

# Analytical Essay

## GUN CONTROL IN AUSTRALIA: A CRIMINOLOGICAL PERSPECTIVE

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In recent months there has been an upsurge in contributions to the popular press from social commentators insisting that guns make our nation safer. This essay questions these assertions. The paper provides evidence to support a contrary affirmation: that is, in order to have a reduction in gun violence, there needs to be a reduction in the number of guns generally, and a continuation of the legal controls that currently shape firearms policy in Australia.

**Keywords:** gun control, gun crime, gun violence, gun safety, gun legislation, firearms control, anti-gun lobby

### BACKGROUND

Two opinion pieces in the press in 2014 caught my attention. Both were designed to challenge the Australian policies currently in place to control the availability of guns in our communities. The first was from Senator David Leyonhjelm, Liberal Democrat Senator for New South Wales. Amongst other things, he offered the following assertion:

Anti-gun zealots, within and outside the halls of Parliament, smugly try to convince the rest of the world that Australia's model of firearm management has been a resounding success. ... To satisfy their conceit, they manipulate statistics to suit themselves and pretend that "the science is settled." This is an outright lie. When you look at the real facts, it becomes very obvious that the Australian experiment with gun control is nowhere near as clear-cut as the gun prohibition lobby wants the world to believe. (Leyonhjelm, 2014)

The second was from the high-profile American gun lobbyist Mr John Lott, writing with Australian academic Dr Kesten Green. In their article they challenged a comment from a South Australian judge who, while sentencing a man

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who had supplied a gun later used in a random shooting murder, had called for the banning of guns in homes. Lott and Green (2014) made the following assertion:

Every single time and place that guns have been banned murder rates go up—often several-fold. . . . Murder rates increase after gun bans for a simple reason. When guns are banned it is law-abiding citizens who turn in their guns, not criminals.

Moreover:

Laws that take firearms away from law-abiding citizens leave them vulnerable to criminals, and increase crime. (Lott & Green, 2014)

These comments are not unusual, and have all been made before by various spokespersons on behalf of their lobbying organisations, amongst them the Australian-based Shooters and Fishers Party, and the Firearm Owners Association of Australia. The influence of the US-based National Rifle Association (NRA) on views put forward by proponents of less gun control cannot be discounted.

The NRA holds enormous sway in the political life of the United States. A sobering reminder of the NRA's influence occurred in the aftermath of the events of 14 December 2012. On that tragic day, twenty children and six of the teachers and administrators who cared for them were gunned down at the Sandy Hook Elementary School, Connecticut, by a troubled young individual using legally purchased firearms who then took his own life. Despite the horrendous toll, the NRA refused to acknowledge the part played in the tragedy by policies that allow high-powered firearms to be readily available in that State. Indeed, in the weeks after the Sandy Hook massacre there was an upsurge in gun purchases by American citizens, presumably to arm themselves as a mechanism of defence (Pilkington, 2013), or perhaps to circumvent an anticipated legislative response by the Obama Administration.

In contrast to the United States, Australian parliamentarians have exhibited strong political leadership on gun policy in the aftermath of several horrific events. The story begins almost three decades ago when two gun atrocities occurred only months apart in downtown Melbourne. The first occurred on 9 August 1987. On that day a lone gunman, armed with three firearms including a military-style M14 assault rifle, opened fire on people walking along Hoddle Street, a busy inner city road. Firing more than 100 rounds of ammunition, the gunman killed seven people and injured a further nineteen. Only four months later, on 8 December 1987, another lone gunman armed with a sawn-off military-style M1 carbine entered an

office building in Queen Street. He fired indiscriminately at office workers, resulting in the deaths of eight people and the injury of another five. He evaded justice by jumping to his death from an office window (Chappell, 2015).

#### NATIONAL COMMITTEE ON VIOLENCE, 1990

These two incidents were among the worst mass killings to have occurred in recent Australian history. Not surprisingly, they provoked widespread citizen and governmental alarm about the general state of violence in Australian society. Shortly after the Queen Street shootings, the then Prime Minister, Bob Hawke, convened a meeting of the State Premiers and the Chief Minister of the Northern Territory to discuss gun control. From this meeting emerged an agreement amongst all governments to establish an inquiry to be known as the National Committee on Violence. The then Federal Minister for Justice, Senator Michael Tate, formally announced the Committee's establishment and its terms of reference in October 1988 (Chappell, 2015).

Over the next year the Committee undertook its many tasks. With a modest budget of \$A183,000 it convened hearings and held conferences. It produced a number of pamphlets and monographs. One of the issues it tackled was firearm ownership and its link to gun violence. From the outset, the Committee despaired that firearms data of any kind were almost non-existent. The chairman of that inquiry, Professor Duncan Chappell, quipped at the time that Australian policy-makers knew more about the numbers of rabbits in the country than they did about the number of firearms (Chappell, 1990).

The Report of the National Committee was published in 1990 (National Committee on Violence, 1990). More than a dozen recommendations regarding firearms were made, including uniform legislation, a national gun control strategy, a computerised firearms registry, and a permanent amnesty for the surrender of unauthorised firearms. The response from governments, however, was, in political terms, lukewarm.

#### PORT ARTHUR MASSACRE 1996 AND BEYOND

In 1996 this all changed, and dramatically. On 28 April of that year at Port Arthur, Tasmania, thirty-five people were gunned down by a lone gunman wielding a semi-automatic rifle. One month later, the Australasian Police Ministers Council (APMC) agreed upon a strategy designed to ban these specific firearms. Thereafter, a large-scale buyback of all semi-automatic rifles and pump-action

shotguns took place. By August 1998, over 640,000 guns had been surrendered to Australian authorities. That initiative was accompanied by laws tightening licensing requirements, regulating gun registration, and insisting upon safe storage of firearms and training requirements for all gun owners.

More was to come. At a meeting of the APMC in November 2002, additional restrictions on guns were agreed to, which included limiting the classes of handguns that can be imported or possessed for sporting purposes, changing licensing requirements, and exploring options for a buyback program for those guns now deemed illegal. From this consensus emerged the National Handgun Control Agreement of 2002.

The federal Parliament then enacted the *National Handgun Buyback Act 2003* (Cth), which provided for financial assistance to be granted to jurisdictions buying back handguns that did not comply with the new restrictions. The buyback program resulted in about 70,000 handguns and more than 278,000 parts and accessories being surrendered (National Firearms Monitoring Program, ND).

The Prime Minister at the time was John Howard. His decisions were designed to send a decisive message about the place of guns in a modern civilised society. There was very little community disquiet in response to these restrictions other than a few rallies by sporting shooters. In Australia today there continues to be bipartisan political consensus and broad community support for strong gun control (Sarre, 2015a, 2015b).<sup>1</sup>

To what extent did the buyback make inroads into the rate of firearm-perpetrated homicides and gun suicides? In a study conducted a decade after the 1998 laws came into effect researchers Dr Christine Neill and Dr Andrew Leigh concluded as follows:

We find reductions in both gun homicide and gun suicide rates that are statistically significant, meaning that they are larger than would have been expected by mere chance. . . . Our best estimates are that the gun buyback has saved between 128 and 282 lives per year. (Neill & Leigh, 2007)

According to these scholars, economists typically put the value of a life saved at around \$A2 million. The buyback cost of approximately \$A250 million had thus proved, they asserted, to be a good use of public money (Neill & Leigh, 2007; Leigh & Neill, 2010, p.510; cf. Lee & Suardi, 2008).

Moreover, those monitoring homicide trends in Australia note that gun death rates have been falling consistently for the last two decades. The homicide rate continues in a long term decline that began before 1998, but the share of murders committed with firearms has dropped sharply.

During the period 2008–09 to 2009–10, approximately one in 10 (n=65; 13%) homicide incidents involved the use of a firearm; of these, only 14 percent involved a handgun. The majority of all firearms used in homicide incidents were reported by the police as unregistered and/or unlicensed. Overall, firearm involvement and in particular the involvement of handguns in homicide incidents, remains at an historical low. (National Homicide Monitoring Program, 2013)

However, this empirical evidence counts for little in the United States where the NRA is politically influential. Estimates in 2009 were that there were more than three hundred million guns in private hands in the United States (Roberts, 2012). This figure would be significantly higher today. At the same time, many US state governments are lifting gun control laws or softening regulations. For example, by virtue of a law passed in April 2014, Georgia now allows holders of “concealed carry” permits to take their firearms into a wide range of public places, including bars, churches, and government buildings, under certain circumstances. The law also allows hunters to use silencers, and authorises schools to allow teaching staff to carry weapons on campus (Gambino, 2014). In November 2014, Missouri lifted a ban on the open carrying of firearms for those who currently hold a concealed weapon permit (Inquisitr, 2014). In June 2015 law-makers passed a bill in Texas giving students and faculty members at public and private universities in that State, from 2016, a right to carry concealed handguns into classrooms, dormitories, and other buildings (Fernandez & Montgomery, 2015).

What part does the Second Amendment of the US Constitution play in the rise in private firearm ownership in the United States and lax control laws? I would argue, a great deal. The wording of the Second Amendment, enacted in 1791, is as follows: *A well regulated militia, being necessary to the security of a free state, the right of the people to keep and bear arms, shall not be infringed.* Despite its awkward grammar, it continues to operate as a foil for gun control advocates because the US courts have asserted that it was *not* meant to apply only to firearms in the hands of militia. In *District of Columbia v Heller* 554 U.S. 570 (2008) the Supreme Court determined that the Second Amendment protects an individual’s right to possess a firearm unconnected with service in a militia, and

to use that firearm for lawful purposes, such as self-defence within the home. The Court reasoned as follows: the Amendment's preface announces a purpose (militia), but that purpose should not be read as limiting or expanding the scope of the second part, the operative clause. The operative clause's text and history demonstrate a right of all citizens to keep and bear arms.

Two years later, the US Supreme Court was called upon, in *McDonald v City of Chicago* 561 U.S. 742 (2010), to consider a challenge to a handgun ban that had been legislated in Chicago. In a 5/4 (split) decision, the court ruled that Chicago had gone too far (and thus was in violation of the Second Amendment) in prohibiting handguns that had been purchased for self-defence generally, not just in the home (Richey, 2010).

In contrast, there is an academic view that the Second Amendment was designed for eighteenth-century colonial communities, and was intended to remove restrictions on the militia committed to protecting them, and to appease the South where slave-owners relied upon militia for slave control (Bogus, 1998, pp.346–350). It is certainly the case that its author, James Madison, could not have envisaged that it would be used more than two centuries later to apply to semi-automatic and rapid-fire guns and military-style assault rifles. Colonial rifles of his day were low velocity, single-shot, muzzle loaded weapons. In contrast, modern rifles are capable of firing many rounds per second, and, in addition, have muzzle velocities far greater than the ones Madison knew, which gives these weapons extended range as well as allowing the projectile to penetrate armour. In this context, would a “reasonable person” have agreed with Madison when he drafted the Second Amendment this way? In any event, it is all moot for Australians. Australia does not have a Second Amendment, nor anything equivalent to it.

### CRIMINOLOGICAL EVIDENCE

The current criminological evidence on the subject of guns and their role in crime, both preventing and promoting, is extensive. Let us begin with the suggestion that there is a link between the decade-long decline in the US violent crime rate and the prevalence of guns in the hands of American citizens. The “causal” connection, however, is problematic, since violent crime rates have been declining over a similar period in all industrialised Western democracies, including those that have strict gun laws like Australia. In fact, if one is looking for a correlation, one can find it in the number of guns and rates of gun deaths. Comparisons

between the United States and Australia are useful here. The United States gun ownership rate (guns per 100 people) is more than five times the Australian rate. The United States gun homicide rate is more than ten times the Australian rate (Rogers, 2012). Sixty percent of US homicides are committed by firearms. The equivalent figure in Australia (2010–2012) is 14 percent (National Homicide Monitoring Program, 2015).

It has often been argued by those who would lift restrictions on guns that “guns don’t kill people; people kill people.” There is, however, strong criminological evidence that communities are less safe in circumstances where there are firearms present. A study by scholars at the Harvard School of Public Health, published in 2002, found that, when it comes to childhood deaths, the ready availability of a firearm makes a great difference. Over the period studied (1988–97) nearly seven thousand American children aged between five and fourteen were killed by a firearm. Children in the five states with the highest rate of gun ownership (Louisiana, Alabama, Mississippi, Arkansas, and West Virginia) were sixteen times more likely to die from a gun accident than children in the five states with the lowest rate of gun ownership (Hawaii, Massachusetts, Rhode Island, New Jersey, and Delaware). Children in the “high-gun” states were also seven times more likely to die from a gun suicide and three times more likely to die from a gun homicide (Harvard, 2002). The authors of the study also found that, before an American child reaches fifteen, he or she is twelve times more likely than a child anywhere else in the industrialised world to die of gunshot wounds.

The reasons for this are intuitive, according to researchers such as Alison Wallace (1986) and David Lester (1990). The presence of a firearm means that low level violence on the street or in the workplace can quickly escalate into lethal violence; suicidal thoughts can quickly become fatal; children innocently playing with loaded weapons can quickly become victims; assaults against women in domestic settings can quickly harbour deadly consequences.

The evidence against guns as a crime prevention strategy continues to mount today. In 2013, Bangalore and Messerli published in the *American Journal of Medicine* the results of their evaluation of the possible associations between gun ownership rates, mental illness, and firearm-related death. They reviewed the data for 27 developed countries. They concluded that the number of guns per capita per country was a strong and independent predictor of firearm-related deaths (Bangalore & Messerli, 2013).

Likewise, a meta-analysis conducted by Dutch academic John van Kesteren that was published in 2014 found as follows:

In high-gun countries, the risks of escalation to more serious and lethal violence are higher. On balance, considerably more serious crimes of violence are committed in such countries. For this reason, the strict gun-reduction policies of many governments seem to be a sensible means to advance the common good. (van Kesteren, 2014, p.69)

Van Kesteren (2014) presented his analysis of the statistical data to address the question about whether, at the individual level, a person is safer for having access to a firearm. His study concluded, “No.” He explained the reasoning thus:

Contrary to what has been claimed by proponents of widespread gun ownership in the United States, those households that own guns run higher risks of seeing their members being criminally victimized, either by other household members or by outsiders who are not deterred from attacking. This correlational finding provides no proof that the higher risks are *caused* by ownership of a gun; ownership might also be a proxy for a high-risk lifestyle. But this result certainly sheds serious doubt on the notion of gun ownership as a protective factor. (van Kesteren, 2014, p.69, emphasis in the original)

If this conclusion is correct, and the evidence continues to grow (Bricknell, Lemieux & Prenzler (2015), those who advocate gun ownership as a means of crime prevention are confronting a considerable empirical evidence-based barrier.

#### RECENT DEVELOPMENTS

On 22 February 2015, the report of the Joint Commonwealth–New South Wales Review into the Martin Place siege on 15 December 2014 was released. The siege had left the gunman Man Haron Monis and two hostages dead. The sawn-off shotgun used by Monis during his attack, said the authors of the report, was probably from the “grey” market: firearms that entered Australia legitimately, but were not handed in at the time of the 1996 buyback, and were subsequently made illegal (Australian Government, 2015a). Indeed, there is a growing pool of illegal firearms (ACC, 2013, p.45) There are suggestions that there may be as many as 250,000 illegal long-arms and 10,000 handguns in Australia at the time of this writing (Australian Government, 2015b).

The recommendations of the Joint Review on this specific subject include asking CrimTrac, in cooperation with all Australian law enforcement agencies, to

prioritise bringing the National Firearms Interface (CrimTrac, ND) into operation by the end of 2015. The Interface (designed to track illegal firearms and eliminate the markets for them) was initiated in 2012 by the Standing Council on Police and Emergency Management and picked up by the then Minister for Home Affairs, Jason Clare, in May 2013. The Joint Review also urged Australian police to continue an audit of their firearms data holdings ahead of the Interface, and to seek ways of simplifying the regulation of the legal firearms market, policies all designed to reduce the numbers of illegal firearms in the community.

The Coroner was examining the December 2014 siege and its tragic outcome at the time of writing. One can assume with some level of confidence that the origin of the specific firearm used in the Martin Place siege will be a subject of the findings. A relevant question for the Coroner is whether Australian legislators should hold the line, and continue its record on strong gun control, or relax restrictions to move closer to the position now being adopted by a growing number of legislators in the United States. On the available evidence, the Coroner is highly likely to choose the former option, and wisely so.

At the same time as the siege inquiry was being undertaken another inquiry was under way in the Australian Parliament. For, on 19 June 2014, the Australian Senate had referred the following issue to the Legal and Constitutional Affairs References Committee for their inquiry and report: “The ability of Australian law enforcement authorities to eliminate gun-related violence in the community.” The Committee’s report was published on 9 April 2015 (Australian Government, 2015b). There were a number of recommendations, including continued funding for gun monitoring, data sharing, and policies designed to ensure that all firearm data will be transferred to the National Firearms Interface.

Significantly, Recommendation 5 seeks more amnesties:

The committee recommends that an ongoing, Australia-wide gun amnesty is implemented, with consideration given to ways in which this can be done without limiting the ability of police to pursue investigative leads for serious firearm-related crimes.

Of interest was the attention given to the possibility of so-called “3D” gun “manufacturing” as well, leading to Recommendation 8:

The committee recommends that Australian governments continue to monitor the risks posed by 3D manufacturing in relation to the manufacture of firearms and consider further regulatory measures if the need arises.

The Australian public awaits the government’s response with interest.

## CONCLUSION

The current body of research evidence suggests that gun violence will continue to persist while people have ready access to guns. In Australia the nation is fortunate that the numbers of legal guns in the community is manageable, and that authorities have implemented many policies that guard against the risk posed by illegal guns. There is little doubt, however, that the gun debate will continue to be hotly contested, despite the growing body of evidence in the subject literature, because the issue remains highly politicised. However,

... it is to be hoped that there will still be sufficient political will to protect and further the major gun law reforms [that have been] achieved... (Chappell, 2014, p.407).

Social commentators argue that Australians have benefited from the gun buybacks and restrictive laws that have been in place since 1996. Given the evidence presented above, and given the bipartisan political support in Australian parliaments, as well as wide-spread general community backing for current gun control strategies, it is unlikely that these laws will change their direction or intent. So, wouldn't it be better that those opposing gun control engage in implementing responsible public policy rather than attempting to slow or to stop altogether its inevitable progress?

## NOTE

- <sup>1</sup> Portions of this paper appeared in *The Conversation* on 3 March 2015 (Rick Sarre, "Martin Place Siege Review Makes Case to Tighten, Not Relax, Gun Laws").

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