

Gun Violence Prevention

The rate of gun violence in the United States far exceeds that of any other industrialized nation. The rate of firearm related homicides per 100,000 in the U.S. is 9.1 compared with 1.8 in Australia and 1.6 in Germany – the countries with the next highest gun homicide rates among advanced industrialized democracies.¹ Rates in England and Japan are much lower still. In the four days following the first anniversary of the Tucson, Arizona shootings, 1072 Americans were shot, another stunning statistic that captures the frequency of gun violence in the U.S..² On the local level, 43 people were shot on Staten Island in 2011, including a 17-month old girl. This paper will focus on some of the steps that can be taken to lessen the carnage.

Explanations for this tragically high incidence of gun violence are many, including a history, since the nation's birth, of the perceived need for individual gun ownership. The need for self-protection on our developing country's frontiers continued throughout westward expansion. Our history of frequent political assassinations and attempted assassination further establishes, if not normalizes, the idea that violence is an option for those with passionate views. Additionally, the celebration of violence in our society by the entertainment industry through film, television and video games further supports the notion among some that gun violence is acceptable. While the social contributors to our legacy of gun violence certainly needs to be addressed, this discussion will explore the legal and legislative issues, and their attendant remedies.

Particularly strong support for individual civilian ownership and use of firearms derives from “2nd Amendment supporters”, especially within the National Rifle Association (NRA). The NRA's fundamental reading of the 2nd Amendment is that it confers a basic right to gun ownership in the service of self protection from individual threats to safety as well as against the dominance and intrusion of a potentially overbearing government. The 2nd Amendment, as ratified by the States as part of the Bill of Rights in 1791 reads as follows:

“A well regulated militia being necessary to the security of a free state, the right of the people to keep and bear arms shall not be infringed”.

Drawing the reasonable line between protecting personal gun rights, while protecting the welfare of the general public, occupies much of the current debate on ‘gun control’. Since the passage of the Bill of Rights, case law has confirmed the individual right to bear arms but it has consistently found that reasonable restrictions can be placed on the type of weapons available to individuals and who is eligible for ownership. Two of the Supreme Court's most seminal cases (*Miller 1932*) and (*Heller 2008*), taken together, establish an individual right to gun ownership – but not an unfettered right. The Court has found that reasonable limits include denying public access to weapons whose only legitimate use is clearly military. For example, private citizens are not entitled to their own fully armed F-14's!

Current federal and New York State law address some, but not all, of the regulation of gun ownership that would reduce the epidemic of gun deaths in this country while still guaranteeing appropriate individual gun rights. The most effective and comprehensive regulation would be the establishment of federal licensing of gun owners who pass continually updated background checks and the registration of all firearms from manufacture to sale and resale. At present the vast majority (85%) of gun crimes in New York State are committed with guns obtained from out of state suppliers in areas with lax local gun laws.³ Criminals and other dangerous individuals are currently able to acquire unlimited quantities of firearms, without a background check, by traveling to private gun shows outside New York State. They can, and do, resell these firearms in New York. The perpetrators of mass killings, from Columbine to Virginia Tech and more recently Tucson, have been mentally disturbed individuals who would not have passed a background check to obtain firearms if an effective federal system were in place.

It is not being argued that all bad actors can be prevented in all cases from acting out violently through the passage of better gun safety laws. However, the history of car safety regulation is instructive. Not only do we require the licensing of car operators and registration of all vehicles, consumer safety laws, including better drunk driving enforcement, increasingly improve the safety of vehicle use resulting in the net reduction of fatalities despite an increase in the number of vehicles registered. Vehicle fatalities dropped 17% from 1994 to 2009 even with an increase of 35% in vehicles registered.⁴ Firearm fatalities can and will be reduced with similar measures without compromising responsible ownership.

Recommendations⁵

The ongoing epidemic of gun violence in this country is a personal tragedy for many and a public health issue for all. It has multiple causes and therefore requires multiple responses. The Staten Island Democratic Association (S.I.D.A.) stands firmly behind legislation that will help keep firearms out of the hands of criminals and the irresponsible. Our goal is to protect citizens and support law enforcement.

The following federal legislative initiatives are worthy of S.I.D.A.'s support.

1. Fix Gun Checks – NICS Background Check System (HR1781 McCarthy/S436 Schumer)

- Requires Brady criminal background checks on all firearm purchases nationally with limited exceptions.
- Fully funds the State's ability to contribute to the national background check system.
- Several other provisions in the proposed law further clarify and include the mentally ill, drug abusers and those with domestic violence convictions in order to further improve the data base of individuals who should not be armed.

2. Ban High-Capacity Ammunition Magazines (HR308 McCarthy/S32 Lautenberg).

- Bans manufacture and transfer of firearm magazines capable of holding more than 10 rounds of ammunition.
- High-capacity ammunition magazines are designed to enable shooting mass numbers of people quickly and efficiently without reloading. They have been used in numerous mass shootings, including in Tucson, Virginia Tech, the Long Island Railroad, Fort Hood and Columbine, but they are not useful for hunting or self-defense.

3. Close the Terror Gap (S1317 Lautenberg/HR2159 King).

- Provides Department of Justice oversight and discretion to block sales of firearms to terror suspects (currently individuals on the terrorist watch list are unable to board a plane but able to purchase firearms legally once they are in the United States), i.e. more than 90% of the people on the terror watch list who applied to purchase guns were successful.

The following New York State legislative initiatives are worthy of S.I.D.A.'s support:

1. *Microstamping. (A1157 Schimel/S675 Peralta).*

- Microstamping copies an alphanumeric code from the firing pin and the breach face onto the ejected cartridge case of the ammunition when a handgun is fired.
- This allows law enforcement to identify shell casings at crime scenes and trace back gun ownership more efficiently than currently possible. The proposed law is supported by all 62 NYS District Attorneys, regardless of party affiliation.
- Requires any semi-automatic pistol manufactured, delivered or received into NYS to any licensed firearm dealer be capable of microstamping.

Microstamping would also assist in identifying illegal trafficking and straw purchases (the purchase of guns by one person to sell to another who could not pass a background check).

2. *Five-Year Renewable Gun Permits (A380 Paulin/S725 Peralta)*

- Requires permit holders to renew and restate important information about their eligibility to possess handguns and the number possessed.
- Provides regular confirmation that licensees remain qualified to possess a handgun and ensures the integrity of the licensing system with updates of current information. While New York State already has some of the best gun laws in the country, these additional provisions would further improve public safety and position NYS as a leader in gun safety regulation and would be a model for federal action.

Endnotes

1. www.nationmaster.com
2. www.bradycampaign.org
3. www.kirstengillibrand.com/issues/gun-violence
4. www.fars.nhtsa.dot.gov/main/index.aspx
5. These are some key legislative priorities of *New Yorkers Against Gun Violence*. (www.nyagv.org)