

The Laws That **Misfire**

Banning guns doesn't work—in the District
or anywhere else.

BY DON B. KATES

The District of Columbia is now suffering from what its police chief on July 11 called a “crime emergency.”

In 1976 the District banned handguns and required that all other guns be kept unloaded and disassembled, making them unavailable for self-defense. The result is that for 30 years, only lawbreakers have had guns readily available for use in the District.

Is that effective policy? Is it a sensible way to respond to a crime emergency? Those policy questions, in addition to purely legal issues, arise in pending litigation that brings a Second Amendment challenge against the District's gun bans.

I recently filed a Brandeis amicus brief supporting this constitutional challenge. My co-counsel were 12 other law professors, and the amici we represent include 16 American, Australian, and Canadian social scientists and medical school professors.

The case in question, *Parker v. District of Columbia*, is currently before the U.S. Court of Appeals for the D.C. Circuit, after an unfavorable ruling in the District Court. The plaintiffs include a woman under a death threat for reporting neighborhood drug-dealing to police and a gay man who used his handgun to defend himself against a hate crime. This brief was filed pro bono, and the amici are not being paid.

What this amicus brief shows is significant, and the information it contains may surprise some. For the truth about gun bans is that they are policy failures even on their own terms: More guns don't mean more death, and fewer guns don't mean less death. Gun bans like the District's simply don't work.

BRITAIN'S FAILURE

Before the District adopted these policies in 1976, its murder rate was declining. Shortly after the District adopted the gun bans in an effort to reduce crime and violence, its murder rate

became the highest of any large American city. It has remained the highest throughout the 30 years these policies have been in force (excepting the few years when the District ranked second or third).

To excuse this disastrous history, anti-gun advocates assert that gun bans covering only a single city are unenforceable.

True enough, but experience shows that gun bans covering an entire nation are also unenforceable. In the United Kingdom, decades of severe gun control failed to stem steadily rising violent crime. So in 1997 the United Kingdom banned and confiscated all legally owned handguns. Yet by 2000 the United Kingdom had the highest violent-crime rate in the Western world—twice ours—and it still does today.

Gun bans are far from working even in a relatively small island nation, the report of England's National Crime Intelligence Service laments: Although “Britain has some of the strictest gun laws in the world [i]t appears that anyone who wishes to obtain a firearm [illegally] will have little difficulty in doing so.”

American anti-gun advocates used to cite the United Kingdom, Canada, and Australia as nations where low violence stemmed from severe gun restrictions. But in recent decades those nations' violent-crime rates have skyrocketed, first matching and now far surpassing ours.

In the 1990s those nations moved from severe controls to outright bans and confiscation of half a million guns. Today, Australia and Canada join the United Kingdom in having the highest violent-crime rates in the Western world—more than double ours.

MURDER RATES

For decades anti-gun advocates claimed that America, with the world's highest gun-ownership rate (true), had the highest murder rate (false).

In fact, the recently revealed Russian murder rate for the

past 40 years has been consistently higher than the American rate. The Russian murder rate in the 1990s and 2000s has been almost four times higher than the U.S. rate. All this despite Russia's 70 years of banning handguns and strictly controlling long guns—laws that it enforced with police-state methods. Various European nations, including Luxembourg, also ban handguns but have much higher murder rates than the United States does.

Gun bans reflect a quasi-religious belief that more guns (particularly handguns) mean more violence and death, and, concomitantly, fewer guns mean fewer deaths.

This belief is quasi-religious because the believers cling fanatically to it despite scores of studies around the world finding no such correlation.

Consider the 2004 U.S. National Academy of Sciences evaluation: Having reviewed 253 journal articles, 99 books, 43 government publications, and some empirical research of its own, the academy could not identify any gun law that had reduced violent crime, suicide, or gun accidents.

American statistics on both the numbers of guns and murder rates are available from immediately after World War II to the present. In 1946, with about 48 million guns in the country, the U.S. murder rate was 6 per 100,000 people.

By 2000 the number of guns had increased fivefold (to more than 260 million), but the murder rate was almost identical (6.1). It remained there as of year-end 2004, despite the 12 million guns added to the American gun stock since 2000.

In the 60 years since World War II, U.S. murder rates dramatically increased and dramatically decreased—but not in relation to gun ownership, which increased substantially every year.

In the 1950s our murder rate held steady despite the addition of roughly 2 million guns per year. In the mid-'60s through the early '70s, the murder rate doubled, while 2.5 million to 3 million guns were added annually. In the late '70s, the murder rate held steady and then declined, even as 4 to 5 million more guns were added annually. Murder rates skyrocketed with the introduction of crack in the late '80s, but in the '90s they dramatically decreased, even as Americans bought 50 million more guns.

In sum, between 1974 and 2003, the number of guns doubled, but murder rates declined by one-third. So much for the quasi-religious faith that more guns mean more murder.

Multinational studies also discredit that faith. An American criminologist's comparison of homicide- and suicide-mortality data with gun-ownership levels for 36 nations (including the United States) for the period 1990-1995 showed "no significant (at the 5% level) association between gun ownership and the total homicide rate."

A somewhat later European study of data from 21 nations found "no significant correlations [of gun-ownership levels] with total suicide or homicide rates." When you look at the data, guns aren't increasing murders.

WHO KILLS

The myth of more-guns-meaning-more-murder makes sense to people who think most murders involve ordinary people killing in moments of ungovernable rage because guns were available to them.

But ordinary people do not commit most murders, or many murders, or almost any murders. Almost all murderers are extreme aberrants with life histories of violence, psychopathology, substance abuse, and other crime.

Only about 15 percent of Americans have criminal records. But homicide studies reveal nearly all murderers have adult criminal records (often showing numerous arrests), have been diagnosed as psychotic, or have had restraining orders issued against them.

Obviously, such dangerous aberrants should not be allowed any instrument more deadly than a toothpick. Unfortunately, they disobey gun laws just as they disobey laws against violence. But law-abiding adults do not murder, guns or no guns, so there is little point in trying to disarm them.

DEFENDING THE INNOCENT

Worse, banning guns to the general public is not just useless but also counterproductive. Criminals prefer victims who are weaker than they are. The unique virtue of firearms is that they alone allow weaker people to resist predation by stronger, more violent ones.

A recent criminological evaluation states: "Reliable, durable, and easy to operate, modern firearms are the most effective means of self-defense ever devised. They require minimal maintenance and, unlike knives and other weapons, do not depend on an individual's physical strength for their effectiveness. Only a gun can allow a 110 pound woman to defend herself against a 200 pound man."

Research has shown guns are six times more often used by victims to repel criminals than by criminals committing crimes.

But Handgun Control Inc. tells victims not to resist rape or robbery in any way: "The best defense against injury is to put up no defense—give them what they want or run." This anti-gun position, too, is bereft of criminological support. Twenty years of National Institute of Justice data show that victims who resist with guns are less likely to be injured, and much less likely to be raped or robbed, than victims who submit. Indeed, in more than 80 percent of cases where a victim pulls a gun, the criminal turns and flees whether he has a gun or not.

When speaking at universities here and abroad, I am often asked, "Wouldn't it be a better world if there were no guns?"

I am a criminologist, not a theologian. If you want a world without guns and you think there is a God, pray for him to abolish guns. Human laws cannot disarm lawbreakers, but only the law-abiding.

Firearms are the only weaponry with which victims can reliably resist aggressors. In their absence, the ruthless and strong can oppress the weak.

Such oppression in the District is really the crime emergency. And as the District responds, it should take an unbiased look at the social-science data. It should rethink its gun bans now under legal challenge. And after 30 years of failed prohibition, it should now let its law-abiding citizens arm themselves for their own protection.

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