms interest in Washington was the National Rifle Association.

Violent death was the central concern of those who worried about guns and supported gun control, but there was no clear hierarchy of problems or choice of control tactics. In the first installment of the Gun Control Act of 1968, long guns and handguns were regulated equally, while in the second installment the handgun was the subject of special regulatory attention. As the focus shifted from political assassination to crime, and as data on firearms and violence was published, a priority concern

with handguns settled in for a long run as the most serious of American's gun problems.

II. Constant Elements

There are 5 consistent elements of the gun debate over the generation since 1970 that I wish to nominate as significant influences on how policy has been selected: Symbolic Dominance, Generality of Preferences, the Free Lunch Syndrome, the Gender Gulch and the Centrality of Handguns as the subject and object of the controversy.

The first three constant elements are inter-related and, jointly, quite influential on how gun policy gets debated in the United States. I will address them together. While the specific content of proposals to regulate firearms vary over time and cross-sectionally, there is also a set of general attitudes about firearms and about laws to regulate firearms which most citizens have that are stable over time. I believe the debate about gun policy is one where these general sentiments are dominant in predicting citizen preferences on specific issues and predicting the reasons citizens give for support or opposition to particular policies. This is the condition I call symbolic dominance.

A substantial majority of the public holds pretty strong sentiments either for or against gun control as a whole. Because the symbolic aspects dominate orientation toward specific policy proposals, the details of a program have little to do with the level of support or opposition to it. If most opponents of gun control are dominated by general attitudes, the type of control and the type of gun will not explain or predict much opposition. Similarly, if most citizens who favor controls are motivated

from a general sentiment, they will be disposed toward support of a wide variety of particular approaches.

One evidence of this is that a wide variety of different proposals have quite similar levels of support and opposition, what Tom Smith called "the 75% solution" (Smith 1980). This means that the same core constituencies of pros and antis will debate waiting periods for handgun sales, the requirement of licensing for sales at gun shows, and punitive damages against gun manufacturers and distributors. Further, because most of the values to be vindicated are symbolic, the intensity of support for large and small proposals will be nearly equal. Small changes in policy can be urged and opposed with the same degree of vigor as large changes. The heavy emphasis in 1999 and 2000 by both pro-control and anti-control groups on what is called the gun show loophole in the Gun Control Act of 1968 is a clear illustration that intensity of commitment is not closely linked to operational importance in debates about gun control.

This leads to a phenomenon of generality of preferences. People who favor "gun control" are positively disposed toward a general idea and will follow that general preference to support a wide variety of different proposals. It is the major premise – support in general – rather than the particular program that is the center of citizen concern. And anti-control partisans seem willing to oppose any type of control, a general tendency that pro-control forces like to exploit by proposing bans on ammunition that is labeled "cop killer bullets" that nonetheless produces opposition from many gun owner groups, even at the price of substantial political embarrassment.

The Free Lunch Syndrome

Since the central values that are in play are symbolic, and since almost any specific proposal can carry the symbolic colors of firearms control in Congressional debate, there is a tendency for pro-control forces to pick on small and fairly uncontroversial control proposals but to invest these programs with the suggestion that their passage will have a substantial impact on rates of lethal violence. Pass a ban on cop killer bullets or a five-day waiting period on handgun sales, and the rhetorical suggestion is that major progress will be made on the totality of firearms violence.

This tendency to push small policy increments as if they were major programs is what I call the "free lunch syndrome," a tendency to couple small operational changes with the full weight of firearms control symbolism. Free lunch rhetoric is good politics without question, but it removes realistic analysis of the impacts of specific control strategies from public discussion. There is nothing wrong with an incremental politics of gun control, but expecting large benefits from small investments is unreasonable.

The Gender Gulch

> "Forty-four percent of motorcycle owners are women. Forty-eight percent of truck owners are women. We even know a few who can wipe that stupid smirk off your face!"
>
> Oxygen advertisement
>
> *The New Yorker*, October 16, 2000, p. 87

The generation after 1965 witnessed dramatic changes in the social, cultural and economic status of women in the United States. In the wake of these shifts, activities and tastes formerly associated with men have become more evenly distributed by gender. That is the background to the surprising statistical claims of a recent ad about truck and motorcycle ownership that leads this section.

All the more remarkable, then, that the very great gender differences in gun ownership continues to be the major dividing line between United States adults; gender is more important for predicting handgun ownership than region, politics, income and usually than all those elements put together. When ownership rates by gender were first publically disclosed in the mid-1960s, about 7% of U.S. gun owners were identified as women in the crude manufacturers mail survey research we reviewed at the National Violence Commission. A precise ownership estimate could not be made from this data, but the female ownership was obviously quite low. Thirty years later, Tom Smith and Robert J. Smith report an analysis of 15 years of National Opinion Research Center General Social Survey with no evidence of any expansion in female ownership of either handguns or firearms generally during the period 1980-1994 while so much else was changing in the United States (Smith and Smith 1995).

While just under half of all males own a firearm, the "any gun" ownership rate for females is 1 in 8, and 4 times as many men as women report handgun ownership (Smith and Smith 1995, Table 3, p. 147). The authors conclude:

> "....The ownership of firearms among women is not increasing, the gender gap is not closing, and the level of ownership is much lower than commonly stated, with about 11% to 12% of women owning a gun and 4.5 to 8% owning a handgun."
>
> Smith and Smith 1995, p. 145

Speculation that female ownership and attitudes might change has been recurrent over the period since 1970. Milestones in the anticipated increase in female demand include an advertising campaign for self-defense handgun ownership that was targeted on women (for the notorious "Lady Smith") in the 1980s by Smith and Wesson, books and articles about gun women, and media coverage of women seeking self-defense handgun training have become a staple of National Rifle Association public relations and local television slow-news-week feature stories. But the ownership gap persists even as female-headed household have sharply expanded, multiplying the number of instances where a woman's ownership decision determines the presence or absence of a gun in the house.

The huge gap in ownership is accompanied by two more subtle gender differences. Women are more likely to support legal restrictions on firearms, and when men and women in the same household disagree about the wisdom of having a handgun, it is the woman who is more often anti-gun.

The gender differences in self-defense handgun ownership are important in the struggle for the moral high ground in the self-defense debate. If women, after all the traditional weaker sex, were aggressive in wanting and using handguns, the political pressure to allow and approve such usage would be substantial. But the refusal of most women to acknowledge the need for self-defense handguns

undercuts male claims that the weapons are necessary. In this connection, Smith and Smith show very low rates of handgun ownership among single women (1.4% for the never married, 6.4% for the not currently married). In these head-of-household settings, the gender gap is greater than the overall 4-to-1 figure. Female need is, in such circumstances, a story that continues to be told by male gun owners.

The Handgun Focus

One further consistent strain in the gun policy debate of the last generation is the focus on handguns and special handgun regulation as the greatest priority in new policy. With the exception of short periods when semi-automatic firearms that could be either handguns or long guns attracted attention (the "assault weapon" issue), the handgun has held center stage in the American gun control debate for 30 years.

The case for special regulation of handguns is not a matter of firepower – both shotguns and rifles often have more destructive force and long guns are also easier to use accurately from medium and long range. But the handgun, easy to conceal and transport, is 9 times as likely as a long gun to be used in a homicide and even more dominant than that in robbery with firearms. As the chief concern about firearms violence shifted from assignation to violent crime, the handgun became the focus of pro-control efforts by the early 1970s. While gun owning organizations prefer not to distinguish between types of firearms, their general opposition to all control proposals is most often manifest in opposition to proposed handgun regulation. And the focus of pro-control advocates on handguns has become a defining element of special interests organized to support firearms regulation. It is neither an accident

nor a trivial detail that the major gun control lobby in the United States calls itself "Handgun Control."

Special attention to handguns is a common characteristic of legal systems throughout the developed world. Even nations with high rates of long gun usage, such as Switzerland and Israel, have low ownership and usually special restrictions on handguns. So the consistent emphasis on handguns is by no means an American invention. Nor is the debate about the special status of handguns an American exclusive. The tendency for anti-control groups in all nations is to urge opposition to handgun controls because they threaten long guns as well. But this effort to make common cause of all gun owners has been more successful in the United States than elsewhere.

III. What Changed?

Here are four important changes in the character of public debate about government and firearms. What used to be an issue that was only cyclically important has become a priority concern on a continuing basis. What used to be an undocumented dispute with little data and no specialist experts has become a debate between special interests that are well informed but often heavily biased by anti- or pro-control orientations. What used to be a debate in which the Second Amendment to the U.S. Constitution had no importance is now a debate where the Second Amendment's implications are ambiguous. What used to be a debate about firearms and crime has been reframed, in expert and political areas, as a concern with firearms and violence.

1. From Episodic to Consistent Public Priority

In the first two decades after the Gun Control Act of 1968, public and political concern with the issue of firearms control was episodic. At the federal level, there was no further strong interest in firearms control until about 1975, and after no laws passed in the mid-1970s, it was not until after the shooting of President Reagan in 1981 that serious attention was paid to a debate about further federal laws. Things were even quieter at the state and local level in most places. Concern with crime was a constant, but the firearms issue was cyclical.

The long gaps between high visibility debates on guns was not a product of fickle public attitudes about the wisdom of gun control. Public support of most mainstream gun regulation was consistent over time, but the gun issue was not very important to most citizens most of the time. It was the salience of the gun control question rather than attitudes about appropriate government action that varied over time.

If the late 1990s are a sign of the new order, long gaps between high visibility debates about guns will soon be regarded as an historical curiosity. In the late 1960s, the passage of a gun law like the Gun Control Act of 1968 was a signal for the federal Congress to ignore the field for a decade or so. In the aftermath of the Brady Bill in 1993, however, there has not been any sustained period of time off from high visibility gun policy debates. In 1998, 1999 and 2000, gun policy disputes at the federal level have been the single most important crime policy issue. At the state level, legislative proposals and legislation, running the gamut from easing restrictions on permits to carry concealed weapons to assault

weapon and Saturday Night Special legislation make gun proposals an annual event in big states. At the city level, a range of tactics from municipal gun regulations to lawsuits against gun producers framed on the tobacco company litigation are a hardy perennial. The gun question does not take time off from being a salient concern in the media, the political process and public consciousness.

This paper cannot fully explore the reasons for this shift from cyclical to consistent public priority. In part, the vociferous energies of single-issue special interests on both sides of the gun debate fan the flames. In part, the usefulness to both political parties of guns as a wedge issue for different segments of the electorate keeps the pot boiling. Partisan tactics guarantee that gun politics will be spread among all levels of government. The National Rifle Association finds solace in state governments, particularly where rural and town representation is strong. Big cities are the home team for almost all forms of handgun restrictions. This has tended to make the gun issue into a levels of government version of a three-ring circus throughout the last decade. Consistent public and media attention, parallel markets for control and anti-control new ideas in states and cities, and a longer public attention span for gun issues are markers of a brand new era in the politics of gun control in the United States.

2. Information: From Ignorance to Special Pleading

The growth of information about firearms and their effects has been impressive but uneven over the past three decades. Any growth rate from a zero base will seem high, and guns are no exception. Official data on firearms manufacture, on gun use in crime and violence, and on patterns of regulation of

firearms in the United States is far superior to the statistical base of 30 years ago. The number of university-based researchers who specialize more than half time in firearms probably exceeds 50 in the United States. There were none as recently as 1972.

The available data on firearms, violence, and firearms control is both abundant and spotty. Death statistics and some crime statistics are good. Production and import data are reliable, but the total stock of usable guns cannot be reliably estimated. The federal bureau of Alcohol, Tobacco and Firearms does a vast number of traces to first retail purchase of guns but little research on the flow of guns from that point on. Nobody knows the average use life of a handgun in the United States.

The information available on the effects of gun control policies on firearms deaths and injury are particularly spotty, in part because the legal changes to study in recent years have been of the modest "free lunch" variety.

Many of the full time researchers on the topic are organized into sectarian groups. Public health professionals put heavy emphasis on the impact of gun use in raising the death rate from assault and robbery and support most control efforts. Sociologists are split into "contra" factions (James Wright, Gary Kleck) and a larger number of pro-control partisans. In this contentious atmosphere, the margins for disagreement are not slight: Are guns used in 100,000 self-defense episodes each year (Criminal Victimization 19__) or 20 times that many (Kleck and Gertz 1995)? Do safe storage laws save a few lives or cost the citizens of the 15 states that passed them 250,000 extra violent crimes in 5 years (Lott

and Whitley 2000)?

The known facts should produce a clean split in factional morale. The evidence that guns increase the death from violence is firm – this is the strong suit of the pro-control forces. The evidence that particular modest changes in legal regulation can make a dent in the gun violence toll is not strong. This is the strong suit of the anti-control partisans and skeptics.

3. The Second Amendment: From Irrelevance to Ambiguity

The second amendment's language describing a "right of the people to bear arms" has always played an important symbolic role in the rhetoric of opposition to gun controls, but the second amendment has been considered a dead letter as a potential obstacle to state and federal gun control laws. *United States v. Miller*, decided in 1939, was neither a closely reasoned nor prominently publicized case, but it was widely considered to be a conclusive rejection of an individual right to bear arms as a limit on the power of any level of government to regulate guns. Outside of gun owner groups, the federal constitution's second amendment was not regarded as an important part of American legal culture or history.

In recent years, academic interest in a personal right to bear arms has been growing, from a variety of different points of origin. There is, of course, the gun interests who have supported and publicized historical arguments about an expansive reading of the second amendment. There has also been at least one study of the English origins of the second amendment that is consistent with individual

claims against governmental regulation (Malcolm 1997) and legal theory of personal right based on personal rights to oppose tyranny (Levinson 1989). What this work has done so far is put the possibility of a personal right to bear arms in play in academic settings where it had received neither attention nor mention previously in constitutional scholarship. The increased salience of the issue had in turn produced anti-personal right historical scholarship (_____) and legal argument (Bogus 1998).

What impact a personal right to bear arms would have on restricting regulation of guns is difficult to predict. The key questions are whether particular weapons (e.g., handguns, automatic firearms, etc.) would be covered and what sort of balance between personal and governmental interests would animate decisions. The discussion of such questions has not been substantial to date, and because the entire constitutional calculus would have to be created without any background in prior case reasoning, the impact of a personal legal right on the field of choice for gun regulation is still a wide-open question.

4. From Crime to Violence

One further shift in American sentiment occurred in the 1990s as a result of several concurrent developments. While the public anxieties most closely associated with the gun debate had traditionally been thought of as about crime and criminals, the problem of lethal violence emerged by the turn of the century as discrete from general concerns about crime and its control.

The last 8 years of the 1990s witnessed the broadest and most sustained drop in crime rates

that America had experienced in half a century. But just as the criminal stranger was seen as a smaller threat, the boy next door become a potential menace: a cluster of school shootings in the late 1990s culminated in the killing of 12 students and a teacher by 2 high school students in Littleton, Colorado. The Columbine High School shootings of 1999 provoked a shift in focus for American anxieties. The "Trench Coat Mafia" of Littleton differed from Willie Horton not in degree but in kind. No longer was the threat associated with a distinct criminal class, nor could it be blamed on avarice. Columbine High was an inside job, not the work of aliens.

The justifying ideology of free availability of firearms in the United States is that lethal violence is the threat of a criminal class, a discrete and insular minority. When the children of good people are the enemy we fear, it is more than difficult to pretend that the millions of guns tolerated as home furnishings are not connected to the guns that kill schoolgirls in Jonesboro and Paducah and Littleton. The boundaries between legitimate and illegitimate arms were blurred in the minds of many when good people's guns went to school. And the violent outbursts of adolescent assassins seemed closer to suicide than to mercenary crime, far less comprehensible in terms of rational choice or pecuniary motivation than the criminal classes of previous public imagination. As the great cartoon character Pogo had prophesied a generation before, "We have met the enemy and he is us." This clear focus on violence without a differentiating criminal identity is one of the primary causes of sustained attention to guns and gun control in the United States at the turn of the century.

A Concluding Complaint

It turns out to be much easier to predict the volume of debate about changes in gun policy than either their magnitude or direction in the United States in the next decade. High levels of activity at the federal, state, and municipal government are a safe bet. But whether the sum of the changes will amount to a shift in substantive direction for gun policy, particularly handgun policy, is not at all clear. The symbolic politics of guns will play a prominent role in politics at all levels of government.

One reason the shape and net impact of new gun policies are difficult to predict is that there are no clear priorities among the new control activists. Citizens are still for or against gun control as a general sentiment, never mind the details. And most of the new academic experts on guns have done little to push the gun control debate toward specifics and priorities.

Yet there are a huge number of different types of gun regulations being debated in the contentious American present. There are gun show permit requirements, "gun-free school zones," sharp restrictions on handgun ownership, mandatory minimum penalties for firearms crimes, tort suits against handgun manufacturers, buy-back schemes, and waiting periods. It would be an amazing coincidence if all these approaches were equally promising or futile. Just because gun use elevates the death rate from assaults does not mean that any law that concerns guns will save lives.

Indeed, when the symbolic politics of the issue produce chestnuts like the gun-free school law, the academic expert should be the first to note the unlikely prospect that that kind of legislation will save

the lives of children.

For similar reasons, the sweeping generalities of opponents of gun regulations are symptoms of analytic immaturity. The only reason gun regulations as a class should be excluded as a harm reduction technique would be if gun use did not influence the harms produced by violent assaults. Does any serious researcher believe this?

What will improve the gun debate at the top end of the policy community is careful attention to the differences between types and intensities of firearms regulation. If experts start avoiding the silly overgeneralizations that come from assuming that all gun regulations were created equal, there is some hope that a more specific and pragmatic approach to reducing the harms of gun violence might trickle down the intellectual food chain to the powerful and powerfully confused citizenry that will shape gun policy in the fast approaching future.

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