HELLEl, MCDONALD AND MURDER: TESTING THE MORE GUNS, MORE MURDER THESIS

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ABSTRACT

We examine several aspects of the more guns, more murder hypothesis. We find that ordinary people typically do not kill in a moment of rage, so that preventing them from owning guns will not save lives. Societies without guns are not typically peaceful and safe. Historically, more guns are associated with less murder. Modern Europe nations with very high gun ownership rates have much lower murder rates than low gun ownership nations. In the United States: the colonial period of universal gun ownership saw few murders and few of those were gun murders. More guns do not mean more murder.
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In 2008 the Supreme Court recognized that the Second Amendment guarantees a right of law-abiding, responsible adults to own firearms for self-defense and struck down the District of Columbia's bans on keeping defensive firearms as violating that right. As this article is being written the Court is considering whether that right applies against states and localities so as to invalidate the City of Chicago's handgun ban.

It is by no means our intention to minimize the Second Amendment legal issues on which one of us has written extensively. But it is fair to assume that the Heller court gave at least some consideration to the criminological issues. In this connection, attention was doubtless paid to the National Academy of Sciences' finding in 2004 that after exhaustive investigation it could not identify any gun control that had reduced violent crime, suicide or accidents. The justices may also so have noted the same result reached the year previously in the Centers for Disease Controls' even more extensive study as well as the cognate results of other researchers.

Such research notwithstanding, politicians and other laymen still widely hold the belief that more guns mean more murder and fewer guns will mean less. This widely held faith is the basis of the gun ban ordinances challenged in Heller and in McDonald v. City of Chicago.

The purpose of this paper is to focus other evidence on these widely held beliefs and to acquaint the legal community with the relevant data. In that respect it may be useful to recall the conclusion of the University of Massachusetts' Social and Demographic Research Institute from an exhaustive federally funded review of the extant gun control literature during the Carter Administration:

It is commonly hypothesized that much criminal violence, especially homicide, occurs simply because the means of lethal violence (firearms) are readily at hand,
and, thus, that much homicide would not occur were firearms generally less available. There is no persuasive evidence that supports this view.9

DISCUSSION

We begin by examining two myths that may promote the faith that more guns mean more murder and fewer guns less murder. One of these views reflects a logical error, the other an outright falsehood.

1. Falsehood: The Ordinary-Person-As-Murderer

The reason it seems to many people that more guns necessarily will mean more murder, is that they have been misled by a widely held falsehood. That falsehood is that murderousness is part of the make-up of ordinary people, a universal human trait. Innumerable articles – even scholarly articles – offer assertions like “most shootings are not committed by felons or mentally ill people, but are acts of passion that are committed using a handgun that is owned for home protection.”10 To the same effect see the Aug. 13, 2005 L.A. Times OpEd “Targeted by Gun Nuts,” by Jenny Price, who was assertedly a scholar at the UCLA Center for the Study of Women. Her article claimed that “thousands of law-abiding citizens annually become criminals when they pick up a firearm and shoot other people.”11

From the premise that most murders are committed by previously law abiding people in a fit of rage, it would follow that gun ownership by ordinary people would promote murder and the more guns the more murder. The problem with this is that the premise is utterly false. Concomitantly, the articles stating that premise are truly remarkable for their absence of references supporting it. (See, for instance, the absence of references for the point in the otherwise referenced articles cited in the preceding footnote.)
The reason relevant references for the point are lacking even in scholarly articles which reference all other points, is that no studies support the false premise. Rather, what studies of homicide – including those reaching back to the 19th Century -- document is the opposite: far from being ordinary people, most murderers are extreme aberrants with life histories of psychopathology, crime, and/or violence.

Reviewing pre-1997 studies of murder and murderers Elliott summarizes a perpetrator characteristic:

... the vast majority of persons involved in life-threatening violence have a long criminal record with many prior contacts with the justice system...12

For post-1997 homicide studies detailing the prior criminal and psychiatric histories of murderers see Kates & Cramer (2009).13

So invariably do studies document it, that the criminal aberrance of murders has been deemed one of the ~criminological axioms."14

2. Correlations between high gun ownership and murder.

Because guns may be widely owned for reasons like hunting having no relation to crime, there is no necessary correlation between the two.15 Thus Norway has Western Europe's lowest murder rate despite having the area's highest proportion of gun ownership.16

Nevertheless, because guns are often owned for protection against violent crime, there often is a correlation between high murder rates and widespread gun ownership. Such correlations are regularly cited as proving that guns cause crime. This is as absurd as citing the fact that many diabetics use insulin as proof that insulin causes diabetes.

If ordinary people do not commit murder, even with guns present, then gun ownership by
ordinary people does not increase murder. Furthermore, if people acquire firearms in response to
crime in order to protect themselves, then more crime implies more guns. If people protect
themselves with guns and such behavior increases the cost of attack to the attacker, then more
guns means less crime. In sum, the correlation between high crime and high gun ownership
could be positive, negative, or zero. Nevertheless, even if one found that more guns were
positively correlated with crime, it does not prove causation, since people may well acquire guns
in response to crime. Researchers have found all three values in studying guns and crime.
However, Southwick showed that any positive correlation is a result of causation running from
crime to guns (more crime causes more guns) and not from guns to crime (more guns causing
more crime).17 Moody updates and confirms Southwick's analysis using more recent data.18
Moody and Marvell found no significant relationship between guns and crime, which they
attribute to the fact that guns can both cause crime and deter crime, with the net effect being
approximately zero.19

While there may be no significant correlations in the U.S. today, this paper examines
several examples from history and anthropology in which more guns have been associated with
less crime.

3. Do societies with no firearms have low murder rates?

It may seem odd to begin our treatment by discussing societies that are obscure or long
gone. But doing so disposes of an unavoidable problem which should be expressly admitted: The
mere fact that guns have been outlawed does not mean that their possession in a society actually
diminishes. Banning guns just drives them underground.

As discussed infra, England discouraged gun ownership ever more stringently throughout
the 20th Century. But progressively discouraging gun ownership coincided with progressive increases in British violent crime. Yet that does not necessarily prove anything about the absence of guns promoting violence because it does not prove that guns actually were absent. Yes, outlawing and confiscating handguns in 1997 resulted in c. 166,000 legal handguns being surrendered by law abiding owners. But, as to the overall success of that measure, a 2002 report of England's National Crime Intelligence Service states, that while ‘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.’ (In this respect it is useful to remember the comment of the English analyst of English gun laws: Chief Superintendent Greenwood notes that over many decades the “amnesties” for turning in illegal guns have not yielded any decrease in the numbers of guns surrendered which suggests that as many guns as ever are being illegally imported into England.)

Thus it is appropriate to begin by discussing societies in which we can be confident that firearms actually are or were non-existent rather than merely illegal.

a. Primitive Societies.

One source of data to test the hypothesis of more guns, more murder is the experience of modern day primitive gun-free societies. For example, according to Bruce Knauff, the Bushmen of the Kalahari, featured in the movie The Gods Must Be Crazy, had a homicide rate equivalent to 41.9 per 100,000 over the 35 years from 1920-1955. In contrast, the American murder rate for the latest available year, 2008, was 5.4 per 100,000 population. In the 1950s and early 1960s was around 5 per 100,000, i.e., 1/8th that of the Bushmen. The US homicide rate peaked in
1991 at 10.5 per 100,000. This rate is approximately one-fourth that of the Kalahari bushmen.

The Gebusi, a New Guinea gun-free society of 450 people, had a homicide rate of 568 per 100K while the Yanomamo, who live in the Brazilian rainforest, had a homicide rate of 166 per 100K from 1970-74 and the Hewa of New Guinea had the amazing homicide rate of 778 per 100K during the period 1959-68.

High homicide rates characterize many other primitive societies including the Aboriginal Australians, Alaskan Eskimos, American Northwest Coast Indians, and Great Plains Indians.

Many homicides in primitive cultures arise from wife-stealing, rustling, raids and counter-raids, and revenge killings. It might be objected that such killings are a kind of warfare which makes it unfair to compare them to domestic murder in the US. To this it can be answered that large numbers of American homicides are comparable, arising out of gang warfare, revenge and marital infidelity. More important, if we adjust the US homicide rate between 1942 and 2005 to include all the deaths of US soldiers killed in World War II, the Korean War, the Vietnam War, the Gulf War, and the Iraq war, we get an average homicide rate of 10.6 per 100K (compared to the average of 6.8 excluding war deaths). This rate is still well below the homicide rate of the gun-free cultures examined above. Or, considering the issue from the standpoint of war deaths caused by the American military, American military forces would have had to have killed almost the entire population of South Vietnam between 1963 and 1972 to equal the homicide rate of the Gebusi.

One of the problems with measuring murder as a rate per 100K is that it may misrepresent a society that has a population of, say, 450. However, this criticism is not as telling if the homicide rate is computed over a long period of time. An alternative comparison can be
made by looking at the proportion of all deaths due to homicide. In the U.S. in 2005 homicide accounted for less than one percent of all deaths.\textsuperscript{30} The corresponding number for the Gebusi is 29 percent for females and 35 percent for males. In fact, sixty percent of Gebusi males admit to committing one or more homicides.\textsuperscript{31} Among the Waorani of the Amazon rainforest, 60 percent of adult deaths over five generations were the result of homicide.\textsuperscript{32} This implies a homicide rate 22 times higher for males and 49 times higher for females than in the US today. In one fifteen-family group of Copper Eskimos in Canada, every adult male had been involved in at least one homicide.\textsuperscript{33}

What about pre-historic humans? Excavators of the Madisonville, Ohio late pre-historical site found that 22 percent of the adult male skulls had wounds sufficient to be the cause of death and 8 percent were fractured. Similarly, 16 percent of the individuals found in the Norris Farm, Illinois prehistoric site apparently died violent deaths.\textsuperscript{34} Fifty-six percent of the Australopithecine bodies from the Pleistocene era found in Africa apparently died due to purposeful violence by other hominids.\textsuperscript{35} Similarly, 64 percent of the remains of 25 individuals found in European prehistoric sites show similar evidence of death by violence at the hands of other hominids.\textsuperscript{36}

We do not mean to imply by this litany of violence that all primitive, ancient, or pre-historical societies are/were extremely violent. There are several examples of peaceful primitive societies. For example, the Polar Eskimos of Greenland, the Mbuti Pygmies of central Africa, the Semang of Malaysia, the Mardudjara of western Australia, and the Great Basin Shoshone and Paiute of the US appear to be particularly peaceful.\textsuperscript{37} The gun free society of 13th century
Iceland portrayed in the Icelandic Sagas had an estimated homicide rate of 9.6, exactly equal to that of the United States in 1994.\textsuperscript{38}

Over the very long run, more guns in societies have been associated with less homicide. The complete absence of guns does not guarantee one's safety. In fact the reverse is often true. It is quite possible, and quite common in many societies, to commit homicide at very high rates without the aid of firearms. Contrary to the implications of the more guns, more crime hypothesis, life in gun-free societies is typically neither peaceful nor safe.

While there are relatively peaceful gun-free societies, these seem to be the exception rather than the rule. Certainly the conclusion from this survey does not support any notion that gun-free societies are necessarily peaceful.

b) The Dark Ages and Afterward

If the existence of firearms is the key to murder, the Dark Ages should have been blissfully peaceful. For Dark Age violence can not be explained “in terms of the availability of firearms, which had not yet been invented.”\textsuperscript{39} Yet, in addition to war both endemic and extremely brutal, the Dark Ages experienced rates of ordinary murder that were at least twice those of the U.S. at its worst.\textsuperscript{40}

If more guns mean more murder and fewer guns mean less, murder should have increased exponentially after the Dark Ages. For it was only thereafter that firearms were invented and that gradually they became ever more efficient and more widely distributed among the citizens. But, contrary to the guns cause murder thesis, murder rates seem to have fallen sharply as guns became more efficient and widely owned in England, much of Europe and Scandinavia over the
During much of this period, incidentally, because the military age male population of England was deemed to constitute a militia, every military age male was required to possess arms and appear with them when called out for militia training and actual service. The same was true in America during the period of colonial and post-colonial settlement. Indeed the basic English militia laws were superceded by the colonies' even more specific and demanding legal requirements of universal gun ownership. Under those laws virtually all colonists, and every home, had to have guns. By law, male youths were deemed of military age at 16, 17 or 18 (depending on the colony) and every military age man, excepting the insane, infirm, and criminals, had to have arms; and military age male colonists were subject to being called for inspection, militia drill or service bringing their legally required guns. To arm those too poor to afford guns, the laws required that guns be purchased for them and that they would have to make installment payments to pay back the cost.

As the statutes quoted in the preceding footnote make clear, mandatory gun ownership was not limited to those in the militia. Women, seamen, clergy, and some public officials were automatically exempt from militia call up, as were men over the upper military age (which varied from 45 to 60, depending on the colony.) But, as a deterrent to criminal and other attack, every household was required to have a gun, even if its occupants were all female, under or overage males, seamen, clergymen and/or public officials. Likewise, all respectable men were legally required to carry arms when out and abroad (though it may be doubted that this command was honored and enforced in colonial cities and long-peaceful areas).

As a result of these laws, ~by the eighteenth century colonial Americans were the most
heavily armed people in the world." Yet, far from more guns meaning more death, murders were ~rare~ – and ~few~ involved guns ~despite their wide availability.~

4. Do societies with fewer firearms have fewer murders?

a) England.

Once again, if more guns cause murder, and more guns cause more murder, it would seem societies with no guns at all should be the safest possible states. There are few gun free societies in the world today. However, if we look back in history to the time before the invention of firearms, we can judge for ourselves whether those societies were tranquil and safe.

Remarkably good homicide data is available for England, beginning in the 1200's. Those data indicate a homicide rate in England of roughly 20 per 100,000, over 16 times higher than the rate in England in 2008/9 of 1.2 per 100,000.

Firearms were introduced into England in the 1400's and were in wide use by the 1500's, coincident with a decline in the homicide rate to 15 per 100K. However these early guns were predominately of the matchlock design. This design featured a slow burning fuse held in a clamp at the end of a serpentine lever. When the trigger was pulled the clamp dropped down so that the end of the lit fuse touched the powder in the flash pan, firing the weapon. The design was simple and the weapons were relatively inexpensive. The major problem with the design from the point of view of personal defense was that, because of the need for a lit fuse, the weapon could not be kept and carried loaded and primed for quick use against a sudden attack.

The first firearm that could be carried loaded and primed was the flintlock, introduced into England around 1630. In this design the fuse is replaced by a piece of flint. When the
trigger is pulled the flint strikes a piece of steel producing a shower of sparks that ignite the powder in the flash pan. This technology persisted through the early 1800’s. While matchlocks were almost exclusively long guns, flintlock technology was readily adapted to produce handguns, which were particularly useful for self defense. The flintlock pistol was inexpensive, could be comfortably carried and did not require a great deal of physical strength or expertise to operate. The flintlock could be fired in an instant, making it the ideal weapon for self-defense. Armed with a flintlock, the physically weak soon found themselves on an equal footing with the physically strong in a confrontation.

The introduction of the flintlock coincided with the largest decline in homicide in English history. The homicide rate plunged to 6 per 100K in the 1600’s. The English homicide rate continued to decline slowly and steadily until well into the 20'th century. For example, in 1900 the homicide rate was 0.96 per 100K.

The last hundred years of English history tell the reverse story. The first modern gun law in England was the Pistols Act of 1903 which required Englishmen to purchase a permit in order to acquire a firearm. Since 1920, the government's policy has been ever more restrictive. The Firearms Control Act of 1920 imposed a permit requirement to possess rifles as well as all types of pistols and empowered local authorities to determine if the applicant should be allowed to purchase arms. This permit requirement was administered progressively more stringently and was amended to increase restrictions over time in an attempt to reduce the civilian gun stock. The Prevention of Crime Act of 1953 and the Criminal Law Act of 1967 redefined the right to self defense more restrictively making any act of self defense potentially criminal. The Firearms Acts of 1968 and 1998 brought shotguns under strict regulation; the Firearm Act of
1997 effectively banned the private ownership of handguns and provided for the confiscation of all legally owned handguns.55

According to the more guns more crime hypothesis, all this restriction of civilian guns should have resulted in England enjoying lower and lower rates of violent crime. Unfortunately, the facts reveal a pattern that is almost the opposite. Detailed analysis of English gun control results began in the early 1970s with a thesis written (and then published) by a British police official on leave at Cambridge University.56 Chief Superintendent Colin Greenwood concluded:

No matter how one approaches the figures, one is forced to the rather startling conclusion that the use of firearms in crime was very much less [before 1920] when there were no controls of any sort and when anyone, convicted criminal or lunatic, could buy any type of firearm without restriction. Half a century of strict controls has ended, perversely, with a far greater use of this class of weapon in crime than ever before.57

For even more dolorous conclusions which flow from the later criminal statistics see the more recent discussions in Malcolm58 and Kleck,59 culminating in Kates' evaluation:

Under the 1997 handgun ban 166,000 handguns were turned in by law abiding owners. Yet that left untold numbers in criminal hands. Nor has England been able to prevent illegal importation of millions more guns. As of 2002, a report of England's National Crime Intelligence Service lamented, that while -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.~60

The first truly effective English gun control law was enacted more than 80 years ago (the
Firearms Control Act of 1920). After more than eight decades of ever more stringent controls, the homicide rate in England peaked in 2002/3 at 1.79 per 100K. This is well below the 5.9 per 100K rate in the US, but an 86% increase over the 1900 rate when guns in England were essentially unregulated. It is also considerably higher than the rates in Norway, Austria and various other Continental nations\(^{61}\) where guns are as available as in the U.S. The English murder rate has since fallen back to 1.2 per 100K in 2008/9 but that is still a 25% increase over the 1900 rate\(^{62}\) and far higher than Norway or Austria which approximate those of 1900 England.

In fact, according to the International Crime Victimization Survey (ICVS), England has passed the United States in terms of overall crime victimization. In 2000, England and Wales had the highest crime rate among the world's twenty largest countries, higher than in such notoriously crime-ridden societies as the US, Russia and South Africa.\(^{63}\)

The latest data from the ICVS shows that in 2004 the overall victimization rate per 100K in England was 45,100 while that of the US was 33,600. The corresponding victimization rate for burglary was 3400 for England compared to 3300 for the US while the robbery rate was 2000 compared to 600 for the US. The rate of sexual assault against women was 6100 per 100K in England in 2004, an astounding 217 percent higher than the US rate of 2800 per 100K.\(^{64}\)

England today apparently has fewer legal guns and more crime compared to the US, which has vastly more legal guns and less crime.\(^{65}\) We deem it fitting to close this section of our article with the rueful later comments of Chief Superintendent Greenwood:

> At first glance it may seem odd, or even perverse, to suggest that statutory controls on the private ownership of firearms are irrelevant to the problem of
armed crime, yet that is precisely what the evidence shows. Armed crime and
violent crime generally are products of ethnic and social factors unrelated to the
availability of any particular type of weapon. The numbers of firearms required
[to arm criminals] are minute [in comparison to the overall number] and these are
supplied no matter what controls are instituted. Controls have had serious effects
on legitimate users of firearms, but there is no case either in the history of this
country [England] or in the experience of other countries, in which controls have
been shown to have restricted the flow of weapons to criminals or in any way to
have reduced armed crime.66

b) Continental Europe - myths of gun control

The myths of European gun control may be enumerated as follows: a) Europe has a low
incidence of murder compared to the U.S.; b) Europe has much more stringent gun control than
the U.S.67; c) European gun controls gave Europe its low incidence of murder.68

i) No, Europe does not have a low incidence of murder compared to the U.S.

The nations of Western Europe and Scandinavia – whose gun laws are often less
stringent than American69 -- have comparatively low murder rates.70 But the murder rates of
Russia and many former Soviet possessions and satellites in Europe are three to four times
higher than American murder rates though those nations totally ban handguns.71

Moreover comparing the murder rates of the16 European nations for which gun
ownership data are available shows that the nations with much higher gun ownership have much
lower murder rates. Kates and Mauser contrasted the nine nations in which gun ownership was very low (less than 5,000 guns per 100,000 population) to the seven in which gun ownership was three times higher (more than 15,000 guns per 100,000 pop). The high gun ownership nations' average murder rate was much lower than that of the low gun ownership nations. On average the low gun ownership nations averaged three times more murder than the high gun ownership nations.

The authors expand on this in reference to specific European nations, stating: murder rates are determined by basic socio-cultural and economic factors rather than mere availability of some particular form of weaponry. Consider Norway, its neighbors Sweden, and (across the Baltic and North Seas respectively) Holland and Denmark. Norway has far and away Western Europe's highest household gun ownership (32%), but also its lowest murder rate. Holland has the lowest gun ownership in Western Europe (1.9%), and Sweden lies midway between (15.1). Yet the Dutch murder rate is half again higher than the Norwegian, and the Swedish rate is even higher yet, though only slightly.

The authors also noted the following: Greece has over twice the per capita gun ownership of the Czech Republic, yet gun murder is much less common in Greece and the Greek murder rate with all weapons is substantially lower; though Spain has over 12 times more gun ownership than Poland, the latter has almost a third more gun murder, and its overall murder rate is almost twice Spain's; Finland has 14 times more gun ownership than neighboring Estonia yet Estonia's gun murder and overall murder rates are about seven times higher than Finland's.

It bears emphasis that the authors reject the idea that high homicide rates are caused by
very restrictive gun laws:

To reiterate, the determinants of murder and suicide are basic social, economic and cultural factors not the prevalence of some mere form of deadly mechanism. In this connection recall that the American jurisdictions which have the highest violent crime rates are precisely those with the most stringent gun controls. This correlation does not necessarily prove pro-gun advocates correct that gun controls actually encourage crime by depriving victims of the means of self-defense. The explanation of this correlation may be political rather than criminological: Jurisdictions afflicted with violent crime tend to severely restrict gun ownership. But this does not suppress the crime for banning guns can not alleviate the socio-cultural and/or economic factors that are the real determinants of violence and crime rates. As a result areas with severe violence problems tend correlatively to have severe gun control, leading to the appearance that gun controls actually cause violence.76

ii) No, Europe does not have more stringent gun controls than the U.S.

The stringency of firearms restrictions varies entirely depending on which European nations are involved and to which American states the comparison is made. In Heller the Supreme Court received an amicus brief filed on behalf of 25 European academics asserting that their nations’ gun laws were much less stringent than the gun bans of the District of Columbia which were challenged in that case.77

This point is illustrated by the following comparisons: In most of the highest population density U.S. states a permit is required to buy any kind of handgun, including New York, New
Jersey, Massachusetts, Michigan, Missouri, North Carolina and Hawaii as well as Puerto Rico.

Contrast Italy where law abiding responsible adults may buy handguns for self-defense with no permit restriction whatever. Contrast Austria where a permit is required for a semi-automatic pistol but law abiding responsible adults may buy a revolver for self-defense without a permit. Contrast France where, though a permit is required for a handgun of modern design, no permit is required to buy for self-defense a modern version of a “cowboy gun,” i.e., a brand new double-action revolver with a pre-1895 design.78

Moreover a permit requirement is only as restrictive (or permissive) as its administration. In Austria the permit requirement for semi-automatic pistols is moderated by a provision specifying that a permit must issue to every law abiding responsible applicant who seeks a pistol for home protection. It is our understanding that in France and Germany, as in Hawaii, Michigan, Missouri and N.C., permit issuance is pro forma for a home defense weapon. But in Massachusetts, N.J. and N.Y. permit issuance is legendarilly highly restricted, expensive and protracted.
iii) No, the anti-gun policies which prevail in England and some of the smaller nations of Continental Europe cannot be responsible for low European murder rates. As stated in Barnett and Kates:

Laws against gun ownership cannot have caused low Western European murder rates, since those low rates long preceded the gun laws. Violence was low, and falling, in Western Europe from at least the mid-19th Century, but anti-gun policies only came in after World War I aimed not at crime but at the political turmoil of that tumultuous era.79

5. Gun ownership and American Crime

a. The Colonial Period

To reiterate, the colonial laws required universal household gun ownership and “colonial Americans were the most heavily armed people in the world.”80 Yet, murders were ~rare,~ and ~few~ involved guns ~despite their wide availability.~81
b. Pre-Civil War U.S.

Gun availability appears to have markedly declined after the America Revolution. By the mid-19th Century the militia was a faded anachronism, the militia laws were no longer seriously enforced, and Americans were no longer universally armed. Yet this era of reduced gun ownership was the time in which violent crime began to be a major problem in America.  

Indicative of the bias and false assumptions that so often blame murder on inanimate objects is Lane's erroneous attribution of this homicide surge to the invention and distribution of the Colt revolver. It is true that Colt invented his revolver in 1836 and was marketing it by 1840. But it was so expensive that it was not at all widely distributed. Indeed, so poor were its sales that Colt went bankrupt in 1840 and ceased production. He resumed production after the outbreak of the Mexican War (1846) selling largely to American and foreign armies and to the wealthy primarily in England.

In sum, the revolver cannot be blamed for a murder epidemic beginning when revolvers
were not being manufactured and continuing during a period when revolvers were financially inaccessible to the ordinary citizenry.

c. The Civil War and Later in the 19th Century

The revolver – the first modern firearm – did not become widely available to American civilians until after the Civil War. Contrary to the guns-cause-murder thesis, what occurred as the deadlier technology of the revolver became available and commonplace among Americans of all classes, was a sharp decrease in murder.

The widespread diffusion of revolvers Lane attributes to the 1840s actually came after the Civil War ~when the country was awash with [surplus] military pistols.~ Officers on both sides of the Civil War had had to buy revolvers and side arms were issued to non-commissioned officers, artillery, cavalry and dragoons. How many revolvers this involved is suggested by the fact that over two million men served in the Civil War U.S. Army while the Confederates had over half that number. When their enlistments were up, or when they were mustered out at
war's end, former officers and soldiers walked off with hundreds of thousands of these weapons.

88 Even so, the U.S. Army and Navy were left with vast numbers of surplus revolvers, both
those they had procured and those they had captured from Confederate forces. As the Army
plummeted to a force of slightly over 10,000 men89, hundreds of thousands of military surplus
revolvers were sold to jobbers at rock bottom prices. The market became so glutted that at the
end of the 1860s the jobbers had thousands of unsold war surplus revolvers left to ship off to
Europe for the Franco-Prussian War. Indeed, as late as the late 1920s jobbers were still selling
crates of surplus Civil War revolvers they had been unable to completely dispose of in the
preceding 60 years.90

The diffusion of even cheaper revolvers continued through the end of the century with
the introduction of the ~two dollar pistol~ -- as in ~hotter than.~ These were very cheap guns
manufactured largely out of pot metal. Sold nationwide through Montgomery Ward catalogs
from 1872 on (by Sears from 1886), they were priced as low as $1.69, and marketed under such
names as ~Little Giant~ and ~Tramp's Terror.~\textsuperscript{91}

Despite this geometric increase in the number of revolvers and their diffusion to all social classes, homicide seems to have fallen from the 1870s through the end of the 19th Century.\textsuperscript{92} Once again, meaningful explanation for homicide rates must look to fundamental cultural and socio-economic factors rather than to the mere availability of a particular kind of deadly weaponry.

d) 20\textsuperscript{th} and 21\textsuperscript{st} Century America

The ultimate refutation of the guns-cause-murder myth is the gun numerosity and murder figures from 20\textsuperscript{th} and 21\textsuperscript{st} Century America. It should be understood that gun numerosity figures for the years before the end of WWII are at best approximations. We know that during the
colonial period the law required every man and every household to possess at least one gun. We know that the post-Civil War period saw the country “awash with guns.” But that is as specific as the facts available allow.

The first reliable comprehensive estimates of American gun ownership – and these are only estimates – date from right after WWII as do also the first reliable counts of homicide. From that time to the present we know that 3-5+ million new firearms have been added to the American gunstock in each year. For instance, figures kindly supplied us by Kleck indicate that that firearms produced in or imported into the U.S. totaled 3.6 million in 2000 (1.2 million handguns, 2.4 million rifles and shotguns), 2.75 million in 2001, 5.1 million in 2002, and 4.5 million in 2003.

Adding up available production and importation figures from 1899 on, it is estimated that the current American civilian gunstock exceeds 300 million. That is roughly six times higher than the 1946 American civilian gunstock of less than 48.5 million.
If guns-cause-murder, one would expect that a sixty year period of massively increased gun acquisition and possession (1946-2005) would result in a massively higher murder rate. So how much more murder has a six-fold increase in guns occasioned? None. Rather, the murder rate for 2005 was decreased by nearly 20% below the rate for 1946. And year by year in the 2000s, American murder rates remained nearly the same or dropped – notwithstanding that each of those years saw the addition of 4-5 million new guns to the total gunstock.

CONCLUSION

The findings made in this paper are subject to the objection that they are speculative, and some of them are highly so: Obviously, we can say that firearms did not exist in the Dark Ages, but the fact that that was a time of extreme violence rather than blissful peace is necessarily inexactly known. Social historians have estimated annual murder figures for various nations and eras before the mid-20th Century but these estimates are speculative as must also be estimates of gun numerosity. Gun numerosity and murder rates are inexact even for the mid-20th Century to date. We can only work with what data exist.
Furthermore, mere correlations between lesser or greater firearms ownership and homicide rates do not prove causation. We have taken pains never to suggest the correlations we have found prove that the more guns in a population, the less murder there will be.

With those caveats, the questions addressed here may be summarized as follows: Gun free societies are not necessarily less murderous than the U.S. which is often characterized as gun-ridden. The majority of gun free societies noted here were considerably more murderous than the U.S. Historically, for whatever reason, centuries characterized by murder decreases have gone hand-in-hand with the development and diffusion of guns in various societies; for whatever reason, in modern Europe nations whose populations have much higher gun ownership have much lower murder rates than low gun ownership nations. As to the United States: the colonial period of universal gun ownership saw few murders and few of those were gun murders; the 1840s and '50s in which gun ownership was no longer universal saw an apparently rapid increase in murder; the post Civil War period in which armament with multi-shot, rapid-firing firearms became widespread saw a murder decline; and over the past 65+ years a vast increase in citizen
gun ownership saw a sharp decrease in murder.

Thus, the historical and anthropological evidence suggests that more guns tend to lead to less murder, not more. Thus nations considering enacting highly restrictive gun controls should assess the risk that if the controls are effective in reducing gun possession this could increase murder and other crimes by disarming the citizenry or making it difficult for people to defend themselves in public places.

In short, what can be said as a matter of historical fact is that widespread diffusion of firearms among the general population has gone hand-in-hand with decreased murder. As to whether these things are causally related, readers may draw whatever conclusions they deem

1 Yale, Ll B. 1966. The authors wish to express their appreciation for help to Donald Brman and C.B. Kates. Special thanks are due to Professors Kleck and Malcolm, the leading American authorities in their respective fields (respectively the criminology of firearms and the English and American law of the right to arms) who reviewed our ms. Of course for errors the authors alone are responsible.
2 Professor of Economics, College of William & Mary. AB Colby College Waterville ME, Ph.D. University of Connecticut.


4 *McDonald v. City of Chicago*.


7 "First Reports Evaluating the Effectiveness of Strategies for Preventing Violence: Firearms Laws"
It is noteworthy that the CDC has again and again reiterated its political position that gun ownership should be eliminated from American life. This political position may explain the CDC study's literal conclusion, i.e., that none of the hundreds of studies it reviewed were done well enough to justify the conclusion that the gun controls examined do not reduce violent crime.

4 HOMICIDE STUDIES 185-201 (2000), John R. Lott Jr., MORE GUNS, LESS CRIME:


10 Frank J. Vandall A PRELIMINARY CONSIDERATION OF ISSUES RAISED IN THE FIREARMS SELLERS IMMUNITY BILL 38 Akron L. Rev. 113, 118-19 and footnote 28 (2005) quoting anti-gun activist Prof. Christoffel from her article ~Toward Reducing Pediatric Injuries


   Typical assertions to the same effect – with no supporting footnotes -- will be found in, inter
   alia, Webster, et al., ~Reducing Firearms Injuries~, ISSUES IN SCIENCE AND TECHNOLOGY,  
First, Spring, 1991: 73-9, p. 73; Bruce R. Conklin & Richard H. Seiden, ~Gun Deaths: Biting the Bullet 
Effective Control~ PUBLIC AFFAIRS REPORT: Bulletin of the Institute of Governmental 
udies [U.C.- Berkeley] vol. 22 # 5, p. 1 (1981), at p. 4; and Deane Calhoun, ~From Controversy 
to Prevention: Building Effective Firearm Policies~, INJURY 

   Franklin E. Zimring & Gordon Hawkins, CRIME IS NOT THE PROBLEM: LETHAL VIOLENCE 
IN AMERICA (1997) at 16 and 61 and Josh Sugarmann, EVERY HANDGUN IS AIMED AT 

12 Delbert S. Elliott, ~Life Threatening Violence is Primarily a Crime Problem: A Focus on 


15 See Eskridge, “Zero-Order Inverse Correlations Between Crimes of Violence and Hunting Licenses in the United States~,” 71 SOCIOLOGY & SOCIAL RESEARCH 55 (1986). Ironically this article evidences the strength of the faith that guns cause murder. On Finding hunting license figures bore no relation to violence rates did not cause the author to see the most obvious explanation – that gun ownership among ordinary people does not promote violent crime. Instead he theorized that killing animals just satisfies gun owners’ brutish impulses so they don’t need to murder other humans.

16 Don B. Kates & Gary Mauser, “Would Banning Firearms Reduce Murder and Suicide: A Review
of International Evidence," 30 Harvard Journal of Law & Public Policy 651-694 (2007). Caveat: there is some reason to believe that Switzerland, whose murder rate is also very low, has the highest gun possession rate, but that is only if the Swiss gun count includes weapons supplied to the citizen militia which is the Swiss defense force. If those guns, which are supplied by the government to the population, are not included the Swiss rate, though fairly high, is well below Norwegian's gun ownership rate.


22 Quoted in Kates in 12 BRIDGES supra at 319

23 See Kates infra at 321.


26 CDC http://wonder.cdc.gov/mortSQL.html

27 Bruce M. Knauf,, ‘Reconsidering Violence in Simple Human Societies: Homicide among the


30 CDC Wonder supra.

31 Knauft supra at 462.

32 Gat supra at 575.

33 Keeley, supra at 29.
34 Gat supra at 575.


36 Id at 437.

37 Keeley, supra at 30.

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Lane, supra, MURDER IN AMERICA, p. 15 and ch. 1 generally.

40 Ibid.


43
Malcolm, TO KEEP AND BEAR ARMS, supra at 138-140, Original Meaning, supra, 82

MICH L. REV. supra, 214-216. Typical laws (quoted with original spelling and punctuation) appear from the following sources: William Hand Browne, ed., Archives of Maryland (Baltimore: Maryland Historical Society, 1885) 1:77 (“that every house keeper or housekeepers within this Province shall have ready continually upon all occasions within his her or their house for him or themselves and for every person within his her or their house able to bear armes one Serviceable fixed gunne of bastard muskett boare½” along with a pound of gunpowder, four pounds of pistol or musket shot, “match for matchlocks and of flints for firelocks½.”); August 2, 1619, “Proceedings of the Virginia Assembly, 1619,” in Lyon Gardiner Tyler, Narratives of Early Virginia, 1606-1625 (New York: Charles Scribner's Sons, 1907; reprinted New York: Barnes & Noble, 1959), 273. (requiring that everyone attend church on Sunday, further providing that “all such as bear arms [i.e., all able- bodied males aged 16 and above] shall bring their pieces, swords, powder and shot” with them to church on penalty of a fine.); Nathaniel B. Shurtleff, Records of the Governor and Company of the Massachusetts Bay in New England (Boston: William White,
1853) 1:83 (requiring that everyone, including servants, was to be armed -- with anyone unable to afford a gun to be armed by the town, which the recipients were to reimburse ~when they shall be able.~); John Russell Bartlett, ed., Records of the Colony of Rhode Island and Providence Plantations, in New England (Providence, R.I.: A. Crawford Greene and Brother, 1856), 1:79-80 and 1:94 (requiring, respectively:: “that every man do come armed unto the meeting upon every sixth day,” and also that militia officers go “to every inhabitant [in Portsmouth and] see whether every one of them has powder” and bullets; and “that noe man shall go two miles from the Towne unarmed, eyther with Gunn or Sword; and that none shall come to any public Meeting without his weapon.”); Code of 1650, Being a Compilation of the Earliest Laws and Orders of the General Court of Connecticut (Hartford, Conn.: Silas Andrus, 1822), 72-73 (“That all persons that are above the age of sixteene yeares, except magistrates and church officers, shall beare arms...; and every male person with this jurisdiction, above the said age, shall have in continuall readines, a good muskitt or other gunn, fitt for service, and allowed by the clark of the band.¼" ).
See sources cited in last footnote. For collections of many of the relevant laws see:

http://www.claytoncramer.com/GunControlColonialNewEngland.PDF,

http://www.claytoncramer.com/GunControlColonialNewEngland2.PDF,

http://www.claytoncramer.com/MiddleSouthernColonialGunControl.PDF and


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John M. Dederer, WAR IN AMERICA TO 1775 (N.Y., 1990) 116. N.B.: It should be noted that the foregoing facts are contradictory to assertions made in Michael Bellesiles, Arming
America: The Origins of a National Gun Culture (New York: Alfred A. Knopf, 2000). That book, which won the Bancroft Prize, deemed the premier award for a work of American history, is, unfortunately, still to be found in many libraries, especially university libraries. That book, however, has been discovered to be a fraud; the Bancroft Prize has been withdrawn, the author has found it necessary to resign from his former university and is now reported to be considering a future in high school teaching. “Prize for Book Is Taken Back From Historian,” The New York Times, December 14, 2002 [Section C; Business/Financial Desk; Page 4, Byline: Robert F. Worth]; “The disarming of a bogus scholar” Orange County Register, Nov. 24, 2002 by Alan Bock.; James Lindgren, “Fall From Grace: 'Arming America' and the Bellesiles Scandal~, 111 Yale Law Journal, 2195- 2249 (2002); James Lindgren & Justin Heather, “Counting Guns in Early America~, 43 Wm. & Mary L. Rev., 1777-1842 (2002).
Lane, MURDER IN AMERICA supra, pp. 48 and 59-60.


49 Beattie, id. at 61.


51 Malcolm, 2002, 133-216. Although perhaps intended to exclude handgun possession by the impecunious, this was a very minor restriction since the permit was available to anyone who could pay the fee.

52 Malcolm supra at 145-148.

53 Malcolm id. at 171-173.

54 Malcolm id. at 173-189.

55 Malcolm id. at 199-205.


57 Id at p. 243.

58 Malcolm, supra at 209 and 219: ~When it had no firearms restrictions [19th and early 20th Century], England had little violent crime, while the present extraordinarily stringent gun controls have not stopped the increase in violence or even the increase in armed violence.... Armed crime, never a problem in England, has now become one. Handguns are banned but the kingdom has millions of illegal firearms. Criminals have no trouble finding them and exhibit a new willingness to use them. In the decade after 1957 the use of guns in serious crime increased a hundredfold.~

59 Gary Kleck, TARGETING GUNS: FIREARMS AND THEIR CONTROL (N.Y., Aldine 1997)
19-21 and 251-56.


61 For homicide rates see table 1 in Kates & Mauserr supra; For European gun ownership see the Small Arms Survey, http://www.smallarmssurvey.org/.


63 http://www.freerepublic.com/focus/news/798708/posts


65 Lest there be any question, we are not asserting that illegal gun ownership has actually been curbed: “Under the 1997 handgun ban 166,000 handguns were turned in by law abiding owners. Yet that left untold numbers in criminal hands. Nor has England been able to prevent illegal importation of millions more guns. As of 2002, a report of England's National Crime Intelligence Service lamented, that while '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.'~ Don B. Kates, The Hopelessness of Trying to Disarm the Kind of People who Murder,” 12 BRIDGES 313-330 (2005).


68 Andrew D. Herz, Gun Crazy: Constitutional False Consciousness and Dereliction of Dialogic Responsibilities, 75 BOSTON U. LAW REV. 57 (1995) at footnote 5 comparing handgun murders in the U.S. and in selected foreign nations. See generally Clark, supra; Shields supra.

69 See discussion infra.

70 The American murder rate is c. 5.5 per 100,000 population. Western European and Scandinavian rates are less than half that. Compare FBI, UNIFORM CRIME REPORTS for years in the 2000s to
the figures for various European nations given under Homicide Rates for Selected Countries, in the annual pamphlets for the same years issued by the Canadian Centre for Justice Statistics and entitled JURISTAT: Homicide in Canada.


72 Kates & Mauser supra tables 1-3.

73 Kates & Mauser supra, tables 3-6.

74 Kates & Mauser supra; see Table 5 and accompanying discussion.


75 Kates & Mauser supra; see table 4-6 and accompanying discussion.

76 Kates & Mauser supra, italics added.


78 On file w/ the law review are analyses of Italian, Austrian and French firearms laws.


81 Lane, MURDER IN AMERICA supra, pp. 48 and 59-60.

82 Lane, MURDER IN AMERICA: In the 1840s and 1850s ~American homicide rates in more settled areas, such as New York City, began to soar above those in comparable English places.~ P. 344; see generally pp. 102 and 107ff.
84 Colt's revolver was adopted by foreign armies and was widely sold to officers and the wealthy in England and Europe. Lee Kennett & James LaVerne Anderson, THE GUN IN AMERICA: THE ORIGINS OF A NATIONAL DILEMMA (London, Greenwood, 1975) at 90 (noting use by British, Turkish and Russian forces during the Crimean War), especially after Colt's prize-winning exhibit at the 1851 Great Industrial Exhibition in London. Joseph G. Rosa, COLONEL COLT - LONDON (Arms & Armour Press, 1976) ch. 1 (Colt and the Great Exhibit).
86 See generally CIVIL WAR FIREARMS, supra, ch. V. It must be understood that the generalizations made in the text are subject to multiple caveats and clarifications, inter alia: The revolvers involved were by no means all Colts -- the Federal government also purchased large numbers of Remington, Starr and Whitney revolvers, as well as the guns of other [American] makers.....~ Id. at 158. Vast numbers were also purchased in Europe where, in the first 15 months of the war, the Union bought over 738,000 firearms (including long arms as well as revolvers). Allan R. Miller & Peter Maslowski, FOR THE COMMON DEFENSE: A MILITARY HISTORY OF THE UNITED STATES 217 (N.Y. Free Press, 1984). In addition to cavalry, dragoon and artillery units, some Union infantry units were issued revolvers and many enlisted infantrymen in other units bought their own. CIVIL WAR FIREARMS, p. 160. The Confederacy manufactured its own revolvers and bought large numbers from Europe. Id.
87 These are just estimates. While for the Union Army at least somewhat reliable figures exist for how many served at any one time (see next footnote), that number is not co-extensive with how many served in total. Some Union soldiers served throughout the war, re-enlisting when their original enlistments were up. Others mustered out, being replaced with new recruits. Others yet deserted long before their terms were up, again requiring replacements. Some scoundrels enlisted just for the enlistment bonus, and deserted as soon as they could; some of these went through the enlistment-then- desertion process multiple times, collecting a new bonus under a new name time
after time. THE WORLD ALMANAC (1986) p. 333 gives a figure of 2,128,948 men for the Union Army, 84,415 for the Marines and estimates the Confederate Army at 600,000 to 1.5 million.

88 Courtwright supra.

89 ~The names of 1,000,516 officers and men were on the [U.S. Army's] roles on May 10, 1865; by [1866, the draft had ended and] .... only 11,043 volunteers remained....~ Russell F. Weighley, HISTORY OF THE UNITED STATES ARMY 262 (N.Y. Macmillan, 1967).

90 See, e.g. BANNERMAN'S CATALOG OF MILITARY GOODS-1927, p. 121 selling 3 different models of Civil War ~U.S. Army Starr Revolver~, plus a ~U.S. Navy Starr Revolver~ and Civil War ~Savage Revolvers.~

91 Kennett & Anderson, supra, pp. 98-100. SCIENTIFIC AMERICAN, June 14, 1879, p. 381 contains an advertisement for COD purchasing of the $2.50 ~Czar~ revolver, presumably an attempt to capitalize on the S&W ~Russian~, a very high quality weapon S&W manufactured for the Russian government and sold through the 1870s. The 1884 Price List-Firearms Catalog for N. Curry & Brother, arms dealers of San Francisco, lists prices from $2.00 for the 7 shot ~Fashion~ and Blue Jacket~ revolvers to $2.50 and $3.50 for the ~Kitemaug~ and ~Ranger~ revolvers to various Colt and Smith & Wesson revolvers selling at from $15.00 to $17.00.


93 Gary LaFree. ~DECLINING VIOLENT CRIME RATES IN THE 1990s: Predicting Crime Booms and Busts.~ Annual Review of Sociology. 1999 (“Figure 1 [of this article] shows UCR [FBI, Uniform Crime Reports] trends for murder and robbery, 1946 to 1997. I begin the series in 1946 because of serious validity problems with pre-World War II UCR data.”)

94 Gary Kleck, TARGETING GUNS: FIREARMS AND THEIR CONTROL (NY, Aldine: 1997) provides figures to 1994 at p. 97, table 3.1 A revised table which Kleck supplied us extends the data to 2003. From the totals in our text must be subtracted the following: an unknown (but probably quite small) number of guns are smuggled into Mexico and other lands; an unknown (but probably quite small) number become unserviceable because of poor maintenance; hundreds of thousands of guns are confiscated by police annually, though many of those are then resold to the public as used
guns. Against these unknown numbers must be counted the unknown number of guns smuggled into the U.S., e.g., by returning military personnel.

95 We have verified this estimate with Florida State University criminologist Gary Kleck, the acknowledged American expert on the criminology of firearms.

96 See Kleck TARGETING GUNS: FIREARMS AND THEIR CONTROL at 97.