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Policy, Politics, and Paradox: The Institutional Origins of the Great American Gun War

Cover Page Footnote

Visiting Assistant Professor of Public Policy, Georgetown University. This Essay is adapted from the author's doctoral study, *Disarmed: The Real American Gun Control Paradox*, which won the American Political Science Association's 2003 Harold Lasswell award for best dissertation in public policy.

POLICY, POLITICS, AND PARADOX: THE INSTITUTIONAL ORIGINS OF THE GREAT AMERICAN GUN WAR

*Kristin A. Goss**

INTRODUCTION

More than a decade ago, an Internet entrepreneur named Mike Godwin coined Godwin's Law of Nazi Analogies. Roughly translated, the law is as follows: "As an online discussion grows longer, the probability of a comparison involving Nazis or Hitler approaches one," or 100% certainty.¹ What is true in the virtual world of political debate is also true in its real-world manifestation: Winning often entails finding the harshest rhetoric possible to demonize the opponent. In America, that typically means portraying the opponent as a threat to democratic values. There is perhaps no better example of this demonizing dynamic at work than in the politics of gun control. Even as groups favoring gun control have portrayed their gun rights opponents as angry gun nuts who don't care about victims of firearms violence, gun rights advocates have portrayed gun control advocates as "gun grabbers" whose pointy-headed liberal ideas would trample constitutional rights and bring down American democracy. To make their point, consistent with Godwin's Law, gun rights supporters compare gun control advocates to Hitler's Nazis²—or, in a variant, Stalin and his totalitarian sympathizers.³ The shrill rhetoric on both

* Visiting Assistant Professor of Public Policy, Georgetown University. This Essay is adapted from the author's doctoral study, *Disarmed: The Real American Gun Control Paradox*, which won the American Political Science Association's 2003 Harold Lasswell award for best dissertation in public policy.

1. Mike Godwin, *Meme, Counter-meme*, Wired (Oct. 1994), available at http://www.wired.com/wired/archive/2.10/godwin.if_pr.html.

2. The Nazi analogy is embodied in a 1997 speech by the National Rifle Association's then-President, Charlton Heston, in which he said: "The Nazis forced [Jews] to wear yellow stars as identity badges. It worked. So—what color star will they pin on gun owners' chests?" Violence Policy Ctr., National Rifle Association Information, (Dec. 7, 1997), at <http://www.vpc.org/nrainfo/speech.html> [hereinafter Heston]. For more examples of rhetoric comparing gun control advocates to Nazis, see Bernard E. Harcourt, *On Gun Registration, the NRA, Adolf Hitler, and Nazi Gun Laws: Exploding the Gun Culture Wars (A Call to Historians)*, 73 Fordham L. Rev. 653 (2004).

3. The Communist analogy, which was popular during the Cold War, is embodied in a 2002 announcement by the Tyranny Response Team's Maryland chapter: "Commie Mommies and other miscellaneous/misguided gun-grabbers held a

sides of the “great American gun war”⁴ has made gun control a staple of America’s broader culture war.

How did this come to pass? After all, many modern industrialized democracies, from Canada to Great Britain to Australia, have enacted strict firearms regulations without sparking cultural warfare. Likewise, polls taken in the United States as far back as the 1950s have found that, far from being a kooky idea championed by political extremists, gun regulation enjoys the support of Americans of all social and political stripes.⁵ Even gun control’s most outspoken proponents are thoroughly mainstream: urban politicians and suburban parents; graduates of leading educational institutions and titans of industry; good-government reformers; mainline Protestants and Jews; and relatives of crime victims. In 2000, several hundred thousand people descended on Washington and more than seventy other cities to demand legislative action on gun control. Survey evidence suggests that these were not Nazi or communist sympathizers, but rather middle-American small-d democratic mothers concerned about the risks that gun violence posed to children and other innocent citizens.⁶

Even though gun control has the makings of a mainstream consensus issue, it has been anything but. Instead, gun control has been characterized by political warfare—a combustible cycle of outrage, action, and reaction.⁷ In the cycle, a high-profile shooting outrages regular Americans; they act by proposing stricter gun controls; and this action causes gun rights supporters to react by, among other tactics, suggesting that gun regulation is just the first step down the slippery slope to fascism or totalitarianism. Thus, democratic supporters of gun control inevitably are portrayed as modern-day Nazis who would force gun owners to wear an identity badge and confiscate their means of self-defense, or, in the alternative, gun control supporters are “Commie Mommies” who would support a totalitarian state against the individual patriot.⁸ Although no national survey has explored the extent to which everyday Americans liken gun control advocates to Hitler or Stalin, there is some evidence that gun-rights advocates’ slippery slope argument—that gun regulation

meeting . . . to discuss how to make disarmament of law-abiding citizens more palatable to the masses.” Md. Tyranny Response Team, Maryland TRT Confronts Axis of Evil in Virginia and D.C. (Feb. 2002), available at <http://www.trt-md.org/pictures/02232002/report.html> [hereinafter Md. Tyranny Response Team]. For more examples of rhetoric comparing gun control advocates to communists, see Carl Bakal, *No Right to Bear Arms* (1968) and Robert Sherrill, *The Saturday Night Special* (1973).

4. B. Bruce-Briggs, *The Great American Gun War*, 45 Pub. Int. 37 (1976).

5. Kristin Anne Goss, *Disarmed: The Real American Gun Control Paradox* (2002) (unpublished Ph.D. dissertation, Harvard University) (on file with author).

6. *Id.*

7. Robert J. Spitzer, *The Politics of Gun Control* (3d ed. 2004).

8. See Heston, *supra* note 2; Md. Tyranny Response Team, *supra* note 3.

inevitably leads to gun confiscation—has been effective. A 1996 survey found that 57% of Americans were “very” or “somewhat” concerned that handgun registration would lead the government to try to confiscate those guns.⁹ Likewise, even as most Americans oppose gun rights groups’ policy positions, Americans view the most visible of those groups—the National Rifle Association (“NRA”)—more favorably than unfavorably.¹⁰

Thus, gun control poses a puzzle. Empirically, it would appear that its supporters are harmless mainstream, small-d democrats—soccer moms and the like. And yet, gun control opponents have credibly portrayed gun control supporters as dangerous anti-democratic extremists. If the reassuring demographic portrait is correct, why does the scary cultural portrait resonate? This Essay examines one side of the culture war: how gun control advocates came to be credibly portrayed as a fringe element with dangerous ideas, even though their policy proposals are well within the international democratic mainstream and a majority of everyday Americans support their cause.

There are many possible explanations for this phenomenon, but the core explanation is an institutional one. It is centered on the peculiar logic of voluntary collective action within a federalist system. The argument is as follows. Because of macro-political and organizational imperatives, early gun control organizations chose policy-driven strategies that made little political sense. In doing so, gun control advocates inadvertently allowed the opposition to portray them as dangerously out of touch, as modern-day Nazis in our midst. This portrayal was mere political rhetoric, of course: Gun control advocates were not fascists bent on destroying democratic traditions, but rather democratic citizens who felt morally obliged to take swift, bold steps to stop escalating gun violence in America. But, beginning thirty years ago, when the national campaign for gun control began coming together in earnest, these early advocates played a key role in their own demonization and contributed to an image that would hamper the work of leaders who would succeed them.

For reasons that had an inescapable logic, these early leaders embraced a comprehensive policy approach—what I call the “rational-national” strategy—that was out of synch with American cultural traditions and political realities. From the standpoint of policy analysis, their rational-national strategy made sense, for reasons I explore below. However, from the standpoint of politics—especially the cultural politics emerging in the mid-1970s—the rational-national strategy made little sense. Gun control advocates

9. Nat’l Opinion Research Ctr., National Gun Policy Survey (1997) (on file with author).

10. Gallup Organization poll (April 26, 1999) (on file with author); *see also* Gallup Organization poll (April 7, 1999) (on file with author).

faced a tradeoff between good policy and good politics—what I call the “policy-politics paradox.” On the horns of a dilemma, they chose good policy, and that early choice has structured the culture war over guns to the present day.

In Part I, I provide the theoretical overview of the policy-politics paradox, showing how it is rooted in institutional constraints at the structural and organizational levels. In Parts II and III, I then provide a brief history of the gun control campaign in America, demonstrating how leaders negotiated the policy-politics tradeoff. Finally, in Part IV, I discuss more specifically the mechanisms linking structural and organizational imperatives to the culture war over guns in America.

I. THE POLICY-POLITICS PARADOX

In a socially integrated yet politically fragmented political system, one often must choose between pursuing good politics and pursuing good policy. By “good,” I simply mean effective: Good political strategies are those that efficiently translate policy proposals (bills) into enacted legislation (laws); in turn, good policies are those that produce the behavioral outcomes envisioned in the policy design. Instead of going hand-in-hand, good politics and good policy are typically at odds. Pursuing effective policy options often means pursuing ineffective political strategies. Conversely, playing pragmatic politics often means abandoning the dream of sound policy. In the case of gun control—and presumably other issues—advocates have opted for smart policy over smart politics.

It is strange to think that good politics and good policy should conflict. That very notion challenges a core tenet of pluralistic democracy: that the marketplace of political strategies and ideas will inevitably produce “the right policy” in a normative or empirical sense. We know this is not true, of course; politics, just like the economy, has its market failures. But the vision that good ideas will be rewarded in political markets is a powerful one; it lets us have faith in democracy. Yet, upon closer inspection there is no reason to believe that good policy and good politics should naturally go hand-in-hand—and every reason to believe that they will not. The reason is as old as the Constitution itself.

The United States was founded on the principles that political power should be (1) dispersed through federalism and (2) subject to checks and balances through the separation of powers. As James Madison wrote in *Federalist No. 51*, “[a]mbition must be made to counteract ambition.”¹¹ Having just won a war against a distant tyrant, the framers took great care to ensure that a homegrown tyranny could never arise. In advocating a true national government to replace the existing confederation of states, the Federalists and the

11. The *Federalist* No. 51, at 349 (James Madison) (Jacob E. Cooke ed., 1961).

Anti-Federalist opposition created a system that was rigged to stymie bold policy change. The executive was given little role in domestic affairs, which Madison in *Federalist No. 45* indicates would be mostly the province of the states.¹² Likewise, the framers limited Congress to a list of enumerated powers and, under the Tenth Amendment, gave states authority over everything else, unless otherwise denied to them. The framers envisioned a system in which state legislatures would counterbalance the new national government by having substantial policymaking authority and fashioning laws that would be sympathetic to local conditions. In sum, the framers consciously designed a decentralized republic that would thwart the grand ambitions of national policy makers for centuries to come.

In terms of checks and balances at the new national level, the framers designed a system in which no single branch could prevail without the consent of the others. For example, Congress could pass a law, but the President could veto it. After *Marbury v. Madison*,¹³ which solidified the framers' intent articulated in *Federalist No. 78*,¹⁴ the Supreme Court could void laws as unconstitutional. Likewise, the President could appoint key members of the domestic and foreign policy apparatus, but the appointments had to achieve the consent of the Senate. The judicial branch could issue rulings, but having "no influence over either the sword or the purse,"¹⁵ it had to rely upon the executive and legislative branches to give practical meaning to court decisions. Although the framers liked to rail against the "mischiefs of faction,"¹⁶ they empowered these factions—and the policy gridlock they enable—by creating a system with many independent power centers and, by extension, multiple "veto points." Thus, like federalism, the separation of powers stymied swift, bold policy action.¹⁷

Since the Constitution was ratified, American politics and society have evolved in ways that have both undergirded and undermined the framers' institutional design. Three developments have been especially important. The first is that politics has become even more fragmented and decentralized. Congress, for example, has organized itself into committees and subcommittees with overlapping jurisdictions and independent gatekeeping authority. A competitive party system has evolved, and for at least thirty years divided government has become the norm rather than the exception. Interest groups and the mass media have become contenders for power,

12. The *Federalist No. 45*, at 313-14 (James Madison) (James E. Cooke ed., 1961).

13. 5 U.S. (1 Cranch) 137 (1803).

14. The *Federalist No. 78* (Alexander Hamilton) (James E. Cooke ed., 1961).

15. *Id.* at 523.

16. The *Federalist No. 10*, at 58 (James Madison) (James E. Cooke ed., 1961).

17. Sven H. Steinmo, *American Exceptionalism Reconsidered: Culture or Institutions?*, in *The Dynamics of American Politics: Approaches and Interpretations* 106 (Lawrence C. Dodd & Calvin Jillson eds., 1994).

playing a key role in framing issues and setting the political agenda. The second development is that the national government has grown in power and importance, beginning with the New Deal and escalating through the Great Society and beyond. Drawing on the Interstate Commerce Clause and the “elastic clause” of the Constitution, Congress has expanded its policymaking jurisdiction. Drawing on the inherent executive powers, also in the Constitution, and on their ability to “go public”¹⁸ in a media age, presidents have sought to set the agenda and legislate through executive orders and so forth. The third development is a social and economic one. The development of railroads, automobiles, interstate highways, and airlines has meant that people, products, information, norms, and so forth move at lightning speed across state lines. The nation has become smaller. The move from an agrarian to an industrial economy has encouraged mass migration from the south to the north, and, recently, back to the south, blurring longstanding cultural allegiances. Social homogenization has been matched by political homogenization. Drawing on the Fourteenth Amendment, which requires states to provide all citizens equal protection and due process under law, the Supreme Court over the past century has greatly constrained states’ authority to do what they want and, by extension, conferred on the national government the authority to determine what is good for all people.

Thus, twenty-first century issue advocates find themselves facing two conditions: political fragmentation and social integration. Political fragmentation, rooted in the Constitution and exacerbated by modern developments, powerfully constrains enactment of bold, rationally comprehensive, and nation-spanning policy interventions. On the other hand, social integration, rooted in the industrial and technological revolutions, would seem to require precisely such policies. Thus, gun control advocates faced countervailing pressures: constraints imposed by the Constitution and modern political fragmentation, on the one hand, and the call of national power and homogenization, on the other. Indeed, these competing conditions were coming to a head in the mid-1970s, precisely as gun control advocates were first attempting to form a national movement. Thus, gun control advocates found themselves at a historic moment in which fundamental institutions and modern exigencies came into conflict—the politics that the framers had locked in two centuries earlier versus the politics that modern men were trying to make in the here and now. For cultural and policy reasons, gun control advocates chose the politics of the here and now.

18. Samuel Kernell, *Going Public: New Strategies of Presidential Leadership* (3d ed. 1997).

In concrete terms, gun control advocates sought a model of policy change that was an anathema to the framers' design but in keeping with the "big government" model that had begun with Franklin Roosevelt's New Deal in the 1930s and continued under Lyndon Johnson's Great Society in the 1960s. The gun controllers' vision was what I term the "rational-national" model of policy reform. The rational-national model was the approach that expert policy analysts would design, for it was based on unassailable policy logic. For laws to be effective, they must, above all else, allow for no loopholes. Both the "rational" and the "national" prongs were aimed at preventing loopholes that might be exploited so as to undermine the entire policy regime. These prongs are considered in turn.

By "rational," I mean that the policy proposal was both (1) strict and (2) comprehensive. Laws that imposed only mild restrictions on firearm sales and possession would be easily circumvented or abused by people with violent intentions. Likewise, laws that allowed most people to have access to firearms, while screening out only potentially dangerous individuals, would put enough guns in play that the legal distinction between prohibited and non-prohibited persons would become irrelevant. By "national," I mean that the policy would emanate from Congress and override weaker state and local laws. The national approach is also rooted in policy logic: Because people and products move freely among jurisdictions, only national laws can prevent weak-regulation jurisdictions from undermining the efforts of strong-regulation jurisdictions. The rational-national advocates' logic was straightforward and consistent with credible assumptions about human nature. In the quest for firearms, bad guys will find a way to evade state and local laws and to find loopholes in weak national laws. Therefore, the only effective gun control regime would have to be big and bold.

A. *If Not Rational-National, Then What?*

The alternative to a rational-national strategy is an incremental one. Incrementalism refers to small policy steps that might be expected to aggregate toward ever larger political goals. There are two types of policy incrementalism that increase the probability of momentum at the organizational level, and therefore of efficacy at the individual level. I label them "vertical incrementalism" and "horizontal incrementalism."¹⁹

19. John Kingdon coined the term "rational comprehensive" to refer to strategies that defy horizontal incrementalism. See John W. Kingdon, *Agendas, Alternatives, and Public Policies* 77-78 (Addison-Wesley Educational Publishers, Inc. 2d ed. 1995) (1984). My term, "rational-national" is broader, accounting for the defiance of vertical incrementalism, as well.

“Vertical incrementalism” refers to the process of making policy at lower levels, and allowing those successes to influence policymaking at higher levels. Vertical incrementalism is particularly suited to federalist systems, in which policymaking authority is decentralized—vested in neighborhood, municipal, county, and state units, with national units the last resort in most cases. Frank R. Baumgartner and Bryan D. Jones note that issue advocates often move among levels of government—different “policy venues”—to find the most sympathetic decision making audience.²⁰ Baumgartner and Jones conclude that “[d]ramatic changes in policy outcomes are often the result of changes in the institutions that exert control.”²¹ Vertical incrementalism is the concept that underlies calls for “grassroots movements,” “state laboratories,” and “letting a thousand flowers bloom.”

“Horizontal incrementalism” refers to the slow accretion of new regulations onto an existing body of law. To work politically, incremental policies should allow for, even beg, amendments that are on the path toward the advocates’ ultimate policy goal. That is, horizontal incrementalism is inherently instrumental, with each policy proposal representing a logical step in a long-term policymaking process. The regulatory framework can grow along two key dimensions: scope and severity. Scope refers to the number of parties affected; severity refers to the costs imposed on those affected by the policy. Incremental policymaking typically involves marginal changes that are portrayed by their partisans as mere corrections to flaws in existing laws. For example, John Kingdon found that policy elites viewed incrementalism “not as a description of the way the world is but as a strategy that one might use to manipulate outcomes . . . those who advocate major changes find they often must push for one small part at a time in order to move in their preferred direction.”²² Horizontal incrementalism is the construct that is tapped by such phrases as “plugging loopholes” and “small wins” (phrases used by advocates), as well as “the camel’s nose under the tent” (used by opponents).

Incrementalism represents the “sound politics” end of the policy-politics paradox. It is the strategy best suited to maneuvering in a system, like that of the United States, that is characterized by multiple veto points and the exigencies of intra-party bargaining. It is also the strategy most consistent with American political culture, whose core tenets include distrust of central authority and a belief in locally rooted problem solving. Incrementalism also makes particular sense in a winner-take-all electoral system, where the decisive votes are cast

20. Frank R. Baumgartner & Bryan D. Jones, *Agendas and Instability in American Politics* 31-35 (1993).

21. *Id.* at 33.

22. Kingdon, *supra* note 19, at 80.

by median “swing voters,” who are unlikely to support bold ideologically based policy proposals.

B. *Which Strategy to Pursue?*

In their heads, most social movement leaders—certainly those who have been around Washington for a while—understand that incrementalism may be the more politically feasible strategy. But in their hearts, most social movement leaders favor rational-national policies because these are most likely to solve the problem at hand. However, advocates do not all agree on the best way to secure rational-national reform. Social movements often divide over this fundamental question of strategy: Should the movement pursue a slow, laborious incremental approach that involves seemingly inconsequential local victories and unsavory compromises, or should the movement stick to principle and hope for that serendipitous yet rare political opportunity in which bold, national action is possible? The gun control “movement” eventually splintered over this very issue, but even the go-slow forces never truly embraced incrementalism. The next two parts trace that history; later, I examine the implications for the cultural politics of gun control.

II. THE “RATIONAL STRATEGY”

Initially, in the 1970s and through the early 1980s, most leading gun control advocates at the state and national levels advocated a boldly non-incrementalist strategy. Namely, they advocated a swift ban on the civilian possession of handguns, including those already owned. Their position was based on three arguments. First, most of the early activists were either religious leaders or victims of gun violence, and both groups had a strong moral objection to handguns, arguing that they had no place in civilized society. A popular slogan at the time was, “We need bullets like we need a hole in the head.”²³ Second, gun control advocates argued that handguns did more harm than good: They were ineffective in warding off criminal activity and in fact made violence and criminality easier to pursue. Third, the gun control advocates argued that only a complete ban would be effective. As the National Coalition to Ban Handguns contended in a 1975 statement:

Severe penalties won't work because criminals [sic] will not oblige by registering their guns or by leaving them behind at the scene of the crime. Banning Saturday Night Specials won't work because only 25 percent of the handguns extant are in that category. Licensing won't work because it would not screen out “crimes of passion” ordinarily committed by persons without a previous

23. *Ban Bullets for Hand Guns*, Time, Mar. 3, 1975, at 8.

conviction record. That leaves banning handguns. We believe that eliminating handguns will work.²⁴

Thus, for gun control advocates there were moral as well as rational policy justifications for removing handguns from civilian hands.

In advocating a handgun ban, however, gun control supporters fell into a principle-implementation trap. Buoyed by decades of polls showing a consistent and pronounced gun control consensus among the American public, advocates pursued a specific policy objective that most Americans by the 1970s did not support and that was sure to inflame the well-organized minority of gun-rights sympathizers. In places where the ban sentiment appeared stronger, gun control supporters understandably assumed that the support was firm, rather than vulnerable to doubt-raising pressure from the gun-rights side. In both cases, gun control advocates overestimated their ability to use a political campaign to persuade gun control sympathizers to become gun-ban voters. Conversely, they underestimated the ease with which the other side could raise doubts that would resonate with Americans' political predispositions to distrust government. Studies have shown that such principle-implementation problems are common in social-reform initiatives. In the classic statement of the problem, Anthony Downs argued that public support for reform is cyclical: Initial outrage over a problem and the clamor to solve it inevitably fade as people come to understand how costly the solution will be and how much they or others will have to sacrifice.²⁵

The story of how gun control leaders shunned horizontal incrementalism, and then belatedly embraced it, unfolds in several key periods: the mid-1970s, the early 1980s, and the late 1980s. In the 1990s, the movement divided again over the question of incrementalist strategies, suggesting that the gun control movement is weak in part because its leaders are at war with themselves. In the remainder of this part, I chronologically review the key battles over horizontal incrementalism and suggest how these battles have helped prevent a full-fledged, sustained gun control movement from developing.

A. *The Mid-1970s: Banning Handguns*

In the 1970s, four national gun control organizations came into existence. Two of them quickly established themselves as the leaders of the pack: the National Coalition to Ban Handguns ("NCBH")²⁶

24. Bishop James Armstrong, Statement for National Coalition to Ban Handguns (June 19, 1975) (on file with author) (emphasis omitted).

25. Anthony Downs, *Up and Down with Ecology—“The Issue Attention Cycle,”* 28 Pub. Int. 38 (1972).

26. LexisNexis, 123Student, at <http://www.123student.com/politics/3298.shtml> (last visited Oct. 22, 2004) (discussing the formation of NCBH and its subsequent name change to the Coalition to Stop Gun Violence); see also Coalition to Stop Gun

and the National Council to Control Handguns (“NCCH”).²⁷ Formed in 1974 as a consortium of women’s, civic, labor, and religious associations, NCBH sought national legislation to prohibit the import, manufacture, sale, transfer, ownership, possession, and use of pistols among the general public. NCCH, formed in January 1974, had the same goal. Upon its founding, this organization quickly became the wealthiest and most politically important gun control group in America—the de facto chief of the gun control “movement.” NCCH estimated that a national handgun ban could be enacted within eight years.²⁸

The opening salvos for the nascent gun control movement were moves to prohibit, directly or indirectly, private citizens from possessing or using handguns. Two of these efforts contemplated national action; two sought a change of state law; and one²⁹ sought a change in local law. The only effort that bore fruit was the local law, passed by the Washington, D.C. city council, which required the existing stock of handguns to be registered, prohibited handgun sales, and barred anyone not already possessing a handgun from legally owning one. The NRA filed suit to reverse the council’s action, but the law was upheld. The other four efforts failed.

The first of the failed ban proposals came in the form of a bill in Congress introduced by Rep. John Conyers (D-Mich.) in 1975, following extensive hearings around the country. Gun control advocates fixed their hopes on the Conyers bill, refusing to accept anything less. Ban proponent Rep. Abner Mikva (D-Ill.) pulled together an advocacy coalition of interest groups and lawmakers to push for a “strong bill,” but he was quick to add that legislation requiring national gun registration would clearly not be strong enough.³⁰ When the Ford Administration forwarded a bill that would have banned domestic manufacture of cheap and poorly made handguns, known as Saturday Night Specials, the NCCH and other advocates publicly opposed the proposal, calling it “a disaster” that “is the illusion of control, not the reality.”³¹ The ban bill sponsored by Conyers and backed by gun control elites did not even make it out of the subcommittee; in fact, Conyers was the only subcommittee member who voted for it.

Violence, Homepage, at <http://www.csgv.org/> (last visited Oct. 22, 2004) (noting the creation of the group in 1974).

27. Nat’l Council to Control Handguns, A Proposal for Support 6 (n.d.) (on file with author).

28. *Id.* at 3.

29. See D.C. Code Ann. §§7-2502.1 to -2502.14 (2000).

30. Ellis Cose, *Gun-Control Coalition Primed: Mikva*, Chi. Sun-Times, Oct. 7, 1975, at 21.

31. Nat’l Council to Control Handguns, *Handgun Control* (Oct. 22, 1975) (on file with author) (emphasis omitted) [hereinafter *Handgun Control*].

The remaining three initiatives were probably the most significant, from the standpoint of demonstrating broad public demand for gun control, because they represented attempts by gun control organizations to circumvent elected officials. These efforts garnered widespread media attention and had long-term repercussions for the politics of gun control in America.

The first was an attempt in 1974 to petition the newly created Consumer Product Safety Commission to ban handgun ammunition under the consumer product and hazardous substance laws. The Chicago Committee for Handgun Control, a voluntary group of mostly suburban women, initiated the campaign in response to a rapid increase in handgun crime in that city, but the committee aspired to effect policy change at the national level.³² As the “housewives against handguns” were gaining favorable publicity across the nation, the gun lobby organized a massive letter-writing campaign to stop them. These letters and other gun rights lobbying persuaded Congress to pass special emergency legislation exempting bullets from the Commission’s purview. Organizers had conceded that theirs was a long shot from the outset and that, if anything, they simply wanted to influence public opinion and “arouse commitment” to handgun control.³³

As the Chicago committee was organizing to ban bullets, gun control advocates in at least three other states were organizing to ban handguns altogether. One of these efforts, in California, was legislative. But the more nationally visible ban efforts were in Michigan and Massachusetts, where gun control supporters organized to place a handgun ban initiative on their respective state ballots in 1976.³⁴

Although the Michigan group did not succeed in gaining access to the ballot, the Massachusetts group did. Held in a politically liberal and gun control-friendly state, the initiative quickly became a political litmus test. Pro-control supporters had long argued that most Americans wanted stricter gun laws and that elected officials, beholden to the gun lobby, were standing in the way of the public will and the common good. The Massachusetts initiative tested this theory by taking the vote directly to the people, bypassing the ostensibly compromised lawmakers.

Sponsored by a citizens’ group, *People vs. Handguns*, the proposal garnered significantly more momentum than had Conyers’s bill. Indeed, because more than 100,000 Massachusetts voters (almost

32. Interview with Florence McMillan and Patricia Koldyke, Founders, Chicago Committee for Handgun Control, in Chicago, Ill. (Apr. 19, 2001).

33. John Lesar, *Gun Opponents Battle Ammo*, Atlanta J., Mar. 10, 1975, at 7B.

34. See *Act Before it Is Too Late*, Am. Rifleman, Sept. 1974, at 22; Clayton Jones, *Gun-Control Forces Say U.S. Is Ready to Restrict Weapons*, Christian Sci. Monitor, Dec. 27, 1974, at 1.

three percent of the adult population) signed petitions to get the initiative on the ballot, and because the initiative's sponsors were able to beat back myriad attempts to derail their campaign, the Massachusetts effort quickly took on tremendous symbolic meaning for the burgeoning gun control movement.³⁵

The NCCH recognized what it termed "the national importance" of the Massachusetts drive and gave *People vs. Handguns* \$16,000 to run television ads in the final days of the campaign.³⁶ A strategy document from the mid-1970s stated NCCH's intention to use the Massachusetts experience to guide a program of handgun ban initiatives from 1977 to 1982.³⁷ But the Massachusetts initiative failed: Voters rejected the proposed handgun ban by a margin of two-to-one.³⁸ This defeat profoundly influenced gun politics nationwide.

Soundly defeated at the polls, the gun control group *People vs. Handguns* disbanded in 1978. It did so because another initiative bid by law could not be tried until six years after the defeat and because the ban gambit had frozen supporters' momentum. As a result of the plebiscite, legislators would not support gun control legislation, "especially after the magnitude of the handgun ban defeat," and it is "next to impossible to keep a one-issue group financially solvent and active when there is no reasonable chance of success in the foreseeable future."³⁹

B. *After Massachusetts: Banning Under a Different Guise*

Before the Massachusetts defeat, leaders of the NCCH had speculated that an incremental strategy might be necessary: "the law may come in stages and each piece may be imperfect, but it will come," reads an organization-building document produced in late 1975 or early 1976.⁴⁰ After the Massachusetts defeat, the question of incrementalism broke the emerging gun control movement into two camps: those who believed on principle that handguns were a menace that had no place in civilized society, and those who agreed but thought that the nation was not ready for a ban on handgun possession. The "incrementalism" camp was led by the NCCH, under

35. Judith Vandell Holmberg and Michael Clancy, *People vs. Handguns: The Campaign to Ban Handguns in Massachusetts* 1, 74-75 (1977); Nat'l Council to Control Handguns, *The NCCH Relationship with Other Handgun Control Groups* (n.d.) (on file with author) [hereinafter *The NCCH Relationship*].

36. Holmberg and Clancy, *supra* note 35, at 70; *The NCCH Relationship*, *supra* note 35.

37. At that time, in addition to Massachusetts, twenty-three states allowed ballot initiatives. Nat'l Council to Control Handguns, *supra* note 27, at 14.

38. Holmberg and Clancy, *supra* note 35, at 1, 74.

39. Letter from John J. Buckley & Judy Holmberg, Leaders, *People vs. Handguns*, to David Steinberg, Executive Director, National Council for a Responsible Firearms Policy, Inc. (May 15, 1978) (on file with author).

40. Nat'l Council to Control Handguns, *supra* note 27, at 3.

the leadership of Nelson T. "Pete" Shields, a corporate executive and father of a gun violence victim. The ban camp was led by the NCBH, under the direction of Michael K. Beard, a young legislative aide who had worked on handgun-ban legislation sponsored by Washington D.C.'s congressional delegate in the early 1970s.

In his 1981 book, *Guns Don't Die—People Do*, Shields articulates the reasons behind NCCH's strategic shift toward horizontal incrementalism:

[I]f we continue to allow the debate to proceed along purely idealistic, i.e., extreme, lines, I don't believe we will ever achieve effective handgun control nationally.

What's more, I think that's why the pistol lobby encourages this all-or-nothing kind of debate. They agree with me that such debates only serve to polarize the issue and end up turning off and even alienating the public. Consequently they achieve exactly what the pistol lobby wants—nothing.⁴¹

Shields went on to argue that ban proposals would go nowhere as long as people continued to believe in the principle of self-defense and to disregard the risks of handgun ownership. "The polls have consistently shown that the people do not want an absolute ban on handguns," he wrote. "What they do want, however, is a set of strict laws to control the easy access to handguns by the criminal and the violence-prone—as long as those controls don't jeopardize the perceived right of law-abiding citizens to buy and own handguns for self-defense."⁴²

Shields' analysis was correct. In fact, the NRA immediately recognized the political danger that an incremental strategy would pose. The political threat of incrementalism—that small steps are more politically threatening than large ones—is the driving force behind the NRA's "slippery slope" argument. The fear was well articulated in 1976, when the NRA's chief lobbyist, Harlon B. Carter, wrote in the association's flagship publication, the *American Rifleman*:

When political leaders can obtain social and political goals by increment, they are doing to the American people what can be done to a frog: Toss him into boiling water, and he will promptly jump out. But put him in a pan of cold water and turn on the heat beneath him gradually, by increments, and soon, having never sensed the time when he can jump, the frog will be cooked. This leads the people inevitably first to a benign dictatorship.⁴³

41. Pete Shields, *Guns Don't Die—People Do* 145 (1981).

42. *Id.* at 146.

43. Harlon B. Carter, *The Hidden Dangers of Gun Control*, *Am. Rifleman*, Sept. 1976, at 49.

C. California's Bid for a Handgun Freeze, 1982

Six years after the Massachusetts defeat, gun control supporters once again tried a comprehensive rational policy strategy to be pursued through a voter initiative, this time in California. And, as in Massachusetts, the vote assumed national significance.⁴⁴ Advocates of Proposition 15, the so-called handgun freeze initiative, declared that it represented "our breakthrough opportunity . . . our chance to pierce the myth of the gun lobby's invincibility."⁴⁵ The NRA broadcast messages such as these in its publications.⁴⁶

The California organizers were bound to avoid the mistakes that their colleagues in Massachusetts had made. There were several differences between the two initiatives, but the most important was that the California proposal would not require existing handgun owners to surrender their weapons. There would be no "confiscation." Instead, the proposed law would require existing handgun owners to register their weapons and would ban future handgun sales. In addition, to blunt the NRA's "slippery slope" argument, the measure specified that the legislature could not consider any ban on existing handgun ownership without voter approval.⁴⁷ In sum, the proposal did not reduce the stock of privately possessed handguns; it merely sought to bring it under tighter government control and keep handgun ownership from expanding.

As in the Massachusetts case, the California initiative started off ahead in the polls. A June 1982 poll showed the handgun freeze winning by a margin of 60-40.⁴⁸ Five months later, it ended up losing by the same margin.⁴⁹ What happened in these intervening months? First, San Francisco supervisors adopted a ban on handgun possession within city limits, raising questions about the credibility of the state campaign to stop short of confiscation. Second, gun rights supporters such as the Gun Owners of California spent millions of dollars stoking precisely those fears. A Field poll taken after the vote found that the "freeze" provision had doomed the initiative; registration alone might have passed.⁵⁰ The poll suggested that the prospect of a statewide

44. Peter Hart & Doug Bailey, *Gun Control: What Went Wrong in California*, Wall St. J., Mar. 1, 1983, at 34; Norman Thorpe, *Gun Proposal Prompts Battle in California*, Wall St. J., Oct. 20, 1982, at 35.

45. Paul Taylor, *Powder Burn: As Gun-Control Advocates Hit a Bull's Eye or Two, the NRA Tries to Sharpen Its Aim*, Wash. Post, July 6, 1982, at A1 (alteration in original).

46. See, e.g., *Proposition 15 Campaign in Full Swing*, Am. Rifleman, Oct. 1982, at 58.

47. Paul Taylor & Jay Mathews, *Gun Control Jammed: Defeat of California Initiative Throws Proponents Back on the Defensive*, Wash. Post, Nov. 9, 1982, at A6.

48. Hart & Bailey, *supra* note 44.

49. *Id.*

50. Jay Mathews, *Gun Control: What Was California Saying?*, Wash. Post, Nov. 14, 1982, at C7.

handgun ban caused enough suburbanites to join with their rural pro-gun counterparts to defeat the initiative.

Even more ominously for gun control supporters, the California initiative, coupled with other ban efforts taking root around the same time, had contributed to a doubling of the NRA's membership, to 2.4 million, over a three-year period.⁵¹ At the same time, as emotion over the shootings of John Lennon and Ronald Reagan receded, gun control groups were failing to sustain the membership gains they had experienced a year or two before.⁵² The *Washington Post* concluded that the "nationwide handgun control movement" had been "thrown back on the defensive."⁵³ William Vizzard argues that "morale in gun-control organizations waned and the remaining political momentum for control evaporated."⁵⁴ Once again, a ban gambit had boomeranged.

III. THE NATIONAL STRATEGY

A. *Strategies on the Gun Control Side*

From the start, the gun control "movement" was going to be oriented toward elite politics at the national level, rather than mass political or social change at the grassroots. No matter their differences, elite gun control advocates agreed that their primary goal was to push a comprehensive gun control bill through Congress.⁵⁵ The movement was not going to focus on non-legislative goals such as changing social norms, nor was it going to build policy from localities upward. Particularly after the failed Massachusetts initiative, the gun control campaign was going to be a centralized, top-down gambit.⁵⁶

The national approach was rooted in a confluence of policy logic, organizational imperatives, and political context. The policy logic was straightforward: Given that guns and violent people were mobile, local (or even state) regulations would be ineffective. Only comprehensive, national regulations would keep weak laws in gun-friendly jurisdictions from undermining strong laws in control-friendly areas.⁵⁷ The organizational logic was that the subnational units would

51. Taylor, *supra* note 45, at A4.

52. *Id.*

53. Taylor & Mathews, *supra* note 47.

54. William J. Vizzard, *Shots in the Dark: The Policy, Politics, and Symbolism of Gun Control* 128 (2000).

55. See The NCCF Relationship, *supra* note 35; Nat'l Council to Control Handguns, *supra* note 27.

56. Interview with Michael Beard, Founder, Coalition to Stop Violence, and James E. Atwood, Board Member, Coalition to Stop Violence, in Denver, Colo. (Sept. 14, 2000).

57. Nat'l Council for a Responsible Firearms Policy, Inc., *For Firearms Policies in the Public Interest: The Purpose and Program of the National Council for a Responsible Firearms Policy, Inc.* (1967) (on file with author).

siphon resources from the national organization and, at best, produce laws that would be only minimally effective. In the eyes of handgun control elites, the policy and organizational logics represented two sides of the same coin. Finally, the early leaders were influenced by political context. Many were inspired by the successful, if historically anomalous, citizen movements for civil rights, women's rights, and consumer protection, and thought that a national victory for gun control could be next.⁵⁸

The national policy logic that emerged in the 1960s and gained force in the 1970s had its origins in New York's Sullivan Law,⁵⁹ a 1911 ordinance that required a police permit to possess a handgun. The law posed a dilemma for gun control advocates. On one hand, they wanted to be able to cite the Sullivan Law, and other local ordinances, as proof that gun control could work; on the other hand, they believed that local ordinances were bound to fail and that only national legislation could be effective. Without conceding the Sullivan Law's failure, they settled on the latter interpretation.

In the early 1960s, police officials began expressing concern about the number of firearms used in urban crimes that had originated in states with weak gun laws.⁶⁰ That President Kennedy was assassinated by a mail order firearm only reinforced the argument that, to be effective, gun legislation would have to regulate interstate transfers—in other words, gun control would have to come from Congress. As Mayor Maynard Jackson of Atlanta put it in 1975, “[s]trong national legislation is really what is needed if local efforts are to succeed.”⁶¹ The policy logic dovetailed nicely with the jurisdictional constraints on Congress, which has clear constitutional authority over interstate commerce, but much less jurisdiction over intrastate matters.

The national strategy was well-articulated from the start and reflected in organizations' names. The first modern gun control organization, the National Committee for the Control of Weapons, formed by New York political leaders in December 1963, was primarily interested in federal legislation that would crack down on interstate shipments and imports of firearms.⁶² It advocated tighter state laws as an afterthought. The National Council for a Responsible Firearms Policy, established four years later, likewise supported firearms laws at all levels of government, but focused its energies on

58. The NCHC Relationship, *supra* note 35, at 6; see also Coalition to Stop Gun Violence, *Who We Are*, at http://www.csgv.org/who_we_are/ (last visited Oct. 22, 2004).

59. 1911 N.Y. Laws 442.

60. See Elizabeth Brenner Drew, *The Gun Law that Didn't Go Off*, *The Reporter*, Oct. 8, 1964, at 33.

61. *Big New Drive for Gun Controls*, *U.S. News & World Rep.*, Feb. 10, 1975, at 25.

62. See Philip Benjamin, *New Group Urges Laws to Curb Sale of Firearms*, *N.Y. Times*, Dec. 4, 1963, at 19.

getting legislation through Congress. The Council's founding brochure explained the logic:

The complete freedom of movement from one state to another—one of the features and strengths of our federal system—makes it possible . . . for the relatively less restrictive policies of some states to seriously impair, or even nullify, the more restrictive policies which other states regard as essential to public order and safety.⁶³

The focus on national legislation also reflected the limitations of the Council, which had little money, no paid staff members beyond a part-time executive director, and little capacity to start and nurture affiliates around the country.

Although the NCBH, formed in 1974, supported laws at all levels, its focus was national. As state gun control groups formed, NCBH provided background support—for example, by providing educational materials and advice. But it never pursued local, or even state, policy change as a significant political strategy. Its goal was to be a “gun control Common Cause,” but NCBH's approach was significantly different from that of its organizational role model.⁶⁴

The NCCH, which later became Handgun Control, Inc. (“HCI”) and is now called the Brady Campaign, quickly came to dominate the field.⁶⁵ For that reason NCCH's decision to pursue a national strategy is particularly important to the argument of this Essay. Fortunately, internal memos from the organization's early years have found their way into a publicly accessible archive,⁶⁶ and so it is possible to document how, during its formative years, the gun control campaign turned away from vertical incrementalism.

After its first year, and for the pivotal decade to come, NCCH was led by Pete Shields, whose twenty-three-year-old son had been shot to death in 1974, a victim of the notorious “zebra killings” in San Francisco. Mr. Shields, who began working full-time with NCCH in September 1975 and its board chair in 1978, was a Fortune 500 executive who had a hierarchical management style and a top-down

63. Nat'l Council for a Responsible Firearms Policy, Inc., *For Firearms Policies in the Public Interest: The Purpose and Program of the National Council for a Responsible Firearms Policy, Inc.* (1967) (on file with author).

64. Jones, *supra* note 34, at 1.

65. See Vizzard, *supra* note 54, at 65 (referring to HCI as “[b]y far the most visible of the gun-control advocacy groups”); Memorandum from Anonymous to United States Organizations Working for Handgun Control 2 (Sept. 1981) (on file with author).

66. The archive of papers from Chicago's Committee to Control Handguns is housed at the University of Illinois at Chicago.

approach to political change.⁶⁷ He was largely responsible for charting the organization's course until the mid-1980s.⁶⁸

Early strategy papers reveal the logic that would drive NCCH (and later HCI) for the next twenty-five years. A "proposal for support" produced in late 1975 or early 1976 declared, "The American people are ready for the passage of laws to control handguns, if their political leaders are not."⁶⁹ What had prevented such a law, the paper argued, was "the absence heretofore of an effective, adequately funded, national movement for handgun control law."⁷⁰ The proposal then suggested what sounded like a grassroots, bottom-up political strategy: "[T]he effort for handgun control law must come from throughout the nation to Washington and not the other way around."⁷¹ NCCH set out to become a "citizens' lobby," modeled on Common Cause, which had been founded five years earlier.⁷² Under Pete Shields' leadership, the proposal states, "the NCCH has rethought its basic assumptions and set upon a vigorous development program designed to transform a modest effort at Washington lobbying into a national citizens' organization with specific goals, a timetable for their achievement and a means of measuring progress."⁷³

The early rhetoric conveyed an organization set to lead a grassroots movement. However, the strategies that NCCH actually pursued were far closer to a national interest group model of political pressure than to the grassroots movement model first envisioned. This early shift, from a grassroots to a national orientation, reflected an abrupt change in strategic thinking within the organization. During the first half of 1976, when the organization was just two years old, NCCH and state gun control leaders had a series of discussions over what was called a "plan of coalescence."⁷⁴ At a meeting in June 1976, the state groups voted to "coalesce" under the NCCH umbrella. The plan called for the local and state organizations, which only numbered about a half-dozen at the time, to retain their independent incorporation and governing boards. However, NCCH would run the fund-raising and membership solicitation operations and distribute

67. Brady Campaign, Brady Campaign United with the Million Man March and the Brady Center to Prevent Gun Violence: A History of Working to Prevent Gun Violence (Jan. 8, 2004), at <http://www.bradiycampaign.org/press/?page=history>.

68. Mr. Shields stepped down from the chairmanship in 1989. He died in January 1993 at age 69. Shields, *supra* note 41, at 11, 23-24.

69. Nat'l Council to Control Handguns, *supra* note 27, at 1.

70. *Id.* at 1-2.

71. *Id.* at 4.

72. The NCCH Relationship, *supra* note 35, at 6.

73. *Id.* at 7.

74. Nat'l Council to Control Handguns, Proposed Plan of Coalescence for the Handgun Control Movement (July 9, 1976) (on file with author) [hereinafter Proposed Plan of Coalescence].

some unspecified fraction of the proceeds back to the state groups. Each state or local group would have a seat on the NCCH board.⁷⁵

NCCH abandoned its coalescence plan shortly after the November 1976 elections. It laid out the logic in a nine-page memo.⁷⁶ First, NCCH believed that with the election of Jimmy Carter, who had endorsed handgun control during his presidential campaign, the prospects for a national gun control bill were good.⁷⁷ Second, the memo implied that the overwhelming defeat of the Massachusetts handgun-ban initiative, to which NCCH had provided financial support, had contributed to the decision;⁷⁸ although not outlined in the memo, other sources have made clear that the Massachusetts experience had stunned and demoralized gun control advocates.⁷⁹ Third, NCCH argued that two other operations—NCBH and the U.S. Conference of Mayors Handgun Control Project—were better suited to take care of state and local groups.⁸⁰ Finally—and this is the key reason—NCCH had national legislative ambitions and did not want resources diverted to what it saw as basically ineffective state and local gun control initiatives.⁸¹

In that vein, the memo outlines various policy, organizational, and political barriers to a decentralized state-local approach. First, on the policy front, it argues that “[l]ocal and state handgun control laws have proven to be ineffective in the absence of a comprehensive national law.”⁸² Second, on the organizational front, the memo notes that decentralized membership drives are ineffectual and that mobilizing individual members for political activism has “proved to be the most difficult, time consuming, expensive and controversial undertaking of most national lobbies we’re familiar with,” including Common Cause.⁸³ The memo goes on to detail how state or local affiliates drain national resources. Local members have a “driving need for activity”; as national efforts come in “fits and starts,” local organizations generate projects to maintain media visibility; these activities use up resources, creating the need for more fund raising; and local activists become more focused on their own survival, causing a split with national activists.⁸⁴ Third, on the political front, the memo argues that efforts for state and local initiatives would represent a

75. Handgun Control, *supra* note 31; Proposed Plan of Coalescence, *supra* note 74.

76. The NCCH Relationship, *supra* note 35.

77. *Id.* at 3.

78. *Id.*

79. Alexander DeConde, Gun Violence in America 200 (2001); *see also* Buckley & Holmberg, *supra* note 39.

80. The NCCH Relationship, *supra* note 35, at 3-4.

81. *Id.* at 6-7.

82. *Id.* at 2.

83. *Id.* at 6.

84. *Id.* at 7.

pointless and inopportune diversion of resources, appropriate perhaps for a movement model of social change but not for the top-down model that gun control leaders had embraced. As the memo states, “[w]here the emphasis of the national organization is to build law from the local level up to the national, it can work. Where the primary and immediate goal is for national law, as it is with NCCH, local organization becomes very difficult.”⁸⁵

The memo continues by laying out, in explicit terms, NCCH’s commitment to a national legislative strategy to the exclusion of all else:

Recognizing that:

NCCH’s sole priority for the next two years will be a base national law in the 95th Congress (which subsequently can be supplemented by stronger state or local law);

NCCH’s major immediate need is membership and up-front funding (both of which can best be accomplished nationally);

Formal affiliate organization building is both extremely difficult and potentially diluting to the national effort;

NCCH will *not* propose a formal affiliate relationship with state and local groups but rather will seek to recruit a network of activists [sic] individuals within each key State and or Congressional District. . . . [T]he primary criteria for inclusion of any individual or organization in the NCCH network will be 100% commitment to the national cause first and foremost⁸⁶

NCCH’s strategy of identifying gun control sympathizers in each congressional district, and mobilizing them by telegram from Washington, had preceded the 1976 elections.⁸⁷ But afterward, this sort of “Astroturf campaign” became the sole approach. “With the most receptive national political leadership in years now coming into office, NCCH must concentrate its entire limited resources on acquiring as big and as broad a constituency as it can as fast as it can—with obvious emphasis on the swing Congressional districts.”⁸⁸

This approach did not go over well at the state level. For example, at the second annual forum on handgun control, held in Boston in January 1976, a participant challenged an NCCH representative:

85. *Id.*

86. *Id.* at 7-8.

87. For example, an NCCH document dating from late 1975 or early 1976, states that a major goal for the 1977-1980 period will be to use direct mail to “launch a district by district program in the elections of 1978 and 1980 to get pro-handgun control congressmen elected.” Nat’l Council to Control Handguns, *supra* note 27, at 20.

88. The NCCH Relationship, *supra* note 35, at 4.

I guess what I am hearing from you . . . is that you in Washington are going to keep your finger on the interests of people located in California and through all the states. I disagree wholeheartedly. All the national organizations that are successful—Common Cause and the ACLU—have local chapters, state associations, and a national board.⁸⁹

Another unidentified participant added, “[i]t seems to me whatever it might be, an initiative petition in three states or an educational group in Colorado, all are very important when it comes to the big push for national gun control legislation.”⁹⁰ By late 1979, state gun control organizations issued a joint letter to the national groups calling them a “four masted schooner with no rudder” and complaining that a “lack of communication” had created a “lack of understanding,” leading to “confusion and a form of competition which can be destructive.”⁹¹

State gun control groups continued to seek aid from the national organization. In 1981, the president of Chicago’s Committee for Handgun Control wrote Mr. Shields and Mr. Beard with a formal request for affiliation. She argued, “[t]he prospect for success in the movement is far greater at the state level than at the federal level right now—and success at the state level is imperative psychologically and politically if strength in congress is to grow.”⁹² However, an anonymous assessment of the national groups that same year criticized the groups for their failure to assemble and lead a movement for gun control. The U.S. Conference of Mayors was faulted for “[l]ack of long range planning ability” and “[l]ack of urgency or drive.” Handgun Control, Inc. was chided for “[a]lienation of supporters through overuse of direct mail” and for “[a]utocratic leadership” and “[r]esistance to cooperative efforts”⁹³ NCBH, while praised for supporting local organizations financially, was criticized for failing to provide the “kind of structure and staff” to “embrace and unify supporters around the country.”⁹⁴ By 1983, the

89. U.S. Conference of Mayors, Second National Forum on Handgun Control: Proceedings 54 (January 7-9, 1976).

90. *Id.*

91. Memorandum from Representatives of State and Local Handgun Control groups, to the Leadership of the National Coalition to Ban Handguns, the United States Conference of Mayors Handgun Control Project, Handgun Control, Inc., and the National Council for a Responsible Firearms Policy, Inc. (Sept. 14, 1979) (on file with author).

92. Letter from Katherine W. Zartman, President, Committee for Handgun Control, Inc., to Pete Shields, President, Handgun Control, Inc. (Oct. 12, 1981) (on file with author).

93. Memorandum from Anonymous, to United States Organizations Working for Handgun Control 2 (Sept. 1981) (on file with author). This was an anonymous report circulated after the 1981 National Alliance of Handgun Control Organizations meeting.

94. *Id.* at 1.

president of the National Alliance of Handgun Control Organizations (“NAHCO”) asked, “[w]hat is required to convince the nationals that greater interaction between them (closer cooperation or unification) and a new, imaginative relationship with NAHCO may produce the results they are working for?”⁹⁵ He added, referring to two influential federated voluntary associations, “[d]o we need a complete restructuring along the lines of Common Cause or the League of Women Voters?”⁹⁶

In sum, the national organizations decided to pursue a centralized approach to gun policy. They eschewed local or state affiliates, focused on national legislation, and downplayed local projects as ineffectual at best and destructive at worst. As a top official of HCI during the 1990s put it, “once you form a chapter what do you do with a chapter? . . . The problem with chapters is that they are a very heavy lift. They require a lot of maintenance, a lot of care and feeding.”⁹⁷ Chapters, he suggested, are useful only insofar as they could nudge national legislators into the pro-control column. Hence, chapters in control-friendly states would be a waste of resources.⁹⁸

Although the national gun control groups continued to reject formal chapters, their exclusively national focus would soften as Congress repeatedly killed gun control bills and, indeed, significantly weakened the existing national laws. Interestingly, where the national organizations have decided to provide meaningful support to state and local activist groups, political participation around gun control has increased.⁹⁹ But there is more to the centralization story. The gun control forces’ focus on national legislation was not only a strategy they chose, but it was also a strategy that was thrust upon them. The role of the gun rights side in centralizing the struggle—that is, undermining whatever grassroots movement might have been in the offing—is equally important to the account at hand.

B. *Strategies on the Gun Rights Side*

In 1981, as the national gun control groups were struggling unsuccessfully to make progress in Congress, the suburban Chicago hamlet of Morton Grove was thrust almost by happenstance into the center of the national gun control firestorm. On June 8, finding no authority under zoning laws to prohibit the opening of a gun shop near a school, the village’s six trustees voted to ban the sale and possession of handguns within town limits. One of the trustees told a

95. D.M. Maillie, Speech before the National Alliance of Handgun Control Organizations Conference 2 (Mar. 11-13, 1983) (on file with author).

96. *Id.* at 5.

97. Interview with Anonymous, Former National Gun Control Leader, in Wash., D.C. (Aug. 8, 2002). The interview was conducted on condition of anonymity.

98. *Id.*

99. See Goss, *supra* note 5.

reporter at the time, “[w]e felt gun control would have to be a grass-roots effort, as with child labor and pollution laws, and wanted to send a message to other villages and towns that they could enact such ordinances.”¹⁰⁰ The Morton Grove ban came just three months after the assassination attempt on President Reagan and the Chicago City Council’s decision to freeze the number of handguns in civilian possession.

Interestingly, the gun rights forces appeared to take the political potential of the Chicago-area developments far more seriously than did the gun control side. Although gun control supporters were encouraged by the Chicago and Morton Grove examples, they did not seriously attempt to create momentum out of them. Instead, national gun control groups remained focused on national legislation, and state groups on state legislation. In addition, none of the existing organizations had at its disposal a local network of supporters who could lobby their respective municipal governing bodies for gun control ordinances. For example, although the NCBH helped finance Morton Grove’s legal fight against a gun rights challenge, NCBH did not try to spearhead a nationwide local ordinance movement to build on the Morton Grove victory.

To the gun rights side, however, Morton Grove posed a grave political threat. When the U.S. Court of Appeals for the Seventh Circuit rejected a Second Amendment challenge and upheld the ordinance, the NRA’s top lobbyist declared that the day “will live in infamy” and called it “a day of darkness for our United States Constitution.”¹⁰¹ But Morton Grove also presented an important political opportunity to gun-rights organizations. Said an NRA spokesman at the time, “[t]he nice thing about Morton Grove is that the people who have been beating their breasts about moderate controls have been exposed for the frauds they are.”¹⁰²

After the ordinance passed in Morton Grove, similar ordinances were enacted in the Chicago suburbs of Evanston and Oak Park.¹⁰³ An NRA mailing proclaimed: “What was once the unthinkable has now become reality We must stop a possible domino effect . . . these fanatics must be stopped—NOW!”¹⁰⁴ An NRA spokesman told the *New York Times*, “[w]e are focusing our attention on Morton Grove . . . because their actions exemplify what we believe is the first

100. Nathaniel Sheppard, Jr., *Illinois Town Faces Lawsuit After Limiting Pistol Use*, N.Y. Times, July 4, 1981, at A6.

101. Warren Cassidy, *Morton Grove: The Next Step*, Am. Rifleman, Apr. 1983, at 54.

102. Taylor, *supra* note 45, at A4.

103. Handgun-Free America, Precedent for Banning Handguns, at <http://www.handgunfire.org/HFAMain/about/precedent.htm> (last visited Oct. 22, 2004).

104. Osha Gray Davidson, *Under Fire: The NRA and the Battle for Gun Control* 133 (1993).

step toward banning all gun possession.”¹⁰⁵ The NRA’s concerns about a snowball effect were probably exaggerated, but they made a degree of sense in the socio-political context. By the early 1980s, national gun control organizations had become institutionalized, the public was dismayed by the killing of John Lennon and the near assassination of President Reagan, and local ordinances were passing while scores of national bills had not.

Asking ominously, “Will Your Hometown Be Next?,” the *American Rifleman* urged readers to take action: get to know local officials, establish a committee to monitor local legislation, and contact the NRA immediately upon hearing of proposed gun control ordinances in their city or town.¹⁰⁶ However, the NRA had no intention of fighting ordinance battles one-by-one because it had a far more efficient strategy: secure state laws to deprive localities of their right to regulate firearms.¹⁰⁷ The “preemption” strategy¹⁰⁸ was deeply rooted in Dillon’s rule, the century-old principle that cities and towns are not autonomous entities but rather creatures of the state, with their lawmaking powers ultimately subject to nullification by this higher authority. The NRA turned this principle against gun control supporters.

Officially, gun-rights advocates argued that preemption was necessary to eliminate a hodgepodge of local laws that would create confusion, and potential criminal liability, on the part of honest gun owners. However, before Morton Grove, hundreds of cities and towns had gun control ordinances, many of which were stricter than state and federal laws. Yet the record contains no evidence that these established ordinances were of much ongoing concern to the NRA and its allies. The vehement reaction to Morton Grove suggests that gun-rights supporters were motivated primarily by a political concern that the new ordinance would create momentum for a gun control movement. Gun control sentiment has always been strongest in urban areas. Likewise, local elected officials are considered more immediately responsive to constituent sentiment than are officials at higher levels of government. The threat of vertical incrementalism—that the Morton Grove precedent would have a domino effect—was one that the gun lobby was not willing to accept.

Almost immediately, beginning in gun control-friendly Illinois, supporters of gun rights undertook efforts to ensure that no other locality would follow Morton Grove. The same month that the Morton Grove ordinance passed, the Illinois House of Representatives voted to bar municipalities from passing gun

105. Sheppard, *supra* note 100.

106. *Action Alert: Will Your Hometown Be Next?*, *Am. Rifleman*, Feb. 1982, at 57.

107. George B. Merry, *Handgun Control: Both Sides Post Losses, Wins in Ongoing Battle*, *Christian Sci. Monitor*, May 26, 1983, at 10.

108. *Id.*

regulations.¹⁰⁹ The bill died before it could reach the Senate or the Governor.¹¹⁰ And yet, introducing and passing such “preemption” bills became a top priority of the NRA and other gun-rights supporters in the 1980s and into the 1990s. A 1986 NRA brief noted that enacting preemption laws “remains the top legislative priority.”¹¹¹

The NRA’s preemption strategy was largely successful. In 1979, two states (Maryland and Pennsylvania) had full preemption, and five states had partial preemption—for example, barring localities from keeping records of gun transfers (Indiana) or prohibiting localities from enacting owner licensing or gun registration ordinances (California).¹¹² By 1984, the number of full-preemption states had risen to nine and partial-preemption states numbered six.¹¹³ By 1989, full-preemption states had doubled to eighteen, and partial preemption states numbered three.¹¹⁴ By 2000, thirty-nine states had full or partial preemption.¹¹⁵ Thus, in the course of twenty years, the fraction of states in which localities were fully free to regulate guns dropped from 86% to 22%. In sum, as gun control advocates sought to shift to more amenable, local venues, gun rights supporters used federalism—and legislative dominance—to deprive gun control advocates of those opportunities.

Did the NRA’s preemption campaign quash any possibility that a vigorous gun control movement would take hold in America? The answer is necessarily speculative, but the evidence suggests that the preemption laws were far more politically significant than most observers have realized. Although national gun control leaders certainly did not support this wave of gun-rights lawmaking, there is no indication that they considered preemption to be the death knell of their ability to reach their policy goals. After all, they were focused on national legislation and thought local ordinances were ineffective in reducing gun violence. A former leader of a national gun control organization recalls the preemption campaign this way:

There’s no question that the NRA’s effort to pass preemption laws was a serious setback, and there’s no question that whatever the implications in terms of policy, what you do lose at the local level is

109. Sheppard, *supra* note 100, at A6.

110. *See id.*

111. Darwin Farrar, *In Defense of Home Rule: California’s Preemption of Local Firearms Regulation*, 7 *Stan. L. & Pol’y Rev.* 51, 54 (1996) (quoting Inst. for Legislative Action, Nat’l Rifle Assoc. of Am., NRA-ILA State Legislative Issue Brief (1986)).

112. Anne Garner and Michael Clancy, *Firearms Statutes in the United States* (1979).

113. Counts of preemption laws are derived from Bureau of Alcohol Tobacco and Firearms, *State Laws and Published Ordinances—Firearms* (16th ed. 1984).

114. *See* Bureau of Alcohol Tobacco and Firearms, *State Laws and Published Ordinances—Firearms* (19th ed. 1989).

115. *See* Bureau of Alcohol Tobacco and Firearms, *State Laws and Published Ordinances—Firearms* (22nd ed. 2000).

the ability to rally people around a local issue I think the reason why the gun control movement sat back and “let it happen” was because the gun control movement was subsumed with other battles. We were trying to pass the Brady Bill, trying to pass the assault weapon ban, and we were trying to work in certain states, like Virginia, for one-gun-a-month and other battles like that, and you always have to pick and choose your battles. And the problem with preemption is that – long before 1993 and 1994, when some of these laws were going through, or even before that – the NRA was so far ahead of us in state legislatures, and they still are so far ahead of us in state legislatures, that it would have taken a huge diversion of resources to try to beat them on preemption. . . . This is a case of the NRA having a much better grassroots network, . . . having funded a lot of state candidates, recruited state candidates, having so many different inroads into the state legislatures more than we did, we were hopelessly outgunned in that battle and there was nothing we could do about it.¹¹⁶

In short, from the perspective of national gun control groups, preemption was something of a side battle that they were unable and possibly unwilling to fight. And yet, to state gun control activists, preemption was considerably more important. Like their national counterparts, most state gun control leaders placed limited faith in the policy effectiveness of local ordinances. But they did see the political potential, via the snowball effect, of organizing around local projects. A founder of the Maryland Handgun Control Committee, established in 1976, argues that preemption was one of the two factors¹¹⁷ that most inhibited his group’s ability to expand: “With gun control you pretty much have to do something national, you can’t try it anywhere because of all these preemption laws, you can’t start small, you’ve got to start big, it’s too hard, it’s just too hard.”¹¹⁸ A 1982 report of state organizations’ efforts notes that the Indiana group was having trouble devising an approach because of the state’s preemption law and requested ideas as to how any gun control effort might get off the ground there.¹¹⁹ Preemption also raises the costs of participation in direct ways, by forcing advocates who want to make a visible contribution to travel to the state capital. Without preemption, gun control sympathizers could act politically at far less cost. As one state gun control advocate argued, “[w]e don’t make it easy for people to

116. Interview with Anonymous, *supra* note 97.

117. The other factor was the Internal Revenue Service’s decision to deny the group 501(c)3 status, and instead to classify it as a 501(c)4 advocacy group, not eligible to receive tax-deductible contributions.

118. Interview with Michael Berkey, Former President, Maryland Committee for Handgun Control, in Balt., Md. (June 8, 2002).

119. Nat’l Alliance of Handgun Control Orgs., Notes from the President (Apr. 1982) (on file with author).

express themselves within the legislative world because we have all of our hearings at a time when people are at work."¹²⁰

IV. HOW "GOOD POLICY" BECAME BAD POLITICS

In 1986, gun-rights supporters secured the Firearms Owners' Protection Act,¹²¹ which repealed significant parts of the Gun Control Act of 1968, the landmark legislation that had greatly expanded federal regulation of firearms.¹²² Afterward, realizing that strict national gun control laws would not be forthcoming, some gun control supporters began to embrace incrementalism—in part, but not in full. However, by that time, the damage was done: gun control's place in the culture war had been firmly established. A decade earlier, gun control advocates had chosen a rational-national strategy because it made sense from a policy perspective and, at that unique historical moment, to gun control's most ardent supporters, the strategy made sense from a political perspective as well.¹²³ But the rational-national approach boomeranged. The rational-national strategy undercut the gun control cause not only at the critical moment of its emergence, but also in the three decades to follow. By embracing the rational-national strategy, gun control advocates undermined their cause in two distinct yet related ways. First, by embracing the rational-national strategy, gun control leaders foreclosed the possibility of creating a broad-based gun control movement, making their cause appear far less mainstream than it actually was.¹²⁴ Second, they emboldened the cultural and political appeal of their gun rights opponents. These effects are considered in turn.

First, let us consider how the rational-national strategy—the decision to elevate policy analysis over political strategy—narrowed gun control's appeal. Most obviously, the decision to push for an outright national ban on handguns eliminated the majority of Americans from the pool of potential movement activists. In the mid-1970s and ever since, most people did not support a ban on the private possession of handguns even as they supported every gun control proposal up to the point of a ban.¹²⁵ Thus, gun control groups were dedicating themselves to a policy approach that had only minimal support among the mass public while failing to press for restrictions that enjoyed popular endorsement.¹²⁶ This made gun control

120. Telephone Interview with Anonymous, Midwestern Gun Control Leader (June 4, 2002). This interview was conducted on condition of anonymity.

121. Pub. L. No. 99-308, 100 Stat. 449 (1986).

122. 82 Stat. 1213.

123. See *supra* Parts II and III.

124. See *supra* Part II.B (describing the problems associated with having several gun control groups and the groups' failure to unify on an issue).

125. Goss, *supra* note 5, at 10.

126. See *supra* Part II.A (discussing the proposals endorsed by gun control groups).

advocates look like extremists, even in the eyes of their sympathizers. In addition, the rational-national strategy provided few opportunities for political participation. Beyond writing a letter to one's Senator or Congressperson, there was little for the ordinary gun control supporter to do. There were no locally rooted projects in which grassroots supporters of gun control could get involved. Instead, by design, gun control became an expert issue in the hands of a small group of policy professionals at Washington-based interest groups.¹²⁷ Thus, with opportunities for mass participation limited and out of view, it was inevitable that the public face of gun control would be that of the preference-outlier activist, not the "typical citizen" next door. Without a broad grassroots mooring, gun control leaders were easily branded as out-of-touch tyrants whose ideas posed a grave danger to traditional American values.

By pursuing a policy strategy that did not enjoy majority support and afforded few opportunities for participation in any case, gun control advocates set themselves up for failure. As their efforts to secure bold policy reforms came to naught time and time again, gun control's mainstream supporters and advocates found themselves beset with a pervasive sense of futility. This sense of futility drove many potential activists away; after all, why would one get involved if one knows ahead of time that it is a waste of time? The repeated and spectacular failures to secure ban laws created the belief, so pervasive today, that the so-called gun lobby was invincible. In this way, gun control advocates' initial embrace of the rational-national strategy boomeranged. In dedicating themselves to politically unrealistic goals, gun control advocates drove away the mainstream base and compounded their alienation with repeated failures in high-profile policy battles. For institutional and perhaps cultural reasons, policy is made incrementally in America.¹²⁸ As the gun control case demonstrates, issue advocates who ignore that reality risk becoming—or at least appearing to be—a fringe movement, easily branded a threat to democracy.

The rational-national strategy empowered gun rights groups to do exactly that: to wage cultural warfare by likening gun control advocates to Nazis and communists. Threatened by what they saw as an attempt to deprive them of their guns and their rights, organized gun owners launched a no-holds-barred effort to discredit gun control groups. A handgun ban would have imposed direct, visible, and immediate costs on gun owners. Policies that impose costs in this way tend to inspire counter-mobilizations that stop reform efforts in their

127. See *supra* notes 55-71 and accompanying text.

128. Anthony King, *Ideas, Institutions and the Policies of Governments: A Comparative Analysis: Part III*, 3 Brit. J. Pol. Sci. 409 (1973); Steinmo, *supra* note 17.

tracks.¹²⁹ In this case, gun control advocates' rational-national strategy strengthened gun-rights supporters in at least two ways.

First and foremost, the policy gambits of the 1970s and early 1980s provided credible threats around which gun rights supporters could mobilize. The repeated attempts to ban handguns at the national and sub-national level allowed the NRA to make a persuasive case that gun control advocates would stop at nothing, that confiscation of all firearms was their ultimate aim. William Vizzard traces this argument to New York City's Sullivan Law.¹³⁰ He argues that, even many decades later, "the New York precedent was a constant reminder of 'what they want to do.'"¹³¹ Although the Sullivan Law severely restricted civilian access to handguns, the efforts in the early 1970s went even further, breathing new life into the NRA's "slippery slope" argument. For example, in a May 1975 fundraising appeal that invoked George Orwell's *1984*, NRA Executive Vice President Maxwell Rich stated,

[l]et me tell you exactly what the anti-gun lobby is doing right this very minute to confiscate our firearms and ammunition. The "Committee for Handgun Control, Inc." has won a court order which requires the federal Consumer Product Safety Commission to decide if handgun ammunition is a "ha zardous subject" [sic] and should be made illegal. . . . Maybe you don't own a handgun, but this is only the beginning . . . Next the anti-gun lobby will go after large bore ammunition. And then shotgun shells.¹³²

He concluded, "I have never before in my life had to write such a significant letter asking for money. But the day of total, complete and absolute gun confiscation is so close that I have no choice"¹³³

With that argument in its arsenal, the NRA was able to knit together two distinct American gun cultures: the small town and rural long-gun owners, who had never supported handguns or their proliferation, and the gun aficionados for whom firearms are not merely tools but also political-cultural icons. When gun control advocates pushed a handgun ban, they handed the NRA a golden opportunity to arouse the politically important rural interests, who are heavily represented in most state legislatures and overrepresented in the U.S. Congress. The newly credible slippery slope argument also made many Americans suspect that gun control advocates really were

129. The ability of senior citizens to mobilize against cuts in Social Security is just one of many illustrations of this dynamic. See Andrea Louise Campbell, *How Policies Make Citizens* (2003).

130. 1911 N.Y. Laws 442; see also D.C. Code Ann. § 6-2312 (1981) (prohibiting registration of pistols not already registered by September 24, 1976); D.C. Code Ann. § 6-2351 (prohibiting sale of handguns).

131. Vizzard, *supra* note 54, at 88.

132. Letter from Maxwell Rich, Executive Vice President, National Rifle Association, to potential supporters (May 5, 1975) (on file with author).

133. *Id.* at 4.

extremists, thereby making moderate gun control sympathizers less likely to become active participants in the cause.

The ban gambits also played a key role in encouraging the gun rights forces' turn to hard-line politics in the mid-1970s. To "be able to counter effectively one of the most powerful anti-gun campaigns yet mounted,"¹³⁴ the NRA in 1974 created, and began aggressively raising money for, its Office of Legislative Affairs.¹³⁵ By September 1975, it had raised nearly two million dollars.¹³⁶ The NRA also registered its top officials as lobbyists.¹³⁷ At the same time, advocates dissatisfied with what they saw as the NRA's insufficiently hard-line stance created Gun Owners of America, which pulled the NRA in the direction of protecting its right flank. Shortly thereafter, in 1977, hardliners within the NRA board of directors staged a coup d'etat, known as the Cincinnati Revolt, at the organization's annual meeting. The hardliners, led by chief lobbyist Harlon Carter and his lieutenant Neal Knox, vowed that the NRA would never again compromise on gun control legislation.¹³⁸ As late as 1975, the NRA had officially issued its "qualified" support for a waiting period to buy handguns in hopes of reducing crimes of passion and weeding out "undesirables."¹³⁹ But after the revolt, any gun bill, no matter how seemingly innocuous or commonsensical, would be resisted at all costs because any legislative victory would provide momentum to the other side. Gun control advocates would not be able to secure a national handgun waiting period until 1993. Osha Gray Davidson argues that 1977 marked the pivotal moment when the 106-year-old sportsmen's club became "the Gun Lobby."¹⁴⁰

Thus, even as the NRA's policy positions were veering more and more toward a libertarian extreme, the gun controllers' rational-national gambits allowed the gun lobby to claim that it represented the median American. It could do so in part because the ban battles helped the NRA to hone its message to appeal to mainstream voters. According to a 1975 survey that the NRA commissioned to help it fight the Massachusetts battle, the winning message was this: the public doesn't care much about gun control (low salience) or feel very committed to a pro-control position (softness); doesn't think it would reduce crime (ineffectiveness); and believes people should and do

134. John M. Snyder, *NRA Registers as Lobby to Uphold Gun Ownership*, *Am. Rifleman*, Apr. 1974, at 16.

135. The Office of Legislative Affairs became the Institute for Legislative Action in 1975.

136. *Handgun Control*, *supra* note 31, at 2.

137. Snyder, *supra* note 134, at 16.

138. DeConde, *supra* note 79, at 130; Josh Sugarmann, *National Rifle Association: Money, Firepower, Fear 51* (1992).

139. Ashley Halsey, Jr., *The President's Stand on Guns*, *Am. Rifleman*, Aug. 1975, at 23.

140. Davidson, *supra* note 104, at 36.

have a right to defend themselves with firearms (protection and civil liberties).¹⁴¹ David Bordua argues that the NRA fought the Massachusetts initiative in part because gun-rights advocates knew they would win with a message that tapped into those vulnerabilities in pro-control sentiment.¹⁴² After the Massachusetts vote was in, gun-rights advocates could credibly assert that gun control activists were hopelessly out of touch with public sentiment, even in relatively liberal states. As Osha Gray Davidson argues, “[t]he NRA’s reputation for legislative invincibility received a tremendous boost from the victory.”¹⁴³

Thus, in several key ways the handgun-ban approach boomeranged, ultimately undermining gun control advocates’ ability to organize and mobilize their troops. Some gun control leaders foresaw these problems. For example, the leader of the National Council for a Responsible Firearms Policy, a small Washington-based organization created in 1967, repeatedly inveighed against the ban strategy, calling it unworkable and inequitable. In pursuing a handgun ban and then pulling back out of political expediency, the gun control “movement” created for itself “a credibility [problem] as to its real, ultimate objective-causing [apprehension among] large of numbers [sic] of law-abiding gun owners [concerning its real motive].”¹⁴⁴ The leader of the Chicago Committee for Handgun Control urged her Delaware counterpart to change the organization’s name to something other than “Ban Handguns,” because the name “automatically eliminates from your membership more than 50% of the population [and] will be a stumbling block in your efforts to create a significant group with enough political influence to effect change.”¹⁴⁵ Even the NCBH was cautious in the wake of poll findings that a handgun ban did not have majority support: “we know that there is work to do” to generate majority support.¹⁴⁶

CONCLUSION

In 1972, the Wall Street Journal editorialized that the politics of gun control boiled down to a cultural struggle between “bedrock”

141. See David J. Bordua, *Gun Control and Opinion Measurement: Adversary Polling and the Construction of Social Meaning*, in *Firearms and Violence: Issues of Public Policy* 51 (Don B. Kates, Jr. ed., 1984). The poll was by Decision/Marketing/Information (“DMI”) in 1975.

142. *Id.*

143. Davidson, *supra* note 104, at 130.

144. Press Release, National Council for a Responsible Firearms Policy, Inc., *Gun-Control Pioneer Lashes President Bush’s Response to Gun Crime: Council Being Terminated After 22 Years* (Dec. 28, 1989) (on file with author).

145. Letter from Katherine W. Zartman, President, Committee for Handgun Control, Inc., to Barbara Bell, Leader, Ban Handguns (Nov. 6, 1981) (on file with author).

146. Armstrong, *supra* note 24.

America and “cosmopolitan” America.¹⁴⁷ This divide has come to be known as the culture war, and gun control is a central battlefield. The Nazi-Commie myth resonated because gun control advocates misread the historical moment and failed to appreciate adequately the political-institutional realities of the American system of government.

When the modern gun control “movement” began to organize in the mid-1970s, cosmopolitan America, those with unbridled faith in an activist national government, had enjoyed a forty-year run as purveyor of the nation’s dominant political ideology. But with the economy faltering and social experiments falling short of their promise, faith in cosmopolitan policy prescriptions was on the wane within broader society. Such loss of faith did not bedevil gun control advocates, who continued to embrace the New Deal coalition’s belief in bold, comprehensive legislation, both as a general approach and as a specific remedy to gun violence. Gun control advocates thus settled on a rational-national strategy, but they did so at precisely the time when such approaches were losing credibility. In short, gun control advocates elevated policy analysis over political analysis.

The traditionalists, on the other hand, were ascending politically, aided ironically by policy purists seeking to end gun violence in America. Bedrock America, for whom the NRA is the primary associational standard bearer, understood the historical moment and exploited it by playing up traditional themes: distrust of government, belief in rugged individualism, and reverence for Constitutional literalism. The traditionalists were also organized in such a way as to maximize policy success. The NRA is a mass membership association with a federated structure that mirrors the structure of the American system of government. Organized at the national, state, local, and sometimes sub-local level, the association is well-equipped both to block policy proposals at any level and to funnel resources up or down when needed.¹⁴⁸ For example, locally organized grassroots volunteers can be mobilized to contact Congress, while the NRA’s national legislative office can provide money, policy information, and advertising to state and local campaigns. In sum, the traditionalists elevated politics over policy analysis: They correctly identified and exploited the historical and institutional opportunities afforded them.

The culture war over guns arose not because gun control advocates were Nazis, but because they were experts who focused on good policy at the expense of good politics. Their policy analysis was firmly rooted in the realities of federalism and modern social integration, specifically the ability of bad guys with guns to exploit weaknesses in the system. But at the same time gun control advocates failed to

147. *Understanding Gun Control*, Wall St. J., June 7, 1972, at 14.

148. For a discussion of the historic role of federated voluntary associations in American politics, see Theda Skocpol, *Diminished Democracy: From Membership to Management in American Civic Life* (2003).

appreciate fully the political realities of a decentralized democracy. Using historical models that were at that very moment becoming outdated, gun control groups overestimated their ability to sell political elites on a “rational-national” policy for curbing gun violence. The choice to pursue this strategy at that particular historical moment emboldened the opposition for decades to come.