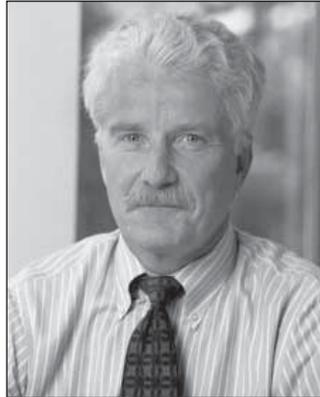


Q&A on Firearms Availability, Carrying, and Misuse

By Philip J. Cook

In the *Heller* and *McDonald* decisions, a majority of the Supreme Court for the first time interpreted the Second Amendment to provide a personal right to “keep and bear arms”—a right that limits permissible state and local regulation, as well as federal. While the majority opinion in *Heller* suggested that some regulations would pass Constitutional muster, the scope of this new right is undetermined at this point. The boundaries are being tested by scores of lawsuits brought against existing regulations that restrict commerce, possession, or use of firearms by private citizens. As the courts rule on these cases, they may take into account the appropriate balance between public safety and personal freedom.¹ It is of some interest, then, to consider what has been learned about the role of firearms in American life, and some of the empirical evidence relevant to evaluating common regulations. Here I introduce this topic by posing and answering seven related questions. A concluding section offers some more general observations on research in this area.



I. What is known about the incidence and costs of gun violence?

A great many Americans die by gunfire. The gun deaths from homicide, accident and suicide have totaled close to one million during the last three decades. Firearms play a dominant role in the most serious violent crimes. In 2007, the most recent year for which the National Center for Health Statistics provides data on injury deaths, there were 18,361 criminal homicides, of which 69% were committed with guns. Emergency rooms treated nearly 50,000 nonfatal gunshot injuries from assaults. And there were a total of over 300,000 assaults and robberies in that year in which the perpetrator used a gun.²

Criminal homicide is not evenly distributed across the population, but highly concentrated among youthful minority males. In 2007, homicide victimization rates were 15 times as high for black men aged 15-34, as for white non-Hispanic men in this age group. Homicide is the leading cause of death for black males age 15-34, and the second-leading cause of death for Hispanic males in this age group.

Firearms also pose a particular threat to public officials and law enforcement officers. Fourteen of the 15 di-

rect assaults against Presidents, Presidents-elect, and presidential candidates in United States history were perpetrated with firearms, including the five resulting in death. (The one exception, a failed attack with a hand grenade against President George W. Bush, occurred overseas).³ Of the 536 law enforcement officers who were feloniously killed between 2000 and 2009, 490 (91%) were assaulted with a firearm and 73% of those were with a handgun.⁴

Efforts to prevent, avoid, and respond to gun violence impose economic and social costs on society. I and my colleagues estimated the costs of treating gunshot wounds to be \$2 billion per year, half of which is borne by the public.⁵ The threat of being shot causes private citizens and public institutions to undertake a variety of costly measures to reduce this risk. Furthermore, the threat of gun violence is in some neighborhoods an important disamenity, causing residents to be fearful and to take special precautions to protect themselves and their children. That threat depresses property values and puts a drag on economic development.

Together with economist Jens Ludwig, I quantified the overall magnitude of these social costs by conducting a contingent-valuation survey that asked individuals what they would be willing to pay to reduce gun violence somewhat in their community. Based on their responses we estimated an overall cost of assault and homicide to be \$80 billion in 1995.⁶ While actual victimization is highly concentrated, the concern about gun violence (as indicated by willingness to pay for its reduction) is widespread. It tends to increase with income, and be higher for adults with children than those without.

This assessment of the damage done by firearms in private hands is not intended to deny that firearms also provide benefits to their owners, including the pleasures of gun sports and the occasional legitimate self-defense use. Fortunately it is possible to curb misuse without cutting too deeply into the beneficial and legitimate uses. I would appeal here to the analogy with efforts to reduce highway accidents.

II. Does the type of weapon matter in serious assault cases?

While intuition may suggest that whether the victim lives or dies in an assault or robbery depends mostly on the perpetrator’s intent, the evidence suggests that intent is only part of the story—that if the assailant happens to use a gun, the victim is much more likely to die than if the assailant uses a knife or club. Guns are intrinsically more deadly than other weapons that are commonly used in criminal assault, in that they provide a means of inflicting

a fatal wound quickly, from a distance, with little personal risk, determination, involvement, or strength required.

Gun use in an assault increases the likelihood of death by making it easier to kill. As a result, while only a small fraction (5 percent) of criminal assaults are perpetrated with guns, over two-thirds of fatal assaults (murders and non-negligent homicides) are perpetrated with guns. In two seminal articles, Franklin Zimring provided systematic evidence that the weapon type used in an assault affects the likelihood the victim will be killed.⁷ Zimring drew on crime data from Chicago to show that case-fatality rates in gun attacks are a multiple of those in knife attacks, despite the fact that the circumstances are generally quite similar. In serious attacks, he concluded, the difference between whether the victim lived or died was often a matter of chance rather than a difference in intent, and the chances of a fatality were higher with a gun than a knife.⁸ Zimring found further confirmation in comparing the case-fatality rates among shootings involving guns of different caliber. He demonstrated that victims were more likely to die in larger-caliber shootings, again suggesting that the intrinsic lethality of the weapon, and not just the assailant's intent, affected the outcome—a result that I have dubbed the “instrumentality effect.”⁹

Research on the specific violent crime of robbery provides further confirmation for the instrumentality effect. About half of victims of non-commercial robbery included in the National Crime Victimization Survey (“NCVS”) report being physically attacked by the robber (rather than just threatened), and one-fifth require medical treatment. Some victims are seriously wounded or killed. In 2005 the FBI classified 921 murders as robbery-related (6 percent of all murders), implying that on the order of one in 1,000 robberies resulted in death that year.

Since the most serious potential outcome of a robbery is the victim's death, it is of considerable interest to know what distinguishes fatal robberies from the great majority in which the victim survives. One of my studies compared robbery murders (as documented by the FBI's Supplementary Homicide Reports) to non-fatal robberies, finding similar statistical patterns with respect to the characteristics of the offenders.¹⁰ The most prominent *difference* between robbery and robbery murder was with respect to the types of weapons used. About two-thirds of robbery murders are committed with guns, while less than *one*-third of robberies involve guns. Gun robberies are three times more likely to result in the death of the victim than knife robberies, and knife robberies three times more likely than robberies with other weapons.¹¹ A regression analysis of changes in robbery-murder rates in 43 cities found a close relationship between the robbery rate and the robbery murder rate, as if the latter were simply a probabilistic byproduct of the former. Every additional 1,000 gun robberies added four robbery murders to the city's total, while an additional 1,000 non-gun robberies added just one murder.¹²

The conclusion is that whether the victim of an assault or robbery dies is not just a reflection of the offender's intentions. The type of weapon used by the offender in an assault or robbery has a causal effect on whether the victim lives or dies. If the weapon used is a loaded firearm, the victim is much more likely to die than if the weapon is a knife or club. If the fraction of assaults or robberies involving guns increases, then the death rate will also increase.

III. Are violent offenders always able to get a gun if they want one?

As it turns out, the likelihood that a violent offender will use a gun (rather than a knife or other weapon) is closely linked to the general availability of guns, and especially handguns. Currently, about one in three households nationwide are in possession of at least one firearm, and one in five households are in possession of a handgun. The prevalence of gun ownership differs widely across the counties and states, and is lower in New York State than is true for the United States as a whole.

On average it is easier for youths and criminals to obtain guns in jurisdictions in which gun ownership is common than when gun ownership is relatively rare. The types of transactions by which youths and felons obtain guns include thefts from homes and vehicles, loans from family members and friends, and off-the-books sales. In a high-prevalence area, the informal off-the-books transactions of this sort are easier to arrange and may well be cheaper than in markets where gun ownership is relatively rare.¹³ That is true even though in jurisdictions with low prevalence and relatively tight controls, traffickers supply the underground market with guns acquired in other jurisdictions that have looser controls.¹⁴

My research has provided strong evidence that the prevalence of gun ownership is closely linked to the likelihood that robbers or assailants will use a gun as opposed to a knife or other weapon. In articles published in scientific journals, I and my coauthors have analyzed the effect of changes in the prevalence of gun ownership in the states or 200 largest counties on several crime-related outcomes.

- In a cross-section analysis of data from a survey of adolescent males, I found that the prevalence of gun ownership has a strong positive relationship to the probability of gun carrying by adolescent males.¹⁵ Thus an increase in gun prevalence is associated with an increase in gun carrying by adolescent males. (Gun prevalence has no effect on the likelihood of carrying a knife or other type of weapon.)
- In an analysis of Uniform Crime Reports data for the 200 largest counties over 20 years, we found that an increase in the prevalence of gun ownership also increases the percentage of robberies committed with a gun.¹⁶

IV. Does the prevalence of guns in a community affect crime rates?

The same type of evidence as cited above indicates, perhaps surprisingly, that the prevalence of firearms does not affect rates of assault, robbery, or rape.¹⁷ I conclude that an increase in gun ownership has on balance no deterrent effect on violent crime. Thus the prevalence of firearms does not affect the *volume* of violence, but has a positive effect on the death rate in assault and robbery (e.g., the criminal homicide rate).

These results help explain international differences in violence. The rates of assault and robbery in the United States are similar to those in Canada, Western Europe, and Australia. But our criminal homicide rate is far higher. The difference is that firearms are more prevalent and readily available in the United States, and as a result violent offenders in the United States are far more likely to use a firearm. As a result, the death rates in the United States are higher.¹⁸

V. What types of firearms are most commonly used in crime?

While only about one-third of the firearms in private possession are handguns (pistols or revolvers, as opposed to rifles or shotguns), the vast majority of gun assaults and robberies are perpetrated with handguns. For example, in 2009, 88% of all criminal homicides involving guns were committed with handguns.¹⁹ Over 90% of gun robberies involve handguns. Assaultants choose handguns over long guns in part because handguns are smaller and more conveniently carried on the person or in a vehicle and can be readily concealed from law enforcement officers, potential victims, and the public at large. Because handguns pose a particular hazard to public safety, they have traditionally been subjected to more stringent regulation than rifles and shotguns (which are commonly used for hunting and other sporting purposes). For example, the federal Gun Control Act limits sales of handguns by dealers to those age 21 or older, whereas the minimum age for long gun sales is 18. A number of states require that anyone intending to acquire a handgun first obtain a special license or permit from state or local authorities; for seven states, including New York State, that requirement only applies to handguns. Similarly, six states limit the purchase of handguns (but not rifles or shotguns) to one per month.

VI. How is concealed carrying regulated and policed?

For an offender to use a gun logically requires that the offender is carrying a gun or has ready access to one at the time of the commission of a crime.²⁰ For that reason the state has a legitimate interest in the regulation of whether and how guns are carried in public, and by whom.

Concern about the criminal use of guns in public has engendered state and local regulations that limit carrying.

In many cities, police departments have adopted targeted patrol against illegal gun carrying in an effort to reduce gun misuse.²¹ Targeted patrol against illicit gun carrying has been shown to be effective. In 1998, the Pittsburgh Police Department instituted a Firearm Suppression Patrol against illegal carrying. This program involved expansion of patrol activities during high crime periods of the week, in two high crime areas of the city. A careful analysis found that the program, which increased the number of stops of suspicious vehicles and pedestrians, had the effect of reducing gun misuse, including “shots fired” calls and gunshot injuries.²²

All but three states currently restrict carrying a concealed firearm to those who have obtained a license or permit for that purpose. In 33 states the statute requires the relevant authority to issue a license to any applicant who meets certain minimum requirements and pays the required fee; both the requirements and the fee differ among these “shall issue” states. In other states the issuing authority has some discretion in responding to an application. These “may issue” states, including New York State, generally require that the applicant, in addition to meeting minimum requirements and paying a fee, demonstrate a special need to carry a concealed weapon.

During the last three decades many states have eased their restrictions on concealed carry, replacing a “may issue” statute (or outright prohibition) with a “shall issue” statute. These changes have had the effect of increasing the number of private citizens who are legally entitled to carry a concealed firearm. The numerous changes in law and practice provide a sort of policy “experiment” that has been analyzed by scholars to determine whether it has affected crime rates or patterns.

This research has been conducted by economists, statisticians, and other social scientists.²³ The first prominent study of the effect of the adoption of “shall issue” laws was by John Lott and David Mustard, published in 1997.²⁴ They reported that these laws had a net deterrent effect on homicide rates, but actually had the effect of increasing property crime rates. For the crime of robbery, a crime that typically occurs in public places, their results were mixed. Since the publication of that article, John Lott has published revised estimates that purport to demonstrate that shall-issue laws have a deterrent effect on both violent and property crime (including robbery).²⁵ Other economists and social scientists have reached different conclusions.

Based on my reviews of this literature, my conclusion is the same as the conclusion of the expert panel assembled by the National Research Council of the National Academies, the Committee to Improve Research Information and Data on Firearms. “The evidence to date does not adequately indicate either the sign or the magnitude of a causal link between the passage of right-to-carry [shall-issue] laws and crime rates.”²⁶ In other words, if a state liberalizes its concealed carry law by adopting a “shall

issue” provision, there is no empirical basis for predicting whether the result would be to increase or reduce the rates of homicide and other crime. That does not mean that there would be no effect in fact—only that the current state of the science does not support a prediction of what that effect would be.

It is worth emphasizing that this expert committee considered all of the empirical literature that had been published prior to 2005, and also performed its own analysis of the data. There have been numerous studies published, some reporting positive results, and some negative. The conclusion of this panel should be viewed as authoritative in my judgment. The National Research Council of the National Academies was chartered by President Wilson during World War I to provide expert advice to the nation. Since then its committees, including the Committee to Improve Research Information and Data on Firearms, have been appointed from among the leading scholars in the relevant field who are vetted for conflicts of interest with respect to the topic at hand. (The experts are not compensated for their service.) The assessment of this neutral group of experts provides the most trustworthy conclusion possible.

VII. Why should a state deny a concealed-carry permit to any law-abiding adult who applies?

In shall-issue states where authorities are required to issue concealed-carry permits to all applicants who meet certain minimum conditions, the list of conditions typically includes a minimum age provision (usually 21) and the list of provisions of the federal Gun Control Act that limit lawful possession. Those provisions include a prior felony conviction, a misdemeanor conviction for domestic violence, an involuntary commitment for mental illness, and a current felony indictment. Of those provisions, the one that is most consistently documented in computerized databases that are available to law enforcement authorities in New York State is felony conviction.

It is sometimes alleged that most gun crimes are committed by active criminals who can be readily identified as such. For that reason, it is claimed that issuing concealed-carry permits to applicants who are not identified criminals poses no risk to the public safety. But this claim is false. The evidence demonstrates that a majority of criminal homicides and other serious crimes are committed by individuals who have not been convicted of a felony.

One of the first systematic studies of this subject was conducted using data from Illinois. That study found that just 43% of adults arrested for criminal homicide during the 1990s had a felony conviction on their record.²⁷ Likewise, recent statistics for Westchester County demonstrate that most adults arrested for felony homicide in those counties do not have a felony conviction. Over the decade 2000–2009, 273 adults were arrested in Westchester County for completed or attempted felony homicide (PL

125), of whom just 111 (41%) had a prior felony conviction. Thus, the clear majority of those arrested for felony homicide would have qualified for a concealed-carry permit prior to that arrest *if* the only meaningful condition was the lack of prior felony conviction.

I expanded this statistical inquiry to include all adults (age 21 and over) arrested for a felony in Westchester County, and in New York State overall. In 2009, 3,644 individuals were arrested for a felony in Westchester County. Of those, just 1,084 (30%) had a prior felony conviction. One implication is that if Westchester County were required to issue concealed-carry permits to all adult applicants who lacked a felony conviction, then most (70%) of those arrested for a felony in 2009 would have qualified prior to their arrest. For all of New York State, just 33% of the 109,705 adults arrested for a felony had a prior felony conviction.

These statistics demonstrate that most adults who are arrested for felony homicide would not have been barred from obtaining a permit to carry a concealed firearm prior to that arrest, *if* the only requirements for obtaining a permit were a lack of prior felony conviction (and minimum age). The same conclusion holds for those who are arrested for other felonies. In other words, if the goal is to protect the public against dangerous criminals, then it is not enough to just screen out those with felony convictions. That group constitutes only a minority of future arrestees for serious crimes, including felony homicide.

Concealed-carry permit systems in shall-issue states are intended to screen out some other groups besides those with a felony conviction record. Following the federal Gun Control Act requirements for legal gun possession, they typically deny a permit to applicants who are known to have been convicted of misdemeanor domestic violence (or subject to a domestic restraining order), are under indictment for a felony or a fugitive, have been involuntarily committed to a mental institution, are an illegal alien, or are a user of illicit drugs. Unfortunately, there are no systematic studies of the prevalence of these disqualifying characteristics among those arrested for serious crime. Furthermore, local officials have only limited access to public records that would identify which applicants have been convicted of domestic violence, or have been involuntarily committed.

In any event, there is good reason to believe that of all the disqualifying conditions, felony conviction is the most common. Statistics from the U.S. Bureau of Justice Statistics indicate that a felony record is by far the most common characteristic that blocks firearms transfers by firearms dealers when they conduct background checks of buyers.²⁸

I conclude that there is a legitimate public purpose in restricting the issuance of permits to carry concealed firearms, and providing local law enforcement officials with some discretion in this regard. This public purpose

is to reduce the incidence of firearms use in violent crime, and thereby reduce the rate of criminal homicide. A more lenient permit system that entitles all adults who lack a felony record to obtain a permit would qualify the majority of those who are later arrested for a felony.

VIII. Additional reading

If this introduction motivates further reading, there is no lack of possibilities, including a number of the books and articles cited here. It is an unfortunate fact that scholarly writings in this area are often assessed through a political lens, with the presumption that scholarly inquiry in this contentious arena must be motivated and shaped by a “pro gun” or “pro control” agenda. I believe that empirical research on gun violence can and should be judged by the same methodological standards as research on other topics. Rather than “pro” or “con,” consider whether a particular line of research and set of findings is based on “good science” or not. That is the judgment that the expert panel of the National Academy of Sciences strived to render on a number of topics.

Endnotes

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