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## Examining Gun Control Policy of United States: A Policy Critique

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### Abstract

Policies to reduce gun related violence has been one of the focuses of US governments while combatting crime. Although the link between gun ownership and involvement with violent crimes has been problematic due to the nature of crimes committed by guns and individuals who used guns to defend themselves from criminals, the tendency in the US public is to own guns, but in the meantime to control the ownership with an effective background checking system. The debate on the gun control issue is centered on the gun manufacturing market which has a giant pie in the economy, public awareness due to the mass violent acts in the public places, the US culture of owning guns for pleasure and hunting, and finally the assassinations of public leaders and politicians. The recent mass shootings like San Bernardino and Oregon in the US brought public attention to this issue again. As a result, Obama Administration felt compelled to take serious legal and law enforcement actions against gun violence. The proposed action required a series of legal regulations that needed the approval of Congress, and federal money to update the technical systems to control gun ownership.

**Keywords:** Gun control; gun policy; mass shootings.

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## **1. Introduction**

Gun control has been a debatable issue for years in the US. Existing problems related to gun control required the government to make several policies that aim to bring limitations to the citizens. On the one hand, there is a majority group that would like to get benefit of having gun. Gun is a part of their life in the nature of the Americans. It has a historical value that has been symbolized from the history. Culture, media and movies are the underlying reasons for Americans love to guns. Most of the Hollywood films show gun as an attractive tool [1]. Besides it, hunting has an important culture of the Americans and hunting culture always brings the shooting culture. Since people like hunting and shooting, commercial televisions and movie makers use these interests to get high rating and benefits. These movies and programs strengthen these cultures, and teach them to the new generation. Changing a culture needs years and years because of its structure. On the other hand, there is another group that has been affected negatively because of the gun and they want government to make policy that restricts to have gun for the citizens. So far, various policies have been enacted since 1934 to solve the problem [2]. This study mainly overviews the gun control policy in US Federal Government. Because gun control policy is handled by Federal government, this study will analyze gun control policy at federal level discussing implementation of the policy.

Gun control issue is generally a federal issue in America. The policy implementation mainly turns around Second Amendment. Second Amendment indicates that “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” (United States Constitution). State level regulations about gun control are based on this amendment. Because of different perceptions in interpreting second amendment, the policy implementation differs among states. People who do not want any restriction of gun control perceive second amendment as a constitutional right to “keep and bear arms” and they believe that policy regulations should be designated by taking into consideration of this “Civil Right”. Conversely, the advocates of the gun control indicate that “militia” concept has lost its fashion and contemporary “militia” needs do not allow individual right to arms [3].

The gun control debate is an issue that it is very hard to decide which side is right. In one side, supporters give specific example about the harmfulness of guns. In the other side, opponents say guns are tools to defense themselves, and it is their constitutional right. The opponents of gun control use the criminal data to show the low rate of gun using in the crimes. They also use the victimization data to point out the differences between the gun owner victims and not owners. The supporters of gun control use the death rates in homicide, and assault crimes. They indicate the specific events, like assassinations, and school gun violence. Gun control policies in US have gotten to the agenda witnessing the historical power games. Powerful lobbies and emotional lobbies struggled to access the agenda of policy makers. These games had reached the peak after shocking events such as assassinations or school violence. In 1927, the federal government prohibited selling of handguns to individuals through the mail. The gangster violence during the 1920s and 1930s triggered National Firearms Act in 1934 [1]. Federal Firearm License (FFL) was introduced in the Federal Firearms Act of 1938 (FFA), so the first limitations on selling ordinary firearms were forced. A Federal Firearms License required buying guns with an annual cost of \$1. Maintaining records of the name and address of persons to whom firearms are sold should be done. Gun sales to persons convicted of violent felonies were prohibited [4].

The social problems agenda covered gun control in 1960 due to the increasing rates of crime. Martin Luther King and John Fitzgerald Kennedy were killed, and these assassinations emerged as a big crisis causing to enact the Gun Control Act of 1968(GCA) [1]. Importing guns, expanding the gun-dealer licensing and record keeping requirements, and places specific limitations on the sale of handguns were regulated by the Gun Control Act 1968. Persons convicted of any non-business related felony, persons found to be mentally incompetent, and users of illegal drugs were added to the list of persons banned from buying guns (ATF, 2005; Gunlawnews, 2005) The handgun acquisition minimum age was 18 since 1938, but the Gun Control Act raised it to 21 [5].

The armed Career Criminal Act of 1984 was operated in the Reagan era. President Reagan, Congressional Republicans and the National Rifle Association (NRA) agreed that individuals who commit gun crimes should be strictly punished. On the other hand, they argued that law-abiding citizens don't need any regulations, or control. The gun control policy was implemented like this in those years [1].

## **2. Historical Efforts for Gun Control**

Stricter gun measures reached its peak after the assassination attempt to President Ronald Reagan. Not the president but his press secretary James Brady was wounded in that assassination attempt. After this attempt The Handgun Control and Violence Prevention Act, commonly known as the Brady Law, became effective Jacobs defines this act as the most important gun control legislation in 25 years. Brady law made some important regulations such as raising the price of three year FFL license, providing an independent government determination of eligibility [1]. These regulations have blocked a lot of retail gun purchases by criminals, especially. According to the Justice Department statistics Brady law blocked 536.000 criminals from obtaining guns. However, this though law couldn't stop criminals getting guns. The Brady Law showed that it is very hard to stop the flow of guns to criminals. Criminals can find their sources to get guns. This fact indicates that law-abiding citizens are more likely affected by the stricter regulations. To solve the problem, manufacturers must do work on developing high-tech safety guns, which cannot work in the other hands. The devices on the guns must recognize the owner and in the other hands it must not work. Also, The Act of Assault Weapons banned the importation, manufacturing, selling and possession of assault weapons in 1994 [1].

In the formulation process of gun control policy, we observe that there is always a contradiction in the society such as abortion case. While millions of American gun owners see it as a freedom and part of democracy, others believe that guns are bad and harmful [1]. Proponents advocate that having guns are deterrent against violent crime. Citizens who have guns improve public safety; they can protect themselves and their relatives. Opponents advocate that increasing guns and armed people can cause more lethality. Armed people can try to solve even the spontaneous confrontations with their guns. Armed people can also trigger the criminals to use more lethal means during crimes such as street robberies [6]. Because of these different perceptions it is difficult to find proper formulation that satisfies both sides.

Gun manufacture market has a big pie in US economy. According to elite theory, policies are made by powerful people in the society [7]. The National Rifle Association is a kind of elite group and it is often very effective politically in opposing the laws which are restricting gun ownership or use. It has power to capture the agenda

of politicians, so it has direct affect on gun legislation laws [8]. Not only is the power of the NRA important, but also the size of population who have guns in America is an important factor in U.S. gun policy. Hunting and target shooting are major parts of gun culture in America. In 1996, the total expenditure on hunting was \$21 billion. Most gun supporter see guns as tools, or sporting goods, or as a safety backup. These people don't want to register their guns because they believe they haven't done anything wrong. They see these interventions as violation of their liberty. Gun supporters claim that these kinds of legislation and regulation efforts are negatively affecting just the law-abiding citizens. The authorities just know the guns in the hand of these citizens because law-abiding citizens are registering their guns, but criminals are not [9]. Kleck and Gertz found in their survey that gun owners prevent several crimes each year in the United States by using firearms to defend themselves and their property [10].

On the contrary, some people blame guns and American gun culture as the responsible for America's high rates of murder. These people want the government to prevent gun related violence such as restricting the purchase, banning the possession of guns [9]. The reason why these people want this is the harmful results of guns. Today, the homicide rates in the United States are the highest among the rates of other industrial democracies [11]. This high rate can be seen in the comparison of the United States and the United Kingdom; in 1998, the homicide rate among young males was twenty three times higher in the United States than in United Kingdom. Fighting, vandalism, and heavy drinking are the accompanying deviants of weapon carrying [12]. These evidences indicate that Americans are willing to use gun force in interpersonal conflict, and the availability of guns is triggering it. The combination of these two issues is the most important causes to the high U.S. death rate from violence [13]. Redding and Shalf points the same issue in a different perspective [14]. They blame the easier access by juveniles to firearms for the rapid increase in juvenile homicides and suicides between 1987 and 1993. Zimring draws a big picture; Violence and Gun problems are the problems of United States, and "each makes the other more deadly" [13].

According to the "public opinion polling on gun policy" research conducted by Vernick et al., public is eager to accept more control over the manufacture, sale, and possession of guns [15]. The manufacture of "Saturday night specials", cheap handguns, and assault weapons must be banned in public opinion. People believe that the cheap, poorly made handguns are the causes of most crimes, since they are more accessible. However, Jacobs points that recent studies are not agree with this belief [1]. It is a myth, but the truth according to recent studies is cheap handguns are not used in crimes. Higher caliber, better made weapons are more preferable among the criminals than the Saturday night specials.

Although public supports the stricter regulation of the sale of all handguns, they do not support the prohibition of selling of all handguns [15]. These findings are parallel to True and Utter's findings [16]. According to their findings, more Americans are saying "no" to gun ownership overtime. The comparison of 1978 and 1998 findings are significant. While the gun ownership among the surveyed households was about half in 1978, this rate declined to one third in 1998. Schumer states that, one of the main aims to strictly regulate the sale of handguns is to cut off the supply of guns to children, criminals, and the dangerously mentally incompetent [17]. This aim became more important after the youth violence events both in schools such as Columbine High School event, and in streets. The motives of bearing guns are same among youths, too. Youths are carrying guns

to school because of fear, and they are protecting themselves not to be a victim. Impressing their peers is another reason for youths to carry gun. In addition, drug use and dealing, aggressive behaviors, and general delinquency are accompanys of gun carrying among youths [14]. To prevent these kinds of events The Youth Handgun Safety Act (1994), The Gun-Free schools Act (1994) and a second Gun-Free Schools Act (1994) are enacted [18]. Besides these legislations, some states have been using gate detection systems for school gates, and entry-based weapons detection programs [12].

Vernick et al. points that the area of the licensure or taxation of sellers demand survey investigation [15]. Jacobs mentions some other policy options for gun control; regulating gun shows, safe storage laws, banning dangerous guns, banning assault weapons, regulating ammunition, prohibiting stockpiling, buy-backs and exchange, ballistic fingerprinting and making guns safer [1].

Generally, the gun control policy does not help to address the problem because of some limitations. First of all, there is no standardization in the implementation of the policy. States are not required to regulate with a standard policy. Therefore, an action may be illegal in a state while the same action is legal in another state. There is no restriction to limit the number of handguns purchased in one time. People have right to buy lots of handgun in one time and can sell to the criminals who are not eligible to buy. There is no control of the policy implementation. On the other hand, it is possible to buy military-style weapons for hunting purpose but there is no guarantee for not using that weapon for a terrorist attack or other criminal activities. Besides it, gun sellers examine the buyers' criminal background through federal The National Instant Criminal Background Check System, or NICS check but it is not enough to learn the criminal background of the buyers. This issue is more problematic for the secondary sale. The market runs on internet and newspaper advertisements without control. There should be deeper investigation to check the criminal background for all buyers. Additionally, there is no requirement for all buyers to be trained with a standard education system. Most of the problems are related to the education of gun control. That's why it is essential to require a standard training for the buyers of the gun. Also, lack of registration system does not allow knowing the exact number of the gun that people have for the officials. There is no requirement to register to law enforcement authorities. The registration should be handled by one hand and records should be accessible. Moreover, some manufacturers produce unsafe guns because there is no basic safety standard requirement. These products may be more dangerous than the safer guns. Safety standards should keep in high level for all manufacturers (Brady Campaign to Prevent Gun Violence). Indeed, gun policy requires some implementations to protect the kids from the gun violence but there are external factors that should be taken into consideration by policy analysts. Gergen states that "after carnage, schools being coping with violence but parents and Hollywood must also do their part" [19:68]. The physiological issues that affect children's attitude should be examined carefully and policy should require acting appropriately for families and media.

### **3. Pro-Gun vs Pro-Control Policies**

Security is the central point of both pro-gun and pro-control points of view. The usage of guns by children without permission, youths access to guns easily, and the flows of guns to the criminals are the problems which the legislation and regulation procedures have not been solved. The structure of guns is the major cause for

those problems. Children and youths can easily use the guns without an instruction. The gun curiosity and knowledge because of the movies, and computer games guns make it easier to use guns for youth. Even though the criminals are banned to buy guns by laws; they can also reach the guns easily by illegal ways such as buying stolen guns, stealing guns, or taking their relatives guns, so the strategy must be different.

Teret et al. say that each year 500.000 guns are stolen according to the experts' estimation [20]. In addition, the surveys of adult and juvenile criminals indicate that using those stolen guns in crime has a significant rate.

This also can be a good market for criminals and thieves. Stolen guns can be good source for thieves to survive, and at the same time it can also be a good source for criminals who are banned to buy one in legal ways. Since those stolen guns are not in the hand of people who had bought them, it is very hard for investigators to trace the current owner of the guns. Taylor gives another number about law enforcement officers [21]. The rate of law enforcement officers shot and killed in the line of duty with their service weapons is %16. The stolen guns of law enforcement are also used in the criminal activities. In this perspective, the using of guns by children, youth and criminals or a third person except the owner must be prevented. Since the studies showed that traditional ways are not effective, new technologies must be used to solve this problem. Vernick and his colleagues states that "policies that focus on the manufacture and design of hand guns may be more effective in reducing the incidence of gun injuries than those that concentrate on possession and use of hand guns" [15:206]. The manufacturers of guns and scientist may develop a technology that gun can recognize the owner. It must be impossible to use by another one. There are already some studies about this subject.

Trigger-locking devices are the first development about this field. However, the diligence of the gun owner is still required for this system. The belief that the guns are frequently used in emergency situations is another negative side about trigger-locking devices [20]. Radio frequency gun system was developed by Colt's Company in 1997. There are one transmitter and one receiver in this system. One of them is fixed on the gun and the other is in the owner's watch, ring or clothing. When the user pulls his gun, he presses a switch to send a radio frequency to the receiver on the user. All these things happen in a second [21] Teret et al. mentions another security device called magnetic encoding system [20]. It works with a ring that contains a magnet, which, when properly aligned with a magnet installed in the grip of the gun, physically moves a lever in the grip of the firearm. It allows the gun to fire. It is a kind of equipment which can be added the gun later. Since the magnetic force is not coded to the gun owner, and it requires to be added to gun later, it is not an optimal system.

Fingerprint reading system may be developed by scientist. It is known that everybody has unique fingerprint. A kind of scanner may be replaced to gun's trigger, or the main part. Only the manufacturers and authorized gun sellers may implement the program, and they identify the fingerprints of the owner, or may be one more person's fingerprints to the gun's memory. When the user touch the gun, the scanner may scan the fingerprint of the owner and let him or her fire, otherwise it unlocks the trigger and may not fire. This system may also prevent the usage of the gun by children, youths, or others. The flawing of guns to the criminals may be stopped by this way. Since the owner may be identified, a proper legislation system may work. Authorities know the owners of the guns. By the integration of ballistic science, the ballistic of a gun and the fingerprint of the owner of the gun

may be saved in order to be used in police investigations later.

These technologies need research and development studies. These studies cost a lot to manufacturers. Then the manufacturers need to increase the prices of the guns. While the federal government forces the manufacturers to develop these technologies, other legislation and regulations on cheap handguns must be strictly implemented. Legislating and regulating the gun manufacturers may be possible by new policies.

The idea of “personalized” weapon that could be fired only by the owner is asked to gun owners by John Hopkins School of Public Health in Baltimore, Maryland, and %71 of gun owners supported the idea [21].

#### **4. President Obama Gun Control Plan**

In the last decade, a little different from the above mentioned policies, after mass school shootings in the USA, the policy on gun control in the country has come to the attention of public in general and the law makers in specific again. In January 2016, President Obama unveiled a policy on gun related violence. His focus was on the background check requirements for gun ownership which thought to help the functionality of the NICS.

According to Brady Gun Law [1] which led to the establishment of NICS for enforcing the regulations of possession of firearms, the collection of identifying information about individuals who wants to carry a firearm consists: “The name of the ineligible individual; the date of birth; sex; and codes indicating the applicable prohibitor, the submitting entity, and the agency record supporting the prohibition (e.g., an order for involuntary commitment). For individuals subject to the Federal mental health prohibitor, only the fact that the individual is subject to that prohibitor is submitted to the NICS; underlying diagnoses, treatment records, and other identifiable health information are not provided to or maintained by the NICS. A NICS background check queries the NICS Index and certain other national databases to determine whether a prospective buyer’s identifying information matches any prohibiting records contained in the databases. The NICS Index can be accessed only for the limited purposes authorized by regulation and cannot be used for other purposes, including general law enforcement activities” [23]

Although there were some regulations especially in the Gun Control Act of 1968- the effectiveness of them were challenged and debated in the US media and in the Congress. In President Obama’s speech on January 5, 2016, he mentioned that

*“In fact, we know that background checks make a difference. After Connecticut passed a law requiring background checks and gun safety courses, gun deaths decreased by 40 percent -- 40 percent. Meanwhile, since Missouri repealed a law requiring comprehensive background checks and purchase permits, gun deaths have increased to almost 50 percent higher than the national average. One study found, unsurprisingly, that criminals in Missouri now have easier access to guns.”* (The White House, Office of the Press Secretary 2016).

Meanwhile, education and law enforcement efforts all across the country proposed to reduce the gun violence cases. Obama administration’s new action was actually the updated version of the plan which were made in 2015. Accordingly, (if to summarize)

- The Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) will have an active role in the gun ownership licensing and background checks. This rule proposed to be applied to gun stores, sellers at gun shows and those who sell guns through internet. Failure to obey the rules would have up to 5 years in prison and a fine of up to \$250,000.
- The ATF will do background checks for gun transportation issues and notification of law enforcement in case when guns are lost or stolen during the transportation of firearms.
- Greater cooperation between the federal and state authorities- in criminal history checking system.
- The FBI will help to the state and federal authorities for efficient and accurate background checks. The FBI will take necessary actions such as increasing the personnel and modernization of their technical systems.
- Mental health checks through Social Security Administration (SSA), funds for the agents and personnel in the checking system will be provided as well.
- The departments of Defense, Justice and Homeland Security will do research on how to protect citizens from gun violence especially on accidental discharge or unauthorized use of firearms. This will also require state attorneys to focus on illicit gun trafficking, most dangerous and impactful cases and chasing those who bypass the checking system.
- Active reporting information to NICS will legally ensure so that clarification of Health Insurance Portability and Accountability Act's legal barriers can be eliminated which will then permit necessary personal demographic and health information of individuals who want to carry firearms.

Similarly, President Obama also unveiled a plan to address gun violence in 2013.[24] His plan on reducing gun violence mostly have financial and legal requirements. His announcement covered 23 executive actions to reduce gun violence across the US. His specific commitment was to “address unnecessary legal barriers, particularly relating to the Health Insurance Portability and Accountability Act, that may prevent States from making information available to the background check system.” For example, he provided —\$20 million in fiscal year FY 2013 and a proposed \$50 million in FY 2014—to share information in the state level. Some of the proposals needed Congress approval such as a “\$4 billion proposal to keep 15,000 state and local police officers on the Street” to reduce gun related crimes. In addition, he also wanted to financially support the training of 14,000 law enforcement on how to take action during an active shooting case. Some parts of his plan were related to school safety which required investments of resources to the officers in the Schools (SRO), Community Oriented Policing Services (COPS) hiring's and mental health awareness through teacher training. This specific title needed a 5,000 Mental Health Professional across the country [22].

## **5. Conclusion**

To conclude, gun control policy has always been a debatable issue in US. While some Americans like guns for hunting and target shooting, some of them possess the guns in order to protect them. On the contrary, most Americans think that the harmfulness of guns is enough to ban them. Especially, after the famous events like assassination of John F. Kennedy and Martin Luther King, and the assassination attempt to President Ronald Reagan, the public focused on this issue. The school gun violence and the increasing rate of youth violence with guns made this policy more debatable. Although a lot of policies have been implemented so far, the problem is



still going on today. It is time to focus on manufacturer of the guns rather than users of them. Using high technology can be effective to make gun safer. The research and development departments of gun manufacturers and universities must study to make guns safer. Because the new studies are not enough, more studies and more funds should be allocated for this research and development departments. Making guns safer is not a unique and effective policy; it must be supported by other strategies.

The latest developments in the US and the shootings in the public schools brought the attention of public once again to the regulations and preemptive actions against gun related violence. President Obama's final regulations in this regard focused on the background checking system, training of law enforcement and teachers and more importantly financial and technical support for an effective system. The cooperation between the institutions, cohesiveness in the implementation of the law and regulations across the country and legal barriers are seemed to be the key factors in gun violence policy of the Obama administration.

The policy should address banning cheap handguns and forcing the manufacturers to find and use a high-tech safer gun in order to be more affective. Besides this, policy analysts should examine Second Amendment carefully and clarify the concepts in it by analyzing all conditions according to current tendency.

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