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# Rational Firearm Regulation

Evidence-based Gun Laws in Australia

Rebecca Peters

Australians understand how Americans feel after the mass shooting at Sandy Hook Elementary School in Newtown, Connecticut, on December 14, 2012, because we had a similar experience in April 1996. In our case a disturbed young man with assault weapons killed 35 people at the Port Arthur historic site in Tasmania, one of Australia's most popular tourist destinations. Nineteen other people were seriously injured in the attack. Most of the victims were tourists from other states; some were local residents and workers. The guns used were legally available in Tasmania but banned in most other states.

It was the largest massacre by a single shooter ever recorded in the world and ignited an explosion of public sorrow and outrage as the nation demanded that the gun laws be overhauled. Responding to public pressure, the Prime Minister summoned the Australasian Police Ministers' Council (APMC) and proposed a plan for strict uniform gun laws. The Police Ministers also read the mood of the nation, and 12 days after the massacre they agreed to

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adopt the National Firearms Agreement into law in all eight states and territories.

## Guns in Australia

Australia is a former frontier country, with a well-established gun culture. Guns are owned mainly for sport, recreational hunting, and for use on farms. Each state and territory has its own gun laws, and in early 1996 these varied widely between the jurisdictions. Guns that were banned in some states were legally available in others; some states required all guns to be registered while others did not. The license screening process also varied, so a person barred from owning guns in one state could legally own them in another. One important element was consistent across the nation: the relatively strict regulation of handguns. All jurisdictions limited these weapons to pistol club members and security guards, and all required the ownership and transfer of handguns to be registered with police. As a result of this restrictive approach, handguns made up only around 5% of the Australian stockpile (Harding 1988).

In 1996 Australia's firearm mortality rate was 2.7/100,000 (Mouzos 1999), or about one quarter the US rate. Australia had suffered mass shootings before Port Arthur. As in the United States, each tragedy provoked calls for stronger gun laws, and a grassroots campaign had been building for a decade. Until Port Arthur, however, gun law reform tended to advance in a piecemeal fashion, one tweak in one state at a time.

## The Battle Over Firearm Regulation

The campaign for stronger laws was waged by hundreds of community and professional organizations which made up the National Coalition for Gun Control (NCGC): public health and medical societies, women's groups, senior citizens' associations, rural counselors, youth agencies, parents' groups, legal services, human rights organizations, churches, researchers, trade unions, and police. Participants ranged across the political spectrum, from the Country Women's Association to the Council for Civil Liberties, from the War Widows' Guild to the Gay & Lesbian Anti Violence Project.

This diversity reflected the multiplicity of dangers that guns pose in society: some NCGC members were especially concerned about domestic violence, others about crime on the streets, youth suicide, or workplace violence. Their

common conviction was that guns are inherently dangerous products whose availability should be strictly regulated. However useful or enjoyable guns may be for their owners, the interests of public health and public safety must prevail.

The size and breadth of the coalition also reinforced the fact that gun law reform was a mainstream concern rather than the preserve of a single-issue lobby group. Opinion polls had long indicated that the overwhelming majority of Australians wanted tough uniform gun laws; yet the issue was usually framed by the media as a tug-of-war between gun control activists and the gun lobby.

Australia has a strong pro-gun lobby which for years had blocked proposed reforms by threatening parliamentarians whose seats were held by a slim electoral margin. Although most gun owners were not opposed to tighter gun laws, the gun lobby could count on a small number of zealots who were prepared to vote solely on this issue. Thus, despite legislators from both major political parties privately acknowledging the need for reform, neither party was prepared to make the first move publicly. Campaigners had long attempted to persuade the two parties to move simultaneously toward tighter laws, but the highly adversarial nature of Australian politics prevented this shift from occurring before 1996.

The breakthrough after Port Arthur came because John Howard, the newly elected Prime Minister, showed extraordinary leadership and took a stand for stronger gun laws. His courage was especially remarkable because his is the more conservative of our two major political parties, and traditionally considered the natural ally of the gun lobby. In fact this political configuration facilitated a bipartisan agreement: a conservative government inviting progressives to support gun control was more likely to succeed than vice versa. The bipartisan policy gave cover to state and federal parliamentarians from both parties, allowing them to support the reforms without fear of their opponents using the issue against them in an election. As one parliamentarian observed to me, "We go into public life to try to make things better, but then politics gets in the way. It's good to get the chance to do what's right without worrying about politics." John Howard still refers to reform of the gun laws as one of his proudest achievements (Howard 2012).

The bipartisan agreement was a major defeat for the gun lobby, but it continued to fight against the reforms. Rural communities were leafleted warning of total gun prohibition; government officials were harassed with floods of form letters; new political parties were formed to represent shooters.

Outlandish declarations, conspiracy theories, and threats voiced by pro-gun extremists made us realize Australia had its own “lunatic fringe”—and that it was heavily armed. Death threats were made against activists and parliamentarians. An image seared on the collective memory was our Prime Minister addressing a gathering of rural gun owners, obviously wearing a bullet-proof vest under his suit. This was said to be the first time such a precaution had been taken in Australia.

## The Importance of Information and Research

In 1996 the World Health Assembly declared violence a leading worldwide public health problem, and urged countries to develop science-based solutions to prevent it (World Health Assembly 1996).

The National Coalition for Gun Control was seeking a comprehensive regulatory system based on prevention, designed to address the real nature of gun violence in Australia. That reality, according to public health, legal and criminology research, was

- Most gun deaths were suicides; though most suicides did not involve guns (Moller 1994).
- Guns were used in about 23% of all homicides, but more often in family killings and in multiple-victim attacks (Strang 1993; Wallace 1986; Bonney 1989).
- Most homicides involved victims and perpetrators who knew each other. Among these cases, most involved close personal relationships—the victim was a family member, current or former sexual partner or rival of the perpetrator, or a person attempting to assist someone in one of those categories (Strang 1993; Wallace 1986; Bonney 1989; Gallagher et al. 1994).
- Family homicides were usually preceded by a pattern of domestic violence (Wallace 1986; Law Reform Commission of Victoria 1991; Neal 1992); but most domestic violence was not reported to police (Department of Premier & Cabinet (Victoria) 1985; Queensland Domestic Violence Task Force 1988; Task Force on Domestic Violence (WA) 1986).
- Most homicide offenders had not previously been adjudicated mentally ill or convicted of criminal violence (Strang 1993; Wallace 1986).

The last two points highlighted the limitations of gun laws based on reacting after the fact. A system that waits until violence is officially recorded before taking any action will fail to assist most victims.

In addition, research from two similar jurisdictions, New Zealand and Canada, showed many firearm homicides involved weapons owned by licensed shooters (Alpers 1995; Dansys Consultants Inc. 1992).

The NCGC consulted closely with researchers and practitioners in academia, public agencies and service delivery organizations. The campaign's policy demands were based mainly on the reports of national and state expert review committees that had considered the regulation of firearms, either as a primary focus or as part of wider violence prevention (National Committee on Violence 1990; National Committee on Violence Against Women 1993; Australian Police Ministers' Council 1991; Australian Law Reform Commission 1986; Joint Select Committee Upon Gun Law Reform 1991; New South Wales Domestic Violence Committee 1991a,b,c; Queensland Domestic Violence Task Force 1988; Task Force on Domestic Violence (WA) 1986; Women's Policy Coordination Unit 1985; Parliament of Victoria, Social Development Committee 1988; Law Reform Commission of Victoria 1991).

The most important review had been by the National Committee on Violence (NCV), established in 1988 in the wake of two mass shootings. After hearing evidence around the country over the course of a year, the NCV made some 20 recommendations for firearms regulation (National Committee on Violence 1990). It called for national uniform gun laws and uniform guidelines for their enforcement; and for the development of a national gun control strategy aimed at (a) reducing the number of firearms in Australia and (b) preventing access to firearms by individuals who were not "fit and proper persons."

Ultimately the National Firearms Agreement contained almost all the measures recommended by the NCV and sought by the NCGC. One recommendation notably omitted from the Agreement was that handguns be required to be stored at pistol clubs.

## The New Laws

The National Firearms Agreement is summarized in Table 15.1 (Australasian Police Ministers' Council 1996).

Once the National Firearms Agreement was settled, campaigners pushed for rapid implementation. As time passed and media interest waned, politicians

*Table 15.1* National Firearms Agreement (1996) Australia**Ban on automatic and semi-automatic long arms—and buyback**

- Ban on import, sale, resale, transfer, ownership, possession, manufacture and use

**Nationwide registration of all firearms**

- Integration of licensing and registration systems across the country

**License applicants must prove ‘genuine reason’ for every firearm they wish to possess**

- Personal protection is not a genuine reason; applicants for Category B, C, D and H must also prove ‘genuine need’

**Uniform basic licence requirements**

- Age 18, prove genuine reason, be a ‘fit and proper person’, pass an adequate safety test, waiting period at least 28 days
- Photo licence showing the holder’s address, the category of firearm, issued for a maximum of five years.
- Conditions include storage requirements, inspection by police, licence withdrawal/seizure of guns in certain circumstances.
- Categories of licenses and firearms:
  - Category A: air rifles; rimfire rifles (excluding self-loading); single and double barrel shotguns
  - Category B: muzzle-loading firearms; single shot, double barrel and repeating centrefire rifles; break action shotgun/rifle combinations
  - Category C (prohibited except for certain occupational purposes, later expanded to include some clay target shooters): semi-automatic rimfire rifles with max 10-round magazine; semi-automatic shotguns with max 5-round magazine; pump action shotguns with max 5-round magazine.
  - Category D (prohibited except for official purposes): semi-automatic centrefire rifles; semi-automatic shotguns; pump action shotguns with a capacity over 5 rounds; semi-automatic rimfire rifles with capacity over 10 rounds.
  - Category H: all handguns, including air pistols.

**Safety training as a prerequisite for licensing**

- An accredited course required for first-time licence; a specialized course for persons employed in the security industry.

**Grounds for licence refusal / cancellation and seizure of firearms, including:**

- General reasons: not of good character, conviction for violence in past five years, contravene firearm law, unsafe storage, no longer genuine reason, not notifying change of address, licence obtained by deception, not in the public interest.
- Specific reasons: applicant/licence holder has had a restraining order or serious assault conviction in past 5 years.
- Mental or physical fitness: reliable evidence of a condition that would make the applicant unsuitable to possess a gun.

**Permit to acquire**

- Separate permits required for the acquisition of every firearm, with a waiting period of at least 28 days.

Table 15.1 (Continued)

**Uniform standard for the security and storage of firearms**

- Guns must be kept locked, ammunition stored separately; failure to store firearms safely is an offense.
- Specific storage requirements for different categories of firearms.
- Rules for safekeeping of firearms when temporarily away from the usual place of storage.

**Recording of sales**

- No private or backyard sales: all sales must be conducted by or through licensed firearm dealers.
- Dealers must ensure purchaser is licensed, and provide details of each purchase and sale to firearms registry.
- Ammunition sold only for those guns for which the purchaser is licensed; limits on the quantity that can be purchased.

**No mail order sales**

- Mail order only allowed from licensed gun dealer to licensed gun dealer.
- Advertising guns may only be conducted by or through a licensed gun dealer.
- The movement of Category C, D and H firearms must be in accordance with prescribed safety requirements.

became more susceptible to gun lobby pressure for a weak interpretation of the Agreement. However, within one year, all states and territories had amended or replaced their gun laws to comply.

The reform that received most publicity internationally was the buyback and destruction of the newly prohibited weapons. Owners had 12 months to surrender these guns for compensation, funded by a temporary increase in the national health levy. The financial carrot was backed up by a stick: after the buyback ended, possession of these weapons was a serious criminal offense. The stocks held by gun dealers were also bought back. Some 640,000 banned firearms were melted down in this 12-month program; though as discussed in the essay by Philip Alpers (in this volume), the final number of guns destroyed was considerably larger.

The legal reforms and buyback were accompanied by a large public awareness and information campaign. In addition, the computer systems of state and territory police forces were upgraded and linked together.

In 2002, following the shooting murder of two university students, the APMC made two more agreements on guns. The National Firearms Trafficking Policy Agreement strengthened border protection, regulation of gun dealers,



and penalties for gun trafficking. The National Handgun Control Agreement restricted the types of handguns allowed for civilians.

Over the years, individual states and territories have amended their laws. There is no mechanism to maintain the uniform standard, and some cracks are beginning to emerge. In 2008 New South Wales made it easier for unlicensed individuals to have handguns at target clubs, with lethal consequences: in 2011 a patron walked out of a pistol club with one of the club's guns, and used it to shoot her father dead (*Sydney Pistol Club v Commissioner of Police, NSW Police Force* 2012). Campaigners point to tragedies like this as justifying further restrictions on handguns.

Overall, Australia's reforms have proved a resounding success. We have not had another mass shooting since 1996, and the firearms mortality rate today is 1/100,000—less than half what it was then (Australian Bureau of Statistics 2012), and one tenth the current United States rate.

This dramatic improvement in public safety has not stopped the United States gun lobby from misrepresenting the Australian experience as part of its campaign against firearm regulation. A National Rifle Association (NRA) infomercial video produced in 2000 claims crime rates have skyrocketed and Australia is overrun by criminals as a result of the reforms. The misinformation was so outrageous that our Attorney General took the unusual step of writing a letter of complaint to Charlton Heston, then president of the NRA. Attorney General Daryl Williams wrote, "There are many things that Australia can learn from the United States. How to manage firearm ownership is not one of them . . . I request that you withdraw immediately the misleading information from your latest campaign" (Williams 2000).

The NRA ignored that request back in 2000, and now the video is once again in circulation on the Internet. But the reality is that firearm regulation has fulfilled its promise to make Australia safer. We hope our experience can help the United States find its own solutions.

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