



This opinion editorial appeared in the Daily Journal on July 13, 2007.

Tragedy Inspired Fight Against Guns

By Nina E. Vinik

This month, Legal Community Against Violence (LCAV) celebrates its 14th anniversary as a national public interest law center dedicated to preventing gun violence. The Center grew out of a terrible tragedy – the July 1, 1993 assault weapon rampage that began at a law firm at 101 California Street in San Francisco and ended with nine people dead, including the shooter, and six wounded, one of whom subsequently died. Within days of the shooting, Bay Area lawyers formed LCAV.

In the 14 years since the 101 California Street shooting, guns have killed an estimated 420,000 Americans. Twice as many have been injured as a result of gun violence. Gun violence touches every segment of our society. As we know all too well, gun violence is not limited to high-crime, urban neighborhoods; it can strike at a college campus, in an Amish schoolhouse, or in a high-rise office building.

Children and young adults are at special risk. Children and young people under the age of 25 account for almost 40% of all firearm deaths and injuries. Gun violence also increases the probability of death in domestic violence incidents, raises the likelihood of fatalities by those who intend to injure others and among those who attempt suicide, and disproportionately affects communities of color.

Polls consistently show that most Americans favor stronger gun laws. However, our federal gun policy is held hostage by the National Rifle Association and other “gun rights” groups that favor the rights of gun owners over the rights of all Americans to live in a safe and peaceful society.

As a result, our federal firearm laws are weak and have only gotten weaker in recent years. Since 2004, Congress allowed a ban on assault weapons to expire, and it passed a law granting the gun industry sweeping immunity from most tort liability – a privilege enjoyed by no other industry in this country. Guns are also exempt from federal consumer product safety laws.

Just last month, the Senate voted to retain a provision in the Department of Justice appropriations bill that, since 2004, has prevented the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) from disclosing crime gun trace data, except in limited circumstances. Under this provision, originally known as the “Tiahrt Amendment,” ATF is prohibited from sharing trace data unless it is in connection with a “bona fide” criminal investigation or prosecution. Crime gun trace data is critical information for law enforcement agencies seeking to curb illegal gun trafficking, yet under current law, even when law enforcement agencies obtain trace information as part of a bona fide investigation, they are forbidden to share the information with other police agencies. The version approved by the Senate Appropriations Committee would allow sharing among law enforcement but only in connection with bona fide investigations or prosecutions – thus precluding efforts to develop regional strategies or identify patterns that cross jurisdictional lines.

In addition, the Senate version has become even more onerous than earlier incantations by making police officers who share information in violation of these strict rules subject to prosecution. The measure is opposed by Mayors Against Illegal Guns, a nationwide coalition of more than 225 mayors who joined forces to defeat the Tiahrt Amendment, and more than 30 national and state law enforcement groups.

Also last month, the House passed a bill, H.R. 2640, that was originally intended to encourage states to provide mental health records to the federal National Instant Criminal Background Check System database. The bill was a response to the Virginia Tech shootings earlier this year, in which a student with a history of mental health problems was able to pass a background check because information about his mental health history was not provided to the national database. Despite its valid objective, the bill was amended at the behest of the NRA to include several troubling provisions that weaken the federal prohibitions on firearm purchase and possession by persons with a history of mental illness. The bill is awaiting action in the Senate.

Because of the difficulty of achieving meaningful gun policy reform at the federal level, the Legal Community Against Violence focuses its work at the state and local levels. And, indeed, in the void left by our federal government, states and local communities across the country have stepped in to adopt a series of innovative laws to help curb gun violence.

California leads the nation in ground-breaking firearm policy. For example, California: 1) has closed the private sale loophole by requiring all firearm sales to be completed through a licensed dealer; 2) prohibits the manufacture of handguns that have not passed certain safety tests; 3) maintains handgun purchaser records and requires handgun purchasers to obtain a handgun safety certificate; 4) limits handgun sales to one per person per month; 5) imposes a 10-day waiting period; and 6) bans assault weapons and 50 caliber rifles. Many of these laws were passed first as local ordinances in communities across the state. This local regulatory activity provided a catalyst for statewide action. LCAV worked on the development and defense of many of these local ordinances, and continues to assist local communities across the state in improving their local firearm laws.

This year, the California Legislature is considering several new policies that would further strengthen the state's firearm laws, including legislation to require handgun microstamping (AB 1471). Handgun microstamping employs an innovative technology that places a microscopic array of characters identifying the make, model and serial number of the handgun on the internal surface of each newly designed semiautomatic handgun sold in California. The characters are then transferred to each cartridge case when the gun is fired. This allows law enforcement to match a cartridge case found at a crime scene to the gun that fired it. If passed, California would become the first state in the nation to require handgun microstamping.

In addition, legislation is pending that would comprehensively regulate ammunition sales (AB 362), and require gun owners to report lost or stolen handguns (AB 334).

California serves as a model to other states seeking to improve their gun violence prevention policies. LCAV provides assistance to states and municipalities across the country that are seeking to develop effective, legally-defensible regulatory strategies to curb gun violence. LCAV is proud to have over 600 members from across the U.S. supporting our work.

With each day that passes, an average of 61 people lose their lives to gun violence in the U.S. As LCAV pauses to honor the victims of 101 California Street and all other gun violence victims, we rededicate ourselves to preventing gun violence in the future. Our work has never been more urgent.

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