Preface

Feature: Gun Control in America

Gunshows and the Illegal Diversion of Firearms
Anthony A. Braga and David M. Kennedy

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Interview with Michael Barnes, President, Handgun Control, Inc.

Interview with Larry Pratt, Executive Director, Gun Owners of America

Interview with Rebecca Peters, Senior Justice Fellow, Open Society Institute

Other Articles

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Reflections on Regionalism. Edited by Bruce Katz
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Kristin D. Conklin
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The 2000 presidential election focused America's attention on many potentially divisive issues ranging from education to health care. One of the more divisive, however, is the nation's debate over gun control policy. In the wake of multiple school shootings and the Million Mom March, the gun control debate has become increasingly prominent on the public agenda. One area of particular focus for advocates on both sides of the issue is the trafficking of firearms at gun shows or what is often called the gun show "loophole."

Our feature article, "Gun Shows and the Illegal Diversion of Firearms" by Anthony A. Braga and David M. Kennedy, explores the question of whether gun shows are a source of guns for prohibited persons, such as convicted felons and juveniles. In presenting data from recent Bureau of Alcohol, Tobacco, and Firearms investigations, Braga and Kennedy address a topic that has received little systematic attention from researchers.

The prominence of gun control issues in our culture and in the policy and political arenas is discussed further in four interviews. First, we spoke to Michael Bellesiles, an historian from Emory University and the author of Arming America: The Origins of a National Gun Culture. Professor Bellesiles places gun control issues in an historical context and provides a framework for considering the complicated policy questions of this debate. This interview is followed by discussions with Michael Barnes, the President of Handgun Control Inc., and Larry Pratt, Executive Director of Gun Owners of America. Finally, an interview with Rebecca Peters of the Open Society Institute provides an interesting international perspective on US gun control policy. The National Rifle Association (NRA) and Smith & Wesson, the gun manufacturer that recently struck a deal with the US government to self-regulate the manufacture of their guns, both declined to be interviewed.

This issue also features the second annual publication of an outstanding practicum, chosen from the practica produced yearly by graduate students at the Georgetown Public Policy Institute (GPPI). Every second-year student attending GPPI is required to complete a research practicum that brings together the skills they have acquired during their time at GPPI. The practicum selected this year is "Civil Protection Orders: An Opportunity for Intervention with Domestic Violence Victims" by 2000 GPPI graduate Michelle Waal. The paper examines the complexities of addressing domestic violence and provides a compelling case for more integrated services for victims of domestic violence in the District of Columbia.

Next, we present "A Grand Bargain with Europe: Preserving NATO for the 21st Century" by John C. Hulsman, which takes a hard look at American and European roles in NATO following the war in Kosovo. Finally, we present four reviews of books recently published in the policy community, covering topics from public management to educational reform.

As The Georgetown Public Policy Review enters its sixth year of publication, we are grateful for the continued support of our readers. It is our hope this issue of The Review provides interesting and unique reflections on timely policy issues. We encourage and welcome your comments and contributions.

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Gunshows and the Illegal Diversion of Firearms

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Anecdotal evidence suggests gun shows, or certain sellers operating at gun shows, may represent an important public safety problem. However, no systematic research exists that examines whether prohibited persons, such as convicted felons and juveniles, personally buy firearms at gun shows, nor does research exist examining whether gun shows are sources of firearms that are trafficked to such prohibited persons. In partnership with the US Department of the Treasury and the US Department of Justice, the authors review recent Bureau of Alcohol, Tobacco, and Firearms investigations involving firearms trafficking at gun shows. This research demonstrates that firearms are illegally diverted at gun shows through unlicensed dealers, corrupt licensed dealers, and “straw” purchasers.

INTRODUCTION

According to a recent review by the US Department of the Treasury and the US Department of Justice, more than 4,000 shows dedicated primarily to the sale or exchange of firearms are held annually in the United States (US Treasury and US Department of Justice 1999).\(^1\) Gun shows are a special case of the retail sale of firearms. The sale of firearms at gun shows includes, as it does in the rest of the retail firearms sector, both federally licensed and unlicensed sellers. Gun shows also represent large-scale intersections of the primary (i.e., new firearms first sold at retail) and secondary (i.e., firearms resold as “second-hand guns” by unlicensed dealers) firearms markets. Anecdotal evidence suggests the diversion of firearms from licensed and unlicensed retail sources, including at and through gun shows, to prohibited persons and for use in crime may be a significant public safety problem. The well-known shooting massacre of 15 people at Columbine High School in Littleton, Colorado is one tragic example. Firearms used by the two teenaged shooters were obtained through gun shows (Tomsho and O’Connell 1999a, 1999b). Gun control advocates point to disturbing anecdotes describing the ease by which felons, juveniles, and other prohibited persons acquire firearms as well as machine guns, machine gun conversion kits, and

Author’s Note: This research was supported with funds provided by the US Department of the Treasury. Points of view or opinions expressed in this paper do not necessarily represent the official position of the US Department of the Treasury, the US Department of Justice, or the Bureau of Alcohol, Tobacco, and Firearms. We would like to thank Susan Ginsburg, Patty Galupo, Joe Vince, Gerry Nunziato, Terry Austin, Stephen Brimley, and James Wooten for their valuable assistance in the completion of this research.

explosives at gun shows (Violence Policy Center 1996).

However, no systematic research exists which unravels the link between gun shows and the illegal diversion of firearms. Moreover, although research has demonstrated a clear relationship between primary and secondary firearms markets (Cook, Molliconi, and Cole 1995; Cook and Leitzel 1996), very little is known about secondary market sales. This paucity of knowledge about the operations of the secondary market is surprising since these transactions are estimated to account for between one-third and one-half of all guns sold annually (Cook 1991; Cook et al. 1995; Cook and Ludwig 1997). The 1994 Brady Handgun Violence Prevention Act, which was intended to prevent felons and other prohibited persons from obtaining firearms from licensed dealers through mandatory criminal history background checks, does not apply to transactions by unlicensed dealers in the secondary firearms market. Prohibited persons may attempt to circumvent the Brady restrictions by purchasing firearms in the largely unregulated secondary firearms market. A recent evaluation of the Brady Act suggests its effectiveness in preventing gun homicides may be undermined by the large volume of secondary market transactions (Ludwig and Cook 2000). As Philip Cook and his colleagues observe, “The secondary market will look increasingly attractive as the regulations governing the primary market become more restrictive” (Cook et al. 1995, p. 71). The secondary market also may have become more attractive to corrupt licensed gun dealers who were squeezed out of the primary market by recent Bureau of Alcohol, Tobacco, and Firearms (ATF) efforts to make it more difficult to obtain and renew a federal firearms license (FFL) through increased licensing fees, fingerprinting of applicants, and other regulations (see ATF 1997). Between 1993 and 1997, the number of valid FFLs was reduced by 56 percent, from 286,500 to 124,286 (ATF 1997). Gun shows present an obviously attractive alternative venue to illicit buyers and illicit sellers.

If firearms are illegally diverted at and through gun shows, policy makers and law enforcement practitioners need to know more about the nature of these illegal transactions so they can develop the appropriate tools to reduce the flow of guns to felons and juveniles. Primary policy considerations include whether the gun show “problem” is driven by felons and juveniles illegally purchasing firearms at gun shows, wayward federally licensed dealers selling guns without conducting criminal background checks or keeping the required transaction paperwork, unlicensed dealers knowingly making illegal firearms transactions, or gun traffickers illegally purchasing firearms at gun shows and subsequently diverting these guns to prohibited persons. It is also important to know whether the gun show “problem” consists of a large number of people who sell a few guns that fall into the wrong hands, a small number of people who sell a large number of guns that fall into the wrong hands, or some combination of large- and small-scale gun trafficking enterprises. In this paper, we describe the current regulation of firearms sales at gun shows, briefly review the research on the illegal diversion of firearms through retail sources, analyze recent ATF investigations involving the illegal diversion of firearms at gun shows, and discuss recommendations that may help law enforcement agencies improve their capacity to reduce firearms trafficking at gun shows.

**Current Regulation of Firearms Sales at Gun Shows**

Gun shows themselves are not subject to federal regulation. However, firearms transfers by licensed firearms dealers at gun shows are regulated. Under the Gun Control Act of 1968, individuals who engage in the business of selling firearms must...
obtain an FFL and must comply with the obligations that accompany the license. In general, FFLs must maintain records of all firearms acquisitions and sales, comply with state and local laws regarding the transfer of firearms, positively identify the firearms purchaser via a government-issued identification (e.g., driver's license), and complete a multiple sales purchase form if the buyer purchases more than one gun in five business days. FFLs also may not knowingly transfer firearms to prohibited persons such as juveniles, felons, and illegal aliens or handguns to residents who reside in a state where they are not licensed. As part of the Brady Act, FFLs must also conduct a criminal history background check through the National Instant Check System (NICS) to make sure the prospective buyer is not in violation of federal or state law. However, FFLs do not have to contact NICS when they sell guns from their personal firearms collection. Although the Gun Control Act of 1968 limited FFLs to conduct business only from their licensed premises, ATF issued a 1984 regulation allowing for licensees to conduct business temporarily at gun shows located in the same state as their business premises.

Under current federal law, non-licensed firearms sellers are permitted to sell firearms without requesting a NICS criminal history background check, without establishing the identity of the prospective buyer, and without making any record of the transaction. Without this paperwork, firearms subsequently recovered in crime cannot be traced to the last purchaser. Non-licensed persons, however, are prohibited from knowingly transferring a firearm to a felon or other prohibited person, knowingly transferring handguns to juveniles, knowingly transferring a firearm to a person who resides in another state, acquiring firearms from out-of-state dealers, and shipping or transporting firearms in interstate or foreign commerce. Since non-licensees are not required to inspect a buyer's identification or conduct a criminal background check, they may never know if the person to whom they are transferring the firearm is underage or a prohibited person. According to the Gun Control Act of 1968, although non-licensees may freely sell firearms at gun shows without observing record keeping and background check requirements, they are not permitted to "engage in the business" of manufacturing, importing, or dealing in firearms. The Act, however, does not provide a definition of "engaged in the business," and, until 1986, the courts interpreted this term in various ways. In 1986, the law was amended as follows:

"The term 'engaged in the business' means...as applied to a dealer in firearms...a person who devoted time, attention, and labor to dealing in firearms as regular course of trade or business with the principal objective of livelihood and profit through the repetitive purchase and resale of firearms, but such term shall not include a person who makes occasional sales, exchanges, or purchases of firearms for the enhancement of a personal collection of firearms...(US Code Section 921(a)(21)(C))."

"The term 'with the principal objective of livelihood and profit' means that the intent underlying the sale or disposition of firearms is predominantly one of obtaining livelihood and pecuniary gain, as opposed to other intents, such as improving or liquidating a personal firearms collection; Provided, that proof of profit shall not be required as to a person who engages in the regular and repetitive purchase and disposition of firearms for criminal purposes or terrorism..." (US Code Section 921(a)(22)).

Without an affirmative investigation, under this amendment, it is very difficult to ascertain whether an unlicensed dealer is selling guns in volume for livelihood and profit. Significant undercover work and follow up by ATF is necessary to bring a case against an individual for unlicensed
dealing. Even with the benefit of a focused investigation, an unlicensed individual charged with selling numerous firearms can claim the firearms trade is simply a hobby or a pastime and not his or her livelihood. According to Federal law enforcement, the effect of this amendment has been to “frustrate the prosecution of unlicensed dealers masquerading as collectors or hobbyists, but are really trafficking firearms to felons or other prohibited persons” (US Treasury and US DOJ 1999, p.14).

Beyond federal regulations, firearms transfers at gun shows can be regulated through state legal frameworks. However, as of December 1998, 27 states imposed no regulations on the private transfer of firearms among non-licensed persons or the operation of gun shows (US Treasury and US DOJ 1999). In certain states that do regulate private sales (e.g., Texas, Arkansas, Oklahoma, Louisiana, and Mississippi), the legislation is very similar to the provisions of the 1968 Gun Control Act (prohibitions on the transfer of firearms to felons, to intoxicated persons, etc.). Other states (e.g., Massachusetts and Maryland), however, regulate the private transfer of firearms by requiring criminal background checks, waiting periods, permits, and transfer paperwork.

The gaps in the current federal regulatory framework through which firearms could be diverted to felons, juveniles, and other prohibited persons are often characterized as the gun show “loophole.” However, it is important to recognize there is no legal gun show “loophole.” In many states, only federal firearms laws regulate all firearms transactions, including those made at gun shows. Firearms transactions made at gun shows are no different from those made in the rest of the retail firearms market. There may be other reasons to believe gun shows are an especially attractive venue for the illegal diversion of firearms due to the large number of shows per year, the size of shows, the large volume of firearms transactions, and the advertising and promotion of these events. Gun shows provide a venue for a large number of secondary market sales by non-licensed dealers who are exempted from the regulations that apply to transactions made by licensed dealers. A majority of the 4,442 shows advertised in the 1998 “Gun Show Calendar” were promoted by approximately 175 organizations and individuals; most promoters were state and local firearms collectors with large memberships, including one group with 28,000 members (US Treasury and US DOJ 1999). The number of vendor tables at a gun show can vary from as few as 50 to as many as 2,000. Most gun shows occur over a two-day period, usually on weekends, and draw an average of 2,500 to 5,000 people per show (US Treasury and US DOJ 1999).

EXISTING RESEARCH ON THE ILLEGAL DIVERSION OF FIREARMS FROM GUN SHOWS AND OTHER RETAIL SOURCES

The broader question of whether retail sellers are a meaningful source of crime guns has been vigorously debated in academic literature on firearms and firearms crime. One view is that such retail transactions are largely unimportant, because virtually all crime guns are stolen or obtained from other non-retail sources (Wright and Rossi 1994; Bureau of Justice Statistics 1993; Sholley and Wright 1993). If this is true, gun shows and other retail outlets are relatively unimportant as sources of firearms illegally diverted to criminal use. Another view is that firearms improperly diverted to criminals from retail sources are an important source of crime guns (Moore 1981; Pierce, Briggs, and Carlson 1995; Kennedy, Piehl, and Braga 1996; Wachtel 1998). Therefore, gun shows, or certain sellers operating at gun shows, represent an important public safety problem.

Generally regarded as the most authoritative study on the acquisition of
firearms by criminals is a 1986 survey by James Wright and Peter Rossi (1994) of over 1,800 incarcerated felons in 10 states, which concluded that as many as 70 percent of criminals’ firearms were obtained through theft. Illegal acquisition through theft included means both direct, in which the felon himself stole the firearm, and indirect, in which felons bought, bartered for, or borrowed stolen firearms from networks of family and friends. Similar results suggesting firearms were not acquired through retail outlets were obtained from a 1991 survey of state prison inmates (Bureau of Justice Statistics 1993) and a survey of high school students and incarcerated juveniles in four states (Sheley and Wright 1993). Such findings have led many to conclude that attention to the diversion of firearms from retail is not warranted because criminals “rarely obtain their guns through such customary outlets” (Wright and Rossi 1994, p.10). None of this research specifically addressed gun shows. However, at the request of the US Department of the Treasury, a special analysis of the 1991 survey of prison inmates conducted by the US Bureau of Justice Statistics suggested gun shows were not an important source of firearms for criminals; less than three percent of the surveyed inmates responded that they had acquired firearms directly at gun shows.¹

Other research suggests retail sales play an important part in supplying firearms to proscribed possessors. Several analyses of ATF firearms trace information have concluded that guns used in crime have characteristics suggesting a problem with diversion from retail sources. A 1995 study of data contained in ATF’s Firearm Tracing System showed many traced firearms had a very quick time-to-crime, the period between the firearm’s first retail sale through an FFL and its recovery and/or submission for tracing by a law enforcement agency. This study suggested they had been bought at retail, straw purchased, or otherwise trafficked, rather than stolen. The same study also found a very high concentration of traces associated with a small number of FFLs: nearly half of all traces came back to only 0.4 percent of all FFLs (Pierce et al 1995). A study of more than 5,000 firearms recovered in association with crime in and around Los Angeles showed similar results (Wachtel 1998). More than 80 percent were handguns, about two-thirds of which were semiautomatic pistols. Where purchase dates on those semiautomatic pistols were known, nearly one-third were first sold at retail and subsequently recovered by police within a year; more than half had been recovered within two years. A study of more than 1,500 firearms recovered from youth age 21 and under in Boston showed that 26 percent of all traceable firearms, and more than 40 percent of traceable semiautomatic pistols, had a time-to-crime of less than two years (Kennedy et al 1996). Half of all firearms with a time-to-crime of under two years had been recovered by police within eight months of their first sale at retail by an FFL. More than half of all firearms with a time-to-crime of under two years were in the street “calibers of choice” of .380 and 9mm; such firearms were also traced disproportionately to FFLs outside of Massachusetts. These research studies suggest the diversion of firearms from retail sources is a significant problem.

A REVIEW OF ATF INVESTIGATIONS INVOLVING GUN SHOWS

Assessing any problem presented by gun shows is a difficult analytic task. While an important question is whether prohibited persons personally buy firearms at gun shows, which might be answered by surveys, an equally important one is whether gun shows are sources of firearms that are trafficked to prohibited persons by straw purchasers, street dealers, and the like. However, this question cannot be answered by surveys. Firearms passing into the hands of criminals may be
subsequently traded, stolen, and resold. When a criminal acquires a firearm from "street" sources, he or she may not know where it came from; the gun may have been originally stolen through a burglary, straw purchased from an FFL, or purchased from an unlicensed dealer at a gun show. Firearms trace data analysis also cannot specifically address this question because FFLs are not required to note gun show sales, and traces cannot generally address the question of the sale of second-hand firearms or sales by unlicensed sellers.

One way of gaining insight into whether prohibited persons acquire firearms at or through gun shows is to review ATF’s investigative contact with gun shows. There have been few reviews of gun trafficking cases in the firearms research literature. Beyond the present study, only Moore (1981) and Wachtel (1998) have examined investigation data involving firearms trafficking. Both studies suggested the diversion of firearms from retail sources was a problem. On November 6, 1998, President Clinton requested the US Department of the Treasury and US Department of Justice to make recommendations on closing the gun show “loophole” to the Brady Act (see US Treasury and US DOJ 1999). The President was concerned that felons and illegal firearms traffickers were using gun shows to purchase large quantities of firearms without disclosing their identities, having their backgrounds checked, or having any other records maintained on their purchases. The authors were retained to assist in the review of ATF investigations involving gun shows.

**METHODOLOGY**

On December 3, 1998, James Wooten, Assistant Director of Firearms, Explosives, and Arson, requested all ATF Division Directors and Special Agents in Charge to provide any information on all recent investigations or violations concerning gun shows in their respective areas. As part of this request, the authors provided the following survey protocol to structure a summary of the investigation information:

- How was the investigation initiated?
- What violations were recorded in the investigation?
- Were any National Firearms Act (NFA) violations connected to the gun show?
- Was a current FFL involved in the violations? Was a former FFL involved in the violations?
- How many and what types of firearms were involved in this investigation?
- Were new guns being sold? Were second-hand guns being sold? Were stolen guns being sold?
- What types of crimes were associated with any recovered firearms?
- Additional information on the defendant(s) in the case.

All ATF field divisions responded by December 14, 1998. A total of 314 investigation summaries were submitted; these included both ongoing investigations and completed cases that were forwarded for prosecution. After the 314 survey responses were received, a validity check of the content of the investigation summaries was conducted. Since obtaining the complete investigation file for each of the 314 survey responses would have been a difficult and time-consuming task, 10 percent of the investigation summaries (31 cases) were randomly selected for close review. These 31 survey responses were carefully reviewed and compared to information contained in the complete investigation files maintained by the respective case agents for each of the investigations. The investigation files contained a variety of information on the investigation, including a summary of the case, a set of progress reports documenting ATF agent investigative activities, police reports, evidence inventory, interview transcripts, and court documents. This review revealed the survey responses were accu-
rate when compared to the paperwork documenting the specifics of the gun show investigation. However, the investigation files also revealed that not all the submitted investigations involved only firearms trafficking at gun shows. Five “gun show” investigations (16 percent) documented that the gun trafficking enterprise under investigation involved the diversion of firearms through additional channels. For instance, an investigation of a corrupt FFL revealed he was illegally selling firearms from his business premise as well as at gun shows.

Prior to a discussion of the research findings, it is necessary to identify the limitations and reasons to be wary of the data. Indeed, all data on crime have important shortcomings. As Reiss and Biderman (1967) suggest, there is no “true” count of crime events, only different socially organized ways of counting them, each with different flaws and biases. Official crime incident data are biased by police decisions not to record all crimes reported by citizens (Black 1970). Therefore, these investigations reflect what ATF encountered and investigated; they do not necessarily reflect typical criminal diversions of firearms at gun shows or the typical acquisition of firearms by criminals through gun shows. As such, these data cannot provide information about the significance of diversion associated with gun shows as compared to other sources of diversion. These analyses were based on a survey of ATF special agents reporting information about recent investigations associated with gun shows; however, survey responses can be limited by a number of issues including under-reporting and over-reporting by the respondents (Taylor 1994).

Information generated as part of a criminal investigation also does not necessarily capture data on the dimensions better suited to a more basic inquiry about trafficking and trafficking patterns. For example, investigative information necessary to build a strong case worthy of prosecution may provide very detailed descriptions of firearms used as evidence in the case but may not even estimate, much less describe in detail, all the firearms involved in the trafficking enterprise. In general, not enough consistent and specific information was provided to determine the number of handguns, rifles, and shotguns trafficked in a particular investigation. Likewise, special agents may not have information on trafficked firearms subsequently used in crime. Comprehensive tracing of crime guns does not exist nationwide and, until the very recent Youth Crime Gun Interdiction Initiative, most major cities did not trace all recovered crime guns. The figures on new, second-hand, and stolen firearms reflect the number of investigations in which the traffickers were known to deal in these kinds of weapons. The figures on stolen firearms are subject to the usual problems associated with determining whether a firearm has been stolen, as many stolen firearms are not reported to the police. Such limitations apply to much of the data collected in this research.

Finally, except where noted, the unit of analysis in the review of investigations is the investigation itself. The data show, for example, the proportion of investigations that were known by agents to involve new, second-hand, and stolen firearms; however, these data do not represent a proportion or count of the number of new, second-hand, or stolen firearms being trafficked at or through gun shows. The data show the proportion of investigations known to involve a firearm subsequently used in a homicide, but not how many homicides were committed by firearms trafficked through gun shows. Despite these shortcomings, the usual justifications for using limited data as an interim measure applies here: it is the only information available and we need to speculate about the nature of gun trafficking at and through gun shows.
INITIATION OF THE INVESTIGATIONS

Most of the ATF investigations associated with gun shows were initiated via tips, leads, or referrals from other investigations (see Table 1). Only 44 investigations, or 14 percent, were the result of prior ATF attention to gun shows (e.g., ATF Gun Show Task Force). Nearly 12 percent of the investigations were the result of trace analysis of recovered crime guns. In addition, slightly less than 11 percent of the investigations were initiated after a review of multiple sales forms submitted by FFLs revealed suspicious purchasing patterns.

MAIN SUBJECTS OF THE INVESTIGATIONS

Unlicensed dealers were the main subjects of over half of the investigations; this figure includes investigations in which unlicensed dealers were investigated in concert with licensed dealers (see Table 2). However, both current and former FFLs figure prominently in the investigations. Current FFLs were the main subject of the investigation in a sum total of slightly more than 27 percent of the investigations. Former FFLs were involved in a sum total of slightly more than 15 percent of the investigations. The noteworthy proportion of investigations involving former FFLs in a trafficking enterprise may be in part due to recent ATF efforts to restrict FFLs to legitimate gun dealers by setting higher standards for obtaining and renewing a federal firearms license (ATF 1997). Based on their investigative experience, our ATF partners in this research suggested certain corrupt FFLs avoid the stricter regulations by not renewing their licenses and continuing to divert firearms as unlicensed dealers at gun shows. Investigations were much more likely to be focused on subjects involved in the illegal sales of firearms at gun shows rather than the illegal purchase of firearms at gun shows. Felons making illegal purchases and straw purchasers were the focus of slightly more than 10 percent and slightly more than six percent of the investigations, respectively.

VIOLATIONS ASSOCIATED WITH THE INVESTIGATIONS

We will discuss the highlights of Table 3, which presents the wide variety of apparent violations uncovered during the investigations. Selling violations (for example, dealing without a license) were more frequent than buying violations (for example, straw purchasing). More than half of the investigations involved individual(s) engaged in the business of dealing firearms without a license. FFLs were also associated with many violations, including: failure to keep required records of firearms acquisitions and dispositions (19.1 percent), false entries and/or fraudulent statements in records (8.6 percent), illegal transfer to a resident of another state (6.7 percent), and conducting business away from licensed business premises (1.6 percent). Nearly one-quarter of the investigations involved the acquisition and possession of firearms by convicted felons, and nearly one-fifth involved NFA weapons such as machine guns. Violations involving the receipt and sale of stolen firearms were reported in nearly five percent of the investigations; firearms with obliterated serial numbers were reported in nearly five percent of the investigations.

FIREARMS IN THE INVESTIGATIONS

Many of the investigations involved substantial numbers of firearms. More than one-third of the investigations were known to have involved 51 or more firearms, nearly one-fifth 101 or more, and nearly one-tenth 251 or more (see Table 4). The two largest numbers of firearms reported in connection with a single investigation were 7,000 and 10,000 respectively. A total of 54,900 firearms were reported to be involved in these 314 investigations. We also examined the average number of firearms reported in the gun show investigations by the different trafficking channels uncovered (Table 5). On average, the number of firearms trafficked by licensed dealers at gun shows
Table 1: Initiation of ATF Gun Show Investigation

<table>
<thead>
<tr>
<th>Reason</th>
<th>Number</th>
<th>Percent</th>
</tr>
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<tr>
<td>Confidential informant</td>
<td>74</td>
<td>23.6%</td>
</tr>
<tr>
<td>Referred from another federal, state, or local investigation</td>
<td>60</td>
<td>19.1%</td>
</tr>
<tr>
<td>ATF investigation at gun show (e.g., gun show task force)</td>
<td>44</td>
<td>14.0%</td>
</tr>
<tr>
<td>Trace analysis after firearms recovery</td>
<td>37</td>
<td>11.8%</td>
</tr>
<tr>
<td>Review of multiple sales form</td>
<td>34</td>
<td>10.8%</td>
</tr>
<tr>
<td>Licensed dealers at gun shows reported suspicious activity</td>
<td>26</td>
<td>8.3%</td>
</tr>
<tr>
<td>Anonymous tip or information</td>
<td>18</td>
<td>5.7%</td>
</tr>
<tr>
<td>Field interrogation after firearm recovery</td>
<td>4</td>
<td>1.3%</td>
</tr>
<tr>
<td>Gun show promoter reported suspicious activity</td>
<td>2</td>
<td>0.6%</td>
</tr>
<tr>
<td>Analysis of out-of-business records</td>
<td>1</td>
<td>0.3%</td>
</tr>
<tr>
<td>Unknown</td>
<td>14</td>
<td>4.4%</td>
</tr>
</tbody>
</table>

N = 314

was nearly four times greater when compared to the number of firearms trafficked by unlicensed dealers at gun shows. Gun show investigations involving FFLs had a mean of about 452 trafficked firearms per investigation (74 cases with 33,445 guns), while gun show investigations involving unlicensed dealers had a mean of about 112 trafficked firearms per investigation (139 cases with 15,551 guns). Licensed dealers have access to a large volume of firearms, so a corrupt licensed dealer can illegally divert large numbers of firearms. Straw purchasers were associated with an average of about 35 trafficked firearms per investigation and felons purchasing firearms at gun shows were associated with an average of about nine firearms per investigation.

The available research on the acquisition of guns by prohibited persons would lead one to believe crime guns were either old and stolen or new and recently diverted from retail. However, it is also possible for older firearms to be resold on the secondary market as "second-hand" and subsequently trafficked. It is important to know whether second-hand firearms are subsequently trafficked because current indicators of gun trafficking based on quick time-to-crime trace information may underestimate the true extent of gun trafficking. Unless the firearm was used in a heinous crime, the tracing process ends after the first retail sale. Therefore, while a trace of a crime gun may reveal it was first sold at retail 10 years before its recovery in crime, it is possible
<table>
<thead>
<tr>
<th>Subject</th>
<th>Number</th>
<th>Percent</th>
</tr>
</thead>
<tbody>
<tr>
<td>Unlicensed dealer</td>
<td>170</td>
<td>54.1%</td>
</tr>
<tr>
<td>Unlicensed dealer (never FFL)</td>
<td>118</td>
<td>37.6%</td>
</tr>
<tr>
<td>Former FFL</td>
<td>37</td>
<td>11.8%</td>
</tr>
<tr>
<td>Current FFL and Former FFL</td>
<td>8</td>
<td>2.2%</td>
</tr>
<tr>
<td>Current FFL and Unlicensed Dealer</td>
<td>4</td>
<td>1.6%</td>
</tr>
<tr>
<td>Unlicensed dealer and Former FFL</td>
<td>2</td>
<td>0.6%</td>
</tr>
<tr>
<td>Current FFL/Former FFL/Unlicensed</td>
<td>1</td>
<td>0.3%</td>
</tr>
<tr>
<td>Current FFL</td>
<td>73</td>
<td>23.3%</td>
</tr>
<tr>
<td>Felon purchasing firearms at gun show</td>
<td>33</td>
<td>10.5%</td>
</tr>
<tr>
<td>Straw purchasers at gun show</td>
<td>20</td>
<td>6.4%</td>
</tr>
<tr>
<td>Unknown gun show source</td>
<td>18</td>
<td>5.7%</td>
</tr>
</tbody>
</table>

that during this time period the firearm was traded in to a pawn shop, re-sold much more recently, and diverted to a prohibited person. In this study, both new and second-hand firearms were trafficked at gun shows, with second-hand firearms figuring slightly more prominently. Second-hand firearms were sold in 53.2 percent of the investigations and new firearms were sold in 49.7 percent. New and second-hand firearms were sold by the same dealer in 25.5 percent of the investigations. The prominence of trafficked second-hand firearms suggests estimates of gun trafficking derived from the trace studies on the basis of short time-to-crime may be conservative. Only about 11 percent of the investigations involved the illicit sales of guns known to be stolen. Typically, stolen firearms are defined as not trafficked. However, our findings suggest that stolen firearms can also be subsequently trafficked.

Nearly one-fifth of the 314 investigations involved violations of the National Firearms Act, which regulates the possession of particular types of firearms and other weapons. More than half of these investigations (33 of 62, 53.2 percent) involved the illegal transfer and/or possession of machine guns, and nearly one-third (19 of 62, 30.6 percent) involved the illegal conversion of semiautomatic firearms to full automatic. Silencers, explosives, grenade launchers, and machine gun conversion kits were also illegally possessed and/or transferred in some of these investigations.

**Firearms Known to Have Been Used in Subsequent Crimes**

In slightly more than one-third of all investigations, improperly transferred firearms were known to have been
<table>
<thead>
<tr>
<th>Violation</th>
<th>Number</th>
<th>Percent</th>
</tr>
</thead>
<tbody>
<tr>
<td>Engaging in the business of dealing w/o license</td>
<td>169</td>
<td>53.8%</td>
</tr>
<tr>
<td>Possession and receipt of firearms by convicted felon</td>
<td>76</td>
<td>24.2%</td>
</tr>
<tr>
<td>Illegal sales and/or possession of Title II weapons</td>
<td>62</td>
<td>19.7%</td>
</tr>
<tr>
<td>Licensee failure to keep required records (&quot;off paper sales&quot;)</td>
<td>60</td>
<td>19.1%</td>
</tr>
<tr>
<td>Providing false information to receive firearms</td>
<td>54</td>
<td>17.2%</td>
</tr>
<tr>
<td>Transfer of firearm to prohibited person (felons &amp; minors)</td>
<td>46</td>
<td>14.6%</td>
</tr>
<tr>
<td>Straw purchasing</td>
<td>36</td>
<td>11.5%</td>
</tr>
<tr>
<td>False entries/fraudulent statements in licensee records</td>
<td>27</td>
<td>8.6%</td>
</tr>
<tr>
<td>Illegal transfer of firearms to resident of another state by non-licensee</td>
<td>21</td>
<td>6.7%</td>
</tr>
<tr>
<td>Receipt and sale of stolen firearms</td>
<td>15</td>
<td>4.8%</td>
</tr>
<tr>
<td>Obliterating firearms</td>
<td>14</td>
<td>4.5%</td>
</tr>
<tr>
<td>Drug trafficking</td>
<td>11</td>
<td>3.5%</td>
</tr>
<tr>
<td>Trafficking of firearms by licensee (unspecified violation)</td>
<td>9</td>
<td>2.9%</td>
</tr>
<tr>
<td>Transfer of firearm in violation of 5 day waiting period</td>
<td>7</td>
<td>2.2%</td>
</tr>
<tr>
<td>Illegal out of state by non-licensee</td>
<td>7</td>
<td>2.2%</td>
</tr>
<tr>
<td>Licensee doing business away from business premises</td>
<td>5</td>
<td>1.6%</td>
</tr>
<tr>
<td>Illegal manufacture and transfer of assault weapon</td>
<td>3</td>
<td>1.0%</td>
</tr>
<tr>
<td>Sales by a prohibited person</td>
<td>2</td>
<td>0.6%</td>
</tr>
<tr>
<td>Forgery or check fraud to obtain firearms</td>
<td>2</td>
<td>0.6%</td>
</tr>
</tbody>
</table>

Note: Since an investigation may involve multiple violations, an investigation can be included in more than one category.
subsequently involved in additional crimes (Table 6). More than 40 percent of these 108 investigations involved firearms associated with drug crimes, more than 30 percent involved firearms in the possession of felons, and more than 40 percent involved firearms used in violent crimes (homicide, assault, and robbery). Nearly one-quarter of cases in which transferred firearms were known to have been subsequently involved in additional crimes involved homicide. Firearms trafficked at gun shows were later recovered in juvenile possession cases in 12 percent of the investigations. Nearly 14 percent of the investigations involved firearms recovered in illegal possession cases (as distinct from felon in possession cases), and nearly 15 percent were recovered in property crimes such as burglary and breaking and entering.

Overall, 46 percent of the investigations involved a felon associated with selling or purchasing firearms. This percentage was derived from aggregate investigations in which trafficked firearms were recovered from felons; unlicensed dealers’ criminal histories included felony convictions, felons had purchased firearms at gun shows, and a licensed dealer had a convicted felon as an associate in the trafficking enterprise. When only a licensed dealer was the main subject of the investigation, a convicted felon was involved in nearly seven percent of the investigation as an associate in the trafficking of firearms. When the investigation involved an unlicensed dealer or a former FFL, slightly more than one-quarter of the investigations revealed that the individual had at least one prior felony conviction.

**DISCUSSION**

This survey of ATF investigations suggests that, under current regulatory controls, gun shows do present a public safety problem. This research demonstrates that prohibited persons do personally buy firearms at gun shows and that gun shows are sources of firearms trafficked to prohibited persons. Large numbers of firearms, both new and second-hand, are also diverted through gun shows. It is important to note that in this research we could not estimate the proportion of crime guns that come from gun
shows or what proportion of gun show dealers act criminally. Diversion is clearly taking place, however, and it is in some instances in a high-volume manner consistent with other research on gun trafficking (Wachtel 1998; Pierce et al. 1995).

Our research suggests three broad channels by which firearms are diverted at gun shows:

- **unlicensed dealers** who knowingly sell firearms to prohibited persons without conducting criminal background checks and/or who are illegally engaged in the business of selling firearms;
- **corrupt licensed dealers** who willfully violate federal firearms regulations by, for example, making “off paper” sales and falsifying transfer paperwork; and
- **straw purchasers and straw purchasing rings** that purchase firearms from licensed and unlicensed dealers for prohibited persons.

The ATF investigations suggest that criminal firearms trafficking, often involving middle transfers, may be more important than direct personal purchases by criminals. These subsequent transfers of guns are not identifiable in survey research on gun acquisition; therefore, the findings on sources of crime guns in survey research may not be as meaningful as they appear. Consistent with the growing body of literature on the illegal diversion of firearms, our study suggests retail sellers are important sources of firearms for criminal use.

There are three pathways policy makers could pursue in order to reduce the number of firearms illegally diverted from gun shows. First, they could increase the amount of law enforcement resources dedicated to curtailing firearms trafficking at gun shows. However, under current regulatory controls, this option would require a very large volume of enforcement. Second, policy makers could address the gaps in federal firearms laws that regulate all firearms transfers in the primary and secondary markets. As mentioned earlier, there is no special gun show “loophole.” Firearms trafficking at gun shows is simply a special case of misbehavior that occurs within the broad framework of federal firearms laws. Third, policy makers could impose specific regulations on gun shows as a special case of firearms transfers where problems occur. Gun shows could be regarded as a “hot spot” (Sherman,
Table 6: Firearms Trafficked From Gun Shows Known to Have Been Involved in Subsequent Crimes

<table>
<thead>
<tr>
<th>Crime</th>
<th>Number of cases with at least one</th>
<th>Percent</th>
</tr>
</thead>
<tbody>
<tr>
<td>Drug Offense</td>
<td>48</td>
<td>44.4%</td>
</tr>
<tr>
<td>Felon in possession</td>
<td>33</td>
<td>30.6%</td>
</tr>
<tr>
<td>Crime of violence</td>
<td>47</td>
<td>43.5%</td>
</tr>
<tr>
<td>Homicide</td>
<td>26</td>
<td>24.1%</td>
</tr>
<tr>
<td>Assault</td>
<td>30</td>
<td>27.8%</td>
</tr>
<tr>
<td>Property Crime</td>
<td>16</td>
<td>14.8%</td>
</tr>
<tr>
<td>Illegal possession (not felon in possession)</td>
<td>15</td>
<td>13.9%</td>
</tr>
<tr>
<td>Juvenile possession</td>
<td>13</td>
<td>12.0%</td>
</tr>
</tbody>
</table>

Note: Since firearms recovered in an investigation may be used in many different types of crime, an investigation can be included in more than one category.

Gartin, and Buerger 1989) for firearms trafficking and specially regulated as such.

The US Department of the Treasury and the US Department of Justice have suggested this third approach to the White House and to the US Congress. They suggest:

- clarification of the definition of “gun show” and “engaging in the business” of firearms sales;
- registration of gun shows and vendors at gun shows;
- the requirement that all firearms transactions at a gun show be completed through an FFL;
- the requirement that FFLs submit a minimum amount of information about guns sold at gun shows to the ATF National Tracing Center so recovered crime guns can be traced;
- the addition of increased law enforcement resources to regulate gun shows; and
- the education of gun owners about their responsibilities in the sale of firearms.

The advantage of fixing the gaps in federal firearms laws is that it is logically consistent to address the loopholes in the laws regulating all firearms transactions rather than focusing on the special case of firearms sales at gun shows. However, it would be a massive undertaking to change current federal laws, and these amendments could be potentially overreaching. The advantage of specially regulating gun shows is that it focuses on the problem at hand. However, this approach was rejected by the US House of Representatives because the sales of firearms at gun shows are no different from those made in the rest of the retail firearms market and were not considered to pose an additional threat to public safety (Pianan and Eilperin 1999). Nevertheless, many states have decided that gun shows are sufficiently risky and firearms sales at gun shows in these states are specially regulated (US Treasury and US DOJ 1999).

The problem of regulating firearms sales at gun shows is actually a microcosm of the larger national debate on the regulation of sales in primary and secondary firearms markets. The effectiveness of primary market gun regulations, such as the Brady Act, are undermined by the large volume
of unregulated secondary market sales (Ludwig and Cook 2000). In the context of the gun show, illicit buyers seek unlicensed dealers to purchase their firearms without completing paperwork and passing criminal background checks; scofflaw dealers may choose to illegally sell guns without a license to avoid detection by law enforcement. If law enforcement agencies are challenged to address illegal firearms trafficking at and through gun shows, legislatures need to provide them with the appropriate tools to reduce the flow of guns from secondary market sources.

Notes

1 The authors of this paper were retained by the US Department of the Treasury and the US Department of Justice to assist with the preparation of their gun show report. As such, some of the research findings described in this paper were highlighted in that report. See US Treasury and US Department of Justice, 1999.

2 Federal firearms regulations mentioned in this section are found in US Code Sections 921, 922, and 923.

3 The results of this special analysis were provided to the authors by personal communication with Susan Ginsburg, US Department of the Treasury.

4 A “straw purchase” occurs when the actual buyer of a firearm uses another person, the “straw purchaser,” to execute the paperwork necessary to purchase a firearm from a licensed dealer. A straw purchaser is used because the actual purchaser is prohibited from acquiring the firearm because of a felony conviction, underage status, or some other prohibition.

5 The National Firearms Act regulates the manufacture, importation, transfer, and possession of specific types of firearms and other weapons that are considered particularly dangerous. NFA weapons include fully automatic machine guns, sawed-off and short-barrel long guns, silencers, explosives, and the like.

6 Personal communication between authors and ATF agents Patty Galupo, Terry Austin, Joe Vince, and Gerry Nunziato.

7 It was, for the most part, not possible to review and verify all of the information regarding the number of firearms provided in the survey responses. Beyond the confirmed accuracy of the reported number of firearms in the random sample of 31, we selected another random sample of 15 cases from the 31 investigations reported to have involved 101 to 250 firearms and 15 from the 30 investigations reported to have involved 251 or more firearms, and reviewed with ATF field personnel the information leading to those reports. In addition to the randomly selected cases, we also reviewed the basis for the numbers of firearms reported in the two investigations involving the largest volumes of firearms, 10,000 and 7,000 firearms respectively. Based on this review, we and our ATF partners concluded that the numbers of firearms reported in connection with the investigations have a reasonable basis (see Department of Treasury and Department of Justice, 1999: Appendix, p. 2 for details). For example, the case involving 7,000 firearms was tabulated based on a combination of an audit of firearms seized and the reconstruction of licensed dealer records, while the case involving 10,000 firearms used a combination of ATF National Tracing Center records and information from confidential informants.

8 Information on the number of sales per seller being investigated would have provided a good comparison point. Unfortunately, the ATF investigations of licensed dealers did not contain information on the total number of legal sales the licensed dealers made at the gun show. The ATF special agents only recorded the number of firearms that were illegally diverted. Information on the total number of legal sales made by unlicensed dealers is
References


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Feature Interviews

The interview section of The Review tries not only to create a balanced, informative discussion of the specific policy issue at hand, but also to highlight the steps in the policy-making process that can be applied to all policy areas. Interview Editor Siobhan Murphy and Executive Editor Christina Werth reach beyond the usual opposing arguments of the gun control debate to find a new understanding of an issue that is important to so many lives. The first interview with Historian Michael Bellesiles details the history of guns and the changing role they have played in America’s history. Next, Michael Barnes of Handgun Control, Inc. and Larry Pratt of Gun Owners of America stay firmly in their camps and try to help us understand why they work so hard for what they believe. Finally, Rebecca Peters, an Australian gun control advocate currently at the Open Society Institute, explains how difficult policy issues are approached in a different part of the world and what America might learn.

Interview with Michael Bellesiles,
Professor of History, Emory University

In his book Arming America: the Origins of a National Gun Culture, Michael Bellesiles details the history of guns in America from colonial days to post Civil War. Through his research, Professor Bellesiles finds that, although the government tried to infuse guns into American society, they did not become pervasive until after the Civil War.

Because the book has gotten so much attention, what is your reaction to your book being talked about on both sides of the gun control debate and by those involved in policy discussions?

I’m really uncomfortable with the whole thing. This is my fifth book and I didn’t exist until this book was published. I thought when I was working on it that it would be of interest to my fellow historians, and gun enthusiasts, and I thought that would be about it. Knopf Publishing House always thought it would have a bigger impact, and they were correct. I am a dyed in the wool empiricist. I am an old fashioned kind of historian. I like spending years in the archives, and do not have any, as they say, axes to grind in the policy debate. I made no policy recommendations; I’m not a public intellectual. I have generally been very put off by the interviews I have been asked to give because everyone wants me to reach an absolutist position; the NRA represents that, I am afraid. They are ideological absolutists and they want everyone to be driven to one absolute or another. Either you are pro-gun or anti-gun. I have been called anti-gun, among many outrageous things. I was just opening my mail when you called and opened a letter from a local here in Atlanta who says I am a tool of the liberals, which, he says, is another word for state
seems to be a disconnect between that idea and what you have stated. Where did the idea that everyone had guns and knew how to use them originate?

I’ve written an article on this and am thinking about expanding it more carefully in the future. Basically, I blame Westerns, Western movies. I like Westerns myself; I grew up with them and therefore I thought everyone on the frontier had a gun. But what I’ve come to realize is that so does everyone else. Everyone who has seen these movies thinks that is the way it was. Some of the Westerns are really good, more accurate, like Shane. Alan Ladd and Jack Palance are hired guns. They’re the ones who own the guns, who know how to use them. The other people are farmers or ranchers who don’t necessarily have guns or know how to use them.

After the Civil War, there were guns everywhere, make no mistake. But it is still interesting how few people on the supposedly very violent frontier were walking around with handguns. In fact, as Robert Dykstra’s excellent research has shown, the Western communities had legislation, had rules, requiring that guns be checked with the sheriff. My own research has found that the territories had laws against the public display of firearms and against carrying firearms in public, whether concealed or in the open. Even police officers were not allowed to carry concealed firearms in the Wild West. So again, it becomes a slightly more complicated story.

What is interesting is that if you read a historian writing in the United States in the late nineteenth century and the early twentieth century up to World War II, you’re not going to find a sentence like, “They all had guns.” You’re not going to find something about universal gun ownership. Those kinds of sentences start to appear in history books after World War II. So I am very intrigued by what caused this shift.

Why did historians start accepting this logic? I have read several historians from the 1920s writing that many people think there were guns throughout the West, but they are being influenced by the dime novels. So historians knew back then that it was all a myth, but by the 1950s, the historians routinely write about universal gun ownership in the earliest frontiers, in the seventeenth century.

So I speculate they are getting this from popular culture. It was influencing the work of historians and then feeds back into popular culture. But I do hope to research this topic more, try to pinpoint, as you say, the spot.

To return to an earlier topic, it seems interesting that you have gotten strong and sometimes negative reactions to your book.

Not by anyone I respect, though. All the historians so far, a very impressive list of historians who have reviewed my book, have all been positive. But I have received a lot of negative mail.

You have mentioned that it is causing you to re-examine these issues. Do you think it will cause you to get more involved and perhaps use your research to bring about a more intellectual discussion of the policy issues instead of absolutist positions for or against gun control?

I don’t know, I hadn’t really thought about it. I love to teach. First I became a teacher, then I started writing. I’m not sure how well teaching works outside of a school environment. The public intellectuals I know tend to have a didactic tone. Preach more than teach; that is not for me. I don’t like telling people what to think. Too often that is what disturbs me about policy debates.
Did you begin this book with the idea of looking at the current gun control situation and tying it to our past?

I really didn’t question our current situation in terms of gun laws, and I have no track record of any kind. Let’s just be blunt, it’s just blank. It would be really nice if scholars had a space where they would be listened to, where they would have the opportunity to lay out the more complex aspects of our past and current situation and be given some room to develop the information so that people can make more informed judgments. But my experience so far, and I don’t mean to be in any way objectionable to people who have interviewed me in the past, but they want absolutes, flat statements, that it is this way, or it is that way, or it should be this way. And that is not something I am willing to do. Even talking about the current situation, anyone who has read the work of Franklin Zimmrick, who is a very fine legal scholar who writes on gun issues and crime, or of Phil Cook over at Duke, should know that you cannot just say it is just one thing: it’s just the guns, or it’s just the movies, or it’s just fill in the blank. It’s an interesting complexity in our culture in which these factors reinforce each other. We give people guns, we train them how to use them, and then the culture emphasizes the use of those firearms to resolve personal conflicts at every turn. And then something bad happens.

I just received this email fifteen minutes ago that one of my former students named Matt Carter, who graduated with highest honors last May, was shot and killed in Houston, TX on the morning of Sept 18th during a robbery/abduction.

We have created the society that we are in. That is maybe the underlying theme of my book, that cultures in democracies at the very least are created because people want those cultures. We want this culture. Why we want this culture I don’t know, but we want it. We allow it. If we wanted to, we could change it, but we’re not going to change it by single actions. We are going to change it by really studying the root causes deeply, coming to an appreciation of what the factors are that lead to this kind of personal violence. And that may be too daunting for people.

Michael Bellesiles is Professor of History at Emory University and Director of Emory’s Center for the Study of Violence. He is the author of Revolutionary Outlaws: Ethan Allen and the Struggle for Independence on the Early American Frontier, and of numerous articles and reviews. He lives in Atlanta.
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fax: (202) 687-5544
e-mail: pacek@gunet.georgetown.edu
Interview with Michael Barnes, President, Handgun Control, Inc.

What are your plans for the next Congress? Do you have a plan of action?

It depends greatly on what happens. We are enormously active in the legislative process. We support candidates who advocate responsible policy toward gun control, so who wins these elections is going to be crucial. If we have a better Congress and a White House that we can work with, our prospective agenda includes regulation of the gun industry. Many Americans are unaware that the gun industry is not regulated. In 1972, the gun lobby was successful in pushing through the Congress an exemption from consumer protection specifically for guns. Virtually every other product that’s manufactured, from teddy bears to airplanes, is regulated by the federal government, but not guns. The manufacture of water pistols is regulated. There are standards set to make sure they’re safe, they have to be a certain color so when children are holding them, police don’t think it’s a real gun. They set standards for water pistols but not for real guns. As a result, large numbers of people die because of the way guns are manufactured. So that’s one of the important agenda items for us to push: for regulation of the manufacture, distribution, and retail sale of guns.

We also feel strongly that guns should be treated the same way other potentially dangerous products, such as automobiles, are. Before you purchase a handgun you should have to pass a safety test to show that you know how to handle it, and are familiar with storage procedures, how to keep it safe, etc. We believe that the gun itself should be registered, there should be ballistics tests done before it’s sold, so that if a gun is used in crime, the police can trace it. We’ll be pushing for treating guns the same way society treats automobiles; that is, licensing and registration of the gun.

We also believe strongly that more should be done with enforcement of existing laws, closing loopholes in the existing laws that permit criminals to escape the enforcement process in the United States. We’ll be pushing for serious enforcement, closing the loopholes, hiring more prosecutors and federal government agents to catch the bad guys and put them behind bars.

That’s our agenda if we have a better Congress. Obviously, also we would want to pass the legislation that’s been sitting there unpassed in this Congress. Close the gun show loophole, ban the importation of large ammunition clips, and similar legislation that this Congress has tried and failed to do because the friends of the gun lobby have been successful in blocking these basic, very common-sense kind of things that are supported by 80 to 85 percent of the American people. But Congress hasn’t passed them, so the first
thing we would do is pass the ones that have failed in this Congress.

Do you think creating new laws is the best way to improve gun control, even in light of the study that came out in August that the Brady Bill may or may not have led to a decreasing gun violence? Gun violence has decreased in the past years, but this article indicates that they cannot attribute this decrease to the Brady Bill and that it could be attributed to other factors.

We have done our own research and we have a difference of opinion about some of the findings of the article, but we certainly did not disagree with their basic premise, which is that we need to do more. The basic premise of their article is that the secondary market has to be closed and that if we're going to reduce gun violence further in the United States, we need to do more. And we certainly agree strongly with that view.

Legislation is not the only way to achieve our objectives. We are also heavily involved in litigation against the gun industry. I wear two hats here: I'm president of HCI, which is the political side; that's where we lobby. There's another organization here called the Center to Prevent Handgun Violence, and that's where we have the lawyers who are involved in trying to make changes through litigation rather than legislation.

There have been several lawsuits against the gun industry in recent years, including one in which HCI lost to Beretta in 1999. Will we be seeing more lawsuits against Big Firearms in the same way we have seen so many lawsuits against Big Tobacco? Do you believe litigation is an effective tool to bring about change?

In some respects no, and in others, yes. This is not going to be a situation where billions of dollars change hands. The gun industry is not the tobacco industry. The gun industry is a relatively modest industry. But I do think that in one respect these lawsuits can have a similar effect. It really wasn't until the litigation against tobacco that we learned a lot about the way the tobacco industry had operated historically. Tobacco executives were put under oath and were required to testify about their practices, and when the plaintiffs to those suits had access to documents of the tobacco companies, things became known that were rather shocking and changed the whole debate about tobacco in the United States. My guess is that we'll see a similar kind of situation with respect to guns.

Smith & Wesson made an agreement with the government regarding safety regulations. In filing these lawsuits, is your goal to force the manufacturers into such federal safety regulation agreements?

Absolutely. We were involved in the settlement with Smith and Wesson and believe that it is an important step. It was the first time a gun manufacturer had conceded that it had some responsibility for its products. Before that, all the gun manufacturers had said, "We just make these things. We don't have anything to do with them once they leave our factory." Smith & Wesson said, "Wait a minute. Maybe we do. Maybe our distributors and retailers can do a better job in the way they handle these products to keep them out of the hands of criminals and children and deranged people. Maybe we can make a product that is, in fact, safer." So that was a very important breakthrough, to have a gun manufacturer concede, for the first time ever, that it has some responsibility for the mayhem that's going on out here in the streets everyday. Over 80 people are killed every day in the United
States by guns. The numbers are just staggering with respect to gun violence in this country. It’s unbelievable that we allow it to continue. No other country would, and no other country does. Yes, that was a very important step and that is what we are trying to get the gun manufacturers to do with our litigation. It’s not about money; it’s not about deep pockets. It’s about getting them to be more responsible in the way they do business.

Does it look as if the other gun manufacturers will follow Smith & Wesson’s example?

It doesn’t look as if they’ll do anything soon. They’re fighting it every inch of the way. I believe they’re fighting a losing battle. I think history is on our side and we’re going to win, ultimately, both in court and in the legislative process. I don’t know how long it’s going to take. It took seven years from the time the Brady Bill was introduced to the time it passed. These are multi-year fights, but I’m just absolutely confident that over time we’re going to win.

Where do you see HCI’s money as being most effective? Is it in lobbying Congress or is it in public service announcements and mobilizing the people? Do you feel there’s one avenue that’s more effective than the other?

Lately, it hasn’t been very effective to lobby the Congress, because the Congress has been totally in the pocket of the gun lobby. We’ve got more than 80 percent of the people in the United States saying we need to close the gun show loophole that permits criminals and mentally deranged individuals and juveniles to buy guns without any check at all. And yet you can’t get the Congress to do it. That hasn’t been terribly effective lately, so a lot of our focus has been on the grassroots level of the country and educating people and helping mobilize people, so we will be able to affect these elections and in the future have a stronger presence around the country that will ultimately affect the politicians.

One of my goals in this election is to scare the politicians. They’ve been afraid of the gun lobby. They’ve been afraid that if they went! against the gun lobby, they might lose the next election. But I want them to find out that if they go against us, they might lose the next election. That’s what we’re trying to do this year. We put out a list last week, the “Dangerous Dozen” list of candidates for election this year in the US. Since there are a lot more than 12, we had lots of “dishonorable mentions.” We’re going to beat a bunch of them. We’re very actively involved in many of the Senate and House races around the country, we’re actively involved in the presidential race, and we’re going to beat some people. And we’re going to be seen to have beaten some people. We’re going to make a difference, and politicians may begin to realize they may be on the wrong side of this issue.

I was on the Steering Committee for the Million Mom March. Previous to this Mother’s Day, the largest march for gun safety in the US was about 10,000 people. We had three-quarter million people out on the Mall on Mother’s Day. I served in Congress for eight years. Those people on Capitol Hill had to say, “Wait a minute. Something’s happening here. This is different.” This wouldn’t have happened before Columbine, Jonesboro, the Jewish community center in LA, the National Zoo, the little first-grader getting shot by her classmate in Michigan, and the boy killing his teacher in Florida, and all these things that have caught the attention of the American people. People do recognize that what we allow in this country is crazy. So we’re going to be working at both the grassroots level with education,
recruiting armies of activists, as well as direct lobbying of Capitol Hill and the state legislatures.

Where do you think the Second Amendment stops and gun control starts? What is HCI’s view on the Second Amendment? Where does it belong and what is its role in gun control policy in the United States?

The Supreme Court ruled unanimously in 1939 that the Second Amendment relates to, as the amendment says, a “well-regulated militia.” It does not relate to an individual right to own weapons. That ruling of the Supreme Court has never been overturned. We share the view with the Supreme Court that this is the correct interpretation of the Second Amendment. But I think the argument about the Second Amendment is essentially irrelevant because, even if you accepted the gun lobby’s argument that the Second Amendment does relate to an individual’s right (although the Supreme Court said it did not; in fact, they used the word “obviously” to say it does not), that does not suggest for a moment that there can not be reasonable restrictions.

For example, we know that the First Amendment permits freedom of speech and freedom of religion, but there can be, even the courts have ruled, reasonable restrictions on the freedom of speech. I can’t libel you. I can’t slander you just because I have freedom of speech, without some cost to me. Even though I have freedom of religion, I can’t build a church in the middle of Pennsylvania Avenue, disrupting everyone else’s activities. Yes, I have freedom of religion, but there can be some reasonable restrictions put on my religious freedom. And the Supreme Court has said lots of times there are all kinds of reasonable restrictions: the most common example is you can’t yell “Fire” in a crowded theater. Even with the most cherished constitutional right, we all recognize there are some common sense reasonable restrictions that can be placed on them.

For example, before you buy a gun, you have to show you know how to use it. These are reasonable things. Gun manufacturers ought to build locks to keep them out of the hands of small children. That’s a perfectly reasonable common sense restriction that 80 percent of the American people support and there ought to be background checks on everybody who purchases a gun in the United States. Again, this is supported by 80 percent of the American people. It ought to apply to gun shows and Internet sales, etc.; in a sense, the Second Amendment argument is irrelevant. I agree with the Supreme Court that the Second Amendment is a reference to militia; that’s what it said. In the modern context, the Supreme Court defines the militia as the National Guard, so if you’re in the National Guard, you have the constitutional right to have weapons. Nobody else does, according to the Supreme Court.

If that’s what’s been ruled by the Supreme Court, why is it so hard to get reasonable restrictions in place?

Because the gun lobby of the US is enormously powerful. There are only two consumer products in the US that are exempted by law from regulation: guns and tobacco. The gun lobby and the tobacco lobby, I can tell you as a former US Congressman, are enormously powerful. That’s why they are the only two consumer products exempted by law. They went to their friends in Congress and got themselves exempted. It’s outrageous. These are two very dangerous products that are killing hundreds of thousands of people in our country every year, but that’s the political reality. That’s why it’s so hard. But it’s interesting, the gun lobby, the NRA, and other gun groups talk every
day about the Second Amendment, that this is what they’re fighting for, but they didn’t take the Brady Bill to court. They didn’t take the assault weapons ban to court. They didn’t take the ban on cop-killing bullets to court. They didn’t take the ban on plastic guns that can’t be detected by metal detectors to court. They fought these things every inch of the way, and they could have gone to court and said, “This is unconstitutional. We have a Second Amendment right to own assault weapons.” To take their argument at its base, they have a Second Amendment right to own F-16s. They have a Second Amendment right to own a tank, drive it around, and shoot at people. If you take their argument, they have a constitutional right to own machine guns or anything else.

In fact, the Supreme Court case in 1939 was about machine guns because all those people were being killed in the 1930s by gangsters with machine guns, so Congress outlawed machine guns, and it went to court. The Supreme Court ruled unanimously there is no individual constitutional right to own guns, that it was obvious the Second Amendment related to, as it says, a “well-regulated militia.” If they really believed there is this constitutional right, they would have been out there in a minute to take the Brady Bill and the assault weapons ban to court to try to get them overturned. When you get to Mr. Heston, ask why, if they’re so confident about the Second Amendment right they talk about constantly, they do not take these laws to the courts. As I say, it’s sort of irrelevant. But I don’t spend a lot of time on it; in my speeches I don’t talk about it. Because even if they’re right that they have a Second Amendment right to bear arms, that there’s an individual right, even if that’s true, everyone would agree there are some reasonable restrictions. I think everyone would agree that just because you have a constitutional right, assuming they’re correct that you did, that doesn’t mean you have the right to own a grenade launcher and keep it in your backyard for target shooting. Put some reasonable restrictions on this constitutional right. Their argument would be that you can’t have reasonable restrictions. They’ve fought against every restriction. They’re on the losing side. This is either a 10-year fight or a 30-year fight.

How long it will take for us to win depends on the people we elect to office. If we elect the right people, it’s a 10-year fight. If we can’t elect the right people, it’s going to be a 25- or 30-year fight. But we’re going to win this fight. The American people are not going to continue to put up with this insanity. Ten kids a day get killed with guns.

Is HCI’s ultimate goal to establish these reasonable restrictions or to ban guns altogether?

We are not in favor of banning guns. We think there ought to be common sense restrictions. One of the points I frequently make is to compare the United States with Canada. A much larger percentage of Canadians hunt than people in the US, and yet they don’t have this crazy gun violence that we have in this country. Compare Seattle, Washington to Vancouver, British Columbia, two almost identical cities—very similar size, and very similar economic breakdown in terms of the number of poor people and rich people, very similar ethnic breakdown. In Seattle, how many people die every year from guns? About 300. How many people in Vancouver, right next door, just across the border in Canada? About two. Why? Because we have easy access to cheap handguns and assault weapons. We have virtually no restrictions on who can get them and where they can keep them and all the rest. People in Canada have found they can hunt even with restrictions. They are not unable to have their guns, but they are not killing each other off the way we are in
the United States. So there are reasonable things we can do without destroying the rights of people to own guns and target shoot or hunt or whatever else they want to do except kill people.

How do you attract new people? You mentioned the Million Mom March and grassroots organizing. Everyone knows who the NRA is, but not everyone knows HCI. How do you get your message across?

The name of our organization is not terribly well known. Most people have heard of Jim and Sarah Brady, who are our leaders. It’s not so important whether people have heard of the organization. What’s important is the work we do and the effectiveness of it. We now have over half a million members. That is not, by any means, as many members as the NRA has, but we’ve got a lot more supporters than they do. For example, 90 percent of nurses are supporters of common sense gun laws; there are millions of nurses. There are millions of social workers out there in the communities who have seen the devastation caused by gun violence. There are millions of doctors. There are millions of ministers and rabbis who can see in their own congregations and communities the awfulness caused by this, and they are our supporters. There are millions of police officers out there having to deal with gun violence every day and are on our side. We saw at the Million Mom March that people are prepared. The march here was only one of 70 some odd marches around the country that same day. Three-quarter of a million here, and hundreds of thousands at the other marches as well. People are willing to get out and help out with this cause in a way that is new. The country is focused on this in a way that it has not been since the late 1960s.

After the assassinations of prominent leaders in the ’60s, the country was demanding that things be done. And things were done. Then the country sort of forgot about the issue, but the gun lobby did not forget and kept working. They weakened everything that had been done in the late 1960s back to nothing and, in fact, made them worse. The gun laws in the US are weaker now than before the assassinations. But the events of the past couple years have changed that. People are fed up with this insanity, of losing a Columbine, of losing children every day to gun violence. We’re not having any difficulty getting people to step up now.

What role do you see the media as having in this whole debate?

The media’s role is enormously important. Not only the media, but the entertainment industry as well. The way movies and television portray guns has a big influence on this issue. Just little things: if you’re watching a TV show and a police officer stops somebody who has a gun and says, “Do you have a license for that gun?” That shows that the writer of that script did not know that in this country you don’t need a license.

Former Congressman Michael D. Barnes is the President of Handgun Control and the Center to Prevent Handgun Violence. During his tenure in the US House of Representatives, from 1979 to 1987, Mr. Barnes chaired the House Sub-Committee on Western Hemisphere Affairs and also led the national fight against drunk driving. After leaving Congress, he continued to involve himself in national and international issues as a partner in the law firm of Hogan & Hartson. A former Marine, Mr. Barnes graduated from the University of North Carolina and received his J.D. from George Washington University Law School.
Interview with Larry Pratt, Executive Director, Gun Owners of America

We are in an election year and anticipating a new Congress. What do you want to accomplish in the 107th Congress? What do you envision?

What we envision is probably a little different from what we would like to accomplish. I think it would be realistic to think that we can undo the Smith & Wesson deal by just flat-out putting a prohibition on those kinds of lawsuits against industry. George W. Bush has signed that kind of legislation in Texas, and I don’t think if he were the president, there would be any resistance on his part to signing a federal law. If Gore’s the president, we would have to take that off the table. We would have a different agenda then, it’ll just be survival. He’s someone who’s made it very clear he’s going to take as much of the Second Amendment as he can.

What do you mean by survival?

Just trying to keep guns in private possession at all.

What is your view of the Smith & Wesson agreement? How would you go about preventing similar agreements with other gun manufacturers?

The agreement was something that was legislation without the Congress being involved. That is unconstitutional. It was very clever, actually, because it was done as a contract that could only be reviewed in court regarding the proper enforcement of the terms—not the terms themselves.

The terms of the contract are quite draconian. Not many dealers have gone along with it. It looks like there’s a fairly effective boycott that is harming Smith’s sales. But had enough dealers gone in on it, Clinton would have been able to impose a lot of his gun control agenda for the simple reason that the contract applies to not only sales of Smith’s guns but also those of any other company that dealer handles.

The extent of the agreement was much more far-reaching than was apparent. It had very little to do with trigger-locks (which we oppose). That was something the media was talking about, but that wasn’t really the major damage that could have been done by that agreement. How can we avoid those in the future? Precisely by federal legislation. Then the states that haven’t passed such legislation would not be venues where such suits could be brought.

Carrying this a little further, how do you view litigation vs. legislation and
making policy through the courts, similar to the lawsuits against Big Tobacco?

Such lawsuits are a perversion of the tort system. They take government away from control of people and put it in the hands of those who impose such an agreement. That's quite apart from the fact that the gun, unlike tobacco, doesn't harm the person who buys it. Tobacco, it was pretty clear, was hurting people; that's why I stopped smoking many years ago. There wasn't anybody who didn't know that. I really have little sympathy for the people bringing suits, because they knew what they were doing. Now they want to cry because they lost the gamble that nothing could happen to them.

The gun, unless it blows up in your hand, has not done anything that could be considered tortious. These are rather different suits from even the tobacco suit, where at least you could argue that the product was harmful to a person. Here, they're objecting to the fact that these are guns. They don't like guns, period.

It's kind of ironic that what we're seeing are suits brought by mayors of usually very high crime jurisdictions where they've been quite hostile to individual gun ownership and people carrying concealed firearms. Yet these are the very laws that have lowered the murder rate and have lowered them year after year after year, the longer they're on the books of the jurisdictions that have enacted them. I would submit that these mayors are blame shifting. They're doing something that's easy politically to try to answer why their jurisdictions are high crime while others are not.

The easiest way to see that is by analogy, even though studies have been done, which means it's not something that just depends on the comparison of a couple of cities. But if you compare Washington, DC with Arlington—the only difference between Washington and Arlington is size. Otherwise, the demographics—wealth, density of population, high-rise and suburban areas—are very much the same. And yet the murder rates in Arlington are 35 times lower than in Washington, DC. Now, they'll argue that guns can flow into Washington. They can also flow into Arlington. Why don't they have the same problem in Arlington? Arlington is in Virginia, which permits concealed carry. I think the mayors have no leg to stand on whatsoever. It's a pity they're not brought to account by their voters and thrown out, but in the meantime we can at least try for legislation in Washington.

How is your approach to gun legislation different from that of the NRA? Do you have different goals? Is your look at policy different?

It's an important question. I think we have the same goals. The difference is one of approach. The NRA, from our lights, has a more pessimistic view of what's possible in the political system. Even before going into a fight about a particular piece of legislation, they're willing to come up with concessions that they sometimes offer up front. They will certainly often have a point in a battle where they will make a concession. They're more likely to concede if, in their mind, they can't win this battle, and the only thing they can do is try to make it a softer landing.

We disagree with that approach. We think that's the reason we've seen a steady deterioration of firearms freedoms in this country over the last 30 or 40 years. The way to maintain your position is to recognize that you may lose a battle, but if you put your signature on a deal conceding some of your liberty, that becomes tacit endorsement of the principle that the government has a right to regulate your constitutionally pro-
tected right—that infringement is a legitimate policy objective. That compromises your ability to come back in the future and criticize the next move, which, inevitably, will come from those seeking to remove firearms from private possession.

I don’t know if you’ve gone to Handgun Control yet, but we’ve, as you may have suspected, debated each other on many occasions. Frankly, I think it’s demonstrable that they do have the desire to remove handguns from private ownership. They had a chance to prove me wrong last year when Virgil Goode had a bill on the floor of the Congress that would have done away with the gun ban in Washington, DC. They opposed it.

Before I had their opposition to the Goode bill to point to, I would challenge them to join with us in getting rid of the gun ban in DC and they would say,"We’re for local option. We believe that’s an important principle." Really? These are the people who passed the national Brady law? They’re for local option? Half the states in the country didn’t want it and had rejected it. I think it’s very clear that they don’t want people having handguns for a simple reason: they don’t believe in self-defense. They think it’s dangerous, that we’re too irresponsible. Ironically, what they fear is what has happened in the gun ban mecca of Washington, DC. There, the people have been disarmed except the criminals. So they have passed the most vicious law of unintended consequences. They are so committed to the idea that self-defense is a bad idea that I don’t even think they can see how failed are their policies. They’re blind to that.

**Should there be any reasonable restrictions on the right to bear arms?**

Any restriction that has to be applied to people that have broken no law is an unconstitutional infringement. It is unreasonable to violate the Constitution. If you can find a way to keep criminals from having guns that has no impact on the rest of us, then that’s fine. But so far, there has been no gun control proposal that anybody’s ever thought of that would apply to anybody except us, while the criminal thumbs his nose at those laws.

Imagine, England, an island with a gun ban. Now they have a higher violent crime rate than we do. If their ban doesn’t keep guns from the wrong hands, I can’t believe that the Brady law will keep guns from the wrong hands, or trigger locks, or you name it. Because they tried all those kinds of things in England, and now they’ve resorted to the ultimate “loophole closure,” to use Handgun Control’s phraseology, and it’s been an abject failure, a deadly failure.

**Are these violent crimes being committed with guns?**

In many cases, yes, crimes are being committed by criminals with guns. Some of the gang violence is taking place with guns Brits have never owned, like fully automatic AK47s. Manchester has been dubbed by their media “Gunchester.” The police estimate there are some 3 million illegal guns in the country. After a gun ban on an island. We are totally convinced that we’ve been going in the wrong direction for the past 30 or 40 years. The reason we have enjoyed a lessenning of crime in the jurisdictions that have experienced it is because of the concealed carry laws. They are effective because they present criminals with the one thing they can understand—the possibility of their immediate harm.

This is another problem we see with Handgun Control’s thinking and those in office who share their view; they assume criminals think the same way we do. If they pass a law, they think it
will be obeyed. Criminals don’t think that way. They’re willing to break laws because they’re criminals. They think within a very short time frame. They don’t plan ahead, they don’t defer what they’re doing now to go to college to get a better job later. They don’t believe in saving. If they need money they go to a bank and make a direct withdrawal called robbery. That’s the way they are. The thought that they might go to jail for ten years or even be executed doesn’t really concern them. Otherwise, they’d be like us.

At the end of the day, the one thing the criminal element does respect is what might happen to them now. If they happen to think you and I might be armed, even if they don’t know, that really tempers their desire to commit a crime. This is the beauty of concealed carry: criminals don’t know who is and isn’t carrying.

Does the concealed carry law act as a deterrent?

It does. I’m sure you’ve heard of Dr. John Lott’s studies, which by now have been corroborated by nearly four dozen other researchers and other institutions of higher learning. I know Handgun Control says that he’s been discredited, but I find it rather difficult to understand how that much corroboration could be discredited. The fact of the matter is you do have things you can point to. Look at Florida. When they started with their concealed carry law, their murder rate was 25 percent higher than the rest of the country. It’s fallen some 40-plus percent and keeps falling. I have had to keep looking back at the data. For a while it was 25 percent, then a third, now it’s 40-plus percent and just keeps falling.

Rather tendentially, Handgun Control put out a statement, a news release saying how bad it was in Texas because of all those arrested who were concealed carry holders. They failed to point out that, first of all, these were not convictions, and second of all, they didn’t compare it to the rest of the population. It turns out these permittees were committing about one fourteenth of what the rest of the population was committing. It stands to reason that the concealed carry permittees are not likely to be the criminal class because they go through the indignity of being treated the way we think criminals should be—being fingerprinted and registered. But criminals don’t subject themselves to these things. Not voluntarily. Concealed carry permittees are not the people committing most of the crimes. HCI is able to take data that are true and make them seem almost exactly the opposite in the way they’re presented. Moreover, the violent crime rate in Texas is falling.

Another issue is the gun show loophole and the fact that many people believe criminals are getting their guns this way. What are your views in closing that loophole?

Do away with the Brady law. There should be one big loophole which is called Freedom. There are no gun shows in England, there are no loopholes. And yet they have a bigger problem than we do, and it’s growing. And it will continue to grow. You can have a shotgun in England if you’re really good, if you’re really lucky and you keep it locked up at home. It’s illegal to use it in self-defense. One lawyer was convicted of having kept it negligently. His negligence consisted of letting his octogenarian mother know where the key was.

An English farmer used a shotgun in self-defense when a repeat burglar had come on his property. He shot the burglar. They put him in jail for life.

It seems to me that England has gone completely in the wrong direc-
tion. They're completely opposed to the notion of self-defense. Criminals don't seem to give a hoot about the English gun ban. There's no loophole in England. Those few shotguns, a lot of which are kept in clubs anyway, are just for guys who shoot in sporting clubs and a few farmers, and that's about it. The pistol team for the Olympics has to go over to Belgium to practice. There are no loopholes in England and yet they're not keeping the guns out of the wrong hands. So Gun Owners of America is not even going to talk about keeping guns out of the wrong hands here because it's not going to happen. The question is, how are we going to make sure the rest of us will be able to protect ourselves if we choose to have guns?

*Then is your focus not keeping guns out of the wrong hands but keeping them in the right hands?*

When the NRA decided they would accept the challenge of how we can keep guns out of the wrong hands, they came up with the instant background check. Now they're talking about closing the so-called gun show loophole left in the instant background check. It's a no-win policy. Gun Owners of America argues that freedom really does work. The lack of the ability to make a free choice about how you want to defend yourself is becoming a disaster. It's already a disaster in Washington, D.C. and has been for a long time.

*Governor Bush has voiced support for Project Exile. Do you share his support?*

Project Exile should be exiled. It's talking about enforcing existing gun laws. These are laws we've fought because they're unconstitutional. They certainly don't work either. No, we don't think it's a good idea. Also more subtly and perhaps even worse is the fact that Project Exile implies that crime should be dealt with on the federal level instead of the state level. That violates the whole premise of the Constitution. There's no authority in our Constitution for federal law enforcement authority. We shouldn't be arguing there should be more of it. We're totally opposed to it. If you don't think crime is being handled properly in a state, deal with the state legislatures. Don't just pass the buck, "We'll just send it up to Washington and let them take care of it."

*US. v. Miller is used by both sides of the gun debate for their opposing purposes. How can that be?*

If the Supreme Court in 1939 had not believed that Miller had an individual right, they did not have to take his case. He didn't belong to the National Guard, he didn't belong to any organized militia whatsoever. He was just part of what Title 10 of the US code talks about as the unorganized militia. He was just an average guy—well, not that average; he was a bank robber who unhappily was unable to show up for the appeal before the Supreme Court. That was a deficiency that affected the outcome of the case.

The question the Court was asking was: "Does a sawed-off shotgun have military relevance?" Because if it did, they were saying, it would be protected by the Second Amendment. Nobody was there to tell them, "You betcha it does." It has been used militarily and still is. In the absence of any argument, they just said no. Again, they would not have had to take the case at all had they not thought Miller had the individual right to keep and bear arms, if they had agreed with the collective theory that Handgun Control has developed that only states have a collective right to have a militia. In other words, HCI believes that only states have a Second Amendment right.
If the standard is what is used in the military, then can that apply to all military weapons, including grenade launchers and machine guns?

If you look at the Militia Act of 1792, you'll get an answer to what the Founders were thinking about. This was passed five months after the final ratification of the Bill of Rights. The way I would characterize it, it was the one gun control law the founders passed. What they said was, if you're a military-eligible man, you must have a military rifle and the ammunition for it and keep it at home, which is totally opposite of, say, the National Guard, which didn't even exist at that time. Not for over 100 years.

The National Guard owns the guns and the ammunition. When you go home, you leave the gun. They were expressing by law what had been the reason for the Second Amendment, which is that Congress might let the militia wither away by not exercising its Article I Section 8 power to provision the militia. This is why the Second Amendment was cobbled together to make sure "...the right of the people to keep and bear arms shall not be infringed."

Going beyond that, the Militia Act stipulated that artillery units in the militia wouldn't bring their own equipment, but they would still have to bring their own rifle. Therefore, I think whatever every soldier is carrying, that's what the founders had in mind for Second Amendment protection.

What is Gun Owners of America's strategy for achieving your goals? Do you focus on grassroots or lobbying Congress? Where do you think your voice and money are more effective?

We lobby the Congress but we think that if we are going to advance our strict constructionist views (which is not the accepted paradigm) the only way we are going to be listened to is if we have a grassroots movement that effectively communicates with elected officials. You've probably looked at our material enough on our web page to see that's what we focus on very heavily. We use email and postcards. We encourage personal meetings with members of the Congress and state legislatures. We give people the arguments, letting them know what's being said and what our answer is. Frankly, I believe that was the reason we haven't seen the gun proposals pass that were most debated. The Dingell provisions in the House and the Hatch-Lautenberg provisions in the Senate were supported in writing by the NRA, yet the Congress realized that this stove was just a little hotter they had realized. It was GOA members who put the heat on.

Maybe politicians read public opinion polls too often and overlook the intensity of the people who are concerned about this issue. The intensity of some who are against is more significant than a supposed majority for gun control. Our supporters can make or break the election of many politicians. Informing and educating our members has done a great deal to shape the electorate and the way they look at the issue.

Larry Pratt has been Executive Director of Gun Owners of America for 25 years. GOA is a national membership organization of 300,000 Americans dedicated to promoting their Second Amendment freedom to keep and bear arms. Mr. Pratt published Armed People Victorious in 1990 and was editor of Safeguarding Liberty: The Constitution & Militias (1995). Mr. Pratt has held elective office in the state legislature of Virginia, serving in the House of Delegates.
How have gun control laws evolved in Australia?

Before 1996, the gun laws were not the same across the country. The gun laws in Australia are state laws just like in the US. The situation in Australia was similar to here, a patchwork of laws, where one state might have relatively strong laws, but people who wanted to evade the law could go to another state and easily buy guns that would be banned in their home state.

In some states, assault weapons were completely banned and not able to be sold, and in others they were still available. That is exactly the situation in the US as well. Actually, it is much worse in the US because there are 50 states, whereas in Australia there are only eight. The push was on to get uniform laws since the mid-eighties because it was clear that, for example, if someone had been a domestic violence offender in one state, it made no sense that he should be able to buy a gun in another state. Or if someone owned a gun in one state where there was no registration required and he moved to another state where it had to be registered, then there would be no record of that gun in circulation.

Everybody recognized the need for uniform gun laws. Even gun owners recognized the need for uniform laws, because they can fall foul of the law if they travel interstate on a hunting trip and find themselves under a different set of laws. Gun owners are entitled to a degree of certainty and transparency of the regulations of the products they own. The problem was the gun lobby, which is very vocal. While both main political parties in Australia recognized the need to reform the laws, neither one was prepared to move first—if either party tried to pass tighter gun laws, the gun lobby would punish them by campaigning against them in an election. In Australia, we have almost a balance between the two parties in Parliament, something quite similar to what is happening here now. In this situation, a few extreme voters can really swing a vote one way or another, so both parties have been paralyzed to get any-
thing done on the issue. Both were afraid to move first. But there were people thinking about what the gun laws needed to be if we ever got to a point where we could change them.

On April 28, 1996 there was a horrendous event in Tasmania at an historical site called Port Arthur, one of the most popular tourist sites in Australia. A young man bought two semi-automatic assault weapons. Tasmania was one of those states where assault weapons were still available in the shops. He went to this tourist location and began shooting. He was a disturbed young man with a grudge against the world, which is often the case with people who commit mass shootings. He killed 35 people, which is the largest civilian shooting ever recorded anywhere in the world. Everyone said, "How can this happen in Australia?" The fact is that anywhere you have assault weapons available and where there is a crowd, you can have 35 people killed.

That event really was the catalyst. We had just had a federal election in which the conservative party [which is called the Liberal Party] had come to power. In a way, the circumstances were particularly apt because the Liberal Party had always been, similar to the Republican Party here, considered more the friends of the gun lobby. That meant that the leader of the Liberal Party was in a stronger position to say "We are going to do something about gun laws now." It was similar to Nixon going to China. Sometimes it takes someone on the Right to take progressive action.

The Prime Minister in response to the shootings said, "We are going to fix the gun laws now." There was such a wave of anger and sorrow and outrage and disgust, frankly, at our politicians who had failed to fix our gun laws time and again. There was a lot of political momentum at that time, very similar to the feeling in the US after the Columbine shooting, but the outcome was much different.

Ideally, we would have liked to have one federal gun law. But in Australia, as in the US, we would have needed a constitutional amendment or just a lot more legal calisthenics to get one federal law. Instead, John Howard, the Prime Minister, through sheer political willpower and backed up by a huge force of public opinion, called all of the states to a meeting and put up a plan. The states agreed to the plan, which had 11 points, and agreed to pass laws to implement them. We ended up with uniform laws in substance, with a few small differences, but, by and large, the laws are consistent now across the country.

Was there opposition to that?

There is a vocal gun lobby, called the Sporting Shooters Association, traditionally a group concerned with target shooting, similar to the NRA. Recently, like the NRA, it has become more politicized. One of its major functions has become campaigning against gun laws. But the majority of the population, including a majority of gun owners, wants stronger gun laws.

What were the changes to the gun laws?

The main changes were the registration of all guns, uniform laws, standard licensing, sharing of criminal information among the states, etc. Also you have to show that you have a legitimate reason to own a gun for your work, hunting, or target practice. For handguns, we had already had licensing and regulation since the 1930s. So handguns themselves have always been recognized as being particularly dangerous, requiring strict regulation. That is also the case in all other Western countries except the US.

Would self-defense be one of those legitimate reasons?

Self-defense is not an acceptable legal
reason, in the sense of "I want a gun because I think the world is a dangerous place because I think that at some point I might be attacked." Of course, there are some people in Australia who really do want guns for self-defense. But they have to prove another reason, by joining a target club or something like that. But even if self-defense is someone's real reason for owning a gun, we feel a lot better knowing that at least they are members of this club, practicing, going to safety courses, interacting regularly with a group of people, etc., rather than someone fantasizing about being a hero and building up an arsenal at home.

There is also a ban on self-loading or semi-automatic shotguns or rifles, because those weapons are weapons of war. After the Cold War, the manufacturers still had a large capacity for building weapons, so they repackaged them as sporting guns. In fact, though, people who know about hunting will tell you that if it is supposed to be about skill or about hunting an animal to eat it, you don't want it full of lead. There were some allies we had for the campaign for the gun laws that seemed unusual to the media. One of them was the professional shooters' association, who are the "Crocodile Dundee" types. They live in the Outback and they contract out as shooters to kill vermin, wild pigs, and kangaroos, things that are eating farmers' crops. These guys are the toughest, most sunburned, most colloquial, and the best shots. They came out and said "Look, if you need a semi-automatic in order to hit an animal, then you are a city-boy who shouldn't be out in the bush with a gun." They really stood up for the laws and said, "Real men don't need semi-automatics." With a campaign like this, with the journalists constantly in search for angles, this was important to show that the push for strong gun laws is a very, very mainstream value; it is not some radical, left-wing, vegetarian agenda. Even these very macho guys know that it is an issue of public safety, that guns are dangerous products and you have to deal with them in a realistic way.

The ban on semi-automatics was accompanied by a buy back. The idea was if something is dangerous enough to be banned, it shouldn't be left lying around in your society. There was a buy back of market value plus about 10 percent. Gun dealers and police set up a task force to determine prices, and owners had 12 months to sell back their guns. 640,000 semi-automatics were brought back and melted down, plus about 50,000 other guns that were not banned (people used this as an opportunity to get rid of old guns), so nearly 700,000 guns were destroyed. Nearly one in six guns in Australia were destroyed.

It was funded by a small increase in the national health levy that we all pay. The new laws recognized that this was a public health problem. It's not just about identifying who the bad guys are; depression, jealousy, domestic violence, all are factors in gun violence. So it was seen as a public health issue and paid for out of the health care levy. It cost about 500 million Australian dollars (just under 300 million dollars US). That works out to be about an extra 50 cents a week per person, and to get rid of 700,000 weapons, there really was no resistance from the public to paying for that.

Because it was framed as a public health problem, rather than pitting one side against the other, was it easier to get widespread support?

I definitely think that is true. Now that I am in America, I think a lot about the lessons America can learn from the Australian experience. The fact that it was framed as a public health issue really is a lesson to take away. The majority of deaths from guns in most Western countries are suicides, even in America. The homicides get more attention from the media, but the majority are suicides. Aus-
tralia and New Zealand have a much higher awareness of the problem of suicide as a public health problem, and that suicide is preventable. That is something that shocked me in the US, the widespread belief that if someone is suicidal, they are going to kill themselves no matter what. Especially in the case of young people, suicide is highly preventable. Restricting access to the single most effective means of suicide is a really important thing to do. In part, that was why the public health issue resonated with the Australians more than it seems to do here.

We also had the voice of reasonable gun owners. This was 1996, the year of the Olympics in Atlanta. Australia always does well in shooting in the Olympics; in fact, the first gold medal that Australia won in Atlanta was for shooting, so we have a very high consciousness of shooting as a sport. But the journalists said to the Olympic team, "What do you think of the new gun laws? Are you opposed to them?" And the Olympic team said "No, of course not, because it is going to keep the yobboes out of our sport." A yobbo is something like a redneck, implying an ignorant, drunken, irresponsible guy. Every time a shooting tragedy occurs, it is bad for the sport of serious competitive shooting. In fact, on their return from the Olympics, some of the team members who owned semi-automatic weapons brought them down for the buy back with TV cameras and were filmed handing them in and said "Yeah, we support the new gun laws. It is ridiculous that this type of fire power is available in a society that is not at war." That was very helpful to us, that we had strong steady reasonable gun owners that supported the new laws. That is what I feel is missing from the debate here in America. You have spokespersons who are very vocal about creating tighter gun laws, but who are mostly not gun owners, and you hear from the militant gun lobby that is opposed to absolutely any change in the regulation of guns. But nine out of ten gun owners don't even belong to the NRA or any organized gun lobby; we know from opinion polls that they support tighter laws but their voice is not heard, and I think that is what is really missing in the US from the policy debate.

Going back to the issue of who owns the guns, many say that with more restrictive gun laws, only the criminals will have them. Has there been worry about this?

That argument was heard much less in Australia. I think the public and the media understand the original source of guns for the criminal market is the legal market. Guns aren't made in people's basements or backyards. All guns begin their lives as a legally manufactured product. This notion that there is this independent market of illegal guns is completely false. What you are doing when you reduce the size of the legal market is reducing the source of illegal guns as well. By restricting the legal market you are restricting the supply to criminals.

That leads to my next question: how are these new laws enforced?

This is an argument that is made a lot in America: just enforce the laws that are already there. Think about a herd of cattle in a paddock with a fence that only goes part of the way around it. No matter how much you reinforce the fence that is there, the cattle will wander out through the gap. Likewise, if mechanisms are not there for the laws to be enforced, then it doesn't matter how much you try to enforce the limited laws you already have; it is not going to affect the flow of illegal guns. The biggest problem with the background check in America is that it only applies to licensed dealers. About 40 percent of guns are sold in gun shows or private sales, so basically you are only fencing half of the paddock. Closing the gun show loophole
is important because gun shows draw criminals or irresponsible people. But what really needs to be done is for all gun sales to be subject to a background check. Another example: let’s say I buy a gun on Monday and commit a felony on Tuesday. Because there is no record of gun ownership in America, there is no way for the police to know that I am now a convicted felon in possession of a gun. All they know is I am a convicted felon. The law says I mustn’t be in possession, but there is no way for that law to be enforced. Even the well-intentioned laws in the US cannot be enforced because there are no mechanisms like registration to enable those laws to be enforced. The question of enforcement of the new laws was part of our debate as well.

You said John Howard made a list for the states to follow. Is this a normal way for policy to be created in Australia? What is the major lesson the US can learn to assist in our own policy-making process? Or do you think the process in Australia is unique and unable to be duplicated in the US?

It was not the normal policy-making process. Sometimes the states agree and work together on certain issues as in the US, but nothing like this, where the Prime Minister suggested an outline for the states’ laws. The reason he had a list available is because we had a National Committee on Violence (NCV), that made recommendations in 1990. So he compiled his list from this report and others like it. If the Port Arthur tragedy had occurred 10 years earlier, it is likely we would have had some hodgepodge legislation that was not as effective. But the scheme he put before the states was from the police departments and the NCV so these suggestions had been carefully considered for years. I imagine that in the US there are similar commissions, with hearings and research and such. You might think these reports just sit on the shelf, but every now and then they actually get implemented.

In terms of lessons for the US, I worry that in the US, laws are passed that are doomed to fail. For example, if you close the gun show loophole but continue to allow guns to be sold without background checks in lots of other ways, the danger is that the laws will be seen to fail and then people will say that gun laws do not work. One lesson for America is: think about what are the most important laws that you need to control the movement of this dangerous product and work for those laws, rather than for whatever you think you can get at the time. That is an approach that can come back and bite you on the bum if the laws turn out to fail. In the absence of an underpinning law like registration, any law that says who is allowed to have guns or how many guns you are allowed to have will be difficult to enforce. The main lesson that I think America should get from Australia and other countries is that it is important to have real policy reform and not just symbolic gestures. Another lesson is to not think about it as a fight between two extremes.

There are some fundamental differences, clearly. America is not Australia, and Australia has never had a cultural acceptance of gun ownership for self-defense. We have always had a much stronger degree of confidence in our institutions to keep us safe, because from the beginning we have had stricter laws on handguns. That cultural mindset complicates the policy equation. Another huge difference is the rules on campaign finance. In Australia, campaigns are publicly financed so the politicians are not nearly as susceptible to being blackmailed or bribed by well-funded interest groups. The mixture of funding and politics is different, and that affects all policy areas, not just guns.

People need to recognize that we humans are the same everywhere. Everywhere men get jealous, young people
get depressed, people get angry, greedy. The difference between America and the other Western countries like Australia is the easy availability of the product that makes those kinds of instincts and activities fatal.

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The Georgetown Public Policy Review has presented the following article with its 2000 Award for Practicum Excellence, in recognition of superior research and writing, as well as its high degree of policy relevance.

Civil Protection Orders: An Opportunity for Intervention with Domestic Violence Victims

MICHELLE R. Waul
The Urban Institute

In 1995, the District of Columbia Domestic Violence Coordinating Council released a comprehensive report outlining an integrated, interagency Domestic Violence Plan for the city. A key feature of this plan was the development of the Domestic Violence Intake Center (DVIC). The DVIC is the primary point of contact for criminal and civil cases where domestic violence is an underlying issue. This is a relatively new approach that combines agencies and their respective functions within one program. The projected goal is to “provide one-stop shopping for the victim” in order to facilitate her participation in the court system, thereby enhancing her safety and reducing the threat of future violence (DC DV Plan 1995). This study attempts to determine the degree to which a coordinated effort, such as the DVIC, impacts a woman’s decision-making around whether to stay engaged in the justice system as a means of avoiding the violence in her life. More specifically, the study focuses on the decision-making factors surrounding continued participation in the justice system through the civil protection order (CPO) process. This analysis found that several factors are related to a woman’s decision to return to court for the permanent order hearing. These include demographic characteristics, relationship and abuse history, and perceptions of her experience at the DVIC.

A Context for Studying Domestic Violence

The good news is that violent crime is down in our country (Rennison 1999). The more disheartening news, however, is that violence against women throughout their lifetime remains unacceptably high. Since the 1970s, significant strides have been made in expanding our understanding of the nature and extent of violence in women’s lives, but many questions remain unanswered. In the wake of increased public awareness, a network of support systems has grown substantially, providing increased access to various medical, legal, and social services for women and their families. However, despite the significant investment in recent years in establishing programs to address violence against women, we still know very little about the dynamics of abusive relationships and the most effective responses to the problem. Empirical research in this area has attempted to fill the gaps in our knowledge in recent years, but these efforts are still relatively young and have not yielded de-
finitive results. In short, we are not much closer to understanding and ending violence against women than we were 30 years ago.

That which we do know, however, reveals the contours of an endemic societal and cultural problem. The level of violence against women in this country is disputed by varying estimates, but even the most conservative numbers indicate that millions of women are victimized each year. Although national surveys differ in their estimates of the magnitude of the problem, most agree on the basic characteristics of violence against women.

Estimating the Extent of the Problem

National estimates of the nature and extent of domestic violence are derived from two sources: 1) official records such as police reports and emergency room admissions and 2) survey data from a random sample of households. Official records tend to underestimate the extent of violence because not all victims will report the crime to police or seek treatment from a medical provider. This is especially true for victims of intimate partner violence. For this reason, available survey data are used to illustrate the extent of domestic violence.

According to the National Crime Victimization Survey (NCVS) of people ages 12 and older, nearly one million women are victimized annually by an intimate partner (US DOJ 1998c). Although women are less likely to experience violent crime overall, they are 5 to 8 times more likely than men to be victimized by an intimate partner. Nearly eight in every 1,000 women ages 12 and older experience violence at the hands of a current or former intimate partner compared to one in every 1,000 men. The highest rates of intimate violence occur among women between ages 16 to 24 where nearly one in every 50 women in this age group will be victimized. There is some evidence to suggest that in most cases the violent incident is not an isolated event. Nearly one-third of female victims were victimized at least twice within the previous 6 months. In addition to experiencing multiple victimizations, about half of all female victims of violence also sustained injuries by a current or former intimate partner.

A study co-sponsored by the National Institute of Justice (NIJ) and Centers for Disease Control and Prevention (CDC) fills an important gap in the literature on the nature and extent of domestic violence in that it is one of the first surveys to look at a woman's lifetime experience with violent crime (Tjaden & Thoennes 1998). Over half of the female respondents reported being physically assaulted at some point in their lifetime. The results indicate that over 300,000 women were raped and 1.9 million women were physically assaulted in the 12 months preceding the survey. Consistent with the NCVS data, many women experienced multiple victimizations. In the year preceding the survey, women who were raped averaged 2.9 rapes while women who were physically assaulted averaged 3.1 assaults. The NIJ/CDC findings also support NCVS data that suggest the primary source of violence against women is intimate partner violence. Over three-quarters of the women who reported rape and/or physical assault after age 18 had been victimized by an intimate partner compared to 18 percent of men.

A recent survey conducted by the Commonwealth Fund found slightly lower lifetime prevalence levels of violence than the NIJ/CDC study (Commonwealth Fund 1998). Nearly two in five women (39 percent) reported being raped and/or physically assaulted at some point during their life. Lifetime exposure to domestic violence, however, was high among women in the sample. Nearly one-third of all women reported being assaulted by a spouse or boyfriend. The survey also shed light on a potential risk factor for domestic violence. Women with a history of child abuse were
more likely to experience violence as adults. Nearly two-thirds (62 percent) of all women reporting child abuse also experienced violence as an adult compared to 25 percent of adults with no history of child abuse.

**COMMON THEMES OF VICTIMIZATION SURVEYS**

Each of these surveys reveal a slightly different picture of the extent of violence against women. The primary difference between all three surveys, however, is a matter of magnitude. Despite discrepancies across the studies, several consistent themes emerge that help define the problem of domestic violence. First, violence against women is primarily at the hands of a current or former intimate partner. Women are also more likely to sustain injuries from an attack by an intimate partner. Finally, among all women in this country, lifetime exposure to violence by an intimate partner is high.

**THE PROMISE AND LIMITATIONS OF PROTECTION ORDERS**

Policies and programs to respond to domestic violence have developed along two distinct and often fragmented paths over the last three decades: community-based efforts and justice system responses. Grassroots community-based efforts to provide shelter and support began in the early 1970s and focused on the safety and psychological recovery of battered women and their children. In the wake of increased public awareness, advocacy groups pressed for improved institutional responses from the criminal justice system and demanded that domestic violence be treated as a serious crime. Legal reforms followed throughout the late 1970s and into the early 1980s, but actual implementation has been slow.

The primary distinction between community-based and institutional efforts to address the issue of domestic violence lies in the respective approaches to the problem. Both share the common goal of reducing and eventually eliminating abuse in the lives of women but have very distinct means of attempting to achieve that goal. Community-based victim advocacy has traditionally focused on empowerment and support of the victim. Community service providers assist victims by providing them with temporary safe shelter, counseling and support, and information about their options so they can make informed decisions. Criminal justice initiatives, on the other hand, have focused on punishing the batterer in the hopes of deterring future abusive behavior. Victim advocates have supported recent criminal justice reforms, such as mandatory arrest and no-drop prosecution policies, because they reduced the discretion of individual police officers and prosecutors who were refusing to take domestic violence seriously. One unforeseen consequence of these policies, however, has been to limit a victim’s decision-making power regarding her participation in the criminal justice process.

In the mid-1970s states began passing legislation allowing judges to grant injunctive orders to immediately stop abusive behavior between two parties. These injunctive orders, called civil protection orders (CPOs), are considered a major reform in the justice system’s response to domestic violence cases. All 50 states and the District of Columbia now have legislation that allows an individual to file a petition with the court against another individual requesting relief from further harm or harassment. Protection orders are unique among criminal justice system interventions in that they represent an intersection of traditional community-based and justice system approaches: victim empowerment coupled with deterrence. A CPO combines a victim-initiated intervention with the power of enforcement by the criminal justice system.

The literature on protection orders has typically focused on the effectiveness of
CPOs in deterring the batterer from future violence. This is certainly an important question, but a more expansive view of a CPO's potential to help women is needed. The following sections highlight relevant research on these issues and provide a theoretical argument for framing the CPO process as an opportunity for intervention with domestic violence victims.

**Process of Obtaining a Civil Protection Order**

A protection order is a court order restricting one party from contacting or harming another party. Eligibility requirements for petitioning the court for a protection order vary from state to state, but most jurisdictions only require the petitioner to demonstrate the respondent has engaged in abusive behavior and is likely to do so again in the future.

The process for obtaining a protection order typically involves several steps. In most jurisdictions, a temporary protection order (TPO), valid for 7 to 14 days, can be obtained immediately without a full hearing. This is called an ex-parte petition, meaning the judge can issue a judgement without the responding party present. The petitioner then must return to court to obtain the permanent order, typically 1 to 2 years in length, and participate in a hearing where the respondent has an opportunity to challenge the CPO request. Since CPOs are not criminal cases, civil rules of procedure apply including a lower standard of proof. A judge need only determine that a preponderance of evidence exists that prior abusive behavior has occurred and is likely to occur in the future to issue an order. Distinct from the criminal court system, a CPO hearing is meant to prevent future abusive behavior rather than punish past behavior. If granted, the CPO is a legally binding court order primarily prohibiting the respondent from contacting, harassing, or harming the petitioner. Although CPOs are commonly issued through a civil court, non-compliance can be charged as a criminal offense.

**Effectiveness of CPOs in Preventing Domestic Violence**

Given that this option exists for responding to domestic violence, we must ask whether it is a viable and effective opportunity for women to eliminate abuse in their lives. Most empirical work on CPOs has concentrated on the extent to which a protection order prevents or reduces future violence. The research on this question has revealed mixed results. Three early studies all reported that having a protection order did not reduce the likelihood of subsequent violence (Berk et al 1983; Grau et al 1985; Horton et al 1987). More recent research has confirmed these earlier findings (Harrell et al 1993; Klein 1996; Keilitz et al 1997), but also reveals additional details about the criminal history of the batterer that help enhance our understanding of the limitations of protection orders.

The Klein and Keilitz studies both reported that a majority of the respondents, 65 and 80 percent respectively, named in the protection order cases they examined had prior criminal arrest histories. Such a high proportion of cases with prior criminal records may not be representative of the population of domestic violence cases, but rather an artifact of selection bias. Generally, poorer minority populations are more likely to be involved in the criminal court system. This may also hold true for women who turn to the courts for assistance in ending the violence in their lives, whereas women with more resources may resort to other means of assistance that do not involve the court system. Nevertheless, it is important to note that the batterers in these studies exhibited consistent histories of abusive behavior. Furthermore, three studies found that a batterer's prior abuse history is a significant predictor of continuing abuse following issuance of a protection order (Harrell et al 1993; Klein 1996; Keilitz et al 1997).
EVIDENCE THAT COORDINATED EFFORTS CAN BE EFFECTIVE

Evidence that single interventions, such as arrest or protection orders, are not effective in deterring future violence has moved some communities to experiment with coordinated approaches to addressing the problem. A Minnesota mandatory arrest study found that arrest does deter subsequent violence, while replication studies found that it may in fact increase violence among some groups. In response to findings from a series of replication studies, Schmidt and Sherman (1996) issued revised policy recommendations encouraging coordinated efforts. Steinman (1995), in a separate study, also found that police action alone did not reduce violence and in some cases resulted in serious subsequent abusive behavior. While more communities are employing coordinated intervention efforts that combine police, prosecution, and community service providers, little research is available on the effectiveness of these efforts (Edelson 1995). The few studies that have been completed found that combining arrest, batterer treatment, and tougher prosecution does contribute to lower recidivism rates as compared to single interventions (Edelson 1995).

The findings of these studies reveal that domestic violence is a complicated problem that requires complicated responses. Batterers exhibit offending behaviors and patterns consistent with other types of criminals and are generally undeterred by single interventions like arrests and protection orders. However, effectively addressing violence against women is much more complicated than merely altering our criminal justice response. To further enhance our understanding of the most effective approaches to eliminating domestic violence, we must also consider the impact of our current efforts on the people we are trying to help—the victims.

PROTECTION ORDER PROCESS AS AN OPPORTUNITY FOR INTERVENTION WITH VICTIMS

Most research on protection orders has focused on the impact of interventions on the batterer’s behavior. Only a few studies have examined the CPO process from the victim’s perspective. These studies reveal that although more women are taking advantage of CPOs by filing for a temporary order, a much smaller number actually complete the process by returning to court for the permanent order. Looking across several studies, only 45 to 60 percent of female petitioners returned to court to obtain the permanent protection order (Harrell et al. 1993; Fischer & Rose 1995; Keilitz et al. 1997). As many as half of these women decided not to continue to pursue protection and assistance from the court system.

This raises many important questions: What is happening to these women? Why are they choosing not to remain engaged in the system? What needs are being met and what needs are not being addressed by current intervention efforts? A few studies have attempted to answer these questions, but much remains unknown. Findings from several studies seem to indicate that lower participation may be due in part to structural barriers in the CPO process. Information gleaned from victim interviews also indicates that some women are most interested in just sending a message to the offender, which can be accomplished by obtaining the temporary order.

DECISION TO RETURN TO COURT TO OBTAIN THE PERMANENT ORDER

Harrell et al. (1993) looked at factors associated with returning to court for the permanent order. In this sample of 355 cases, 60 percent returned to court for the hearing on the permanent order. The researchers reported that only three factors were significantly related to the probability of completing the CPO process:

- **Age of women**: Older women were more likely to return to court than younger
women, perhaps reflecting a longer lifetime experience with and exposure to domestic violence that leads to less faith in the belief that the abuse will stop without intervention.

- **Race/ethnicity of women**: White and Hispanic women were slightly more likely to pursue the permanent order as compared to other women, most of whom were Black.

- **Copy of CPO given to the police**: Women who provided the local police department with a copy of the temporary order were more likely to return to court for the permanent order. The authors suggest this may be an indication of their desire for legal intervention.

Other personal factors such as education, employment status, the presence of children, length of relationship with the respondent, and duration and severity of abuse were not significantly related to the decision to return to court.

Harrell et al. also reported that, in general, the policies and practices of the police and court system, such as whether an arrest was made prior to the TPO, complexity of the forms, or a filing fee requirement, had little impact on the decision to return to court. In a subsequent study conducted by the National Center for State Courts (NCSC), researchers compared two jurisdictions (Denver and District of Columbia) in an attempt to determine whether centralized case processing had an impact on return rates (Keilitz et al. 1997). They found that Denver had a more coordinated case processing system and a corresponding higher rate of return as compared to DC (61 percent compared to 44 percent). Furthermore, both studies reported that petitioners in a significant number of cases were unable to move forward with the process of obtaining the permanent protection order because the temporary order could not be served on the respondent. There seems to be some indication that court policies and practices could discourage a woman’s efforts to obtain a permanent order.

**Decision Not to Return to Court to Obtain the Permanent Order**

To gain a better understanding of this decision-making process, researchers in both the Harrell and Keilitz studies asked women directly why they did not return to court for the permanent order hearing. The responses were fairly consistent across the two studies. The most common reason cited was the respondent, or offender, had stopped bothering them. Other frequently reported reasons included the couple had reconciled and the temporary order was not served on the respondent. Nearly a third of the participants in the Harrell study reported they were pressured by the respondent not to pursue the CPO, compared to less than 5 percent of the participants in the Keilitz study.

A qualitative study conducted by Fischer and Rose (1995) of women filing for a protection order confirms some of these results and reveals more information on the motives of female petitioners in these cases. A common theme among several women who participated in the interviews was that the CPO process was a means for creating a public record of the abuse they had experienced. It was a way for them to break their silence and send a message to the batterer that his behavior would not be tolerated. Several women also indicated that filing a protection order allowed them to take some initial steps toward regaining control of their lives. The authors argued for a broader context for thinking about a battered woman’s decision-making process about leaving the relationship. Ending an abusive relationship is not typically a single decision, but rather a process that occurs over time. Therefore, dropping a CPO should not be seen as a failure of the system, but an opportunity to help the petitioner move one step closer to safety.
AN INTERVENTION OPPORTUNITY

Women who come to court to file for a protection order are reaching out for assistance and attempting to make a change in their lives. According to research on protection order petitioners, women who sought assistance through the court system had typically experienced severe abuse over a prolonged period of time. Both Harrell and Keilitz concluded that for the majority of the women in their studies, filing for a CPO was a desperate attempt to obtain help with an increasingly dangerous situation. Most women were not seeking a CPO in response to a single violent episode, but rather had endured abuse for a number of years. A quarter of the Keilitz sample had experienced abuse for over five years. Victims who are supported in their efforts to end the abuse in their lives may be more likely to remain engaged in the protection order process or at least encouraged to take other steps to keep themselves safe. The CPO process can be a prime opportunity for providing that support and connection to other services.

OBTAINING A PROTECTION ORDER IN THE DISTRICT OF COLUMBIA

The District of Columbia functions in a unique and challenging political environment where the simultaneous federal and local jurisdictional issues often clash and collide, hampering quick progress and coordination efforts. The District's historically fragmented response to domestic violence is a product of this environment. In recent years, however, DC has joined the ranks of communities across the country that have recognized the complexity of family violence and moved to develop initiatives that combine the efforts of various agencies.

The Prevention of Domestic Violence Amendment Act of 1991, known as the mandatory arrest law, provided the initial impetus and framework for a coordinated response to domestic violence in the District of Columbia. The legislation requires police officers to make an arrest in all situations where there is probable cause to believe an intra-family offense has occurred. This policy change resulted in a substantial increase in the number of arrests, requests for CPOs, and criminal court cases. The increased caseload only served to highlight the gaps in the District's already overwhelmed justice system. It became increasingly evident the city did not have the infrastructure to support a mandatory arrest law that ushered in more domestic violence cases and required better communication and coordination among the police, courts, and community service providers.

In 1994, the Domestic Violence Coordinating Council (DVCC) was established "to improve interagency coordination in handling domestic violence cases and to seek collective solutions" (DCDVDCC 1995). The DVCC is led by the DC Superior Court and includes representatives from a variety of organizations and disciplines including law enforcement, corrections, courts, and community organizations. One of the Council's first initiatives was to commission a study of the District's current response to domestic violence. The study, conducted by American University's Court Technical Assistance Project, identified strengths and weaknesses in the city's efforts to address family violence issues and offered recommendations for improvement. The study culminated in a comprehensive domestic violence plan for the District of Columbia that outlined roles and responsibilities for all major players thereby recognizing the importance of a coordinated approach. The plan was released in 1995 with signatures from all government officials and community providers involved in some aspect of the city's collective response to domestic violence. The domestic violence plan stresses the following approach to eliminating this problem in DC:
“Success depends upon a comprehensive and cooperative effort by the court, governmental agencies, the victim advocacy community, and community at large. The collective integration of the system is stronger than its individual parts. If domestic violence is to be reduced in the District of Columbia, all system components must analyze the ways in which domestic violence cases are processed and in which they interface with one another” (DCDVCC 1995).

One of the main components of the plan was development of the Domestic Violence Unit (DVU), a unified court within the DC Superior Court system to handle both civil and criminal cases in which domestic violence is an underlying issue. A unified court such as this can potentially improve case processing and outcomes in many ways. First, it promotes specialization among judges, prosecutors, and defense attorneys. It also allows for enhanced monitoring of offenders and resulting offender accountability. Linking these innovations to an improved justice system response for victims, however, begins with the Domestic Violence Intake Center (DVIC), which is housed within the DC Superior Court. The DVIC functions as a triage center for all domestic violence cases assisting individuals through the process for obtaining a CPO, participating in a criminal court case, and providing information and referrals for all other needs.

**Domestic Violence Intake Center**

The process for obtaining a civil protection order in the District of Columbia has improved over the last few years with implementation of a centralized intake process through the DVIC. The unique feature of the intake center is that it provides a single point of contact for domestic violence victims for all civil and criminal court matters. Several partners participate in the functioning of the intake center:

- Office of Corporation Counsel (OCC)
- Emergency Domestic Relations Project of the Georgetown University Law School (EDRP)
- US Attorney’s Office (USAO)
- Metropolitan Police Department (MPD)
- DC Coalition Against Domestic Violence (DCCADV)
- Clerk’s Office

The OCC and EDRP are co-directors of the DVIC and work primarily on representing clients during the CPO hearing. The USAO is responsible for prosecuting domestic violence cases that enter the criminal court docket. The MPD supports both civil and criminal case processing by taking police reports, requesting arrest warrants, and coordinating law enforcement witnesses. The Clerk’s Office files all the CPO paperwork and assigns court dates. Staff from the DCCADV head up the Victim Advocacy Project (VAP) within the center and meet with all victims to determine their service needs, provide referrals, conduct safety planning, and accompany those without legal representation through the CPO process.

**DVIC’s Role in the CPO Process**

When filing for the CPO, petitioners have the option to request an immediate protection order valid for 14 days (or until the date of the CPO hearing). The petitioner must appear before a judge to request the temporary protection order. DVIC staff report the majority of petitioners request and receive a TPO while waiting for the CPO hearing. After all initial paperwork has been completed, the Clerk’s Office sets the CPO hearing date, typically 2 weeks from the petitioner’s initial visit to the court, and coordinates the process of serving the respondent with the TPO/CPO petitions.

On the day of the CPO hearing, if both parties are present, the petitioner (victim) and respondent (batterer) meet with an attorney negotiator prior to appearing before the judge to determine whether both parties will consent to the permanent order. Although the parties are separated
and the attorney negotiator is not meant to act as a mediator, this process may still dissuade some victims from returning to court. If the parties cannot agree on an outcome, which includes agreement on the CPO provisions, the case goes before a judge for a full hearing. Permanent protection order cases are heard in a courtroom full of complete strangers and require victims to testify about intensely personal aspects of their private lives.

DVIC staff report that nearly three-quarters of CPO cases in the District appear before the judge without legal representation. This means that most victims proceed through the protection order process without an attorney to help guide them. Although the process is designed to allow people to file a petition without an attorney, it can nonetheless be a confusing and intimidating experience given the personal and potentially dangerous nature of these cases. The purpose of the DVIC is to make the process as accessible as possible. DVIC advocates try to accompany all non-represented victims to the CPO hearing to provide support.

The process for obtaining a protection order in the District of Columbia is similar to that found in other jurisdictions. The unique feature of the CPO process at the DC Superior Court is the centralized triage and support function of the DVIC. In a 1997 report of a study conducted prior to implementation of the DVIC, only 44 percent of the cases sampled returned to court for the CPO hearing (Keilitz et al. 1997). The authors suggest a centralized case processing system and direct assistance may be important factors in encouraging people to return to court for the CPO hearing. There is some evidence to suggest the centralized process of the DVIC has helped to improve return rates. Table 1 shows that, on average, just over 50 percent of all petitioners for the given period returned to court for the CPO hearing (orders granted, consent orders, and orders denied). However, according to this sample of data, a significant number of people did not complete the CPO process, either by requesting the petition be withdrawn or not appearing at the CPO hearing. This study attempts to uncover the factors related to returning to court for the CPO hearing.

**ESTIMATING THE EXTENT OF THE PROBLEM IN THE DISTRICT OF COLUMBIA**

Estimating the extent of domestic violence in the District of Columbia is a difficult task that requires piecing together various data sources using different data collection techniques and definitions. Based on the data we do have, however, it is clear that domestic violence is a serious problem, overwhelming scarce judicial and community resources in the District of Columbia.

According to the domestic violence plan, an estimated 15 to 21 percent of all arrests in 1994 were for domestic violence related offenses (DCDVCC 1995). The report notes that it is difficult to ascertain a more accurate estimate because police officers do not routinely record the relationship between the victim and the offender. According to the 1998 MPD annual report, domestic violence arrests totaled 2,914 for the year down from a high of 4,646 in 1997. This dramatic decline may be partly explained by different definitions used for categorizing an arrest as a domestic call. Nonetheless, police reports are considered a conservative measure of the level of domestic violence in a community, given many people do not call the police to report an offense.

On the prosecution side, the Domestic Violence Unit of the USAO reported 1,400 misdemeanor domestic violence cases were pending trial as of January 1, 1998 (COVAV 1998). Each of the eight attorneys in that division handles an average of 175 cases and maintains a conviction rate of 65 to 70 percent.

According to a 1998 report, the number of cases coming through the DVIC increased by 45 percent between the time
it opened in late 1996 and August 1997 (COVAW 1998). In 1997, 3,409 civil protection cases were filed averaging about 284 new cases per month. More recent numbers from July through December 1998 indicate that the DVIC average monthly case processing has increased by nearly 20 percent to an average of 347 cases per month.

CONCEPTUAL MODEL

Domestic violence victims presumably take into account several factors when initially deciding whether to seek assistance from the court system. This study focuses on the factors that may impact an individual’s decision to remain involved in the protection order process. Specifically, it examines a woman’s decision to continue to participate in the protection order process by returning to court to obtain the permanent order after the initial visit to the DVIC.

DECISION-MAKING FACTORS

For the purposes of this analysis, the potential decision-making factors have been organized around the following categories:

- Petitioner Demographics: Personal characteristics such as age, number of children, education level, race, employment status, and economic independence were measured by self-reports during the interview process.
- Relationship Between the Parties: The level of involvement between the victim and offender and the degree to which their lives are entwined may also play a role in whether a victim would choose to pursue legal means for extricating herself from the relationship. Factors such as length of the relationship, marital status, current living arrangement, and whether they have children in common were measured by self-reports.
- History of Abuse: Research on abusive intimate relationships has found the severity of violence typically escalates over time and, in some cases, even more so after a woman signals an attempt to leave the relationship (Wilson 1997). The history of abuse was measured by self-reports during the interview process and gleaned from official court records.
- Perceptions of System Intervention: The effect of the petitioner’s perceptions of the DVIC and the degree to which the CPO process would improve her situation were also examined. Given that most petitioners are not represented

| Table 1: CPO Case Adjudication for the Study Period, July-December 1998 |
|-----------------------------|----------------|----------------|----------------|----------------|----------------|----------------|
| Orders Granted             | 96     | 62     | 97     | 85     | 77     | 76     |
| Consent Orders             | 85     | 101    | 66     | 64     | 76     | 63     |
| Orders Denied              | 32     | 31     | 26     | 22     | 18     | 24     |
| Dismissed/Withdrawn        | 183    | 165    | 172    | 142    | 162    | 161    |
| Total Adjudicated          | 396    | 359    | 361    | 313    | 333    | 324    |

Source: Domestic Violence Unit Monthly Summaries, 1998
safety plan was included as a potential alternative for the protection order.

**Research Hypothesis**

This study focused on the following research question: What factors influence a domestic violence victim's likelihood to return to court to obtain the CPO after receiving a TPO? Domestic violence is a complex phenomenon and therefore many factors enter into this decision-making process that cannot be captured quantitatively. Given this caveat, it is probable the following factors will increase the likelihood of returning to court for a CPO:

- Positive perception of the DVIC
- Prior TPO/CPO
- Longer relationship
- Longer abuse history

**Data Description**

The study used data collected by the National Center for State Courts (NCSC) for a process and impact evaluation of the DC Superior Court’s DVIC. The sample of the NCSC data used include case file and interview information for 84 cases that completed both the first and second interviews. The final analysis sample was restricted to 71 female respondents.¹

Data collection was conducted by NCSC staff between August 1998 and January 2000. The study only included cases where the parties had an on-going or previous intimate relationship. All cases involving violence between siblings, parents, or other adults and children were excluded. Three sources of data were combined to make the final data set used for this analysis:

- **Initial Victim Interview:** The initial victim interview consisted of a short 10-minute telephone interview that gathered data on victim demographics, interaction with the police, prosecution, and intake center staff.

- **Second Victim Interview:** A follow-up interview was conducted 3 to 8 months after the first interview with 84 of the 250 original participants or 34 percent of the initial sample. This 30-minute telephone interview asked more extensive questions about the nature of the victim’s interaction with the criminal justice system and a series of questions on the length and severity of emotional and physical abuse within the relationship.

- **Case File Data:** NCSC staff also collected criminal and civil court case file data for all 250 petitioners and respondents. These data include prior TPO/CPO case history, prior criminal charges, and criminal and CPO case outcomes.

**Data Limitations**

The recruitment procedures for selecting respondents and the subsequent attrition place limitations on the conclusions that can be drawn from this analysis. The reality of conducting a study such as this is that the procedures necessarily introduce some self-selection bias.

First, the respondents were not randomly selected to participate in the study, but rather had to give consent. Using a convenience sample limits the extent to which the findings can be generalized to the larger population of women who seek a CPO in the District of Columbia. Also, the sample only included individuals who had access to a telephone. These issues are further compounded by the attrition rate between the first and second surveys. Finally, some cases experienced significant lag time between the first and second interviews of up to 8 months. Longer lag times were associated with greater reluctance to participate, recall issues, and incomplete interviews.

Self-selection bias poses threats to the validity of the findings because it results in a non-representative sample. The people who initially agreed to participate in the study may possess characteristics or be in situations that are significantly different from those who chose not to participate in the interview process. The same is true for those who were available for the follow-up
interview and those who were not available or chose not to participate for whatever reason. The 1997 NCSC study compared the respondents from both the first and second interviews to determine what characteristics may be related to not participating in the follow-up interview (Keilitz et al 1997). The only variable that distinguished the groups among all three study sites was the criminal history record of the batterer. Women whose partners had an arrest record for a violent crime were significantly less likely to be available for the follow-up interview. This suggests the analysis may appear overly optimistic without these women who presumably were in more potentially dangerous situations and/or had less positive outcomes following a CPO.

**FINDINGS**

*Description of the Analysis Sample*

Table 2 lists the variables used in the final model and outlines the characteristics of the sample. For most women in the sample, the relationship that brought them to the DVIC was not a short-term one. The average length of the relationship between the involved parties was nearly 7 years. The majority of the couples (72 percent) were either current or former dating partners while the remaining 27 percent were currently or had been married. For the most part, these women had been experiencing physical and/or emotional abuse for several years prior to filing for a protection order. Women reported experiencing physical abuse for an average of 2 years before coming to the intake center. The women were also subjected to emotional or verbal abuse, which is often described as more devastating than physical violence, for an average of 2.6 years prior to coming to the intake center.

One of the most notable characteristics of this sample is the level of previous involvement with the criminal justice system. These women seemingly were not strangers to the criminal justice system. Nearly two-thirds of the women were involved with men who had at least one prior criminal arrest for a domestic or non-domestic offense. Over three-quarters of the women indicated they called the police after the most recent abusive incident that brought them to the intake center. The USAO filed criminal charges in 20 percent of these cases.

Despite the significant amount of previous involvement with the court system among the couples, only 13 percent of the women were found to have previously filed for a protection order. Yet the fact that over half of the sample said they had a safety plan to protect themselves from future abuse seems to indicate recognition of the potential danger of their situation. Another potential measure of the severity of the case is found by looking at the number of cases represented by an attorney. Only 23 percent of the women were represented by legal counsel at the CPO hearing. Legal services through the DVIC are scarce and only offered to the most serious cases. Of the 16 women who had an attorney speak on their behalf at the CPO hearing, nearly 90 percent returned to court and obtained the permanent order.

Overall, the women gave generally favorable ratings of their experience with the DVIC. On average, women also reported high scores regarding the extent to which they expected the court process for the CPO to improve their situation.

*Logistic Regression Results*

Logistic regression analysis was used to predict the likelihood of a female petitioner returning to court to receive the permanent protection order. Sixty-three percent of the women in the study sample returned to court to obtain a permanent protection order. This is a significantly higher return rate than the 44 percent reported in a study of the protection order process at the DC Superior Court prior to
implementation of the DVIC (Keilitz et al. 1997). This analysis looked at potential factors associated with the likelihood of returning to court for the CPO hearing including demographic characteristics, relationship and abuse history, and perceptions of the CPO process. Several factors were related to the probability of returning to court. The logistic regression results are summarized in Table 3.

**Petitioner Demographics:** Only two demographic variables were significant determinants of completing the CPO process. Women who had at least some college education were more likely to return to court to obtain the CPO than those who had a high school education or less. The likelihood of returning to court was also positively related to the number of children. The probability that a woman would return to court increased with the number of children she had. Women with fewer or no children were less likely to return to court.

**Relationship and Abuse History:** Consistent with a previous study on this question, most of the variables describing the relationship between the parties such as length of the relationship, living arrangement, and children in common were not significant determinants of returning to court. The one relationship variable that was significant was the relationship type. Women who were either currently or formerly dating the respondent were more likely to return to court than women who were either currently or formerly married to the respondent. This finding could be in part a product of the data. There was not a great deal of variation in the responses on this variable; nearly three-quarters of the sample indicated that they were either currently or formerly dating the respondent.

The criminal record of the respondent also increased the likelihood of returning to court. Women whose partners had a prior criminal record with at least one domestic violence offense were significantly more likely to obtain a CPO than women whose partners did not have any prior criminal domestic charges. This may be an indication of the potential severity of the situation. Other research has found that cases involving offenders with a prior criminal record are most at risk for recurring violence (Harrell et al. 1993; Klein 1996; Keilitz et al. 1997). This population of batterers is seemingly less deterred by involvement with the justice system than those without a prior criminal record (Klein 1996).

**System Intervention:** The most significant predictor of obtaining a CPO was whether the women were represented by an attorney at the CPO hearing. This variable is also a measure of the severity of the case. The DVIC provides legal representation through the OCC and EDRP for petitioners at the CPO hearing, but resources are scarce and only the most severe cases are assigned an attorney. Only 16 (23 percent) of the 71 cases included in this sample were represented by an attorney. Most of these women were represented by a DVIC attorney; only four women had hired a private attorney. There are clear benefits when the petitioner has an attorney present at the CPO hearing, foremost of which is having someone to navigate the court hearing and speak on behalf of the victim. This may help make the process less intimidating, thereby increasing the likelihood the petitioner will remain engaged in the process.

Women who indicated they had a safety plan in place were less likely to return to court for the CPO hearing. The DVIC victim advocates attempt to do some safety planning with all petitioners filing for a protection order. Safety planning typically involves developing strategies for escaping a dangerous situation or for alerting friends, family, or neighbors of the need for help. This finding may indicate that pursuing a protection order may have less to do with responding to immediate safety issues. Previous research has suggested that
<table>
<thead>
<tr>
<th></th>
<th>Total Sample (N = 71)</th>
<th>Obtained CPO (n=4-5)</th>
<th>No CPO (n=2-6)</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Petitioner Demographics</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Mean Age</td>
<td>36</td>
<td>37.2</td>
<td>33.9</td>
</tr>
<tr>
<td>Black</td>
<td>58 (82%)</td>
<td>36 (80%)</td>
<td>22 (85%)</td>
</tr>
<tr>
<td>Some College</td>
<td>21 (30%)</td>
<td>14 (31%)</td>
<td>7 (27%)</td>
</tr>
<tr>
<td>Mean number of children</td>
<td>2.25</td>
<td>2.5</td>
<td>1.9</td>
</tr>
<tr>
<td>Employed</td>
<td>47 (66%)</td>
<td>30 (67%)</td>
<td>17 (65%)</td>
</tr>
<tr>
<td>Mean monthly income</td>
<td>$1,201</td>
<td>$1,269</td>
<td>$1,084</td>
</tr>
<tr>
<td>Rely on respondent for income</td>
<td>12 (17%)</td>
<td>8 (18%)</td>
<td>4 (15%)</td>
</tr>
<tr>
<td><strong>Relationship Between Parties</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Currently or formerly dating</td>
<td>52 (72%)</td>
<td>33 (73%)</td>
<td>19 (73%)</td>
</tr>
<tr>
<td><strong>History of Abuse</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Mean years of physical abuse</td>
<td>2.1 years</td>
<td>2.2 years</td>
<td>1.8 years</td>
</tr>
<tr>
<td>Prior TPO/CPO</td>
<td>9 (13%)</td>
<td>6 (13%)</td>
<td>3 (12%)</td>
</tr>
<tr>
<td>Prior criminal domestic charges</td>
<td>15 (21%)</td>
<td>10 (22%)</td>
<td>5 (19%)</td>
</tr>
<tr>
<td>Prior criminal non-domestic</td>
<td>31 (44%)</td>
<td>21 (47%)</td>
<td>10 (38%)</td>
</tr>
<tr>
<td>charges</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>System Intervention</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Called police before coming to</td>
<td>55 (77%)</td>
<td>36 (80%)</td>
<td>19 (73%)</td>
</tr>
<tr>
<td>DVIC</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Petitioner was represented by</td>
<td>16 (23%)</td>
<td>14 (31%)</td>
<td>2 (7%)</td>
</tr>
<tr>
<td>attorney</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Safety plan</td>
<td>37 (52%)</td>
<td>23 (51%)</td>
<td>14 (54%)</td>
</tr>
<tr>
<td><strong>Perception of System Intervention</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>DVIC staff listened to concerns</td>
<td>4.6</td>
<td>4.6</td>
<td>4.6</td>
</tr>
<tr>
<td>DVIC staff helped understand</td>
<td>4.3</td>
<td>4.4</td>
<td>4.2</td>
</tr>
<tr>
<td>the process</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>DVIC staff expressed concern</td>
<td>4.3</td>
<td>4.3</td>
<td>4.4</td>
</tr>
<tr>
<td>for safety</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>DVIC staff helped make</td>
<td>3.7</td>
<td>3.6</td>
<td>3.8</td>
</tr>
<tr>
<td>decisions</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Expectation that CPO can</td>
<td>4.1</td>
<td>4.2</td>
<td>3.8</td>
</tr>
<tr>
<td>improve situation</td>
<td></td>
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</tbody>
</table>

*mean score for a 5 point scale where 1 = not at all, 2 = very little, 3 = somewhat, 4 = mostly and 5 = very much
women often use the CPO process to send a message to the offender that his behavior will not be tolerated (Harrell et al. 1993; Fischer & Rose 1997).

**Perceptions of the DVIC and CPO Process:** Overall, the women in the sample gave high ratings to the DVIC on each of the four questions about the quality and helpfulness of the services. Three of the four DVIC measures were determinants of the likelihood of returning to court. However, high scores were not always positively related to the probability of returning to court.

Women who reported that the DVIC helped them understand the process were more likely to return to court. In other words, women who understood the process and what was expected from them may have been less intimidated or fearful about returning for the CPO hearing. DVIC staff report that ensuring the petitioner understands the process is one of their primary challenges. Many victims who come to the DVIC are still in crisis and must absorb a tremendous amount of information during their initial visit to the intake center.

The next two DVIC measures, the extent to which the DVIC expressed concern for the petitioner’s safety and helped with decision-making, were both negatively related to returning to court. Women who indicated that the DVIC expressed concern for their safety and assisted with decision-making were less likely to obtain a permanent protection order. This finding could be interpreted in a number of ways. First, it could be an indication the DVIC is providing petitioners with realistic information on the limitations of a protection order. It could also mean the process of going to court and filing for a protection order meets victims’ needs. In other words, perhaps for some women just filing for the temporary order and feeling like someone heard and believed them was all they wanted and needed. As previously noted, research indicates a temporary order meets some women’s needs by sending a message to the offender and creating a record of the abuse (Harrell et al. 1993; Fischer & Rose 1995). It should be noted, however, these women are not filing for a CPO for frivolous reasons. The sample of cases in this study and previous research has found most women seeking protection orders had experienced physical and psychological abuse for several years before turning to the court system for assistance (Harrell et al. 1993; Fischer & Rose 1995; Keilitz et al. 1997).

Finally, women who indicated they believed the CPO process would improve their situation were more likely to return to court for the CPO hearing. It may be worth some further investigation to know how women expected the CPO to improve their situation. Previous studies seem to indicate that responding to immediate safety issues is not necessarily the primary goal of obtaining a protection order (Harrell et al. 1993; Fischer & Rose 1995).

**Policy Implications**

Understanding victims’ needs and their reluctance to participate in the justice system are important elements in developing effective policy responses aimed at eliminating intimate partner violence. The issue of particular interest in this study is whether a specific intervention, the DVIC of the DC Superior Court, had any impact on the likelihood of a woman returning to court to obtain a permanent protection order. There seems to be some indication that a centralized case processing system, such as the DVIC, can help encourage continued participation by providing direct assistance to petitioners. Likewise, given the sheer number of women who come to the intake center, it provides an ideal opportunity for intervention with victims regardless of whether they return to court for the permanent order. These broad conclusions have several policy implications:

- **Emphasis should be placed on ensuring that petitioners understand**
<table>
<thead>
<tr>
<th>Variable</th>
<th>Beta Coefficient (Standard Error)</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Petitioner Demographics</strong></td>
<td></td>
</tr>
<tr>
<td>Age</td>
<td>.070 (.047)</td>
</tr>
<tr>
<td>Black</td>
<td>-2.001 (1.299)</td>
</tr>
<tr>
<td>College</td>
<td>2.495 (1.246) **</td>
</tr>
<tr>
<td>Number of children</td>
<td>.590 (.283) **</td>
</tr>
<tr>
<td>Employed</td>
<td>.762 (.885)</td>
</tr>
<tr>
<td>Monthly income</td>
<td>.001 (.001)</td>
</tr>
<tr>
<td>Reliance on respondent for income</td>
<td>.860 (.910)</td>
</tr>
<tr>
<td><strong>Relationship Between Parties</strong></td>
<td></td>
</tr>
<tr>
<td>Currently or formerly dating</td>
<td>2.872 (1.220) *</td>
</tr>
<tr>
<td><strong>History of Abuse</strong></td>
<td></td>
</tr>
<tr>
<td>Length of physical abuse</td>
<td>.000 (.000)</td>
</tr>
<tr>
<td>Prior TPO/CPO</td>
<td>-.939 (1.248)</td>
</tr>
<tr>
<td>Prior criminal domestic charge against respondent</td>
<td>1.709 (1.053) ^</td>
</tr>
<tr>
<td>Prior criminal non-domestic charge against respondent</td>
<td>1.707 (1.132)</td>
</tr>
<tr>
<td><strong>System Intervention</strong></td>
<td></td>
</tr>
<tr>
<td>Called police before coming to DVIC</td>
<td>.690 (.861)</td>
</tr>
<tr>
<td>Petitioner was represented by attorney</td>
<td>3.284 (1.303) *</td>
</tr>
<tr>
<td>Safety plan in place</td>
<td>-1.569 (.936) ^</td>
</tr>
<tr>
<td><strong>Perception of System Intervention</strong></td>
<td></td>
</tr>
<tr>
<td>DVIC staff listened to concerns</td>
<td>.295 (.645)</td>
</tr>
<tr>
<td>Helped to understand the process</td>
<td>1.052 (.565) ^</td>
</tr>
<tr>
<td>Expressed concern for petitioner safety</td>
<td>-.845 (.518) ^</td>
</tr>
<tr>
<td>Helped petitioner make decisions</td>
<td>-1.247 (.493) *</td>
</tr>
<tr>
<td>Perception that CPO can help make situation better</td>
<td>1.164 (.499) **</td>
</tr>
</tbody>
</table>

Noted significance levels:  * = p<.01  
** = p<.05  ^ = p<.10
the process. According to this study, women who reported the DVIC staff helped them understand the process were more likely to return to court. Also, considering the Keilitz et al. (1997) study as a baseline measure of petitioner participation in the CPO process prior to implementation of the DVIC, there is a substantial increase in the proportion of women returning to court after the DVIC was established. This seems to indicate the availability of an increased level of assistance with the CPO process through the DVIC has contributed to higher return rates.

* **Direct assistance by an attorney may increase participation.** Whether a woman had an attorney was the single strongest predictor of returning to court. These women arguably received the most direct assistance in that they had someone usher them through the process and speak on their behalf in court. Yet resources for offering this service are scarce and consequently relatively few women have legal representation at the CPO hearing.

* **Additional resources and support for cases involving prior criminal charges are needed.** This analysis found that the presence of a prior criminal domestic record increased a woman's likelihood of returning to court. Previously cited research on domestic violence cases involving offenders with a prior criminal record suggests these women are most at risk for recurring violence. Also, there is evidence to suggest offenders with a prior criminal record may be less deterred by involvement with the justice system. For these reasons, cases with previous criminal justice system involvement may require special attention in terms of increased access to legal representation, linkage to services, and safety planning.

* **Not returning to court is not necessarily a failure of the system.** Overall, women gave high ratings to the quality of services provided by the DVIC. However, high ratings were not necessarily associated with an increased likelihood of returning to court. The act of either not returning to court or returning to court to obtain the permanent order could be, in many cases, a strategic response. Previously cited studies have found that some women are only interested in obtaining a temporary order. What we cannot be sure of is whether women freely made the decision not to return to court or were coerced into doing so.

* **A centralized CPO case processing system provides a prime opportunity for intervention.** Previously cited research indicates that, on average, women who seek court assistance through the CPO process have been in an abusive relationship for several years and are reaching out for help. This makes the court system a prime source for intervention with domestic violence victims. The DVIC handles an average of 350 cases a month, which means they have contact with over 4,000 people a year. Regardless of whether a victim chooses to complete the process, there is tremendous potential for intervention during that initial visit. Having the resources in place to provide information, support, and safety planning will aid domestic violence victims in moving one step closer to ending the violence in their lives.

These and other findings on the petitioner’s perceptions of the DVIC and CPO process reveal some insights about the impact of court policies and practices on victim participation, but also pose additional questions.

**Future Research**

Most research looking at the impact of legal interventions on domestic violence has concentrated on how mandatory arrest, victimless prosecution, court-ordered batterer treatment, and protection orders impact batterers’ behavior. This study attempted to look at CPOs from the perspective of the victims. Specifically, the objective was to shed light on potential determinants of remaining engaged in the
justice system as a means of responding to an abusive intimate relationship.

We still know very little about how and why domestic violence victims use the court system. As one researcher noted, "victim choices about invoking legal sanctions may be less concerned with punishment and deterrence and ultimately seek to use the law for other goals" (Fagan 1996, p. 29). It would be worthwhile for the development of theory and practice on this issue to gain a better understanding of the goals of domestic violence victims in accessing the justice system for assistance. Several specific questions that arose from this study are as follows:

• What combination of services is most helpful to the many women who do not return to court and therefore only have a brief encounter with the legal system?

• Why do so many women choose not to return to court for the permanent order? Are their needs met with just obtaining the temporary order or are they coerced into not returning to court?

• What expectations do victims have of their interaction with the court system? How do they think a protection order will help their situation?

• What does the process of leaving an abusive relationship look like? What services or other forms of support are needed to bring domestic violence victims to the point where they are ready to take steps to leave an abusive relationship?

As previously mentioned, most research on legal interventions has focused on their impact on recidivism and not necessarily on how policy responses have helped or hindered victims in making changes in their lives. However, as we design and evaluate approaches to impact offenders we also want to remain aware of how those interventions impact a victim who is trying to create a violence-free life. Understanding victims' needs and how policy responses address those needs is an important part of developing the most effective responses to the problem of domestic violence.

Notes

1 Out of the sample of 84 cases, 13 were excluded from the analyses presented here. Three cases were missing substantial sections of the interview data due to incomplete interviews. The other 10 cases were male petitioners and excluded to maintain a sample of women. Male petitioners are relatively rare and including them in this study would complicate the analysis in several respects. Although there are legitimate cases of male victimization by an intimate partner, from this data we cannot determine the motivation for filing a CPO. Some male petitioners file a CPO against their partner as a form of retaliation or coercion. Motivation aside, however, the dynamics of male victimization are likely to be different enough from female victimization to justify excluding them as a group from this analysis.

References


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A Grand Bargain with Europe: Preserving NATO for the 21st Century

JOHN C. HULSMAN, PH.D.
The Heritage Foundation

A “Grand Bargain” between the American and European pillars of NATO must be reached to resolve the issues of burden sharing and power sharing. Specifically, the Bargain must end the dance going on since NATO’s creation—the US chiding its partners to do more, who then grudgingly agree but fail to improve their capabilities. The aftermath of Kosovo has shown that such a pattern merely increases resentment on both sides of the Atlantic while failing to cure the problems lurking at the heart of the alliance. Both pillars of the alliance need to use this realization as the starting point for developing a proactive agenda geared towards achieving lasting NATO reform.

KOSOVO: THE END OF THEOLOGY

Arguments about the nature of strategic studies have always exhibited a theological quality—abstruse points of doctrine argued over by a small, elite cadre of experts, seeming to have little relevance to the realities of the ordinary world. However, every once in a while, heretofore obscure and seemingly abstract doctrinal points become all too important. Such has been the case regarding the war in Kosovo and what it tells us about the health of the NATO alliance. Kosovo revealed that the most successful alliance in history is in urgent need of reform.

Kosovo illustrated that the twin-pillar conception of a roughly equal alliance, always an ideal prototype, has no bearing on modern military realities in Europe. US intelligence assets identified almost all the bombing targets in Serbia and Kosovo, US aircraft flew two-thirds of the strike missions, and nearly every precision-guided missile was launched from an American aircraft. Technologically, the European contribution to the allied effort was deficient due to a lack of computerized weapons, night-vision equipment, and advanced communications resources. These military deficiencies significantly affected NATO’s overall warfighting strategy. American Air Force General Michael Short, who oversaw the NATO bombing campaign, has since said the shortcomings of the European aircraft, such as their lack of night-vision capability and absence of laser-guided weapons systems, were so glaring that he curtailed their missions to avoid unnecessary risk.1 Put simply, the European allies (and Canada) have not done enough to reconfigure their militaries since the end of the Gulf War.

Strikingly, this has emerged as the consensus opinion among European members of NATO themselves. The Foreign Minister of Germany, Joschka Fischer, has lamented, “The Kosovo war was mainly an expression of Europe’s own insufficiency and weakness; we as Europeans never could have coped with the Balkan wars that were caused by Milosevic without the help of the US.” German General Klaus Naumann, the recently retired Chairman of NATO’s military committee, has

AUTHOR’S NOTE: Michael Scardaville helped in the presentation of this article.
said the Kosovo conflict confirmed his worst fear that the day is fast approaching when the US and its European allies, "will not even be able to fight on the same battlefield."

Nor has the aftermath of the conflict generated feelings of comfort that the proper lessons have been learned. The present unequal division of labor between the US and its European allies in Kosovo represents a flawed strategy, as it sets an awful precedent for the future of the transatlantic alliance—with the US fighting the war and Europe keeping the peace. That both Washington and the Europeans have tacitly accepted this division of labor helps solidify the two-tiered alliance structure that has evolved. The European vow to pay for most of the economic reconstruction of Kosovo and the rest of the Balkans does not and should not make up for the reality of their military weakness and ineffectiveness. This specious equivalence is not the lesson to be learned from the Kosovo conflict; it is merely an apology for the trend toward a two-tier alliance, a pattern that, if it is not arrested, will doubtless exacerbate already divergent perspectives between the US and Europe.

However, there is a productive lesson to learn from Kosovo. Acting on this lesson, while requiring strong leadership on both sides of the Atlantic, can not only save the alliance but also reinvigorate this most successful multinational institution and prepare it to meet the needs of the coming century. A Grand Bargain between the two pillars of NATO must be reached over the issues of burden sharing and power sharing. An end must be put to the rhetoric that has been going on almost since the April 1999 signing of The Treaty of Washington: the US chides its partners to do more, who grudgingly agree and then do little or nothing. Such a pattern merely increases resentment on both sides of the Atlantic while failing to cure the central problems of the alliance. During the first meeting of NATO Defense Ministers after the Kosovo air campaign, US Secretary of Defense William Cohen focused his discussion with his European counterparts on the lessons learned from the war. He argued, "My concern is that we are seeing decreasing [defense] budgets within our NATO allies—they have got to reform the way in which they are doing business to make the right kind of changes necessary." More than urging is needed to make this happen, just as more than indifference is desired by the Europeans regarding their legitimate wish to be given a greater decision-making role in the alliance. What is necessary is a proactive plan acknowledging the unbreakable link between issues of burden sharing and issues of power sharing in the alliance. Rather than participating in another useless round of finger-pointing, both pillars of the alliance need to use the realizations of Kosovo to spur them on to achieving lasting NATO reform.

**THE PROBLEMS: BURDEN SHARING AND POWER SHARING**

Almost all the alliance's problems in Kosovo stem from the two larger overarching dilemmas of burden sharing and power sharing. Both these tensions have been present since the founding of the alliance in 1949; neither has been more dangerous than they are today. The US has always contributed far more than its fair share to the transatlantic bargain. During the Cold War, this extra effort (in terms of men, material, and money) was deemed a reasonable price to pay in order to secure the fundamental American interest of preserving Western Europe from Communist domination. With the passing of the Cold War, this direct threat vanished. American geopolitical calculations have changed in the post-Cold War era, while European defense habits have not. This is not to say the United States seeks a withdrawal from Europe, but that America rightfully expects its allies, who have recovered from the devastation of World
War II and now possess first-rate economies, to contribute more to their own security.

Kosovo illustrated that European military hardware is significantly inferior to American strategic transport and logistics, intelligence, and high-tech weaponry. Thus, compatibility problems, always the bane of this uneven alliance, have grown worse. As The Economist puts it, "compared to US forces inspired by the 'revolution in military affairs' that promises perfect knowledge of everything on a battlefield, Europe's static conscript-dependent forces look increasingly like dinosaurs. Western Europe's defense budget is almost two-thirds that of America's, but it produces less than one-quarter of America's deployable fighting strength." For example, of 5,000 military aircraft available to Western Europe's armies for deployment for air strikes, barely 10 percent are capable of precision bombing. The technological discrepancies are insignificant compared with problems relating to "lift," the ability to transport an army at will. Europe, in the words of the Western European Assembly (the parliamentary arm of the Western European Union), has ceded "a virtual monopoly" in this field to the US. While unglamorous, logistical lift is probably the key component in fighting a war in the post-Cold War era. Just as the British Navy's ability to provide its forces with lift in the nineteenth century was the key to the success of its empire, so the American ability to quickly place its troops anywhere in the world is the crucial reason for its present military dominance. This is also the basic weakness limiting the effectiveness of European defense forces. As Michael O'Hanlon explains, "Today, only the US is in a position to deploy large numbers of forces well beyond its national borders and operate them for an extended period. Europeans are not only very limited in the amount of force they can project beyond Europe, but they also must depend heavily on the US in more nearby places like the Balkans."

However, the answer is more complicated than the European defense establishments merely spending more wisely; they must also spend more. The major reason for the European technological deficiencies is they simply do not devote enough resources to research and development. The US spends nearly four times as much as the European allies on defense research and development. Generally, the defense spending picture is mixed, with some allies genuinely making efforts to adapt to the post-Cold War security environment while others continue to take a strategic holiday. US defense spending in 1998 was 3.2 percent of GDP, with France spending 2.8 percent, the UK 2.7 percent, Italy 2.0 percent, Germany 1.5 percent, and Spain 1.3 percent of their respective GDPs. Poor procurement decisions do not convincingly explain away the totality of the technological gap between the two pillars of the alliance—an insufficient financial commitment on the part of the Europeans is also a significant part of the problem.

In this way, NATO has always been a two-tier alliance, with the US assuming the role of senior partner both in terms of the defense burden undertaken as well as the power rewards accrued. However, the Kosovo experience has illustrated that the military gap is widening, not closing. If this trend is unchecked it will have devastating consequences for the alliance. As the American General John Sheehan, former Supreme Allied Commander, the Atlantic (SACLANT), noted, "The technological gap is increasing between the US and Europe. Soon the other members of NATO will be little more than constabulary forces, with the US possessing the only genuine modern army."

If the situation is not arrested, it is difficult to envision how NATO will survive. The Europeans and Americans have always had somewhat different political and military priorities, partly based on their different geographi-
cal positions. During the Cold War, Europe was on the front line while the US had two oceans protecting it from Soviet adventurism—this situation was bound to lead to slightly different points of view regarding fighting the Cold War. To these geopolitical differences are now added increasingly different functional roles within NATO. If the US becomes the only genuine “army” in NATO and the Europeans become the primary peacekeepers, differences in function will lead to massively different policy outlooks. The political tensions felt on both sides of the Atlantic regarding issues of burden sharing and power sharing can be summed up succinctly: Americans resent being asked to shoulder more than their fair share of the military burden, while Europeans resent America’s dictation. These disagreements threaten NATO’s future viability.

There have been efforts to address this fundamental problem, but they have fallen far short of the mark. At NATO’s Washington Summit in April 1999, the member states of the alliance signed the Defense Capabilities Initiative (DCI). It attempts to address issues of burden sharing in hopes of providing a common concept of operations that prepares the alliance for the battlefield of the twenty-first century. The DCI points to a future where military postures are less dependent on overly large standing forces, with more emphasis on deployability and sustainability. Point Three of the DCI recognizes that, “It is important that all nations are able to make a fair contribution to the full spectrum of alliance missions regardless of differences in national defense structures.” It simply does not tell us how to get there—it is an aspiration, not a plan. While NATO defense ministers met in December 1999 to advocate measures to give substance to the DCI, nothing was agreed upon in a detailed way. Burden sharing should entail close military coordination, shared risks and responsibilities, and common experiences among allies.

The other half of the equation, power sharing, has not been adequately dealt with either. The Clinton Administration has expressed general approval for the formation of a European Security and Defense Policy (ESDP)—with European Union involvement—to buttress the European pillar, as long as it takes place within the broad NATO tent. Also, Prime Minister Blair and President Chirac have met to try to involve the European Union (EU) in NATO’s institutional architecture. Yet in neither case has the important issue of NATO commands been discussed. Without power sharing and reforms to accompany changes in burden sharing, fundamental reform of the alliance will prove impossible to achieve. The inextricable link between the concepts of burden sharing and power sharing form the starting point for the Grand Bargain.

**The Solution: The Grand Bargain**

A new NATO doctrine is needed—beyond the hopelessly vague DCI—to fulfill the aspirations of the equally nebulous “New Strategic Concept,” signed by the alliance members at the Washington Summit. The “New Strategic Concept” is supposed to outline changes in the alliance that will allow it to prosper into the next century. Beyond signaling the formal acceptance of ESDP within the alliance and discussing the need to narrow the technology gap between the two pillars, the document is little more than a public relations exercise; it does not begin to discuss how these aspirations are to be fulfilled. The starting place for genuine reform must lie in acknowledging the inextricable link between burden sharing and power sharing. The European pillar must increase its financial and military contribution to the alliance while taking on a greater amount of power in NATO. Likewise, while the US will benefit from being able to decrease its transatlantic defense burden, it must consent to the Europeans having a greater role in how the alliance is run. This fundamental
trade-off underlies all the specific planks of The Grand Bargain.

The Grand Bargain offers a significant departure from the vagueness of the DCI. Whereas the DCI is merely a promise without a plan, The Grand Bargain sets measurable goals all NATO members must meet. If a European member does not live up to its burden sharing promises, or if the United States drags its feet with respect to power sharing, it will be clear for all alliance members to see. No longer will either side be able to hide behind words or signed documents that mean little—real change will be necessary. In doing so, The Grand Bargain also rewards those who are truly committed to reform in a fair manner. As a result of these factors, The Grand Bargain, despite requiring difficult choices to be made, will be politically sustainable.

The Europeans should agree to modernize their armed forces by raising defense spending to three percent of GDP a year, with an emphasis on expenditures designed to decrease the technological gap between the two pillars of the alliance. They should commit to professionalizing their armies in the medium-term. While the Europeans should be allowed to use collective means to close the technology gap if they desire (ESDP), their adherence to The Grand Bargain will be judged on a country-by-country basis. Each European state will be given credit proportional to the defense expenditures it makes (i.e., if France contributes 30 percent of the money to produce a new Eurofighter plane worth $1 billion, France will get credit for $300 million in expenditure). In an effort to further NATO modernization, the Europeans should consent to US-led "coalitions of the willing," allowing the Americans and like-minded allies to use NATO with-hold out-of-area (an American-led Combined Joint Task Force, or CJTF), just as the Europeans are permitted to do. In return, the US must agree to discuss a restructuring of NATO commands, with an eye toward giving the Europeans a greater say in how the alliance is run. For example, it is possible to increase involvement by giving them the Southern Command in Naples as well as a greater number of theater commands. Such a concord is certain to reinvigorate the alliance by roughly balancing its two pillars, both in terms of burdens expended and powers allotted.

In order to enhance ESDP, the alliance has embraced the CJTF concept. CJTFs allow "coalitions of the willing" to "borrow" NATO assets on an ad hoc basis for specific multinational out-of-area missions not necessarily mandated by Article V of the Treaty of Washington (self-defense operations). CJTFs remain dependent on NATO headquarters and infrastructure and assets governed by alliance protocols. Once the operation has ended, the CJTF is dissolved, with military assets reverting to NATO control. All CJTF operations require unanimous approval by the North Atlantic Council (the political consultative arm of NATO), but not the actual participation of all the alliance members.

Such "coalitions of the willing," bound as they are by the participating countries' calculation of shared common interests, are likely to prove politically more durable and flexible than more formal multilateral institutions. The CJTF approach, while allowing for tactical flexibility, still retains the critical notion of sovereignty, as all the NATO member states have the undiluted right to veto any operation they deem not to be in their national interest. The CJTF process enables a NATO member to politically allow an out-of-area action, without being forced to participate in the mission or veto it. This middle ground regarding out-of-area missions is a hopeful sign that the alliance is adapting to the political realities of the post-Cold War era, wherein NATO is more likely to be confronted by challenges outside of its Article V purview. The Grand Bargain would extend this innovation, allowing the US to lead, as well as
allow, CJTFs.

**European Obligations under The Grand Bargain**

*The Europeans should modernize their militaries*

William Cohen, in remarks to the Munich Conference on Security Policy (February 6, 1999), reaffirmed all that is wrong with the Clinton Administration’s hollow admonitions to the allies to develop the European pillar. Cohen explained, “It may not be possible for all the members of the alliance to seek significant or substantial defense increases; but we believe that if the alliance is going to exist in word and deed, in fighting capacity as well as political appeal, then, at a minimum, defense budgets cannot be decreased any further.” Nor was the December 1999 elaboration of the Defense Capabilities Initiative likely to yield more than Americans exhorting the Europeans to do more, Europeans promising to try, and Americans setting nebulous conditions, with little accomplished by either side. The great advantage of setting a specific target for improvement (three percent of GDP) is that it is both equitable and measurable; if it is met everyone will know it, and if not, that also will become apparent. The specificity of The Grand Bargain will finally put an end to the false pretense that has been the centerpiece of the argument about NATO reform since the time of the Cold War.

With the false arguments and negotiating points pushed to one side, honest differences can be discussed and resolved. The target level of defense spending will create a genuine hardship for some European states (e.g., Germany, Italy, and Spain) while not proving difficult for others (e.g., France and Britain). Those of whom genuine sacrifice is being asked will make the argument that with the Maastricht Treaty in effect, as members of the eurozone, they have made solemn promises to limit their countries’ debt and deficit levels (to 60 percent and three percent of GDP, respectively). Any increases in defense expenditures will force them to renege on these commitments, violating the economic stability pact all swore to uphold when they adopted the euro. The counter-argument is simple but telling: solemn commitments were also made to NATO that must be honored. As recently as April 1999, in the Washington Declaration, signed at the NATO Summit, all the NATO member states vowed in Point Seven of the accord, “We pledge to improve our defense capabilities to fulfill the full range of the alliance’s twenty-first century missions.” Any balking about adding precision to this unambiguous vow (which is all The Grand Bargain is designed to do) should be seen for what it is, an excuse to perpetuate a status quo whereby certain states in the alliance are given a “free ride” by America’s defense contribution to NATO. It is the animosity this engenders that the specific defense spending benchmarks are designed to alleviate; either the targets will be met or they will not. It is a question of both will and priorities. In meeting the three percent target, the European pillar will illustrate both seriousness and commitment to NATO; such a group of allies should then be given a roughly equal say in how the alliance is run.

Where the Clinton Administration is correct is in the realization that increased spending alone will not solve the problem—intelligent defense procurement is also crucial if the Europeans are to close the technological gap. The Europeans must concentrate on buying unglamorous but essential items that will correct their deficiencies in lift, logistics and command, control, communications, computers, and intelligence (C4I), which will make their forces capable of mastering the twenty-first century battlefield. Such procurement practices, as O’Hanlon points out, could easily triple the long distance war fighting capabilities of the Europeans within five
years. These spending increases would be moderate, collectively totaling an increase of $10 billion a year for five years or six to seven percent of total European defense spending on NATO.\textsuperscript{13}

Changing European defense spending habits and decreasing the technological gap between the pillars of NATO will solve part of the problem but, in line with these reforms, military postures should logically evolve. About half the European allies still rely on conscription while Belgium, the Netherlands, the US, and UK now have professional armies, with France declaring it will professionalize its forces by 2002 and Italy just beginning the process. A force that depends on high-tech weaponry, mobility, and survivability must be professional; the demands of warfare in the new century will require a commitment to extensive training that can only be expected of professionals. If America’s military success in the post-Cold War era has taught it anything, it is that only professional armies can flourish in this new age. The Europeans must complete this transition within a relatively short time span.

Increasing European integration within the context of NATO might well facilitate economies of scale, making it easier for the Europeans to meet their increased defense commitments under The Grand Bargain. Such an arrangement should be encouraged with caveats. An enhanced ESDP must take place under the NATO umbrella, genuinely enable the Europeans to technologically catch up to the American pillar, and, despite allowing for an increased role for the EU in the process, be open to all European members of NATO whether or not they are in the union. Above all, ESDP must enhance what NATO is doing through The Grand Bargain, not be the beginnings of a separate defense organization designed to supersede the transatlantic link. Broadly, The Grand Bargain is about focusing on results, not the architecture that achieves them. Rather than being drawn into the thicket of competing architectural models for European security, by focusing on individual countries’ progress toward achieving the aims of the accord it allows us to focus on outcomes, an approach that has been lacking in other attempts at NATO reform.

**American Obligations under The Grand Bargain**

*The US must agree to restructure NATO commands, giving the Europeans a greater say in how the alliance is run*

In exchange for the considerable European efforts to militarily approximate the United States within the scope of the alliance, America must change its thinking about power sharing issues. If the Europeans can muster the political will and carry out the necessary reforms to their military establishments, the US must acknowledge their efforts by making the alliance a genuine two-pillar structure.

Such a structure is in line with NATO aspirations dating from the Cold War. For example, if the French embrace The Grand Bargain, continue to professionalize their armed forces, spend just slightly more on defense spending, and wisely procure more high-tech weaponry, the US should have no qualms about transferring the Southern Command at Naples to the purview of a European general officer. This transfer would be in line with French desires. The Standing Naval Forces-Mediterranean (the only permanent naval force there), a subcommand at Naples under Naval Forces South, is currently under the leadership of an American Rear Admiral. Both these prestigious and important commands should be permanently allotted to the Europeans if they fulfill the end of The Grand Bargain. If The Grand Bargain is implemented, Europeans would serve as Deputy Supreme Allied Commander Europe (DSACEUR), head of the NATO Rapid Reaction Force, Heads of both the NATO Northern and Southern Regional Com-
mands at Brunssum and Naples (see chart following article), and lead a regional sub-command at Naples (NAVSOUTH). Such a strategy would illustrate the American commitment to accede to European desires for greater power sharing, and provide concrete diplomatic rewards to European leaders with the courage and vision to embrace The Grand Bargain.

**The Plan Whose Time Has Come**

There is no doubt altering the NATO command structure is a major American political concession. Yet such a bold reform is unquestionably in American strategic interests in the post-Cold War era. The Grand Bargain allows the United States to meet its global responsibilities without sacrificing its European interests or commitments. The US must make the transition from a Cold War policy of domination of its alliances to a policy of American leadership of its alliances.

The benefits of such a policy are three-fold. First, it will free up limited American resources for other global contingencies. A greater European defense commitment within the alliance will give the US the freedom and flexibility to attend to additional global interests without diminishing NATO capabilities. Second, it will reduce the need for the United States to continuously supply the lion's share of military wherewithal for all NATO actions, a state of affairs that has increasingly led to resentment. As General Shalot stated before the Senate Armed Services Committee regarding French restrictions on NATO bombers during the Kosovo air campaign, "A nation that is providing less than eight percent of the sortie combination to an effort should not be in a position of restricting American aviators, who are bearing 70 percent of the load." This statement perfectly encapsulates the resentments that are the long-term threat to the continued health of the alliance. Thirdly, by resolving the burden-sharing/power-sharing dilemma and modernizing NATO, a more cooperative political environment will be created within the alliance.

Not only is this plan in the American national interest, but it also strikingly coincides with changing political feelings in Europe as well. The British are likely to be strong supporters of The Grand Bargain. Kosovo was a searing experience for Prime Minister Blair, who has broken with British tradition in advocating much closer military ties between the countries comprising the European pillar of the alliance. As Ivo Daalder and Michael O'Hanlon recount, during Kosovo, "Blair became convinced that Europe's diplomatic weakness was linked to its relatively feeble military capabilities. Ever since, Blair has lobbied his European partners to increase their combined military capability." The Grand Bargain builds on Blair's aspirations for a significant improvement in Europe's defense standing and his sense that now is the critical time for NATO reform. Even before Kosovo, Blair was committed to dramatically changing Britain's diplomatic posture regarding ESDP. In the St. Malo Declaration of December 1998, Blair and President Chirac argued the EU should become more involved in buttressing the European pillar of the alliance, while remaining in the NATO structure. In doing so, Blair is turning his back on 40 years of British hesitancy regarding European involvement in Britain's defense calculations. The Prime Minister envisions this increased European defense integration occurring within the context of the alliance and, unlike many in Europe, believes this process will strengthen transatlantic ties. As Peter Mandelson, Blair's closest political confidant, put it, "Should US taxpayers and US troops always have to resolve any problems that exist on Europe's doorstep? I can think of no better way than this to alienate America from Europe, and that is the last thing European leaders want or need." Given its advocacy of preserving NATO while reforming the alliance by enhancing European defense capabilities,
The Grand Bargain could well prove attractive to the British government.

The British have already largely completed the process of reforming their armed forces in line with The Grand Bargain’s strictures. In July 1998, the UK completed its Strategic Defense Review (under the leadership of then Defense Secretary, Lord Robertson, now Secretary-General of NATO). For example, to increase their lift capabilities, the British are planning to lease four C-17s from the US starting in 2001. To enhance strategic sea lift for the deployment of forces, the Blair government plans to acquire six roll-on-roll-off ships, with two already being funded for completion in 2000. The British have completed the process of reforming their armed forces; realizing the conditions of The Grand Bargain should hold no real difficulties for them.

The new Secretary-General of NATO, Lord Robertson, was a major author of the Blair government’s defense stance; he is also likely to prove a strong supporter of The Grand Bargain. Robertson listed boosting Europe’s defense capabilities as one of the main priorities he has set for himself in his new role as the political head of the alliance. The Secretary-General believes European militaries must concentrate on assembling a greater percentage of their armed forces for rapid deployment in regional crises. He also believes goals should be set to ensure Europe attains an enhanced common military capability. Lord Robertson wants the Europeans to set such goals on a collective European basis as well as at a national level. In his strong emphasis on changing Europe’s force posture and his commitment to measurable goals, Lord Robertson advances the general ideas underlying The Grand Bargain.

France also ought to be a strong supporter of The Grand Bargain. Thirty years after leaving the integrated military command, it has at last realized NATO is the only forum from which a robust European defense can be built in the foreseeable future. France is determined to “reform the alliance structure in order to make for greater balance between its American leadership and European participants.” Europe’s military weakness in Kosovo only strengthened this dawning shift in French diplomacy. The change in French tactics makes it a likely supporter of The Grand Bargain, with its concrete promises of increased power sharing by the Americans and its desire for the European pillar to be augmented. In the short term, French and American interests coincide. As long-term American goals are served by NATO reform, a larger reckoning about the future direction of Europe can be postponed in the interim.

As with Blair, President Chirac has already initiated moves to reform the French military in line with what The Grand Bargain prescribes. Under the French defense plan, it hopes to have at least 30,000 troops able to be rapidly deployed, as well as 100 deployable combat aircraft, two times France’s Persian Gulf levels. The army’s three main priorities in the current defense reform are to professionalize its forces by 2002, increase its weapons interoperability with other NATO members, and improve its capacity to analyze and distribute information. Both Britain and France are likely to eagerly adopt these reforms.

The same willingness cannot be said of Germany. However, there are several hopeful signs of a move away from Germany’s traditional attitude towards NATO reform. First, Germany played a military role in Kosovo, its first significant deployment of troops in Europe since World War II; this signals Germany’s evolution into a country more willing to shoulder its military burden. Second, the ruling SPD-Green political coalition has long expressed its great regard for European-wide security structures. In principle, the Schroeder government should not be adverse to Europe rationalizing its defense structures in order to enhance its military
role within the alliance. Yet in absolute terms, Germany’s military commitment has long been inadequate; recent decisions indicate the trend is, if anything, getting worse. As James Wyllie points out, under the Schroeder government, “NATO membership will not be in question but most of the party managers and the rank and file of the SPD-Green coalition have little sympathy for a vigorous German role in the alliance.”

The main reason for Germany’s resistance is the economic problems dogging the giant of Europe. With Germany barely qualifying for the euro because of its debt levels, the Schroeder government has been forced to propose an austerity budget in an effort to rein in the bloated public sector of the German economy. German defense cuts totaled around $1.9 billion in 1999, with Finance Minister Eichel scheduling defense cuts amounting to DM 18 billion over the next four years. German defense spending will decrease to around 1.5 percent of GDP, much less than in Britain or France, let alone in the US. The Germans, whether or not they embrace The Grand Bargain, must simply pay more for their defense and not allow their allies to indirectly subsidize their refusal to modernize their economy.

**HOW TO GET FROM HERE TO THERE: TACTICS FOR IMPLEMENTING THE GRAND BARGAIN**

Many people will agree with the case that has been laid out here; perhaps even a majority will concur that the elements discussed above must be central to any significant reform of the alliance. To avoid contributing to the kabuki dance of the status quo, a tactical road map is necessary to make these abstractions realities. The three elements that must be observed if The Grand Bargain is to become reality are timing, reform in “digestible bites,” and the ever-useful notion of reciprocity. The timing of elements being traded in The Grand Bargain must lead to a momentum toward real change—each step must build politically on the successful completion of the former for this to occur. Reform in digestible bites must make this transatlantic reconfiguration of NATO psychologically comfortable for decision-makers; hence, the plan’s movement from rhetorical and symbolic aspects to tangible deliverables. The Grand Bargain will be complete when the alliance is roughly equal in terms of military capabilities, power sharing, and overall financial inputs. The members of such an organization are likely to have many more shared experiences and shared commitments; this process will revitalize the alliance for the coming century, making it an organization of equals.

The steps toward realizing The Grand Bargain should proceed as follows:

1) At a regular NATO ministerial a European nation (e.g., France or Britain) should propose The Grand Bargain publicly to the US as a potential NATO doctrine requiring ratification by the North Atlantic Council. It should be stressed that while there are set goals in the plan (e.g., spending three percent of GDP on defense, modernization, and professionalization of Europe’s armies), how the Europeans choose to meet these goals is entirely up to them.

2) The European states should devise individual plans for meeting their obligations under The Grand Bargain, as the entire accord will be evaluated on a country-by-country basis. Their modernization blueprints may include reforms made more affordable through joint ventures (e.g., ESDP) and may include a mixture of individual and collective targets to meet their obligations under the accord.

3) After being informed of these plans at the North Atlantic Council, the US should propose increasing joint NATO training exercises between the US Department of Defense (DoD) and individual European militaries. Such extra joint training will help standardize tactics, add to shared military experiences, and cement
bonds between the two poles of the alliance. It will also serve as an anecdotal report card as to how far the Europeans have come in modernizing their forces.

4) The Europeans will begin implementing their defense plans to meet the obligations of The Grand Bargain after the North Atlantic Council endorses the plan as official NATO doctrine. Timetables establishing their agreement to quickly increase defense spending to three percent of GDP, specifying when their forces will be fully professionalized, and how they plan to narrow the technological gap will be communicated to the US through the North Atlantic Council. As this process begins, the US will start substantive discussions regarding issues of power sharing, centered on the Naples regional command. At this time, the Standing Force in the Mediterranean, a subdivision of the Naples command, will be permanently turned over to the Europeans. As it is the only permanent naval force at Naples, this is of great tangible value and will be preliminary to the Europeans assuming the full Naples command for the first time.

5) The Europeans will begin to deploy their new, professionalized forces and will commence joint exercises with the US, illustrating they are significantly reducing the war fighting gap.

6) The US shall then cede the overall Naples command to a European general officer, retaining the air force sub-command. It will take the Europeans a very long time to catch up with the Americans at Naples in terms of air capability, and in the interim the US should retain control over what will largely be American troops. As the Naples command shifts to European control, the Europeans must deploy more naval forces there, until at least half the forces quartered at Naples are European. At this juncture, the command will be exchanged.

7) Once the Europeans have command at Naples, the North Atlantic Council will come to a decision to adopt as policy the possibility of US-led CJTFs. At the end of this process, NATO, through burden sharing commitments and power sharing benefits, will be genuinely reformed.

**Options to the Grand Bargain**

If the Europeans collectively reject The Grand Bargain, the US must immediately and publicly place another proposal before them. At a minimum, the US should insist the European countries that fail to improve their military capabilities in line with The Grand Bargain should at least contribute a like amount financially to all multilateral combat activities. The principle that all countries that are part of NATO ought to contribute either compatible military assets or, if they fail to do so, the equivalent in financial resources must be enshrined as NATO doctrine. Second, during a given military campaign, the country with the greatest quantity of trained personnel and sophisticated equipment in the line of fire should assert the primary decision-making voice in conducting military operations. At a minimum, for a seat at the decision-making table, all allies must financially contribute their fair share to such operations. This plank reaffirms the indissoluble link between burden sharing and power sharing.

What if the Europeans reject this proposal as well? At some point, the Europeans must understand that the United States must make significant adjustments to its overseas deployments with or without European approval of a NATO reform concord. As David Gompert and Richard Kugler argue, “The allies lack motivation to remedy their shortcomings, knowing that the US can and evidently will protect common interests with or without them.”

Given America’s historical record of backing down rather than confronting US allies, it is easy to see why the Europeans might not take newfound American resolve seriously. If the Europeans continue to reject the concept of reciprocity at the heart of The Grand Bargain or its alternative, the
US must reconsider its position within the alliance. This would mean significant unilateral troop redeployments away from Europe; if the allies are not prepared to significantly contribute to the defense of their own national or regional interests, why should the US shoulder a majority of the burden? American leadership is vital to pull together two contrasting themes: the seriousness with which the US takes these NATO reform proposals and the fact that US desire for reform springs from its sincere commitment to a revitalized NATO capable of preserving the precious transatlantic link.

There is a third possibility representing the most likely outcome of this attempt at NATO reform. It is clear that a melding of the two plans is possible. Suppose France and Britain embrace The Grand Bargain and Germany, Spain, and Italy (the primary laggards at the current time) reject it. Britain and France, as two countries already committed to significant military reform, could rather quickly implement their obligations under The Grand Bargain. In this case, the Naples command would be turned over to either British or French leadership. The Germans, Spanish, and Italians would be presented with the optional plan, whereby they would be forced to contribute more financially or lose their significant decision-making say within the alliance. If they refused the alternative plan, the United States should reassess its policy towards NATO.

That is not to say the US should withdraw from Europe; it should only engage in peacekeeping, out-of-area, and non-Article V missions when its national interests are at stake through the utilization of a CJTF as opposed to a full alliance operation. The US, as a condition for participating in future CJTFs, should stipulate that only those European allies who have adhered to The Grand Bargain can join the US in having decision-making powers for operational and strategic decision-making within the CJTF structure. This standard should hold true whether a European power or the United States proposes the CJTF. This policy will allow the US to work closely with those nations truly committed to NATO reform while serving as a positive incentive for countries not presently committed to The Grand Bargain. This outcome would leave a multi-speed NATO, with an inner ring of states committed to a flexible, equitable military alliance.

CONCLUSION

With the end of the Cold War, the truths that have governed American foreign policy for the past 50 years have outlived their usefulness. One of the major truisms of the era was that Western Europe was too vital an American interest and in too perilous a position for the US to pressure the allies into making a more significant military and financial contribution to NATO. While this may well have been good policy at the time, giving Europe a free ride in the post-Cold War era is no longer in America's interests. It is up to the new president to provide real leadership to convince the allies America is in earnest regarding NATO reform, and to reassure them of its continued commitment to the transatlantic link. Matching rhetoric to policy goals will rebuild US credibility, a credibility that is essential for The Grand Bargain to become a reality.

Finally, the European allies must be made to look at The Grand Bargain pragmatically, for such an accord is certainly in their interests. For Europe to go it alone in terms of its military looks like a pipe dream in the wake of Kosovo. Further, if the Europeans balk at The Grand Bargain, saying the Maastricht strictures on their fiscal policies prohibit increased defense spending, they should consider the alternative. For the allies to have to manage defense-related threats like Kosovo primarily on their own would mean a doubling or trebling of their current defense budgets, not the modest increase The Grand
Bargain entails. American policy-makers should privately make clear to the allies that a crippled NATO (beyond Article V) would not only be a massive geopolitical setback for the US, but also an absolute disaster for the Europeans, politically, economically, and militarily. The alliance has served us all well for the better part of 50 years, as a bulwark of freedom against its foes in an uncertain and often hostile world. Certainly such an organization is worth modernizing and preserving for the challenges of the future.

Notes


3 Drozdak, ibid.


7 ibid., p.5.


11 American resentment over the unequal distribution of the military burden can best be observed in the debate over recent legislation presented in both houses of Congress addressing the European allies contribution to the Kosovo operation. In May, an amendment to the defense appropriation bill offered by Senators Byrd and Warner would have cut off funding for American participation in the operation if the White House could not certify the European allies were meeting certain burden sharing goals. The Byrd-Warner amendment was defeated by a close vote of 53-47; however, this defeat was due to certain provisions in the bill which were viewed by many as an over extension of Congress’s role in foreign affairs. Representative John Kasich (R-OH), who offered a similar bill to the defense authorization bill, then picked up the burden sharing banner. Kasich’s amendment included more stringent burden sharing criteria than Byrd-Warner without the congressional prerogative clauses that doomed that amendment. Kasich’s initiative passed the House 264-153 and, at the time of writing, was still being considered in the House-Senate conference committee. The overwhelming support the burden sharing elements of both amendments received from the people’s elected officials in the House and Senate illustrates the growing impatience surrounding this issue.


15 O’Hanlon, ibid., p.10.


17 Daalder and O’Hanlon, ibid., p.38.

18 Mandelson, Peter. “NATO: Not Behind the Times,” The Washington Post,
September 5, 1999.
25 This concept was kindly suggested to me by Dr. Kim Holmes, Vice President, Kathryn and Shelby Cullom Davis International Studies Center, The Heritage Foundation.

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SUPREME ALLIED COMMANDER, EUROPE (SACEUR)
General Wesley Clark, US Army

Deputy Supreme Allied Commander Europe (DSACEUR)
Gen. Sir Rupert Smith, UK

Allied Forces North (AFNORTH)
Brusselxum, The Netherlands
CINCNorth: Reunits among members of the British and German General Staffs.

Allied Forces South (AFSOUTH)
Naples, Italy
CINCSOUTH: Adm. James Ellis Jr., US Navy
DCINCSOUTH: Lt. Gen. Efiyminnis Petinos, Greek Army
COS: Lt. Gen. Carlo Caligiau, Italian Army
DCOS: Maj. Gen. Pasquale Verdecchia, Italian Army

Air Forces, South (AIRSOUTH)
Naples, Italy
COMAIRSOUTH:

Naval Forces South (NAYSOUTH)
Naples, Italy
COMNAVSOUTH:
Adm. Giuseppe Spinazzii, Italian Navy

Naval Striking and Support Forces, Southern Europe (STRIKEFOR SOUTH)
COMSTRIKEFOR SOUTH: Vice Adm. Daniel Murphy, Jr., US Navy
Note: At the present, this force is predominately comprised of the US 6th Fleet

Joint Command, South East (JCSOUTHEAST)
Izmir, Turkey
COMJCSOUTHEAST:
Gen. Tamer Akbas, Turkey
DCOMJCSOUTHEAST: American Lt. General
COS: Greek Major General

Joint Command, South West (JCSOUTHWEST)
Madrid, Spain
COMJCSOUTHWEST:
Lt. Gen. Juan Narro Romero, Spanish Army

Joint Command South
(JCSOUTH)
Verona, Italy
COMJCSOUTH:
Gen. Giuseppe Ardito, Italian Army

Joint Command South
Central (JCSOUTHCENT)
Larissa, Greece
COMJCSOUTHCENT:
Lt. Gen. Emmanouil Mantranis, Greek Army
DCOMJCSOUTHCENT: US Major General
COS: Turkish Major General
Command begins operation in March of 2000, fully operational in 2002.

Standing Naval Force for the Mediterranean (STANAVFORMED)
COMSTANAVFORMED: Rotates among Members:
Currently: Rear Adm. David Saine, US Navy

Mine Counter-Measures Force for the Mediterranean (MCMFORMED)
COMMCFORMED: Rotates among Members:
Currently: Cdr. Michele Cassotta, Italian Navy
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Throughout the country, suburbs continue to pop up and sprawl out. Metropolitan areas are composed of a rapidly growing number of municipalities, creating a dizzying number of competing and overlapping jurisdictions within a single region. The fragmented nature of metropolitan governments hampers many policy solutions to urban problems including unemployment, concentrated poverty, and school quality.

The basic premise of Reflections on Regionalism is that many of the problems that exist in America's metropolitan areas are being evaluated at the wrong level. Instead of many small municipal governments working toward solutions, metropolitan governments or regional coalitions would be more efficient in addressing the problems pressing urban areas today.

Reflections on Regionalism is an interdisciplinary collection of essays by historians, political scientists, advocates, and politicians that illustrates some of the benefits and common pitfalls of regional governments and local coalitions. The book emphasizes how difficult regional solutions can be to enact. Struggles over property values, land use, and political power are intensified when regional solutions are proposed.

The book provides some historical context for current debates about regionalism. In the late nineteenth century, Manhattan responded to growing sprawl and fragmentation by annexing surrounding areas to create what is now New York City. Henry Richmond’s chapter on land-use reform includes a compelling analogy comparing the current fragmented structure of local governments to the fragmented governance concerns early in this nation’s history. Both the historical and current structures of fragmentation “prevent the American people from democratically determining matters” (p. 37) that directly and daily affect their lives. Metropolitan areas are this nation’s basic economic units, and government, planning, and business decisions would be more efficient if they were made at this level.

For those well versed in the issues of regionalism or local government coalition building, the experiences of Portland and Minneapolis will be familiar. It is disheartening to see these two examples used so often, but there have been few other metropolitan areas that have been able to forge successful coalitions to create "regional" governments.

Each author stresses that local politics matter. Forging alliances and developing regional plans require the efforts of passionate local leaders. Coalitions require strong local leadership, weak opposition, and racially homogeneous populations. Business coalitions are important, but several authors stress that it would be unwise to rely on them to the exclusion of public governments.

The interaction between race and regionalism is only marginally addressed throughout the book. Two chapters focus on race, making an essential contribution to a serious examination of regionalism and contemporary political considerations.
Historian Kenneth Jackson examines the historical roots of racial politics and the rise of racially and economically segregated cities. Law professor John Powell (sic) considers how the racial politics of whites, blacks, and other minority groups work against regionalism. Dissenting from the other authors, Paul Dimond implies that regionalism acts to constrain choices for some to increase opportunities available for others. He calls for allowing people the freedom to vote with their feet. Proponents of regionalism do not refute this, but they argue for also leveling the fragmented playing field that exists within metropolitan areas. Dimond’s ideas perpetuate myths about the free market (for example, with regard to housing options), and fail to sufficiently address the numerous constraints faced by low-income and minority families when trying to find a place to live.

Many of the lessons offered in this book emphasize the tenuous nature of regional coalitions and the need for constant grassroots support for them. In that regard, this book leaves the reader with a rather pessimistic hope for future attempts at regionalism; however, overall the essays emphasize that successful regional solutions must include coalitions at many levels and among a wide variety of local civic, political, and governmental groups.

Laura E. Harris
Metropolitan Housing and Communities, The Urban Institute


This slender, superficial but useful book is an analysis of initiatives undertaken since the early- to mid-1980s by the US and a number of other countries to reform their systems of public management. Author Donald Kettl, professor of public affairs and political science at the University of Wisconsin, is a longtime observer of the US reinventing government initiative, reflected in his 1998 book “Reinventing Government: A Fifth Year Report Card” (Brookings 1998). The other countries discussed are New Zealand and the United Kingdom and, to a lesser extent, Denmark, Sweden, and Finland. Some of the material is drawn from a Global Forum on reinventing government held in Washington, DC in January 1999.

There is a growing literature on what is frequently called the “new public management,” in which the initiatives of different countries are analyzed and compared. This has lead to lengthy and inconclusive discussions on whether these comparative experiences represent convergence or divergence. Kettl’s book provides a US perspective and also reflects a US interest in learning from the reform experiences of other countries whose initiatives generally predate US efforts at “reinventing government.” In terms of learning from others, however, it is surprising to find almost no discussion of the earlier, continuing, and high profile efforts of a number of US state and local governments to reform their public management.

Kettl’s description of the scope and components of public management reform reflects the international literature. Public management reform is seen as focusing on improving government productivity, introducing market type instruments such as contracting out and competition in service delivery, developing a service orientation in government, decentralizing operations to other levels of government, improving policy development and monitoring, and establishing accountability for results.

Kettl also draws the important distinction between the “what” and the “how” issues of government, that is, between what government should do and how it manages itself internally. Thus public man-
agement reform is much broader than “technocratic” issues of internal budgeting, personnel, and procurement systems in the public sector, however important these may be. Public management reform is also part of a fundamental debate about “government” issues—the relationship between government and civil society and government’s capacity to involve and satisfy citizens.

The book then reviews origins of US and international reform efforts and goes on to provide a rather brief and necessarily superficial description and evaluation of these efforts. Perhaps too much attention is paid to the New Zealand reforms, which have been much studied but little copied, reflecting the relatively unique position of that country at the time of its reforms. Although Kettl realizes that such reforms often involve politics, and that reform rhetoric may be different from reform reality, his assessment of the New Zealand reforms seems optimistic.

Kettl’s conclusion is that US reinvention efforts showed real results in the first five years through cost savings and greater customer and performance focus. However, the efforts have failed to develop the capacity required in the federal government to deliver policies and programs through new arrangements with state and local governments, and with other service providers. This book will give the reader a quick feel for what public management reform and its US reinvention example are all about.

David Shand
World Bank


Imagine a cyber-democracy where every American is fully informed and engaged in the public policy process: a direct vote on every decision, every issue—one continual plebiscite. Sound probable or practical? Some Internet analysts and political scientists predict the Internet will foster such a direct democracy. In Web of Politics, Richard Davis disagrees. “Rather than acting as a revolutionary tool rearranging political power and instigating direct democracy,” writes Davis, “the Internet is destined to become dominated by the same actors in American politics who currently utilize other mediums.”

Davis focuses his argument not on the feasibility of direct democracy, but on whether the Internet can provide it. Herein lies a strategic fault in the book’s thesis. The Internet may not foster direct democracy because, in reality, direct democracy may not be possible. In a government where every member of Congress has a full-time staff dedicated to tracking policy information, it seems unlikely that the average citizen could make informed policy decisions in their spare time.

Although Davis does not consider the overall practicality of direct democracy, he considers the argument that the Internet may become the equivalent of a congressman’s staff. He disputes this position by arguing two points. First, information on the Internet is biased because it is filtered through traditional political players—conventional news outlets, interest groups, associations, etc. Secondly, even if information was unbiased and widely available, the average American is not interested enough in the policy-making process to become an active agent.

Web of Politics is a well-researched volume on the historically dominant political players on the Internet. Davis offers compelling evidence that traditional dominance will continue, but he fails to recognize that this dominance may have positive influences on the American political process. Easy access to such outlets provides greater incentive for citizens on the margins
of engagement to become more involved—the union member in opposition to NAFTA, the senior citizen without prescription drug coverage, or the voters last winter inspired by John McCain’s victory in the New Hampshire primary who flooded his website to make campaign contributions. These individuals may access the websites of currently dominant players—the AFL-CIO, the AARP, the candidate—but will become part of the process because the Internet has made it easier for them to do so. The potential impact of the Internet on the American political system lies here, not in direct democracy.

Overall, Richard Davis presents a concise analysis of current interests represented on the Internet. Although most likely correct in predicting that the Internet will not become the tool of direct democracy, the author does not give much consideration to other impacts the Internet may have on the political process. The book serves as a good resource for grounding analysis of the Internet’s role in affecting policy today, but could go further in speculating the Internet’s effects tomorrow.

RACHEL KERESTES
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It is patently false to say that market-based reforms for our nation’s schools have lost saliency, despite a recent Phi Delta Kappan poll indicating that public support for market-based reforms is declining. This November, voters in California and Michigan faced ballot initiatives creating large-scale voucher programs. Thirty-six states currently have legislation supporting charter schools; smaller-scale experiments are also underway in the District of Columbia, New York City, Dayton, Ohio, and Milwaukee, Wisconsin.

Designed to infuse market competition into public schools and provide a better route to academic success for students failing in public classrooms, these experiments do not begin to match in scale the changes experienced by New Zealand in 1989. In the same year that President Bush and the nation’s governors agreed to set education goals in the United States, New Zealand embarked on what Edward B. Fiske and Helen F. Ladd state was “arguably the most thorough and dramatic transformation of a compulsory state education system ever undertaken by an industrialized country” (p. 3). The scale of this experiment and the deft weaving of qualitative and quantitative data make Fiske and Ladd’s collaboration on When Schools Compete: A Cautionary Tale a profoundly important read for policymakers and public citizens.

The experiences of New Zealand schools with site-based management are similar to those in the United States. The authors observed varying degrees of local capacity for school management among principals, teachers, and the community members serving on boards. Teachers similarly report that the time required to perform management duties took away from the first order of instruction. The authors’ analysis of enrollment, funding, test results, and housing data for the three urban areas of Auckland, Christchurch, and Wellington improves the generalizability of the findings to the urban American schools currently testing private school vouchers.

Importantly, Fiske and Ladd also found that managerial interventions are insufficient to solve the problems of schools serving disproportionate numbers of disadvantaged students. Following the introduction of parental choice in 1991, enrollment in New Zealand moved toward schools serving more students with higher socioeconomic resources and fewer ethnic minority students. Minorities are now
more concentrated in poor performing schools. States like Louisiana, North Carolina, Maryland, Indiana, and Texas have implemented policies requiring direct intervention in low performing schools if standards are not met within a period of time. These states should note the authors’ recommendation that efforts to improve teaching and learning must accompany any managerial efforts to improve low performing schools.

Left unanswered by the authors’ research is the fundamental question: did market-based reforms improve academic achievement, controlling for students’ socioeconomic characteristics? This glaring omission is not the fault of the meticulous researchers but the product of New Zealand’s political reluctance for national tests and ill attention to measuring value-added performance. Even without this evidence, recent research presented at the American Political Science Association by Howell, Wolf, Peterson, and Campbell, which did show measurable gains on standardized assessments for black children, continues to give credibility to these strategies.

Fiske and Ladd conclude their research by commenting, “New Zealand’s experience with Tomorrow’s Schools demonstrates that reformers in other countries who are tempted to put their faith in simple governance solutions to complex questions of educational quality are likely to find them wanting” (p. 13). Indeed, choice is not a panacea.

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