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ARE WE HELPLESS TO PREVENT MASSACRES?

*A murderous rampage in Nashville suggests
that lawmaking is not a solution*



For Police Issues by Julius (Jay) Wachtel. When 28-year old Audrey Hale fired through a glass door and barged into Covenant Christian School on March 27, the Nashville resident [carried three weapons](#): a Lead Star Arms “Grunt” AR-15 .223 caliber rifle (left), a Kel-Tec SUB2000 9mm. carbine (right),



and a Smith & Wesson 9mm. pistol. Once inside, [Hale roamed the first and second floors of the school](#), killing three nine-year old students and three adults whom he came across in the hallways. Alerted by the gunfire, teachers promptly locked down their classrooms. Hale fired more rounds – some apparently pierced doors – but he didn’t crash into any rooms and no one else was hurt.

Officers soon arrived and shot Hale dead.

Was Hale legally entitled to have guns? [Tennessee does not require background checks](#) for gun purchases. [But Federal law prohibits](#) felons and persons who were ever adjudicated mentally defective or committed to a mental institution from acquiring guns. As best we know, none of these categories applied to Hale. So as an adult, Hale could legally purchase guns from Federally-licensed gun stores to their twisted heart’s

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delight. And Hale did, buying seven guns, including the three used in the massacre, from local sources.

Could Hale's parents have done anything? It turns out that Hale was receiving medical care for an emotional condition. His need seems obvious. [According to a former classmate](#), Hale had shared “suicidal thoughts” with her and other acquaintances and “[was posting a lot about depression](#)” during the weeks preceding the massacre. Incredibly, [Hale messaged her on Instagram moments before it began](#). “I’m planning to die today...You’ll probably hear about me on the news.” She promptly called a suicide prevention number, then the Sheriff’s Dept. But by that time the slaughter was underway.

Hale’s parents clearly knew that something was seriously amiss. [They told police](#) that they did not want Hale to have guns and thought that their child had disposed of the one gun they knew of. In fact, [Hale had been training at local gun ranges](#) and kept his seven store-bought weapons, plus two shotguns (one was “sawed-off”), plus lots of ammunition, plus detailed plans for the massacre, [at the home](#). Everything was supposedly well hidden, so it’s possible that the parents were unaware that their adult “child” had an arsenal.

And even had they been inclined to act, there was another obstacle. Nineteen States plus the District of Columbia have so-called “[Red Flag](#)” laws that enable judges, based on affidavits from family members or police, to order that guns be seized from possibly dangerous persons. Tennessee does not. So taking Hale’s guns would have required a highly intrusive and time-consuming commitment process. Even in the supposedly “Bluest” of places, liberty interests and due process concerns make preventive gun seizures an intensive, resource-consuming process with an uncertain conclusion. Considering the parents’ apparent “see nothing, hear nothing, know nothing” attitude, that was clearly never in the cards.



Might society have pre-empted the massacre? Over the decades, America’s experimented with various approaches to deal with troubled citizens. California recently enacted the “[Community Assistance, Recovery, and Empowerment Court Program](#)”. Known as CARE, it allows family members, first responders and health workers to seek the detention of troubled persons. If a judge finds cause, individuals can

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be ordered to participate in a twelve-month plan, renewable once. To help implement the program, Governor Kevin Newsom [called for a bond measure](#) that would direct billions to create treatment facilities and long-term supportive housing for the mentally ill.

Many progressively-minded politicians are delighted. Among them is L.A. Mayor Karen Bass, who recently met with the dispirited residents of tent camps that occupy her city's central core. But not everyone is pleased. Civil liberties groups are concerned that CARE's coercive underpinnings – after all, we *are* talking judicial mandates – would reverse decades of reforms that led America to abandon its long-standing practice of institutionalizing the mentally ill. This overhaul began in 1963 with passage of [Public Law 88-164](#), which appropriated \$26 million to create facilities that would find the causes of mental disorders and devise practices to ameliorate their effects. [According to then-President Kennedy](#), “new medical, scientific and social tools and insights” would allow mental hospital populations to be slashed in half.

And so they were. Mental institutions across the U.S. emptied. But as rampant homelessness and poor behavior became the “new normal,” critics of deinstitutionalization called the purportedly benevolent approach an appealing fiction. Even reformists were forced to concede that the transition wasn't producing its intended effects. In their view, while the plan was eminently workable, [society had failed to allocate sufficient funds and human resources](#) to carry it through.

What about stricter gun laws? [Hale used an AR-15 style .223 caliber rifle and two weapons that fire the 9mm. projectile](#); one is an assault-style carbine, and the other's a 9 mm. pistol. Notably, although police responded promptly, all six victims died from their wounds. That's not surprising. Nine-millimeter rounds are standard police issue and can easily kill. And the .223 cartridge is notoriously lethal. As we pointed out in “[Ban the Damned Things](#)” and our [Washington Post op-ed](#), its extreme velocity creates “temporary wound cavities” more than a dozen times the bullet diameter, shattering nearby organs and causing devastating internal damage. (For a graphic depiction of “how bullets from an AR-15 blow the body apart”, click [here](#).)



Recognizing that there *is* a problem, some progressively-minded places turned to – what else? – lawmaking. [To date](#), nine States and the District of Columbia have enacted assault weapons “bans”, and nineteen States and D.C. have “Red Flag” laws that authorize police to seize guns from allegedly dangerous persons. Such measures have reportedly helped. [But loopholes are rampant](#), and guns that are shorn of

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doo-dads but fire the same lethal cartridge as the AR-15 are available even in so-called “strong-law” States.

Audrey Hale is the most recent in a long line of deranged shooters whom even the most restrictive laws couldn't touch. Some, like [Frank R. James](#), who opened fire in the New York City subways last year, had undergone mental treatment. What's more, he also had a long criminal record. But James had never been “committed” to a mental institution, adjudged mentally defective, or convicted of a felony. As far as the law was concerned, he was free to acquire guns to his heart's delight. And that's in a State with gun laws that are supposedly far more restrictive than Tennessee's. Meanwhile, Federal firearms laws are under severe threat. In its 2020 [Bruen](#) decision, the Supreme Court held that “to justify a firearm regulation the government must demonstrate that the regulation is consistent with the Nation's historical tradition of firearm regulation.” Its ruling, which nullified a New York law requiring that persons who wished to carry a gun justify their reason, was later used by an Indiana-based Federal judge [to throw out the conviction](#) of a gun buyer who falsely asserted that he wasn't facing felony charges. After all, ex-con with a gun laws aren't “historical,” right?

But forget the Feds. Consider, say, what the highly-respected *Giffords* website [thinks about California's gun laws](#):

Overall, California has the strongest gun safety laws in the nation and has been a trailblazer for gun safety reform for the past 30 years.

Impressed? California law bans “assault weapons.” Its definition, though, is quite complex. Here's an [extract](#):

30515. (a) Notwithstanding Section 30510, “assault weapon” also means any of the following: (1) A semiautomatic, centerfire rifle that does not have a fixed magazine but has any one of the following: (A) A pistol grip that protrudes conspicuously beneath the action of the weapon. (B) A thumbhole stock. (C) A folding or telescoping stock. (D) A grenade launcher or flare launcher. (E) A flash suppressor. (F) A forward pistol grip. (2) A semiautomatic, centerfire rifle that has a fixed magazine with the capacity to accept more than 10 rounds. (3) A semiautomatic, centerfire rifle that has an overall length of less than 30 inches.

Nothing whatsoever is said about caliber (everything below .50 is OK). Now grab a look at [“Our Never-Ending American Tragedy.”](#) Here are the “California legal” versions of the rifles Syed Farook and Tashfeen Malik used to murder fifteen in the 2015 San Bernardino massacre (DPMS Panther Arms on the left, Smith & Wesson M&P15 on the right):

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And yes, both chamber that insufferably lethal .223 caliber round. Ditto the “Grunt” assault rifle that Hale carried. Is it “California compliant?” Check out [Lead Star Arm’s “California Compliant”](#) page.

Our nation’s historically welcoming attitude towards firearms (we’re parodying the Supremes) has enfeebled even the most half-hearted attempts to constrain gun lethality. Guns that mimic Vietnam-era AR-15 assault rifles have long been a major source of profit for the gun industry. Natch, many wound up in the hands of troubled souls. “Gun massacre” became part of the everyday lexicon.

Preventives have proven an appealing fiction. So we must look elsewhere. Meaning, after the fact. And what else *is* there “after” but the cops? Nashville P.D.’s response [has been widely praised](#). Officers quickly entered the school and gunned down the attacker. Bodycam video indicates that three officers clad in tactical vests and armed with long guns – what appears to be a tactical team – spotted Hale on the second floor. Their quarry ran off, firing “wildly.” But Hale was soon cornered. That encounter, which only consumed a few minutes, has been called far superior to [what happened at Robb Elementary in Uvalde](#), where it took police and hour to confront the shooter.



There’s no question but that Nashville cops did an outstanding job. But the comparison with Uvalde isn’t apt. Its cops didn’t have a tactical team on the ready. And the need was obvious, as two of Uvalde’s patrol officers who entered Robb Elementary were quickly wounded (fortunately, only slightly) by .223 caliber rounds that Salvador Ramos fired through a door. Ramos holed up in a room full of students, next to other rooms filled with students. So Uvalde’s cops had to be careful about rushing in with guns. Hale, though, didn’t barge into any occupied classrooms. Indeed, [Nashville officer bodycam video](#) depicts a chase through empty rooms and hallways.

Bottom line: in these days, when every evildoer has access to an assault weapon, all police departments, no matter how “small”, must have a trained, long-gun equipped tactical team on the ready, twenty-four seven. There really *is* no third choice.