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A Problem Worse Than Iraq

By Juliet A. Leftwich

On March 13, 1996, a former scoutmaster named Thomas Hamilton used four legally purchased handguns to slaughter 16 children and a teacher at an elementary school in Dunblane, Scotland. In response to the shooting, Great Britain banned virtually all handguns.

Three years later, on April 20, 1999, Columbine High School students Eric Harris and Dylan Klebold went on a shooting rampage in Colorado, killing 12 of their classmates and a teacher before ending their own lives. The federal government's response to the Columbine massacre? None, despite the fact that six other school shootings had taken place in America in the preceding 19 months.

Nearly eight years to the day after Columbine, on April 16, 2007, college student Seung-Hui Cho shot and killed 32 people at Virginia Tech before killing himself. That mass shooting — the worst in modern U.S. history — came only six months after five young girls were gunned down at an Amish schoolhouse in Pennsylvania. Was the federal government finally prompted to take action to prevent similar tragedies from happening in the future? Hardly.

In fact, the first statement from the White House after the Virginia Tech shooting was that President Bush supported the "right to bear arms." Later, he expressed condolences to the grieving families, but said that "now's not the time" to discuss any specific federal response to the tragedy. This sentiment was echoed by several members of Congress, including leading Democrats.

Perhaps it should come as no surprise, then, that with the six-month anniversary of the Virginia Tech shootings approaching next week, Congress still hasn't passed any new gun laws.

How much more blood must be spilled before Congress decides that the time has come to take action? Guns are used to kill nearly 30,000 people each year in this country in homicides, suicides and unintentional shootings. Although most gun deaths receive little media attention, on average 32 people are killed in gun homicides each day in America — that's the equivalent of a daily Virginia Tech shooting.

Some states, impatient with the gun lobby's stranglehold over Congress, have taken action to fill the huge gaps in federal law. California, for example, has adopted laws to close the "private sale" loophole, which allows unlicensed persons to sell guns without conducting background checks on prospective purchasers. Our state also mandates the retention of handgun sales records, requires handgun safety certificates for handgun purchasers, bans assault weapons and "junk guns," requires a 10-day waiting period and limits gun sales to one per person per month.

In addition, this year, the Legislature passed a groundbreaking "microstamping" bill which, if signed into law by Gov. Arnold Schwarzenegger, will allow law enforcement to trace cartridge cases found at crime scenes to the firearms that fired them. The governor has until Oct. 14 to sign the legislation,

which is supported by more than 65 police chiefs and sheriffs and several major law enforcement organizations statewide.

Although strong state laws are important, they are not enough, standing alone, to keep Americans safe from gun violence. Given the ease with which guns cross state borders, what we need — and must demand — are comprehensive federal laws to regulate the manufacture, sale and possession of firearms.

The United States has the weakest gun laws of all of the industrialized nations in the world (and, not surprisingly, the highest rate of firearm-related deaths). Congress could take many concrete steps short of a handgun ban to significantly reduce our nation's epidemic of gun violence.

First and foremost, Congress could close the private sale loophole and require background checks on all prospective gun purchasers. Under current federal law, only federally licensed firearms dealers are required to perform background checks. Private sales, however, account for approximately 40 percent of all gun sales. As a result, except in the handful of states (like California) that have moved to close this loophole, criminals, young people and the mentally ill are easily able to buy guns from private sellers at gun shows and other locations nationwide.

Congress could also require registration of guns and licensing of gun owners, similar to the way our laws require registration of cars and licensing of drivers. Currently, the federal government has no idea who owns firearms in this country (indeed, thanks to the NRA, federal law actually prohibits the use of background check records to create any system of registration of firearms or firearms owners).

Registration laws are critical, however, because they allow law enforcement to quickly trace crime guns back to the individuals who purchased them, and to return lost or stolen firearms to their lawful owners. When registration laws require annual renewal and additional background checks, they also help ensure that gun owners remain eligible to possess firearms and do not illegally transfer their guns to others. Strong licensing laws are essential because they require gun owners to demonstrate their familiarity with existing gun laws and their ability to handle and store firearms safely. Registration and licensing laws are the cornerstone of responsible gun policy in industrialized nations worldwide.

In addition, Congress could provide financial incentives to the states to submit all of their criminal and mental health records to the National Instant Criminal Background Check System (NICS). Currently, many prohibited persons are able to pass background checks because state records — including more than 90 percent of disqualifying mental health records and 25 percent of criminal convictions — have not been entered in NICS. (The House passed a long-languishing bill to provide such financial incentives last spring, but only after the NRA added last-minute amendments to compromise the legislation. That bill has stalled in the Senate.)

Moreover, Congress could:

- Authorize the Consumer Product Safety Commission to regulate firearms (the Consumer Product Safety Act currently exempts firearms and ammunition — and tobacco — from its requirements).
- Adopt a waiting period to give law enforcement adequate time to conduct background checks and allow gun purchasers an opportunity to "cool off."

- Limit the number of guns an individual may purchase at any one time (to prevent gun traffickers from buying large quantities of firearms and reselling them on the black market).

Finally, Congress could undo the significant damage inflicted during the Bush administration by reinstating, and then strengthening, the assault weapon ban (which was allowed to expire in 2004 despite overwhelming public and law enforcement support), repealing the law granting the gun industry unprecedented immunity from most civil lawsuits (introduced by former NRA board member Sen. Larry Craig), repealing the so-called Tiahrt Amendment, which prohibits the Bureau of Alcohol, Tobacco, Firearms and Explosives from disclosing crime gun trace data (used to identify patterns of gun trafficking and released to the public until 2004), and repealing the law requiring firearm purchaser records to be destroyed after 24 hours.

Contrary to the gun lobby's mantra about the "right to bear arms," the Second Amendment provides no obstacle to such laws. Nearly seventy years ago, in *U.S. v. Miller*, 307 U.S. 174 (1939), the Supreme Court held that the "obvious purpose" of the Second Amendment was to "assure the continuation and render possible the effectiveness" of the state militia. Since *Miller*, lower courts have rejected more than 200 Second Amendment challenges to firearm-related laws. Only one federal appellate decision in American history has struck down a gun law on Second Amendment grounds: *Parker v. District of Columbia*, 478 F.3d 370 (D.C. Cir. 2007), which involved a challenge to the District's laws banning most handgun possession.

That case, decided in March 2007, held that the Second Amendment guarantees an individual right to possess firearms unrelated to service in a well-regulated militia. The District is seeking U.S. Supreme Court review of the decision (now entitled *District of Columbia v. Heller*). If review is granted, and if the court follows its own precedent, the lower court decision should be reversed.

When high-profile shootings like Columbine and Virginia Tech rock our nation, most Americans react with shock, horror and anguish. For some reason, however, those emotions have not yet translated into demands that our federal government actually do something to stop the carnage, despite the fact that opinion polls consistently show public support for stronger gun laws. Americans are outraged by the Iraq War and have begun to demand that the U.S. change its war policy. That outrage is completely justified: The Iraq War has taken the lives of more than 3,000 American soldiers.

But guns claim the lives of more than 3,000 people here at home every six weeks. Where's the outrage about that? The bloodbath at home will continue, day after day, year after year, unless and until the public demands that our federal legislators enact the common sense gun laws that we need.

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