



Violence Policy Center

1140 19th Street, NW
Suite 600
Washington, DC 20036

202.822.8200 voice
202.822.8205 fax
www.vpc.org web

Handgun Licensing and Registration

What it Can and Cannot Do



Violence Policy Center

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The Violence Policy Center is a national non-profit educational organization that conducts research and public education on firearms violence and provides information and analysis to policymakers, journalists, grassroots advocates, and the general public. The Center examines the role of firearms in America, analyzes trends and patterns in firearms violence, and works to develop policies to reduce gun-related death and injury.

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- *License to Kill III: The Texas Concealed Handgun Law's Legacy of Crime and Violence* (August 2000)
- *Pocket Rockets: The Gun Industry's Sale of Increased Killing Power* (July 2000)
- *Gunland USA: A State-by-State Ranking of Gun Shows, Gun Retailers, Machine Guns, and Gun Manufacturers* (June 2000)
- *Guns For Felons: How the NRA Works to Rearm Criminals* (March 2000)
- *Unsafe in Any Hands: Why America Needs to Ban Handguns* (March 2000)
- *Deadly Exceptions: Gun Manufacturers That Would Be Protected by the "Small Business" Cap on Punitive Damages* (February 2000)
- *Where Did You Get That Statistic?—A Bibliography and Resource Guide For Advocates Working To Reduce Gun Death and Injury* (January 2000)
- *Cashing in on the New Millennium: How the Firearms Industry Exploits Y2K Fears to Sell More Guns* (December 1999)
- *Firearms Production in America—1999 Edition* (November 1999)
- *When Men Murder Women: An Analysis of 1997 Homicide Data* (October 1999)
- *Gold Medal Gunslingers: Combat Shooting Targets the Olympic Games* (July 1999)
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- *Start 'Em Young—Recruitment of Kids to the Gun Culture* (April 1999)
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- *Who Dies?—A Look at Firearms Death and Injury in America* (February 1999)
- *Making a Killing: The Business of Guns in America* (January 1999)
- *Young Guns: How the Gun Lobby Nurtures America's Youth Gun Culture* (March 1998)
- *Target America: Can the Flood of Foreign Assault Weapons Be Stopped?* (March 1998)
- *Joe Camel with Feathers: How the NRA with Gun and Tobacco Industry Dollars Uses Its Eddie Eagle Program to Market Guns to Kids* (November 1997)
- *Cease Fire: A Comprehensive Strategy to Reduce Firearms Violence* (Revised, October 1997)
- *Kids Shooting Kids: Stories From Across the Nation of Unintentional Shootings Among Children and Youth* (March 1997)

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Introduction

Historically, proposals for new gun control laws have almost always targeted the gun owner. Rarely have measures focused upstream, “behind the gun store counter,” on the industry and its products. Most recently, increased public attention has focused on the idea of registering handguns and licensing their owners. Yet what can licensing and registration reasonably be expected to accomplish? In-depth analysis reveals that there are serious questions concerning such systems that have not yet been adequately explored.

The goal of this study is to explore the arguments made in favor of licensing and registration and to determine what effect such an approach could have on gun death and injury in America. Before beginning this analysis, it is essential to understand current federal law regarding firearm sale and possession in the United States.

Section One: Current United States Federal Law

The primary federal law controlling commerce in firearms is the Gun Control Act of 1968 (GCA). This law regulates the licensing of manufacturers, importers, wholesalers, and dealers (including pawn shops that deal in firearms). Under the GCA, any person “engaged in the business” of making or selling firearms must be licensed by the federal Bureau of Alcohol, Tobacco and Firearms (ATF), a division of the Department of the Treasury.^a

Intrastate Restriction

The GCA also ensures that guns are legally transferred only between residents of the same state, with a few exceptions.^b Keeping gun sales *intrastate* allows states to more closely regulate and monitor transactions and reduce interstate gun trafficking.

^a “Engaged in the business” is generally defined as devoting “time, attention, and labor to engaging in such activity as a regular course of trade or business with the principal objective of livelihood and profit....” 18 USC §921(a)(21).

^b Residents from one state may legally purchase a handgun in another state only if the sale is conducted through a federally licensed firearms dealer in the non-residence state, who would then ship it to a federally licensed firearms dealer in the purchaser’s home state. The sale must be legal in both states and the purchaser must meet face-to-face with the dealer in his home state before he can legally complete the transaction. Residents from one state may legally purchase a rifle or shotgun in another state only if the purchaser meets the sales and possession requirements of both states and the transaction is conducted in a face-to-face meeting with a federally licensed firearms dealer. There are exceptions to these rules for bequests and loans.

The result is a virtual ban on the interstate sale of handguns to private individuals. This prohibition on interstate handgun sales is the bedrock of firearms regulation in the United States, and the gun lobby has worked tirelessly to undermine it. Under current law, it is a felony for a federally licensed firearms dealer or for any other person to directly transfer a handgun to any person who resides in a different state than the transferor.^c It is also a felony for an out-of-state private citizen to directly purchase a handgun in a state other than his state of residence and then bring it into his state of residence.^d

The Brady Law

In 1993, the GCA was amended by the Brady Handgun Violence Prevention Act, commonly known as the "Brady Law," which imposed a waiting period and background check on all handgun sales by federally licensed firearm dealers. The background check was designed to weed out purchasers who fall into one of nine "prohibited categories," including felons, fugitives, illegal aliens, and users of illegal drugs.^e In 1998, under the Brady Law's original terms, the waiting period expired and was replaced by the National Instant Check System (NICS), which also extended the background check to the sale of rifles and shotguns.

Exceptions to the Background Check

The Brady Law includes several important exceptions to the background check requirement. Individuals who possess a valid state-issued permit-to-purchase or who possess a license to carry a concealed handgun are not required to undergo the Brady background check for gun purchases. This exemption is based on the theory that since a background check is performed at the time the license to possess or carry is issued, it is not necessary to conduct any further checks for the duration of the license. Under the Brady Law, state possession or carry licenses may exempt their holders from the NICS background investigation for a period of up to five years.

^c 18 USC §922(a)(5) and (b)(3). Federally licensed dealers may transfer handguns across state lines to other federally licensed dealers.

^d 18 USC §922(a)(3).

^e The other "prohibited categories" are: those who have been adjudicated mentally incompetent; those dishonorably discharged from the military; persons who have renounced their U.S. citizenship; those convicted of misdemeanors that involve domestic violence; and, those subject to restraining orders for domestic violence. Some states have additional "prohibited categories."

Brady Law Records

The Brady Law generates three types of records of firearm sales—

- All sales by licensed dealers are recorded on a federal Form 4473, which contains information about the purchaser including name and address. This record remains at the gun dealer's place of business until the dealer goes out of business, at which point the forms are sent to ATF.
- The NICS system generates a record of the transaction which the Federal Bureau of Investigation (FBI) retains for approximately six months.
- Finally, if one customer buys two or more handguns at one time or during five consecutive business days from the same dealer, that dealer is required to submit a multiple sales report form to ATF and to a designated local law enforcement agency. Some states impose additional recordkeeping requirements.

While these three recordkeeping regimens have been a key tool utilized by ATF in tracing weapons used in crime and identifying "bad dealers" involved in criminal gun trafficking, the agency has been severely hampered by a federal ban on the computerization of dealer records. This ban was put in place in 1986 as part of the National Rifle Association-backed Firearms Owners' Protection Act. Since then, defense of the computerization ban has remained one of the NRA's highest priorities.

Section Two: Licensing and Registration

In general terms, licensing and registration proposals usually include the following components.

License or Permit to Purchase

Licenses or permits to purchase are designed to restrict those who can legally buy specific categories of firearms. Prior to obtaining a specified class of firearm, the purchaser must fill out a license or permit application form with the licensing authority (usually administered at the state or local level) and pay all required fees. A background check—ranging from local police approval or other state or local criteria to a computer check through the National Instant Check System—is then conducted. If the purchaser is approved, a license or permit is issued to the applicant. Licenses are of varying duration and often do not limit the number of weapons a person can

buy. In some states, permits are issued to the applicant for each specific weapon acquired.

Unlike the licensing systems of many foreign nations, current federal proposals in the United States are *shall-issue*, that is, the licensing authority must issue a license to anyone who is not in a restricted category. Most foreign licensing regimens are *may-issue*, that is, they are *needs-based* licensing systems under which the licensing authority retains discretion to withhold licenses. That discretionary authority has been used to severely limit civilian access to specific classes of weapons, most notably handguns.

So what does U.S.-style *shall-issue* licensing add to current law? The background check in an ideal shall-issue licensing system would increase the ability to identify those in prohibited categories attempting to purchase a firearm through legal channels. A licensing system could also be used to expand the background check from solely retail sales at gun stores to include all secondary, private sales conducted intrastate, such as those at gun shows or between private individuals. In addition, the application process itself could discourage sales to casual buyers. It has been argued that the process itself would increase owner responsibility, both through a "safety training" requirement and the threat of a misused weapon being traced back to its original owner.

However, outside of inserting the license itself into the transaction, most of the benefits promised under a licensing regimen would be accomplished just as easily by expanding the Brady Law to intrastate secondary sales and expanding the list of prohibited categories. In addition, as will be seen later in this study, safety training may in fact place gun owners and their families at increased risk. And finally, whatever incentives licensing could in theory provide to limit irresponsible gun use are for the most part already available under current civil liability law.

Registration

It has become common to think of registration as always existing in tandem with licensing. But what is registration and what does it have in common with licensing? Registration involves the creation of a master list on which national, state, or local authorities record the ownership of specific firearms owned by citizens. A basic registration system would in fact add more to the existing National Instant Check System than would licensing. For example, the increased information generated by a registration system could speed the tracing of firearms used in crime and could aid police in identifying the type(s) of firearms to which an individual may have access. It would also be a necessary precursor to so-called one-handgun-a-month laws, recognizing that such a system would be essential to keep track of when an individual

buys a gun, as well as the type of weapon purchased. Registration would in effect function as a super tracing system, offering clear benefits to law enforcement.

However, as detailed later in this study, it would be far easier to bring handguns under the strict registration requirements of the National Firearms Act of 1934 (NFA)—the federal law governing the possession of full-auto machine guns—than to establish a completely new system. Just as importantly, pro-gun advocates strongly believe that “registration leads to confiscation.” As a result, in the gun lobby’s eyes a political debate over registration would be equal to a battle over actually banning handguns, with none of the attendant public health benefits that a handgun ban would offer.

The Car Analogy

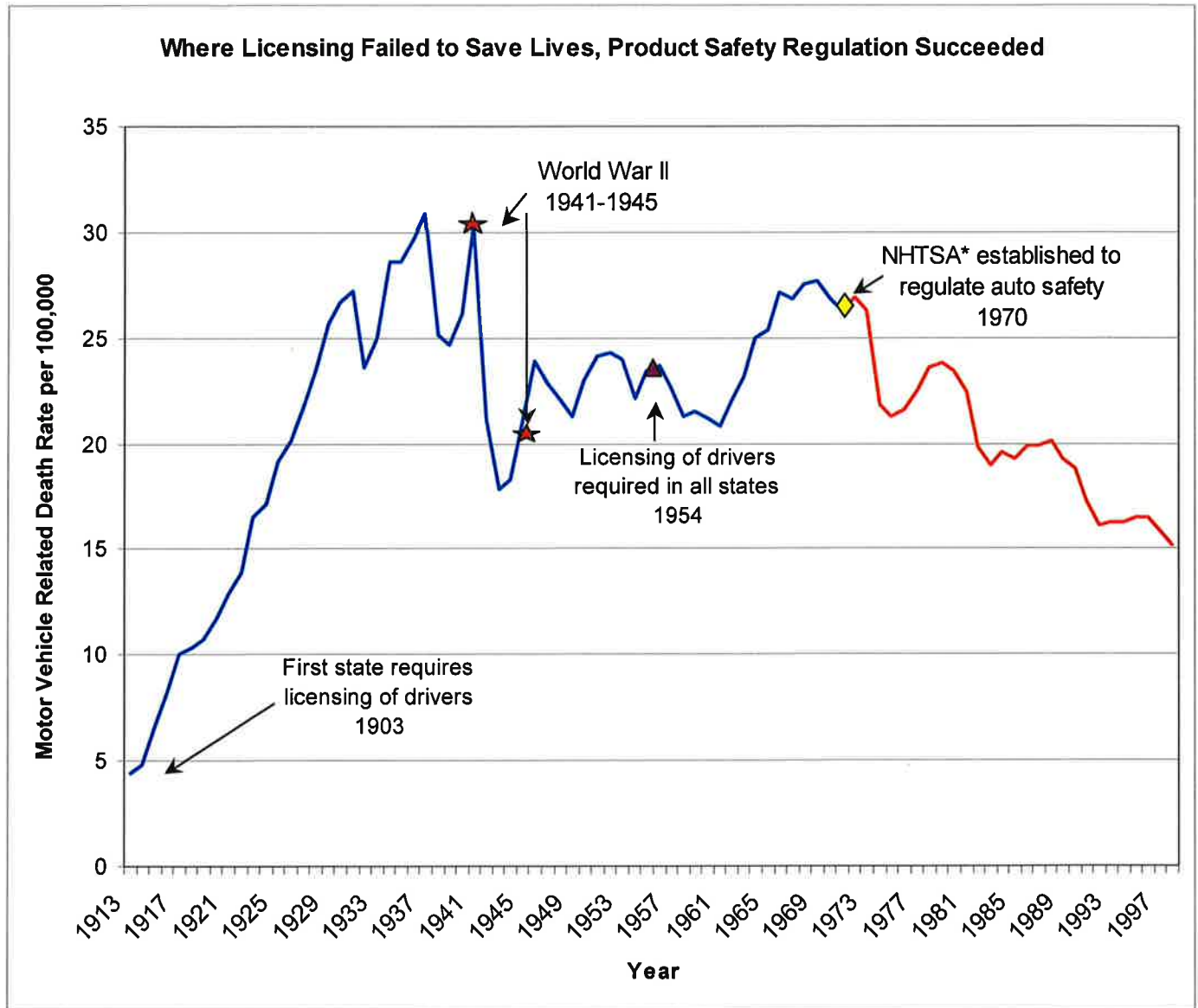
In arguing for licensing and registration, the question is often asked, “We license drivers and register cars, why not do the same with guns?” Unfortunately, the car analogy—while appealing in its familiarity and simplicity—does not bear up under scrutiny. State systems to license drivers have been in place since 1903. Yet they had little or no bearing on the sharp reductions we have seen in motor vehicle death and injury over the past 30 years. In fact, the dramatic rise witnessed in motor vehicle death and injury during the 1950s and 1960s came at a time when *all drivers were licensed and registration was commonplace*. It was only *after* federal regulation and the creation of the National Highway Traffic Safety Administration (NHTSA) in 1970, implementation of comprehensive regulation of vehicle crashworthiness, and changes in the driving environment (breakaway lampposts, guard rails, etc.) that deaths due to motor vehicle crashes began to decline. [See Figure 1]

International Comparisons

In promoting a system of licensing and registration in the United States, comparisons are often made to similar systems implemented in other nations with lower levels of gun death and injury. As the California State Assembly Select Committee on Gun Violence was told in December 1999: “Around the world, handgun registration and owner-licensing are acknowledged as the most effective way to minimize handgun-related death and trauma.”¹ In advocating licensing and registration, the licensing and registration regimens of such foreign nations as Canada are frequently cited as proof of such systems’ effectiveness.

The Canadian comparison is understandable. Both the United States and Canada share a common language, their cultures are similar in many ways, and they are contiguous. Most importantly, Canada has a firearms death rate one eighth that of the United States. Yet to use Canada as an example of how current licensing and

FIGURE 1



Sources: National Safety Council, American Automobile Association

*National Highway Traffic Safety Administration

registration proposals in the United States could lower our nation's rates of firearms death and injury ignores the profound differences between Canadian licensing and registration and proposals being proffered here.

Unlike all current licensing proposals in the United States, which would grant a license for a handgun to virtually *anyone* without a felony conviction, Canada's (like the vast majority of non-U.S. licensing systems) is *needs-based* and has been used to severely restrict its handgun population. As noted in a 1998 Canadian government analysis, "Handgun ownership [in Canada] has been restricted to police, members of gun clubs or collectors. As a result, Canada has roughly 1 million handguns...."² Just as importantly, Canada's licensing and registration system was implemented at a time when its society had a relatively low gun density. In comparison, the United States today has an estimated handgun population of more than 65 million, with an additional 1.3 million produced for public sale each year.

The result is that Canadian licensing and registration has acted as a de facto handgun ban, limiting civilian access to these deadly weapons. The effect of this policy can be seen by comparing Canada's handgun density to that of the United States. While only 4.8 percent of Canadian homes have a handgun, 28.4 percent of U.S. homes have such a weapon. [See Figure 2]

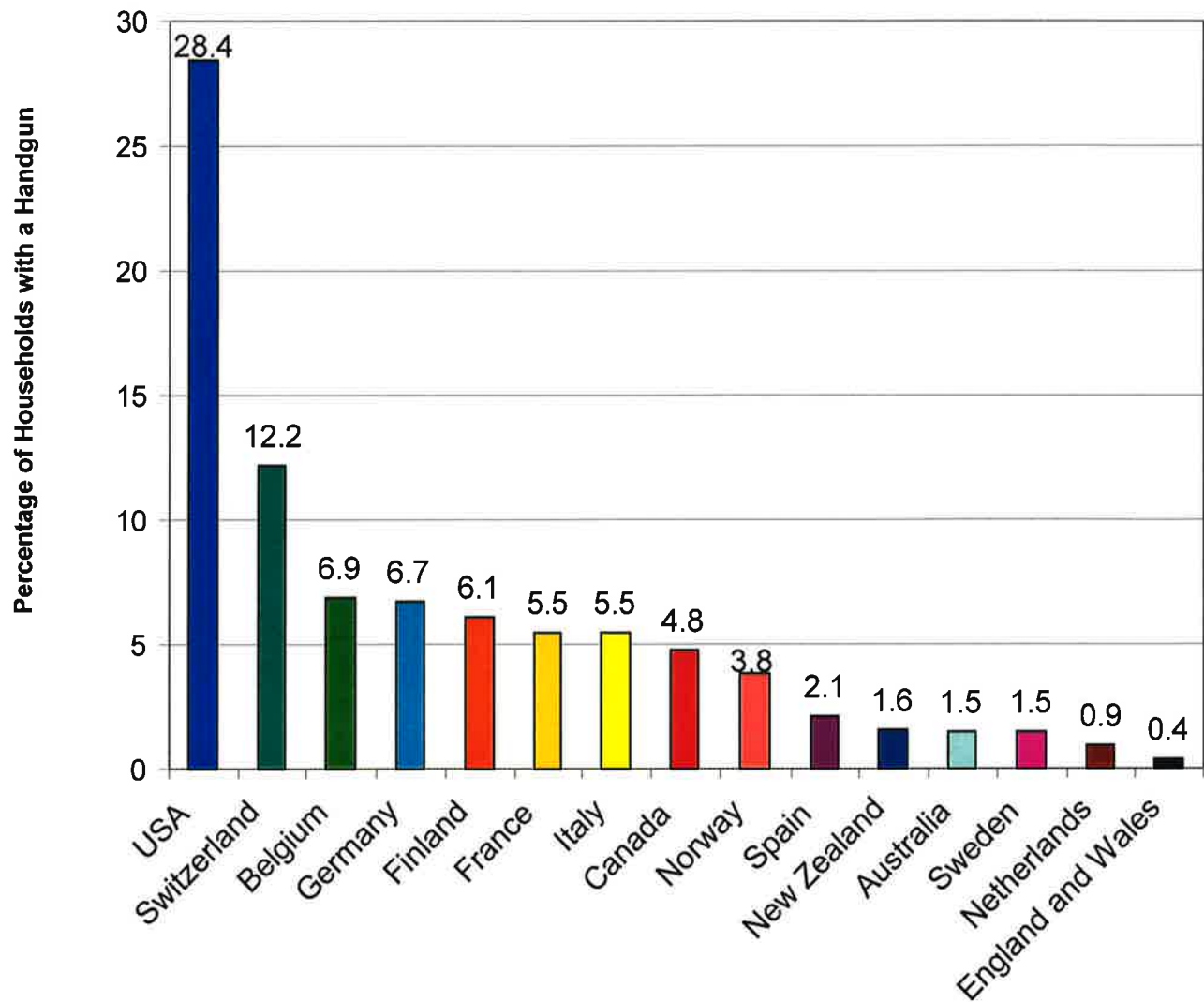
The lower gun death rates seen in Canada and other foreign countries, such as Australia and New Zealand, are not due to U.S.-style *shall-issue* licensing, but to far lower rates of gun—most notably handgun—ownership per capita as the result of extremely restrictive *may-issue*, *needs-based* licensing systems that are not even being debated in the United States. [See Figure 3] *It is this wide disparity in gun density, most notably handgun density, that is the single most important factor in the differences between the firearm death rates between the U.S. and Canada, not the presence of a licensing system per se.* For Canada and other foreign nations, licensing was a means to an end, not an end in itself.

The Lost Opportunity: The National Firearms Act of 1934

There was a time when a strict licensing and registration regime could have been implemented in America and perhaps had a real effect, especially on handgun violence. That time was the passage of the National Firearms Act of 1934 (NFA), which has kept the pool of legal machine guns relatively small. Handguns were initially part of this legislation, but were eventually excised from the final version of the bill as the result of pressure from the National Rifle Association.³ Under the NFA, applicants for machine guns and other restricted weapons (such as sawed-off shotguns, short-barreled rifles, explosive devices, silencers, and weapons greater than 50 caliber) must undergo a rigorous application process, including: submission of a detailed application,

FIGURE 2

Households with Handguns, 1989-1992



Source: Martin Killias, "Gun Ownership, Suicide, and Homicide: An International Perspective," in *Understanding Crime: Experience of Crime and Crime Control* (Rome: United Nations Interregional Crime and Justice Research Institute, 1993), 289-303.

including photo and fingerprints; submit to an extensive background check, including local police sign-off; and pay a transfer tax of up to \$200 (to limit the availability of the weapons). The proposed transfer tax for handguns in 1934 was only one dollar.

According to ATF figures, between 1934 and 1986 (when the production of new machine guns for civilian use was banned by federal law), nearly a quarter-million machine guns were legally purchased by civilians. And, such weapons are infrequently used in crime. During roughly the same time period, according to ATF, more than *44 million* handguns were manufactured in the United States for domestic sale. If the NFA had been applied to handguns 66 years ago, the effect of the law—as seen in other nations that put in place such a strict regimen when their handgun populations were low—could have been to keep the handgun population down as a whole. It may even have changed the way our nation views these weapons.

The passage of the NFA stands not only as the great lost opportunity in the history of gun control in the United States, but also as a reminder of how little the debate has changed. Although the proposals themselves were innovative and far more restrictive than measures being debated today, the arguments in their favor have an all-too-familiar ring. Gun control advocates pointed to the licensing and registration of cars and drivers as a useful analogy and cited the lower murder and crime rates of European nations with strict handgun controls. A memorandum released at the 1934 hearings comparing the firearm laws and murder rates of Great Britain with those of the United States concluded: "It is unnecessary to discuss the infrequency of crimes committed with firearms in England, for repeated comparisons between such conditions there and in this country are becoming much too unpleasant for the law-abiding American citizen."⁴

Section Three: Unintended Consequences

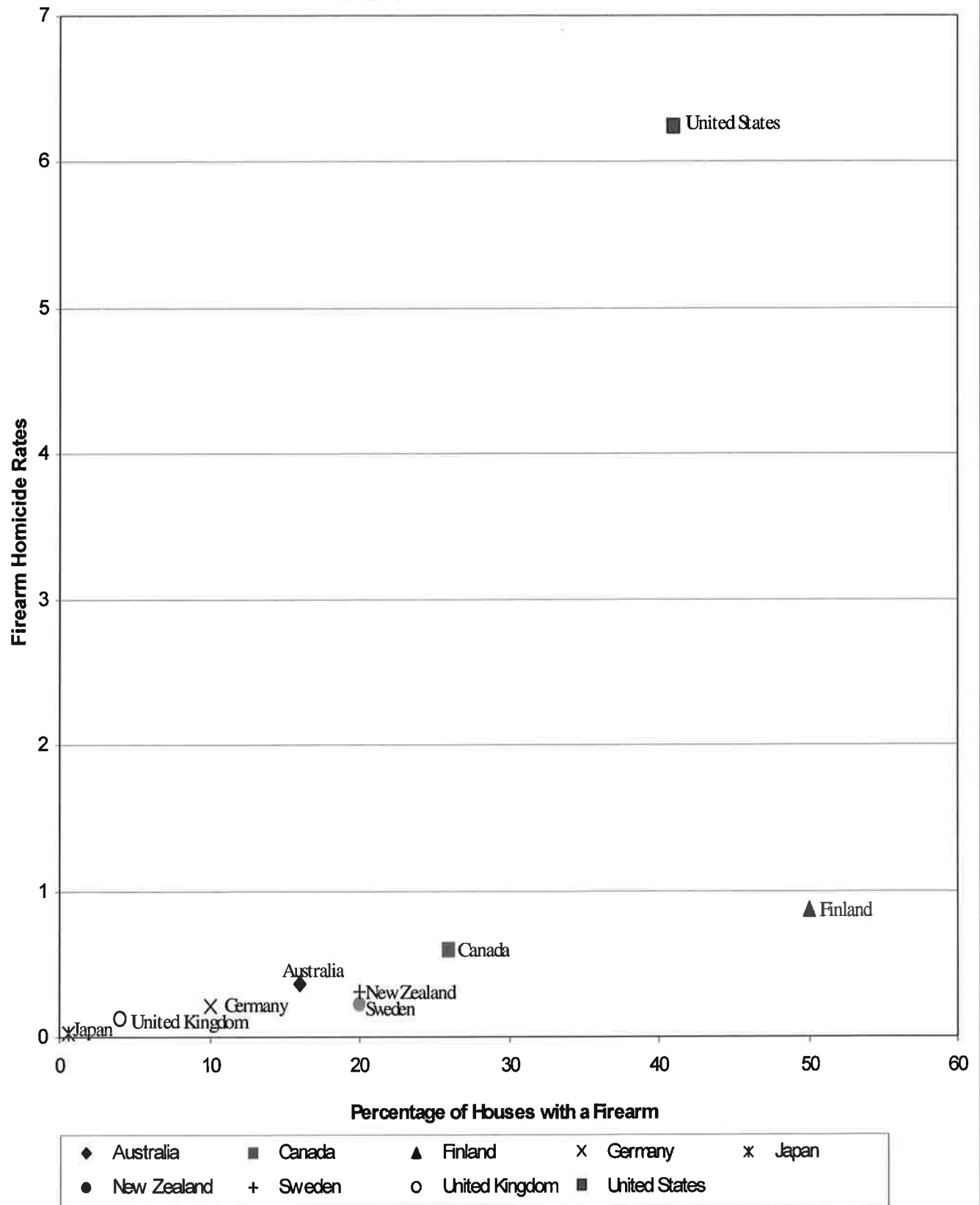
Looking beyond the familiar appeal of licensing and registration, it is important to explore what effect such measures could actually have on gun death and injury in the United States, as well as to examine how current licensing and registration proposals being discussed in the United States might inadvertently work to undermine existing restrictions on interstate gun sales.

Licensing and Registration Can't Control Human Nature

Discussions of licensing and registration, like the majority of gun control proposals, most often occur in the United States in the wake of high-profile shootings where an armed attacker guns down innocent victims. Other traditional images of

FIGURE 3⁵

Percentage of Households with a Firearm and
Firearm Homicide Rates in Nine Countries



“gun violence”—the criminal lurking in a dark alley, drive-by shootings, and convenience store hold-ups—also fuel these discussions. Licensing and registration is presented as a way to keep guns away from these criminals and out of other “wrong hands.” Yet, most gun death and injury in the United States is not committed in conjunction with a criminal act. In 1998, only seven percent of all firearm-related deaths occurred during the commission of another felony.⁶ The true nature of firearms death and injury in the United States must be examined and understood before determining whether licensing and registration is an effective response.

Homicide

Firearm homicides in America typically occur between people who know each other. In 1998, there were 9,755 firearm homicides reported to the Federal Bureau of Investigation. For all firearm homicides, where the victim/offender relationship could be determined, more than two thirds of the victims were either related to (16 percent) or acquainted with (54 percent) their killers. Only 30 percent were killed by strangers. Additionally, 40 percent of all firearm murders stemmed from arguments, compared to 25 percent resulting from felonious activity.

This is not to say that the disgruntled coworker or alley-dwelling robber does not exist. What the FBI statistics reveal, and America’s police have long known, is that most firearm murders do not result from a criminal attack or premeditated murder. The majority of firearm murders stem from arguments that turn deadly because of ready access to a firearm. The FBI’s *Uniform Crime Reports* noted as early as 1963 that the “easy accessibility of firearms and the lethal nature of a gun are clearly apparent in these murder figures. When assaults by type of weapon are examined, a gun proves to be seven times more deadly than all other weapons combined.”⁷

And while high-profile shootings are often the catalyst for debate over licensing and registration, more often than not the weapons used in these incidents were possessed legally. A 2000 analysis by the Violence Policy Center looked at 50 high-profile shootings over the past four decades. The bulk of the shootings were, not surprisingly, mass shootings from 1980 onward. Of these shootings—

- A handgun was used in 68 percent of the shootings (34 cases) as the only or primary weapon, while in 32 percent (16 cases) a rifle or shotgun was used as the only or primary weapon.⁸
- In 53 percent of the handgun shootings (18 cases) the handguns were purchased legally.⁹
- In 75 percent of the long-gun shootings (12 cases) the guns were purchased legally.¹⁰

In the 1999 killing of seven at a Xerox Corporation office in Honolulu, not only was the gun purchased legally, the owner was licensed and the gun was registered with the state of Hawaii.¹¹

Most injuries during arguments are inflicted with whatever is at hand. The outcome depends on the lethality of the weapon employed. As the FBI notes, the availability of a gun in the home or carried on the street gives individuals access to an extraordinarily lethal means to vent their rage. In these instances, whether the shooter was licensed or his gun registered would not change the outcome of the homicide.

Suicide

Gun homicides are often discussed as if they were synonymous with *all* firearm deaths. In fact, most gun deaths are suicides. In 1998 there were 17,424 gun suicides in the United States. Like murders, most gun suicides are not committed with weapons purchased specifically for the attempt, but with firearms already available. It is estimated that only 10 percent of suicides by firearm are committed with a weapon purchased specifically for the act.¹²

Research has consistently found that it is the easy availability of firearms combined with their unparalleled lethality that make them our nation's number one suicide tool. A 1999 *New England Journal of Medicine* study found that, compared to the general population, handgun purchasers remained at an increased risk for firearm suicide over the six-year study period following initial purchase.¹³ The time delay associated with obtaining a license may affect those few individuals who run out to buy a handgun to immediately kill themselves by allowing them time to reconsider, but its overall effect on suicide would be slight, and could just as easily be accomplished with a waiting period. Registration would, of course, have no effect on suicide.

Unintentional Deaths

The third and final category of firearm-related death is unintentional injury. In 1998 there were 866 unintentional gun deaths. The most common causes of unintentional gun injury are: hunting; firearms mistakenly presumed to be unloaded, often fired by children; or gun cleaning. Licensing and registration alone would have no effect on such incidents. And while some have argued that safety training of gun owners would reduce such deaths, the next section explains how even this claim is contradicted by the available research.

Ultimately, the theory behind licensing and registration is that those prone to anger, depression, or carelessness can somehow be segregated. However, when the recurring and easily recognized patterns of gun violence are carefully analyzed, the

limitations of such an approach are readily apparent.

The Trojan Horse of Safety Training

Incorporating mandatory firearms safety training is often cited as a key way in which licensing would reduce gun death and injury. Public health research on the effectiveness of such training, however, reveals that such courses can actually lead to reckless behavior that increases the opportunity for death and injury.

A 1992 *JAMA* (*Journal of the American Medical Association*) study entitled "Loaded Guns in the Home" by Douglas Weil and David Hemenway, found that firearms safety training—whether from a classroom, the military, or other outlet—"did not seem to affect the probability of keeping guns loaded."¹⁴ A second Hemenway study published in *JAMA* three years later, "Firearm Training and Storage," found that "individuals who have received training are more likely to keep a gun loaded and unlocked than those who have received no training, even when controlling for other factors."¹⁵ One possible reason for this counterintuitive result, the authors concluded, was that "training increases owners' confidence in their ability to handle a loaded weapon without fear of unintentional injury."¹⁶

The 1996 Police Foundation study *Guns in America*, by Philip Cook and Jens Ludwig, found that 58 percent of all gun owners *already have had* formal training on firearms, yet the authors concluded that "formal training in the use of firearms does not affect the likelihood of unsafe gun storage."¹⁷ Cook and Ludwig found that adult gun owners who had undergone safety training were just as likely to keep a gun loaded and unlocked as adult gun owners who had gone without safety training. Most recently, a study published in the July 2000 *Pediatrics* found that firearms safety-counseling by a pediatrician during a well-child check-up, even when combined with economic incentives to purchase safe-storage devices, "did not lead to changes in household gun ownership and did not lead to statistically significant overall changes in storage patterns."¹⁸ These results are not surprising. Similar patterns have been documented by public health researchers who have looked at the efficacy of driver safety training.¹⁹

From the research available, safety training appears to have little success in increasing the safe storage of firearms, and may in fact have the opposite effect.

In addition, the majority of such training would inevitably be conducted by National Rifle Association-certified instructors, offering the gun lobby a steady flow of possible recruits. The NRA has proven itself highly adept at using federal and state legislation to serve its own interests, and would almost certainly fight for favorable language in any firearm training component of a licensing and registration package.

A Money Pit

An important consideration in judging the potential benefit of a licensing system is its cost. Licensing systems are extremely expensive to administer as revealed by Canada's experience with its full licensing and registration system for all firearms, begun in December 1998.

The Canadian government originally estimated that the cost of licensing Canada's three million gun owners and registering their seven million guns would be \$185 million [Canadian] over five years, including a one-time start-up cost of \$85 million [Canadian].²⁰ But, by March 2000, the Canadian Firearms Centre admitted that the system had already cost Canadian taxpayers \$327 million [Canadian] and was running up an annual bill dramatically higher than the government's original forecast.

Using these figures as a baseline for America's arsenal of more than 65 million handguns (let alone its total gun arsenal of more than 190 million weapons), the estimated cost of such a system is staggering. In addition, when faced with such large sums dedicated to increasing public safety, inevitable questions will arise regarding whether such funds could be better spent placing more policemen on the street, upgrading law enforcement resources, or increasing support for other crime-related resources, such as domestic violence shelters.

Concealed Carry: A Laboratory for Licensing

Problems documented in states that issue licenses allowing gun owners to *carry* handguns concealed also raise important questions. Like proposals to license gun *buyers*, existing concealed carry laws require background checks and sometimes safety training of applicants. The Violence Policy Center has analyzed concealed carry licensing systems in Florida and Texas—the two most populous states with such laws. The research demonstrates serious deficiencies in the effectiveness of licensing as a screening mechanism. In its five studies of the Florida and Texas licensing systems, the VPC has found that: 1) the systems routinely fail to screen out criminals and other dangerous individuals; and, 2) the screening process offers no guarantee that those who meet the licensing criteria will not commit crimes in the future.²¹

For example, since Texas' concealed handgun law went into effect in 1996, more than 3,370 license holders have been arrested—an average of more than two arrests a day. Crimes for which license holders were arrested include: 23 cases of murder/attempted murder; 11 cases of kidnapping/false imprisonment; 60 cases of rape/sexual assault; 527 cases of assault; and 873 weapon-related offenses. From the law's enactment to the end of 1999, the weapon-related arrest rate among Texas concealed handgun license holders was *66 percent higher than that of the general*

*adult population of Texas aged 21 and over.*²²

Furthermore, as noted earlier, under current federal law those holding a valid state-issued permit or license to carry a concealed weapon are not required to undergo a background check when they purchase a firearm. In theory, the check conducted when the license was issued would suffice. This dramatic loophole has already been identified as a boon to criminal gun traffickers.²³

A Political Nightmare

A legislative battle over licensing and registration would be a political minefield. The National Rifle Association would surely work tirelessly to ensure that a license to *possess* would also be a license to *carry*. A second goal of the NRA would be to use the new system to undermine the current ban on interstate handgun sales, a cornerstone of federal gun policy. And the NRA, citing the overly optimistic arguments in support of licensing and registration, would most likely succeed.

It is also important to remember, as noted earlier, that pro-gunners are phobic on the subject of registration and wax positively Orwellian over the dark motives they see lurking behind any plan to create a gun ownership list. In fact, a pitched political battle over licensing and registration would act as a catalyst for the pro-gun movement and be a boon for NRA fundraising. For decades gun owners have been indoctrinated to believe that "registration leads to confiscation." Moreover, the NRA has launched a campaign for the 2000 elections warning gun owners: "Register to Vote. Or Register Your Guns? The Choice is Yours."

As noted earlier, the gun lobby's fear of a national firearms registry is so pervasive that it made certain that the 1986 Firearms Owners' Protection Act contained a provision specifically forbidding the federal government from creating a central gun registry—a provision that must be repealed in order to implement any new licensing and registration system.

Section Four: A Better Way

When evaluating a licensing and registration proposal it is important to understand and consider exactly what licensing and registration can add to the laws already on the books. Passage of a licensing system simply based on the existing prohibitions on gun ownership for persons in specific proscribed categories (such as individuals with felonies or misdemeanor domestic violence convictions, illegal aliens, persons subject to a restraining order, etc.) would for the most part serve only as an expensive duplication of the function already served by the National Instant Check

System under the Brady Law.

The Violence Policy Center believes that a more efficient approach would be to:

- expand the current Brady background check to include *all* gun sales— including private sales between individuals, as well as sales at gun shows and over the Internet—by requiring that all gun sales be conducted through a federally licensed firearms dealer;
- expand the current list of persons prohibited from possessing firearms to include those with convictions for violent misdemeanors; and,
- expand the existing federal registration system that currently applies to machine guns, silencers, and other weapons covered under the National Firearms Act of 1934 to include handguns.

The VPC calls this alternative approach “Building on Brady.” It draws on the strengths of the 1993 Brady Law and the existing National Firearms Act registry while avoiding the expense and bureaucracy attendant with traditional licensing and registration proposals. It also incorporates the findings of important new research regarding gun possession by individuals with criminal convictions for violent misdemeanors. A 1998 study published in *JAMA (Journal of the American Medical Association)* found that handgun purchasers with previous misdemeanor convictions were 7.5 times as likely to be charged with new crimes after buying their guns as were handgun buyers with no prior criminal record. Handgun buyers with more than one conviction for a violent misdemeanor were 15 times as likely to be charged with murder, rape, robbery, or aggravated assault as were those with no prior criminal history.²⁴ Currently, federal law only prohibits firearms possession by those with prior misdemeanor convictions for domestic violence.

Conclusion

The reality is that licensing and registration is a 1960s solution to a 21st century problem that ignores the lessons of nearly four decades of public health and consumer product safety experience by focusing downstream on the user, and not upstream on the industry and the product itself. A careful analysis of the potential for licensing and registration to significantly reduce gun death and injury—recognizing the true nature of firearms violence in the United States—reveals that its effect would be limited. For such limited gains, implementation of a new licensing and registration system would exact extremely high financial and political costs.

An approach that extends and expands on the existing Brady Law background check (NICS) and the existing National Firearms Act registration system would accomplish far more and cost much less.

However, none of these proposals can take the place of comprehensive health and safety regulation of the firearms industry. Every product in the United States is regulated for health and safety except for two: guns and tobacco. As a result of its rare status in the consumer pantheon, the gun industry is able to increase the spiral of lethality available to an eager gun-buying public: from high-powered, easily-concealed “pocket rocket” handguns to 50-caliber sniper rifles that can penetrate armor plating and down civilian jetliners. Licensing and registration will have no effect on the ability of the gun industry to use increased killing power to enhance its bottom line. Health and safety regulation of the gun industry—with the primary goal of limiting production of the most deadly categories of firearms that pose an *unreasonable* risk of injury—would.

A long history of public health research and consumer product regulation prove that the most effective way to reduce product-related death and injury is through comprehensive health and safety regulation. The simple fact is that America’s gun problem is not gun owners, but the gun industry.

Endnotes

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