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Gun Control 13 Years After Law Firm Massacre

by Juliet A. Leftwich

Approximately 13 years have passed since the Bay Area legal community was shaken by an assault-weapon massacre at the 101 California Street Building in San Francisco. On July 1, 1993, a disgruntled former client of Pettit & Martin went on a shooting rampage at the law firm and other offices, armed with two TEC-DC 9 assault weapons, a handgun and hundreds of rounds of ammunition. The gunman shot 14 people, eight of whom died, and then took his own life.

Within days of the 101 California Street shooting, lawyers from Pettit & Martin formed Legal Community Against Violence, a public interest law center dedicated to preventing gun violence. The center focuses on policy reform at the state and local levels and helps governmental entities and nonprofit organizations achieve their policy goals. Legal Community Against Violence is the country's only organization devoted exclusively to providing legal assistance in support of gun violence prevention.

So how has the landscape of gun violence and gun violence prevention changed over the last 13 years? Although firearm-related deaths have fallen nationwide more than 20 percent since the date of the 101 California Street massacre, gun violence remains at epidemic levels. In fact, since the date of the San Francisco shooting, guns have killed nearly 400,000 Americans. Today in this country:

- Guns claim the lives of more than 30,000 people a year, including nearly 3,500 Californians;
- For every person who dies from a gunshot wound, two others are injured;
- Children and young people under the age of 25 account for almost 40 percent of all firearm deaths and injuries; and
- Guns are the second leading cause of injury-related deaths in California and nationwide; only motor vehicle accidents claim more lives.

The federal government has done little to address the gun violence epidemic in the last 13 years, due in large part to the immense political power of the National Rifle Association and other members of the gun lobby. Congress did, under the Clinton Administration, pass the Brady Act in November of 1993 to require federally licensed firearms dealers to conduct background checks on prospective gun buyers. However, because that law does not apply to sales by unlicensed persons (an estimated 40 percent of all gun sales), criminals, minors and the mentally ill are still able to buy guns easily throughout most of the country.

The federal government also banned assault weapons during President Clinton's tenure in 1994, in part as a response to the 101 California Street shooting. In 2004, however, President Bush and Congress allowed the ban to expire, despite the fact that it was supported by an overwhelming majority of the public, including a majority of gun owners, and had resulted in a significant drop in the percentage of crime gun traces involving assault weapons. In 2005, Congress adopted legislation to provide unprecedented legal immunity to the gun industry. No other industry has received such special treatment.

The federal government's abdication of its responsibilities for gun violence prevention does not stop there, however. Starting in 2004, through riders to the annual budget bill, Congress began to require that background-check records on approved purchasers be destroyed within 24 hours, thereby hampering the ability of the FBI to ensure that guns are not being sold to prohibited purchasers. The 2004 rider also prohibited the Bureau of Alcohol, Tobacco, Firearms and Explosives from publicly disclosing crime gun trace data (this information has been used in litigation against the gun industry, and by law enforcement, to detect inter-jurisdictional patterns of gun trafficking). In 2005, the disclosure restriction extended to law enforcement, permitting the disclosure of crime gun trace data only where requested by law enforcement in connection with a criminal investigation in a particular jurisdiction. This year, in HR 5005, Congress is considering making these disclosure restrictions permanent (they are also included in the current budget bill). Other pending federal bills would weaken ATF's ability to revoke a corrupt gun dealer's license and remove the federal ban on the interstate sale of handguns to individuals other than federally licensed firearms dealers. (HR 5092 and HR 1384, respectively.)

The situation is far from hopeless, however. State and local governments are assuming leadership for gun violence prevention, adopting an increasing number of firearm-related regulations to fill gaps in federal policy. For example, nine states (including California, Colorado, Connecticut, Illinois, Maryland, New York, Oregon, Pennsylvania, and Rhode Island) and the District of Columbia have closed the private sale loophole of the Brady Act in whole or in part by requiring background checks for some or all firearm purchases from unlicensed sellers. California, Rhode Island, Chicago and Washington, D.C., require background checks on all firearm purchases.

Eight states (California, Hawaii, Illinois, Maryland, Massachusetts, Minnesota, New York and South Carolina) impose design and/or safety standards on handguns. Such legislation is necessary to prohibit the manufacture and sale of junk guns – poorly made handguns that are prone to malfunctioning – because the federal Consumer Product Safety Act exempts firearms and ammunition from its requirements. California, Massachusetts and New York have the most comprehensive schemes of design and safety standards for handguns. Massachusetts, through the initiative of its attorney general, initially adopted its standards under the state's consumer protection laws. A number of other states may have similar regulatory authority.

The state of California has adopted many progressive gun laws since 1993. In addition to the state junk gun ban, the Legislature has enacted laws to:

- Require all firearms manufactured or sold in the state to be accompanied by a Department of Justice-approved locking device;
- Prohibit the manufacture and sale of 50-caliber rifles (extremely powerful military-style firearms that are accurate at long distances);

- Ban the sale of large-capacity ammunition magazines; and
- Limit handgun purchases to one per month per person (to help reduce gun trafficking).

Significantly, each of these laws (as well as the junk gun ban) was modeled after local ordinances adopted since 1995. California cities and counties have adopted more than 300 gun-violence prevention laws since the mid-1990s and continue to enact innovative measures, including those to regulate firearms dealers (e.g., by prohibiting residential dealers, requiring employee background checks and mandating liability insurance) and require the reporting of lost or stolen firearms.

The California Legislature is considering a groundbreaking law, AB 352, to require handgun microstamping. That law would require the interior surface or internal working parts of all new semiautomatic handguns sold after January 1, 2009, to be etched with a microscopic array of characters identifying the make, model and serial number of the handgun. When the gun is fired, the identifying information would be transferred to the ammunition cartridge case. Microstamping would provide an outstanding tool for law enforcement because it would allow police officers to match a cartridge case found at a crime scene to the gun that fired it and, ultimately, through an existing database, to the person who purchased the firearm. If AB 352 is enacted, California will be the first state in the nation to utilize this cutting-edge technology.

Outside of California, local officials are also taking an increasing leadership role in gun-violence prevention. Chicago Mayor Richard M. Daley has long been an advocate for gun policy reform. In 1998, Chicago became the first U.S. city to challenge the manufacturing and distribution practices of the gun industry as a public nuisance. Moreover, under Mayor Daley's leadership, 10,000 to 15,000 illegal weapons are seized and destroyed each year – more than in any other city. Most recently, Mayor Daley has urged state legislation to ban assault weapons and .50-caliber rifles, impose tighter controls on gun dealers, restrict illegal weapons trafficking and require safe storage of firearms in the home.

The call for common sense gun laws is growing louder across the nation. This year, New York City Mayor Michael Bloomberg denounced the federal government's failure to address gun violence and declared that ridding the city of the "scourge of illegal guns" would be the top priority of his second term. He promised to champion stronger gun laws in New York and nationally and called for other mayors across the country to join his campaign, declaring that gun violence is "a national threat – one that crosses city lines and state boundaries." More than 50 mayors nationwide have now joined this campaign, including Mayors Daley, Newsom and Antonio Villaraigosa, representing both political parties and every region of the country.

The 101 California Street shooting showed that gun violence can happen anywhere, anytime, to any of us. Although much has happened in the area of gun violence prevention since the shooting – both good and bad – one thing remains clear: Gun violence continues to plague our nation. Opinion polls consistently show that a majority of the public supports stronger gun laws. It's time for more Americans to stand up for what they believe and make their views known.

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