

Journal of Civil Rights and Economic Development

Volume 10
Issue 1 *Volume 10, Fall 1994, Issue 1*

Article 5

September 1994

Working for a Safer America

Sarah Brady

Follow this and additional works at: <https://scholarship.law.stjohns.edu/jcred>

Recommended Citation

Brady, Sarah (1994) "Working for a Safer America," *Journal of Civil Rights and Economic Development*.
Vol. 10 : Iss. 1 , Article 5.
Available at: <https://scholarship.law.stjohns.edu/jcred/vol10/iss1/5>

This Symposium is brought to you for free and open access by the Journals at St. John's Law Scholarship Repository. It has been accepted for inclusion in Journal of Civil Rights and Economic Development by an authorized editor of St. John's Law Scholarship Repository. For more information, please contact selbyc@stjohns.edu.

WORKING FOR A SAFER AMERICA

SARAH BRADY*

Today, people say that their number one fear is crime.¹ The fact is that Americans do not fear being mugged or robbed as much as they fear being shot.² Americans are afraid they will be shot for driving too slowly, for not giving up their valuables fast enough, or simply for being in the wrong place at the wrong time.³ There is no doubt that guns in the hands of criminals, guns in the hands of children⁴—guns in the *wrong* hands—have changed the national landscape. Specifically, these guns are killing our friends, families, neighbors, and colleagues at an increasingly alarming rate.⁵

* Sarah Brady is the Chair of Handgun Control, Inc., and the Center to Prevent Handgun Violence. Her husband, former White House press secretary Jim Brady, was seriously wounded in the 1981 assassination attempt on President Ronald Reagan.

¹ See Celinda Lake, *Voters Want Action on Crime*, USA TODAY, Aug. 25, 1994, at A11 (citing statistics where Americans have deemed crime their number one concern); see also LITTLE Bacon-Blood, *Crime Tops Worries in Parish Poll*, TIMES-PICAYUNE (New Orleans), Sept. 10, 1994, at A1 (documenting that in August 31/September 1 poll, those responding said crime is their number one fear); Charles V. Zehren, *House Struggles for Consensus*, N.Y. NEWSDAY, Aug. 21, 1994, at A3 (“Surveys show that crime is one of the nation’s highest concerns.”).

² See Chi Chi Silco, *Gun Control War Targets Our Worst Nightmares: Controversy Over Public Safety vs. Constitutional Rights*, INSIGHT ON THE NEWS, June 6, 1994, at 12 (noting “only thing Americans seem to want more than they want guns is gun control”).

³ See *Man Indicted in Exchange Student’s Slaying*, CHI. TRIB., Nov. 5, 1992, at C25. “[A] thirty year old butcher has admitted shooting sixteen year old Yoshihiro Hattori on October 17[1, 1992], but said he thought the boy was an intruder. Hattori and an American friend were looking for a Halloween party when they mistakenly went to the [wrong] house and knocked on the door.” *Id.* This shooting prompted 130,000 Japanese residents to sign petitions urging the United States to adopt stricter gun control measures. See Paul Leavitt, *Gun Ban Urged*, USA TODAY, Sept. 19, 1992, at 3A.

⁴ See *Testimony of James Fendry, Legislative Director of the Wisconsin Rifle and Pistol Association, on behalf of the National Rifle Association, Before the Senate Judiciary Committee on Juvenile Justice: Children & Gun Violence: A Wisconsin Perspective*, Fed. Document Clearinghouse Cong. Testimony (FDC) (Sept. 13, 1993). Mr. Fendry stated that “it is almost unbelievable that today so many students carry guns.” *Id.*; see also Fox Butterfield, *Teenage Homicide Rate Has Soared*, N.Y. TIMES, Oct. 14, 1994, at A22 (rate of homicides by children aged 15 to 19 increased 127% from 1985 to 1991); Beverly Merrick, *Forum: Controlling the Violence*, ATLANTA J. & CONST., Oct. 17, 1993, at G2 (quoting Harris Poll results found that four out of ten teenagers said they knew someone who had been shot).

⁵ See Merrick, *supra* note 4, at G2 (citing statistics which show that in 1990, 2,874 boys and girls ages 19 and younger were killed with guns); see also T.R. Reid, *Angry Japan Lays to Rest Student Shot Dead in U.S.: Slaying Sparks Criticism of Gun Laws*, WASH. POST, Oct. 27, 1992, at A1 (criticizing American gun laws and noting that they have gained international attention).

If the violence which results from easy access to guns was a disease that was taking the lives of fifteen children every day, it would be a national priority to find a solution. Similarly, if a disease was claiming more than 100 Americans daily, we would act to save the lives of those threatened. Undoubtedly, if the cure for that disease did not involve any new medical technology or a need for a medical breakthrough, we would do something to find the cure immediately. Gun violence is not a disease. It is an epidemic for which there is no single cure.⁶

As horrifying as the statistics are,⁷ it is even more horrifying to realize that we have not yet truly made it a *national* priority to change them. By way of example, in 1989, a deranged man walked onto a California schoolyard and opened fire with an AK-47, killing five children and wounding thirty.⁸ The nation was shocked and outraged. Americans demanded action. As a result, assault weapon legislation was introduced on both the state⁹ and federal levels.

⁶ See Jane Ellen Stevens, *The Biology of Violence: Violence in the U.S.*, BIOSCIENCE, May 1994, at 291 ("There is no question that violence is an epidemic in the United States. At least 2.2 million people are injured violently each year."); see also *As Easy as Buying a Toothbrush: The Need for Better Gun Control Legislation in the U.S.*, LANCET, May 29, 1993, at 1375 ("Epidemics resemble great warning signs on which the true statesman is able to read that the evolution of his nation is disturbed to a point which even a careless policy is no longer allowed to overlook."); Butterfield, *supra* note 4, at A22 (quoting Dr. Mark Rosenberg) (recent study regarding homicide rate amongst teenagers "clearly and comprehensively shows [that] we have an epidemic of firearms deaths among young men").

⁷ See, e.g., Diane Weathers & Cheo H. Coker, *Stop the Guns*, ESSENCE, Dec. 1993, at 70 (citing statistics showing that young black men between ages 15 and 25 are more likely to die of gunshot wounds than U.S. soldiers on tour of duty in Vietnam); Merrick, *supra* note 4, at G2 (in 1990 handguns killed 10 people in Australia, 22 in Great Britain, 68 in Canada, and 10,567 people in the United States); see also 140 CONG. REC. S5729, 5731 (1994) (statement of Sen. Bradley). "There are more gun dealers in America than there are gas stations or grocery stores. In 1991, 14,373 Americans were murdered with a gun, over 12,000 with a handgun." *Id.* Senator Bradley also noted that "[i]n 1992, 34,000 people applied to be gun dealers, and only 37 were denied." *Id.*

⁸ See Thomas R. Thompson, Comment, *Review of Florida Legislation: Form or Substance? Definitional Aspects of Assault Weapon Legislation*, 17 FLA. ST. U. L. REV. 649, 649 (1990). "On January 17, 1989 in Stockton, California, Patrick E. Purdy dramatically altered the national gun control debate. Using an AK-47 purchased in Oregon to avoid disclosure of his California criminal record, a seventy-five-round-capacity drum magazine, and a thirty-five-round-capacity banana clip, Purdy fired 110 rounds of 7.62 millimeter bullets across an elementary school playground, killing five children and wounding twenty-nine others and a teacher." *Id.* (citations omitted).

⁹ See, e.g., CAL. PENAL CODE § 12022 (Deering 1994) (providing three years imprisonment for committing or attempting to commit felony while armed with firearm); MASS. ANN. LAWS ch. 269, § 10 (Law. Co-op. 1994) (providing not less than 2½ years imprisonment for knowingly carrying firearm in one's vehicle).

Later in 1989, a Louisville printing plant was the scene of another assault weapon massacre.¹⁰ Since then, Americans have become almost numb to the incidents of gun violence that are played out on our televisions and in our newspapers. A few of the numerous examples of crimes to which we have become acclimated are the CIA shootings,¹¹ the San Francisco high-rise massacre,¹² and the Fairchild Air Force Base shooting in Spokane, Washington.¹³ In spite of this, the National Rifle Association ("NRA") still stands by the old adage that "guns don't kill people, people do."¹⁴ Unfortunately, more often than not they do it with guns.¹⁵ We can no longer ignore the impact that guns have had on all our lives.

I. GUN CONTROL MEASURES

Recently, after a five-year battle, a ban on semiautomatic assault weapons was signed into law as part of the Omnibus Crime Bill.¹⁶ Law enforcement groups, who worked tirelessly to get this public safety measure passed, know it will help in their fight

¹⁰ See *Only in America*, ST. LOUIS POST DISPATCH, Sept. 17, 1989, at 2B. "At a Louisville printing plant, Joseph Wesbecker killed seven of his fellow workers and wounded fifteen others before taking his own life. The reason may never be fully known, but it is clear that Kentucky's lax gun laws are partly to blame." *Id.*

¹¹ See Robert O'Harrow, Jr. & Bill Miller, *Power, Price and Availability Make Assault Weapons Popular*, WASH. POST, Jan. 28, 1993, at B4 (reporting incident where man climbed out of his car at stop light and began firing AK-47 automatic weapon into vehicles waiting at spotlight to turn into CIA complex).

¹² See Jennifer Warren & Patt Morrison, *Gunman Kills Eight, Himself at San Francisco Tower*, HOUS. CHRON., July 2, 1993, at A1. "A man carrying two powerful guns sprayed bullets through a high rise law firm . . . killing eight people and wounding six before shooting himself to death." *Id.*

¹³ *An Airman's Revenge: 5 Minutes of Terror*, N.Y. TIMES, June 22, 1994, at A14 (discussing background and possible intent of gunman); Louis Sahagun & Doug Conner, *Gunman Slain After Killing 4, Wounding 19 at AF Base*, L.A. TIMES, June 21, 1994, at A14 (noting "bloodiest shooting rampage in [Spokane's] history").

¹⁴ See Richard Lacayo, *Beyond the Brady Bill*, TIME, Dec. 20, 1993, at 28 (noting that popular bumper sticker for gun supporters states: "Guns don't kill people. People kill people."); Tom Morganthau & Bill Shenitz, *Too Many Guns? Or Too Few?*, NEWSWEEK, Aug. 15, 1994, at 44 ("[g]un owners tend to respond [to gun control supporters] with some variant of the old cliché: it is criminals, not guns, who do the killing").

¹⁵ See U.S. DEP'T OF JUSTICE, FBI, UNIFORM CRIME REPORTS (1992), reprinted in THE WORLD ALMANAC AND BOOK OF FACTS 967 (Robert Famighetti ed., 1993) (noting that of 22,540 murders reported in 1992, 15,377 were committed with firearms, 3,265 with cutting instruments, 1,029 with blunt objects, and 1,121 with hands and fists).

¹⁶ Violent Crime Control & Law Enforcement Act of 1994, Pub. L. No. 103-322, 108 Stat. 1796 (1994). See generally David Masci, *\$30 Billion Anti-Crime Bill Heads to Clinton's Desk*, CONG. WEEKLY REP., Aug. 27, 1994, at 2488-93. The Omnibus Crime Bill provides for a \$30 billion trust fund to pay for programs in a variety of areas. *Id.* Gun control is a major facet of the law, which calls for a ten-year ban on the manufacture and possession of 14 types of assault weapons. *Id.* The law also bans ammunition-feeding devices capable of holding more than ten rounds. *Id.* The bill cleared Congress on August 25, 1994, and was signed by the President the next month.

against violent crime.¹⁷ It will surely help prevent future tragedies. Gun control is a proven means of successfully confronting our national gun violence epidemic.¹⁸ After President Bush outlawed the importation of certain types of assault weapons, the number of those weapons traced to crime dropped by nearly forty percent in the first year.¹⁹ This is simply one example of gun control success.

Since the enactment of the Brady Bill in February of 1994, it has been extremely effective. In its first month, more than 23,000 possible felons, including murderers and rapists, were stopped from buying handguns over-the-counter.²⁰ The Brady Act's immediate positive impact was illustrated in a Bureau of Alcohol, Tobacco and Firearms ("BATF") report issued just one hundred days after the Brady Bill became law.²¹ The BATF reported that in Houston, Texas, more than sixteen percent of the attempted handgun purchases were denied,²² and the report also showed that in Pittsburgh, Pennsylvania, more than six percent of the would-be gun purchasers were denied.²³ Moreover, in the state of Georgia, a

¹⁷ See Osha Gray Davidson, *Guns and Poses: The NRA's Fake Allies*, NEW REPUBLIC, Oct. 11, 1993, at 12 (showing that law enforcement groups have supported gun control measures for long time).

¹⁸ See generally Donald P. Baker, *Update on the News—Assessing Effectiveness of Virginia Handgun Law*, WASH. POST, July 4, 1994, at B3 (addressing effectiveness of Virginia's gun control laws as method of controlling gun violence); Mark Clayton, *Canada's Gun Control May Grow Stronger*, SAN DIEGO UNION-TRIBUNE, Dec. 2, 1994, at A28 (expressing that Canada has stricter gun laws than United States and further that "statistics show Canada has much less gun violence than United States"); Claire Safran, *A Tale of Two Cities and the Difference Guns Make*, GOOD HOUSEKEEPING, Nov. 1993, at 134 (discussing seven-year study of gun crime in Seattle, Washington and Vancouver, British Columbia and concluding that only plausible explanation for disparity in gun violence between two otherwise identical cities is that Canada has far stricter restrictions on handguns than State of Washington, resulting in less gun violence for Vancouver).

¹⁹ During the 101st Congress, subcommittees of both the House and the Senate Judiciary Committees held hearings on semiautomatic assault weapons. See generally *Semiautomatic Weapons Act of 1989: Hearings on H.R. 1190 and Related Bills Before the Subcommittee on Crime of the House Committee on the Judiciary*, 101st Cong., 1st Sess. 414 (1989); see also *Assault Weapons: Hearings before the Subcomm. on the Constitution of the Senate Comm. on the Judiciary*, 101st Cong., 1st Sess. 465 (1989). Specifically, in July of 1989, the Bush Administration established a permanent import ban on 43 models of semiautomatic weapons. See Keith Bea, "Assault Weapons": *Military-Style Semiautomatic Firearms Facts and Issues*, CONG. RESEARCH SERV. REPORT, May 13, 1992, at 8-9 (technical revisions, June 4, 1992).

²⁰ See Dianne Aprile, *Guns Don't Die, People Do*, LOUISVILLE COURIER J., Sept. 15, 1994 (available through Gannett News Service) (noting that it took seven years to pass Brady Bill, yet it had immediate impact).

²¹ U.S. DEPT OF TREASURY, BUREAU OF ALCOHOL, TOBACCO & FIREARMS, *THE BRADY LAW: THE FIRST 100 DAYS* (1994).

²² *Id.* at 5 (surveying federal firearms licensees).

²³ *Id.* at 6 (surveying Chief Law Enforcement Officers).

staggering thirty-three percent of the handgun applications were submitted by potential felons.²⁴

Equally compelling evidence of the effectiveness of the Brady Act is the actual cases where the measure has led to the arrest of wanted criminals. In March of 1994, the BATF, in conjunction with the Savannah, Georgia Police Department, disrupted a gun-running operation between Georgia and New York by arresting a man who had purchased sixteen handguns.²⁵ The arrest came pursuant to a background check which raised questions about the man's identity and state of residence.²⁶ It was later confirmed that the man used an alias, and that he was a resident of New York, not Georgia.²⁷ In April of 1994, a suspected drug dealer was arrested in San Antonio, Texas, after a Brady background check turned up outstanding warrants for possession of cocaine with intent to distribute, possession of heroin with intent to distribute, and failure to appear in court.²⁸ Finally, a man wanted in Orange County, Florida, for battery of a law enforcement officer was arrested while attempting to purchase a handgun in Columbia, South Carolina.²⁹ Florida authorities had been unable to locate him before the Brady Act's procedures resulted in the revelation of his current address.³⁰ There is no doubt that gun control laws work.

II. ATTACKS ON GUN CONTROL

The NRA has consistently backed lawsuits claiming the Brady Act to be unconstitutional.³¹ Oddly, despite years of gun-lobby claims that gun laws violate the Second Amendment's "right to keep and bear arms" Clause,³² the NRA-backed lawsuits are actu-

²⁴ *Id.* at 7.

²⁵ *Id.* at 1.

²⁶ U.S. DEP'T OF TREASURY, BUREAU OF ALCOHOL, TOBACCO & FIREARMS, *THE BRADY LAW: THE FIRST 100 DAYS* 1 (1994).

²⁷ *Id.*

²⁸ *Id.* at 2.

²⁹ *Id.*

³⁰ *Id.*

³¹ See, e.g., *Mack v. United States*, 856 F. Supp. 1372 (D. Ariz. 1994) (asserting Brady Act unconstitutional in suit instituted by Sheriff Richard Mack of Graham County, Arizona); *Printz v. United States*, 854 F. Supp. 1503 (D. Mont. 1994) (concerning suit brought by Sheriff Jay Printz of Ravalli County, Montana).

³² U.S. CONST. amend. II. The Second Amendment states: "A well regulated Militia, being necessary to the security of a free State, the right of people to keep and bear Arms, shall not be infringed." *Id.*

ally being brought on Tenth Amendment grounds.³³ They cite the rights of states and argue that the federal government lacks the power to compel local police to do background checks.³⁴ However, nowhere in the NRA lawsuits is the claim made that making citizens wait five business days to get a handgun violates the Second Amendment. Why? Is it because they know that claim will not hold up?

Former Chief Justice Warren Burger commented on the NRA's attempts to promote the Second Amendment as a bar to gun control.³⁵ He said that "[t]his has been the subject of one of the greatest pieces of fraud, I repeat the word 'fraud' on the American public by special-interest groups that I have ever seen in my lifetime."³⁶ Former Supreme Court Justice Lewis Powell echoed Chief Justice Burger's words when he said in a speech to the American Bar Association that "with respect to handguns . . . it is not easy to understand why the Second Amendment, or the notion of liberty, should be viewed as creating a right to own and carry a weapon that contributes to the shocking number of murders in the United States."³⁷

U.S. courts have never ruled that the Second Amendment guarantees all individuals the right to own any type of "arm" they choose. However, the United States Supreme Court has interpreted the Second Amendment on several occasions.³⁸ For exam-

³³ Pierre Thomas, *The Brady Law: Sheriffs Challenging Federal Authority*, WASH. POST, Sept. 19, 1994, at A1. In fact, lawsuits have been filed in Montana, Texas, Arizona, Mississippi, Louisiana, Vermont, and Wyoming charging that the Brady Act is vague and violative of the Tenth Amendment. *Id.* These suits specifically claim that the Act "encroaches on the states' authority, forcing local officials to use limited resources to carry out background checks that could just as well be done by federal law enforcement." *Id.* The NRA claims that these lawsuits will "show that the federal government cannot mandate this type of activity." *Id.* (quoting Tanya K. Metaksa, Executive Director, NRA Institute for Legislative Action).

³⁴ *Id.*

³⁵ *MacNeil/Lehrer Newshour: Violence in America* (PBS television broadcast, Dec. 16, 1991) (Chief Justice Burger gave his opinions on gun violence in America).

³⁶ *Id.*

³⁷ Justice Lewis Powell, Address to the American Bar Association in Toronto, Canada (Aug. 7, 1988).

³⁸ See, e.g., *Adams v. Williams*, 407 U.S. 143, 150 (1972) ("There is . . . no reason why stiff state laws governing purchase and possession of pistols may not be enacted. . . . The Second Amendment . . . must be interpreted and applied with the view of maintaining a militia."); *United States v. Miller*, 307 U.S. 174, 178-79 (1939) (must view Second Amendment as pertaining to maintenance of militia); *Presser v. State of Illinois*, 116 U.S. 252, 265 (1886) (state statute prohibiting all "bodies of men to associate together as military organizations, or to drill or parade with arms in cities and towns unless authorized by law, do not infringe the right of the people to keep and bear arms").

ple, in 1939, the Supreme Court addressed the issue in the case of *United States v. Miller*.³⁹ The issue in *Miller* involved a sawed-off shotgun being taken across state lines.⁴⁰ The Court ruled that the obvious purpose of the Amendment was “to assure the continuation and render possible the effectiveness” of state militia forces.⁴¹ In addition, over thirty lower court decisions have addressed the Second Amendment and ruled that the Second Amendment guarantees a state’s right to maintain a militia.⁴² Therefore, the preservation of a state militia, or National Guard as it is called today, does not give private citizens the right to maintain their own personal gun arsenal.

III. AMERICANS BENEFIT FROM SENSIBLE GUN LAWS

Sensible gun laws have both withstood the numerous Second Amendment constitutional challenges and proven to be beneficial to the people they propose to protect. As a result, the American public is demanding more laws and tougher laws. In February of 1994, when the Brady Act went into effect, Handgun Control Incorporated (“HCI”) introduced the Gun Violence Prevention Act (“Brady II”).⁴³ This measure is a complete overhaul of the way that guns are bought and sold in this country. It supports the notion that guns should be treated as the dangerous weapons they are, and restricted accordingly. By way of a simple example, guns and gun owners should be subject to the same common sense re-

³⁹ 307 U.S. 174 (1939).

⁴⁰ *Id.* at 178.

⁴¹ *Id.* at 175. The *Miller* Court specifically addressed the issue of whether the National Firearms Act (“NFA”), as applied in this situation, was unconstitutional. *Id.* The Court held that the Second Amendment guarantees no right to keep and bear a firearm that does not have some “reasonable relationship to the preservation or efficiency of a well regulated militia.” *Id.* at 178-79. The Court stated that the NFA did not violate or invade the Tenth Amendment powers of the states, *id.* at 177-78 (citing *Sonzinsky v. United States*, 300 U.S. 506 (1937)), and that it was not violative of the Second Amendment of the United States Constitution. *Id.* at 182.

⁴² See, e.g., *United States v. Hale*, 978 F.2d 1016, 1019 (8th Cir. 1992) (“We cannot conclude that the Second Amendment protects the individual possession of weapons.”), *cert. denied*, 113 S. Ct. 1614 (1993); *United States v. Warin*, 530 F.2d 103, 106 (6th Cir.) (declaring Second Amendment “applies only to the right of the State to maintain a militia and not to the individual’s right to bear arms”), *cert. denied*, 426 U.S. 948 (1976); *United States v. Tomlin*, 454 F.2d 176, 176 (9th Cir.) (declaring statutes restricting possession of unregistered firearms and requiring registration of firearms are unconstitutional infringements on right to bear arms under Second Amendment), *cert. denied*, 406 U.S. 924 (1976); *Engblum v. Carey*, 522 F. Supp. 57 (S.D.N.Y. 1981) (“Infringement of that right [to keep and bear arms] does not violate the Second Amendment unless the activity infringed has some reasonable relationship to preservation of or efficiency of a well regulated militia.”).

⁴³ See S. 1878, 103d Cong., 2d Sess. (1994); H.R. 3932, 103d Cong., 2d Sess. (1994).

strictions that we place on automobiles and their owners. While automobiles kill only by accident, they are heavily regulated. In order to drive one must be of a minimum age, take a training course, pass a proficiency test, and have a license.⁴⁴ In addition, one's car must be registered, inspected, and one must have updated insurance.⁴⁵ Contrast automobiles with guns, which kill by design.⁴⁶ Guns have no similar restrictions.⁴⁷ Brady II addresses the need for restrictions.⁴⁸ One suggestion is that just as the legislature has required automotive manufacturers to improve the safety of automobiles, so too should they require gun manufacturers to improve the safety of guns.⁴⁹

One misconception that many children and adults have is that the removal of a magazine from a pistol removes all bullets from the gun.⁵⁰ This is an unfortunate mistake. Too often, it is a deadly mistake. If a bullet has already been chambered, the gun will fire.⁵¹ Gun manufacturers surely could be required to only produce guns that include magazine safeties and load indicators.⁵² If

⁴⁴ See N.Y. VEH. & TRAF. LAW § 375 (McKinney 1994).

⁴⁵ See, e.g., ALASKA STAT. § 28.10.461 (1994) "[A] person may not drive . . . a vehicle required to be registered under this chapter unless valid registration plates, decals, or permits for the current registration period are attached to and displayed on vehicle." *Id.*; MD. CODE ANN., INS. § 541 (1994) (detailing primary coverage required for motor vehicle casualty insurance); N.Y. VEH. & TRAF. LAW § 306 (McKinney 1994) (requiring motor vehicle operators to maintain certificate of inspection).

⁴⁶ See Carl T. Bogus, *Pistols, Politics and Products Liability*, 59 U. CIN. L. REV. 1103, 1110 (1991) (advancing notion that "handguns cause injuries because they function just as intended"); see also Paul Cotton, *Gun-Associated Violence Increasingly Reviewed as Public Health Challenge*, 267 JAMA 1171, 1171-74 (1992) (describing increased effects of violence and death due to gun ownership).

⁴⁷ See generally Gregg Krupa, *Guns Aiming for Profits*, BOSTON GLOBE, Dec. 21, 1993, at A1 (discussing poor regulation of gun dealers and abuse of distribution systems). Although the Bureau of Alcohol, Tobacco and Firearms registers all licensed firearms dealers, lack of resources precludes routine inspections and enforcement of regulations governing licensing. See Josh Sugarman, *Reverse Five: the Brady Bill Won't Break the Sick Hold Guns Have on America*, MOTHER JONES, Jan. 1994, at 36 (noting that Bureau of Alcohol, Tobacco and Firearms lacks regulatory powers and leaves those in gun industry free to do what they please).

⁴⁸ See Gun Violence Prevention Act of 1994, H.R. 3932, 103d Cong., 2d Sess. (1994) (generally requiring registration, licensing, and restrictions on firearm possession).

⁴⁹ *Id.* Restrictions should be placed on the storage of firearms and ammunition at any place where juveniles can easily gain access. *Id.* Further, we should prohibit the manufacture or import of any firearm which does not incorporate devices that prevent children from firing the weapon, alert owners as to when there is a bullet in the chamber, and prevent discharge after the magazine has been removed. *Id.*

⁵⁰ See Eileen Berg, *AAP Urges Improving Firearm Safety*, AM. MED. NEWS, Aug. 17, 1990, at 20 (calling for safety features such as trigger locks, loading indicators, and less destructive bullets to help reduce firearm injuries to children).

⁵¹ *Cf. id.* (supporting argument that existing safety features are not handling problems).

⁵² *Id.* (emphasizing that manufacturers could make guns which cannot be unintentionally fired by children). Specifically, there should be regulations requiring "trigger locks,

the American public demands lifesaving features such as these, the market will manufacture them.⁵³

Just as important as changing laws is changing attitudes. Guns must be deglamorized, and the real consequences of their use need to be pointed out to both children and adults.⁵⁴ An unexpected result of the successful public awareness campaign against drunk driving, coupled with safety measures including lower speed limits, mandatory seat belt use, and the installation of air bags, according to the Centers for Disease Control and Prevention, is that in less than ten years, deaths from firearm injuries will exceed deaths from automobile injuries.⁵⁵ The sad reality is that it is already true for six states and the District of Columbia.⁵⁶

HCI's sister organization, the Center to Prevent Handgun Violence (the "Center")⁵⁷ is working with lawyers, educators, medical professionals, researchers, law enforcement, community and civic groups, and the entertainment industry to help reverse the spiral of gun-related deaths.⁵⁸ The Center's Legal Action Project ("LAP") was founded in 1989 to take the battle against gun violence into our nation's courts.⁵⁹ The LAP attorneys provide free legal assistance to gun violence victims and ensure that those responsible for putting guns into the wrong hands are held accountable.⁶⁰ More-

loading indicators, trigger pressure above what a child can muster, and bullets that pack less destructive force." *Id.*

⁵³ See Sugarman, *supra* note 47, at 36 (documenting effect consumers have on market and attention gun manufacturers pay to consumer demands).

⁵⁴ See Edwin Diamond, *Guns and Poses: Hollywood Takes on Violence*, NEW YORK MAG., Dec. 6, 1993, at 32 (explaining attempts by media to discourage violence and gun ownership).

⁵⁵ See Cotton, *supra* note 46, at 1172-74 (discussing statistics concerning firearm killings and motor vehicle crashes); Barbara Vobejda, *Children's Defense Fund Cites Gun Violence*, WASH. POST, Jan. 21, 1994, at A3 (noting firearm homicide as nation's third leading cause of death for school children).

⁵⁶ See ABC News (ABC television broadcast, Dec. 11, 1992) (noting that more people died in Los Angeles from shootings than from car accidents).

⁵⁷ See Leef Smith, *Pr. Williams Teen Who Shot Himself in the Mouth Reported in "Good Condition"*, WASH. POST, Aug. 6, 1994, at B2 (noting that Center to Prevent Handgun Violence is organization that works to reduce gun violence through education, research, and legal action).

⁵⁸ *Id.*

⁵⁹ See Dennis Henigan, *Gun Control with a Bang*, MANHATTAN LAW., Oct. 1991, at 34. Mr. Hennigan is the Director of the Legal Action Project, which assists in the representation of victims of gun violence in suits against the gun industry. *Id.*; see also Roger A. Stone, *The Mass Plaintiff: Public Interest Law, Direct Mail Fundraising and the Donor Client*, 25 COLUM. J.L. & SOC. PROBS. 197, 228 (1992) (explaining that Center to Prevent Handgun Violence created Legal Action Project in response to NRA's increase in litigation challenging assault weapon bans).

⁶⁰ See Henigan, *supra* note 59 (explaining focus of project as making gun dealers accountable for intentional violent acts done by products they sell).

over, LAP works to educate the public about the true meaning of the Second Amendment's "right to keep and bear arms" and to expose the constitutional myth surrounding this issue.⁶¹ In addition, LAP represents victims of gun violence in suits against negligent gun dealers and manufacturers.⁶²

Recently, LAP filed a groundbreaking lawsuit seeking damages from three gun and gun "accessory" manufacturers on behalf of the victims of last July's San Francisco high-rise massacre.⁶³ The suits claim that the products, Intratec's TEC-DC9 assault pistol, USA Magazine's 32-round and 50-round ammunition magazines, and Hell-Fire System's "Hell-Fire" trigger system, not only made possible, but also made more deadly, Gian Luigi Ferri's rampage which left eight people dead and six wounded.⁶⁴ Unlike product liability suits that claim negligence because a product was defective or did not work properly, these lawsuits allege that these weapons worked *exactly as they are supposed to*.⁶⁵ The sale of these guns to the general public is a gross violation of ordinary standards of decency and care.⁶⁶

The attitude, however, is clearly turning as more and more Americans are calling for tougher restrictions on guns.⁶⁷ HCI will continue working to change this country's laws and the Center will continue to work to change attitudes. However, if we are to save the next generation from this epidemic, we must work together.

Nearly three decades ago, Dr. Martin Luther King, Jr. warned us that the easy accessibility of guns and the rising tide of gun violence had "created an atmosphere in which violence and hatred

⁶¹ See *id.* (citing numerous cases where courts held gun dealers responsible for selling their products negligently).

⁶² *Id.*

⁶³ *Sposato v. Intratec Firearms*, No. 96-0937, (Cal. Super. Ct. San Francisco County filed May 18, 1994); see also Maura Dolan, *Relatives of Victims Sue Gun Makers*, L.A. TIMES, May 19, 1994, at A3 (documenting lawsuits by family members against gun manufacturer who sold weapon used in shootings).

⁶⁴ See Dolan, *supra* note 63, at A3. Generally, the lawsuits charge that the gun manufacturers were negligent in selling the weapons to the public because the weapons have no legitimate civilian use. *Id.*

⁶⁵ See *id.* "Selling such assault guns is negligent, the suits contend, because they have no legitimate use and are designed for crime." *Id.*

⁶⁶ See *id.* (contending that sale of guns was abnormally dangerous activity and defendants should be held strictly liable for damages to those injured by it).

⁶⁷ See Michael Reyendes, *Arms Curbs are Gaining Access Across U.S.*, BOSTON GLOBE, Oct. 25, 1993, at A1 (supporting new measures for gun control laws). "Drive by shootings and gang violence is [sic] sweeping cities across the nation and is enticing new support for gun control laws." *Id.*

have become popular pastimes.”⁶⁸ A few short years later, after Dr. King’s assassination, Robert Kennedy said, “with all the violence and murder and killings we’ve had in the United States . . . we must keep firearms from people who have no business with guns.”⁶⁹ A few weeks later, after Robert Kennedy’s assassination, President Lyndon Johnson said: “What in the name of conscience will it take to pass a truly effective gun control law? Now, in this new hour of tragedy, let us spell out our grief in constructive action.”⁷⁰

A couple of years after Jim had been shot,⁷¹ we were visiting relatives in his hometown of Centralia, Illinois. Our young son climbed into a neighbor’s truck to go swimming. When I got in after him, he was pointing what I thought was a toy gun at me. I told him never to point a gun, even if it was a toy. When I took it from him, I realized it was a fully loaded .22, the same kind of handgun used to shoot my husband. It took a near-second tragedy in my family for me to get personally involved. My message to all Americans is get involved. Working together, we can accomplish our goal of curbing the gun violence on our streets, in our schools, and in our neighborhoods. We can make a difference. We can change laws. We can change attitudes. And most importantly, we can save lives.

⁶⁸ LAURENCE J. PETER, PETER’S QUOTATIONS 231 (1977).

⁶⁹ *Id.*

⁷⁰ *Id.*

⁷¹ Jim Brady, the Author’s husband, was President Reagan’s press secretary when John Hinkley Jr. attempted to murder the President. During the March 1981 assassination attempt, Mr. Brady was shot in the head and permanently injured. See Wayne King, *The Gun Lobby*, N.Y. TIMES, Dec. 9, 1990, § 6 (Magazine), at 43.

