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LOOPHOLES ARE (STILL) LETHAL

Massacres prove no match for America's intractable gun culture



For *Police Issues* by Julius (Jay) Wachtel. Here's a verbatim extract from [a recent article](#) in the *Los Angeles Times*. We inserted two blanks. Can you fill them in?

Without major changes in ____ and public policy, uncounted tens of thousands of people will die each year, with devastating results on their families and their friends. That's part of the cost of the ____ culture, which, thus far, Americans have been willing to accept.

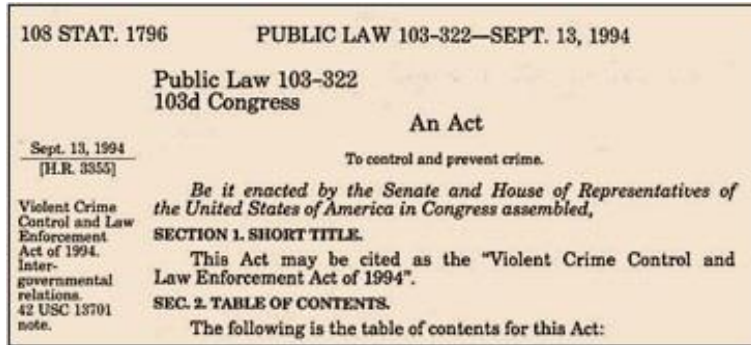
You'll find the answers at the end. But for now, let's assume it's about guns. After all, in 2020, the most recent year for which CDC offers comprehensive statistics, [more persons were shot dead](#) in the U.S. (45,222) than, say, were killed in traffic accidents (40,698). What's more, only a tiny sliver of gun fatalities – 535, about 1.2 percent – were “accidents.” Nearly all were intentional: suicides comprised about 53 percent (24,292) and homicides about 43 percent (19,384).

Bottom line: guns are used in an awful lot of on-purpose mayhem. Yet they're far more loosely regulated than driving, which really is an essential component of everyday life. But at a time when life is consumed by massacres, and fear of massacres, our seemingly best-intentioned leaders continue building on a platform of pretend.

Pretend? Only days ago, as the country reeled from the slaughter in Highland Park, Vice-President Kamala Harris [called for stern action](#): “We have more to do. We have more to do. Congress needs to have the courage to act and renew the assault weapons ban.” Ditto, Illinois Governor J.B. Pritzker:

We urgently need federal regulation on the weapons of war and high capacity magazines that are used only for mass murder. Illinois is not an island, and even with ... some of the strictest gun laws in the nation, our state is only as safe as the state with the weakest laws — many of which border Illinois.”

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In effect between September, 1994 and September, 2004, the original Federal assault weapons ban – it lapsed as prescribed after ten years – outlawed, among other things, semi-automatic rifles that could accept a detachable magazine and had two or more of five features

(click [here](#) for Public Law 103-322, 103d Congress and [here](#) for a brief version):

- (i) a folding or telescoping stock;
- (ii) a pistol grip that protrudes conspicuously beneath the action of the weapon;
- (iii) a bayonet mount;
- (iv) a flash suppressor or threaded barrel designed to accommodate a flash suppressor;
- (v) a grenade launcher.

Some pistols and shotguns were also outlawed, as were magazines and other feeding devices that could hold more than ten rounds of ammunition. A short list of popular firearms that broke the rules were banned by name. Among them were the civilian versions of the Uzi, Colt AR-15 and Intratec TEC-9 semi-auto rifles. However, banned guns and magazines that were legally on hand on the law's effective date could continue to be possessed and transferred, ad infinitum.

Did the ban do any good? “Changes in US mass shooting deaths associated with the 1994-2004 federal assault weapons ban: analysis of open-source data” (*Journal of Trauma and Acute Care Surgery*, January, 2019) [analyzed 44 mass shootings](#) (four or more fatalities) that took place between 1981 and 2017. Its conclusion, that “mass-shooting fatalities were 70% less likely to occur during the federal ban period” suggests that the ban was effective. Indeed, [its authors recently reported](#) that the ban could have prevented “314 of the 448 mass shooting deaths that occurred” during non-ban periods. Yet they nonetheless cautioned against drawing an explicit cause-and-effect relationship:

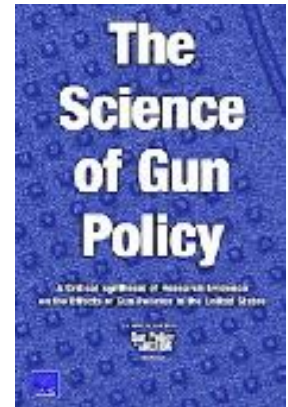
...our analysis cannot definitively say that the assault weapons ban of 1994 caused a decrease in mass shootings, nor that its expiration in 2004 resulted in the growth of deadly incidents in the years since. Many additional factors may contribute to the shifting frequency of these shootings, such as changes in

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domestic violence rates, political extremism, psychiatric illness, firearm availability and a surge in sales, and the recent rise in hate groups.

Put simply, there was too much else going on. Statistically speaking, the “variables” that would need to be taken into account to credit the law were simply too unruly to measure and incorporate.

In “Effects of Assault Weapon and High-Capacity Magazine Bans on Mass Shootings” (*Gun Policy in America*, Rand Corporation, 2022) academics [reviewed studies about the effects of assault weapons bans](#) on mass shootings. What they discovered seems hardly conclusive. For example, one author credited State bans with reducing mass shooting deaths, including deaths from school shootings. But bans didn’t seem to significantly reduce the frequency of mass shootings. Again, there were a bucketful of methodological concerns. In all, the reviewers found there was “inconclusive evidence for the effect of assault weapon bans on mass shootings.”



Your author is deeply skeptical that the original Federal ban, or its proposed replacement, or the State bans, could substantially reduce mass shootings. After all, America has long been awash in guns of all kinds, and unlicensed peer-to-peer transactions are commonplace. Banned weapons that were in the marketplace and in citizens’ possession when the 1994 ban was enacted were grandfathered in. Most significantly, the elaborately-crafted bans have virtually begged to be circumvented. Let’s self-plagiarize from “[Reviving an Illusion](#)”:

Colt renamed the AR-15 the “Sporter”, removed its flash suppressor and bayonet lug and reworked the magazine so that it could hold only ten rounds. Soon everyone was stripping weapons of meaningless baubles and producing essentially the same guns as before. When the ban, which carried a ten-year sunset clause, came up for re-approval in 2004 it died quietly.

Ten years later, when time came to renew the so-called “ban”, even the vociferously anti-gun Violence Policy Center [saw little reason to endorse a re-do](#):



The 1994 law in theory banned AK-47s, MAC-10s, UZIs, AR-15s and other assault weapons. Yet the gun industry easily found ways around the law and most of these weapons are now sold in post-ban models virtually identical to the guns Congress sought to ban in 1994. At the same time, the gun industry has aggressively marketed new assault-weapon types such as the Hi-Point Carbine used in the 1999 Columbine massacre that are frequently used in crime. Reenacting this eviscerated ban without improving it will do little to protect the lives of law enforcement officers and other innocent Americans.

According to the Giffords Law Center, seven States and the District of Columbia [presently ban assault weapons](#). California, Connecticut, New York, and D.C. supposedly have the strictest provisions. Still, each essentially follows the original Federal model. For example, [California](#) offers a similar generic definition of an illegal assault weapon. It also bans a long list of guns by name. In an attempt to up the game, it prohibits semi-auto rifles that can accept a detachable magazine and have just *one* (not the Fed ban's minimum *two*) extrinsic feature, such as a pistol grip or thumbhole stock. California also bans magazines and feeding devices for any gun that can hold more than ten rounds (click [here](#) and [here](#).)

Problem is, beyond banning very large calibers (.50 and above), neither the Feds nor any State have paid any attention to the underlying reason why assault weapons are so lethal: [ballistics](#). *Not one*. Let's self-plagiarize from [our 2015 op-ed](#) in the *Washington Post*:

One assumes that assault rifles were picked on [by the Federal ban] because they are particularly lethal. Key attributes that make them so include accuracy at range, rapid-fire capability and, most importantly, fearsome ballistics. In their most common calibers – 7.62 and .223 – these weapons discharge bullets whose extreme energy and velocity readily pierce protective garments commonly worn by police, opening cavities in flesh many times the diameter of the projectile and causing devastating wounds.

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Of course, getting hung up on caliber would likely outlaw all semi-automatic rifles beyond .22 rimfire. That, as we mentioned in [“A Ban in Name Only,”](#) is how the United Kingdom reacted to England’s 1987 [Hungerford Massacre](#). But like we then wrote, “we’re not Britannia, where a sense of community still prevails.” Acting promptly after the Federal ban, Colt tweaked its AR-15’s external configuration and rebranded it the “Sporter.” And yes, the weapon kept chambering the same powerful .223 caliber cartridge used by military AR-15’s.



Other manufacturers quickly followed suit. For example, Norinco rebranded its civilian version of the vicious AK-47 rifle, which fires the lethal 7.62mm. projectile. One of their tweaked products (see left), a model 56-S semi-automatic rifle, was used by Patrick Purdy to murder five schoolkids and wound thirty-two in the January 17, 1989 [Stockton, Calif. schoolyard massacre](#). Purdy had legally purchased the rifle in Oregon.

Purdy’s horrific act assured the prompt enactment of California’s assault weapons ban, which was then being drafted. Its long list of banned guns specifically includes the Model 56-S, along with the Colt AR-15 and so forth. Not by caliber, though – just by name. Twenty-six years later, when [Syed Farook and Tashfeen Malik](#) gunned down fourteen and wounded twenty-two in San Bernardino, Calif.,



they used two .223 caliber AR-15 variants: a DPMS Panther Arms A15 (left) and a Smith & Wesson M&P15 (right), which a friend bought for them at a California gun store. All “Panthers” were placed on the [Golden State’s banned list](#), and Smith & Wesson no longer produces the M&P15. But don’t fret! Check out our introductory graphic. That’s [S&W’s “California compliant” Volunteer!](#) Per the state ban, its capacity is limited to ten rounds (natch, plus one in the chamber), but it fires the same deadly .223 NATO round as the fully automatic AR-15 your writer lugged around in Saigon, um, fifty-four years ago.

So what about [New York State’s](#) “tough” law? Like California’s ban, it prohibits semi-auto rifles that can accept detachable magazines and have at least one in of a list of prohibited features, such as “a folding or telescoping stock, a pistol grip that protrudes

conspicuously beneath the action of the weapon, a thumbhole stock: and so forth. Here, for example, is a “New York legal” version of the Bushmaster XM-15 .223 caliber semi-automatic rifle that [Payton Gendron used to murder ten and wound three](#) at the Tops market in Buffalo on May 14. How does it get away with that pistol grip? Its magazine isn’t detachable! (As it turns out, Gendron used readily available parts to illegally modify the gun to accept a large-capacity detachable magazine.)



So how does that [proposed replacement](#) for the Federal assault weapons ban live up to its “new and improved” label? Just like those “tough” bans in California and New York, the presence of only *one* “prohibited feature” (such as that nasty pistol grip) would require the gun to have a fixed magazine.

Problem solved!

Well, not really. A far more helpful step would require an honest assessment of the factors that drive firearms lethality. Its impact isn’t just felt by “ordinary” citizens. “[A Lost Cause](#)” mentioned that police officers must contend with evildoers who are equipped with firearms whose projectiles readily defeat ballistic garments normally worn on patrol. That, indeed, may be the fundamental reason why cops seemed so hesitant to advance on the madman who used an assault rifle to stage [the recent massacre at Uvalde’s Robb Elementary School](#). So what can be done? Prior posts (see, for example, “[Reviving an Illusion](#)” and “[Going Ballistic](#)”) suggest that firearms could be subjected to a point system that scores factors which affect lethality, including accuracy, ammunition capacity, ease of reloading, cyclic rate and, most importantly, ballistics. Guns that score too high could be banned.

And *that* takes us back to our opening challenge. It’s from [a recent article](#) in our hometown newspaper about the distractions caused by increasingly elaborate in-vehicle digital technology. The answers are “driver behavior” and “infotainment.” Of course, controlling the former by imposing limits on the latter could prove a very tough sell. Kind of like slamming the brakes on guns.

After all, we really *aren’t* Britannia.