

SB 978

Testimony Submitted March 31, 2019

Mr. Chair Prozanski and Members of the Senate Judiciary Committee:

Thank you for the opportunity to present a few comments about SB 978 which you are considering.

Not Enacting SB 978: I propose that SB 978 should not be enacted. This is because the measure is severe opening gun owners up to major penalties and harsh strict liability civil litigation for potentially minor omissions and oversights.

The penalties extend to denying or impairing the constitutional rights of gun owners including the ability to possess and obtain firearms without a clear statement of a substantial policy benefit nor a statement of why the legislation is consistent with the United States and Oregon constitutions.

There is not a specific factual basis in Oregon to justify the harsh penalties. The legislation is complex and confusing and deserves extended consideration for revision to assure it is focused on a substantial issue and the mechanisms are clear, proportionate and well-tuned.

The subject of the proposed litigation should be coordinated with Oregonians statewide given its potential general impact. There should be an opportunity for public input with the receipt of testimony around the State.

Following are the details of the testimony:

The greatest benefit relative to firearms would be achieved by passing legislation funding health services to address suicide deaths and funding educational programs within sheriff departments to engage firearm owners throughout the state with affirmative, proactive safety programs.

Firearm Deaths in Oregon: Trying to look at just the facts, my understanding is that much of the legislation focuses on storage. Apparently, the assumption is unintentional firearm deaths are a growing and significant problem in the state.

I looked on-line and found the Oregon Health Authority's Oregon Violent Death Reporting System. While not being highly computer proficient I found a section reporting firearm death statistics for Oregon. I compared a couple of years.

For 2017, I found there were 529 deaths where firearms were involved. Calculating from the charts, of these 74 were homicides, 11 were legal intervention, 4 were from unintentional deaths and a very large 439 died from suicide.

I then compared this level with 486 deaths in **2015**. Of this number 95 were homicides, 11 from legal intervention, 373 from suicide, and 5 were unintentional shootings.

Firearm Deaths Not Increasing Except Suicides: *In summary between 2015 and 2017, no cause of firearm death increased except suicides. In fact, unintentional shootings decreased from 5 to 4 by the information I was able to obtain. This is a 20% decline. We all understand, however, that the number of unintentional shootings resulting in death are so low, that just a one plus or minus greatly changes the incidence.*

Addressing All Suicides: Far and away the largest component and the only increase for the period I reviewed in firearm deaths was **suicides**. For suicides about 55% of the suicides involve a firearm while other agents are used for the others instances.

Building Local Health And Law Enforcement Resources to Do Good: In my impression, the greatest potential from improvement is not legislation such as SB 978 chilling the rights of firearm owners, but instead building local health and law enforcement resources for counseling, training and intervention.

Law enforcement in this case are sheriff departments that should have an affirmative roll and State funding to work with the firearm community. As my attached essay outlines, their proactive participation can make a huge difference and can affirmatively address both the U.S. Second Amendment and Article 1, Section 27 of the Oregon Constitution, “the people shall have the right to bear arms for the defense of themselves . . . “

Strict Liability: In addition to this general statement, I have specific questions and concerns regarding the SB 978. What is most prominent regarding the bill, is that it relies upon strict liability as a major punitive measure. I am not a lawyer, so I looked it up and found the following:

Strict liability is a theory that imposes legal responsibility for damages or injuries even if the person who was found strictly liable did not act with fault or negligence. This theory usually applies in three types of situations: animal bites (in certain states), manufacturing defects, and abnormally dangerous activities. (justia.com/injury/negligence-theory/strict-liability)

Categorizing a Constitutionally Protect Activity as “Abnormally Dangerous”: If this is true, then much of SB 978 is based upon a conclusion that owning firearms is an “abnormally dangerous activity.” This is the crux of the matter. Let me ask you, independent of any subjective judgment, how this can be if keeping and bearing arms is an activity protected by both the U.S. and the Oregon Constitutions and it is performed in a prudent and safe manner except potentially for an inadvertent, minor oversight? The law you propose has no consideration of establishing negligence in tort actions relating to firearm storage.

I am not aware of any instance that has been found constitutional where a protected activity is subject to punitive strict liability as a possible consequence when exercising it in a normal, prudent but not perfect manner.

Insurance? Reviewing commentary on the subject, strict liability may imply the ability of firearm owners to obtain insurance to cover losses, including the cost of defense. SB 978 does not address this. If this is implied, it creates its own set of issues including cost and affordability to exercise a constitutional right

and also the development of a ready market from which the insurance can be procured. All of this appears to be a complex, open question.

Section 6: The section specifies that “if a person obtains an unsecured firearm as a result of the owner or possessor of a firearm not securing the firearm in various manners when the firearm is not carried or under the control of the person, they are subject to strict liability.

This appears fertile ground for litigation distressing firearm owners unreasonably.

- What will the duty be?
- May we keep the firearm unlocked next to our bed at night though another person could intervene and take the firearm while we slumber or sleep?
- May we go to the bathroom, or do we have to carry the firearm with us?
- If we leave to take care of an emergency and we leave the firearm in an unsecured drawer next to us and someone steals the firearm, are we subject to strict liability?

These questions may appear trivial or even humorous to some, but they (and other seemingly similar considerations) will be the practical issues that will drive strict liability litigation for damages that arises over time.

Most concerning is there is no demonstration that SB 978 will reduce the 4 or 5 unintended deadly shootings in Oregon each year will be reduced. If it is proposed the legislation will substantially reduce other categories of firearm injury or death, no record has been established that I can find to support the proposition.

Section 7: This section requires the transfer of a firearm to have an engaged trigger lock or cable lock, or in a locked container and has strict liability consequences even two years in the future. To protect the gunowner the act should provide a statement, how the gunowner could verify two years in the future the section has been met without having to absorb the considerable cost of defending one of the many law suits that is likely to arise.

Strict liability must be eliminated and a legally sufficient process must be defined given the extraordinary jeopardy of strict liability.

Section 8: This section requires reporting when a firearm is stolen. Many Oregonians have multiple firearms that are locked away in multiple safes. Normally, these may be inventoried and cleaned annually, or even every couple of years to assure they are functional.

The legislation requires 72-hour reporting with the standard being when the person should have reasonably know of the loss or theft.

This is another strict liability provision and it is painful to contemplate having to explain to the aggressive liability attorney who will drive this consideration to establish the level of damages, why the firearms were not taken out of the safes and inventoried more frequently. I believe the provision is deficient because it does not contain adequate standards to protect constitutionally protected gun owners against strict liability litigation when the owners have acted responsibly.

Section 9: . One great hope to improve firearm safety is to train youth. Civil Air Patrol, Scouts, 4-H all have programs to accomplish this. Under Section 9 if you attempt to train youth and provide them with

a firearm, and if they harm another with the firearm, then the trainer is subject to strict liability if it can be interpreted, they did not directly supervise. This is a litigation trap.

What does direct supervision mean? If you focus on another youth to address a safety issue while training several, is direct supervision lost? Frankly, for firearm trainers who work to improve firearm safety in youth organizations this presents a chill upon the entire effort. What reasonable person would expose this kind of punitive and counterproductive standard?

Section 10 and Section 11: These provisions require the Oregon Health Authority to adopt rules establishing the minimum specifications for trigger locks cable locks, containers and tamper resistant locks. This may be an issue requiring a full good-faith effort to exchange with firearm owners who already have acquired these devices and those needing to obtain them in the future. This could take some time. Section 11, however, limits the time essentially until January 1, 2020.

Also, in my purchasing safety devices I have found it difficult to purchase some that work on specific firearms. There should be anticipation of how this can be achieved without creating a difficult and daunting task for firearm owners especially since the penalties proposed are so draconian.

There are due process expectations for the full consideration of such administrative matters and forcing it to a limited timeframe ending on January 1, 2020. This can be interpreted as the legislation denying at a minimum good-faith and possibly due process.

Section 12: This section provides criminal penalties when a minor obtains a firearm and threatens or harms another. The penalty is upon the individual person controlling the firearm. The potential losers with this provision are relatives other than parents and guardians and also trainers.

This section would provide me no protection should the minor act aggressively because my role as a step grandparent, grandparent, uncle or even cousin is not in the list of exceptions, though these folks often provide training within families. The same is true in my role as a certified trainer.

This provision chills efforts to train youth in firearm use and is, therefore, entirely counterproductive.

Section 17: Many years ago, a relative purchased a 30-06 deer rifle for me. It is built on a Springfield action manufactured before 1949. The gun does not have a serial number. The operative issue is whether the use of the bolt action constitutes an unfinished frame or receiver. I have checked and have not found an unserialized firearm is illegal in Oregon.

I am concerned; however, this section may make it illegal with my possession of it thereby making me a criminal – something I have worked strenuously to avoid over my 71 years. I have not found a clear definition of “unfinished frame or receiver”, only a reference to ORS 166.210. I searched on-line and could not answer my question.

I believe this provision could apply to many Oregonians. If the unserialized bolt action rifle becomes illegal, what is the recourse? When do I have to contact the Sheriff or State Police and will the firearm be confiscated or will the State pay fair market value?

Section 18 includes an exception for “hunting rifles” but I did not find the exception in Section 17. Was this intended? I strongly recommend the exception regarding “hunting rifles” be included in Section 17

or that the section is otherwise clarified to indicate it does not apply to hunting rifles, shot guns, antique rifles and even dedicated firearms used for target shooting.

As with nearly all of SB 978, I have found these provisions to be very complex and confusing and I feel highly punitive jeopardizing the economic well-being of firearm owners while they participate in a constitutionally protected activity.

Section 19: The section should be amended to provide time-period limitations for the various exclusion reasons regarding ORS 166.250 provided they are coordinated with the sheriff's department for the county in which they reside. This is based upon the rationale, only the most severe crimes should be for life without any reasonable possibility of commutation.

Adding unlawful storage based upon two or more convictions (presumably misdemeanors) is harsh and disproportionate and should not meet the standard for not allowing an individual to possess a firearm in their home. Because misdemeanor convictions for unlawful storage may result from relatively minor omissions given to the breadth and complexity of SB 978, they should not subject an Oregonian to the loss of a constitutional right.

Section 20: Likewise, this section is harsh when it precludes any individual obtaining a firearm for five years when convicted of a misdemeanor unlawful storage. By the very smallest omission any gun owner could be subject to such a prosecution and to lose a very substantial portion of a constitutional right over a small omission given the breadth and complexity of SB 978.

Section 28: This provision precludes possessing a firearm in a car in a parking lot at a commercial service airport with 1 million passenger boardings per year.

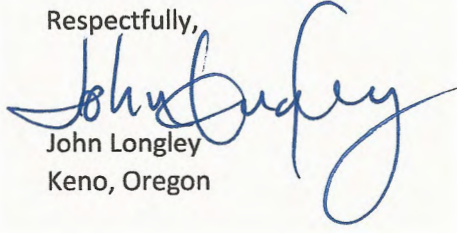
It is not uncommon we may drive hours from Southern Oregon to Portland International either to depart or to pick-up a relative or friend. In route we may have reason to have a firearm which we are legally authorized to carry. The legislation provides no option regarding the firearm except to lock it in a transport container and ship it.

This difficulty could be solved by adding to "(k)" the exception provided for schools: the firearm "Is unloaded and locked in a motor vehicle."

While I find no merit in SB 978 as drafted, a consultation with and outreach to Oregonians throughout the state might better frame the effort. Regulation is necessary, but it easily can become over-reach and stifling. The best result will be achieved through establishing a program that addresses root causes and provides instrumentalities through sheriff and health agencies to educate, counsel, and when appropriate intervene.

This can only be accomplished, however, with the allocation of state resources to support the effort. This is something that should be taken up with Oregon sheriffs and health officials. An essay I have prepared addresses the background and proposed solution. The essay is attached.

Respectfully,

A handwritten signature in blue ink, appearing to read "John Longley", written in a cursive style. The signature is positioned to the right of the typed name and location.

John Longley
Keno, Oregon

GUN SAFETY

By John Longley, MA, ICMA-CM (Ret)

CNN Town Hall

Wednesday evening a year ago, I watched the CNN forum on the Parkland School Shooting. Repeatedly, parents and students demanded that their schools be safe. Their slogan: "*never again*." They should not have to feel they are not safe. For some of the students, the answer is to prohibit the sale of "military assault" weapons, such as the AR-15.

I empathize with the students; they deserve to feel safe. I believe some programs will improve safety generally, without broadly denying individuals access to firearms for self-protection. This guarantee is particularly American. The most common measure suggested to improve safety is background checks. Interestingly, this measure, supported by more than 90% of Americans has failed in the past to assure safety.

Gun Control Measures

The difficulty is background checks didn't disclose the assassin at Mother Emanuel AME when a police disqualifying record regarding drugs was not found. At Sutherland, Texas it failed because the Air Force did not report disqualifying spousal abuse; and now at Parkland warning signs to the FBI and local law enforcement had not been followed or documented.

Also, the Parkland shooter was under scrutiny by law enforcement but law enforcement was not able to intervene. My primary concern is that adequate measures for firearm safety should be tested and proven, and every effort must be made to refine the system including background checks to assure they work. We cannot compromise the guarantee of due process. Ultimately this may authorize a process for prequalification, so law enforcement is not always in a reactive stance that so often fails.

Firearm Safety and Self-Protection

What is most frustrating is the debate always appears to careen into a bumper-car-style-contest losing the juices of collaboration for problem-solving. Instead, the sides of the debate appear in the past to talk past each other. The result is impasse and deadly dysfunction.

Looking online for a statement of current gun control proposals that may represent the perspective of many students, I found in [Vox](https://www.vox.com/policy-and-politics/2018/2/21/17028930/gun-violence-us-statistics-charts), an essay "I've covered gun violence for years. The solutions aren't a big mystery." German Lopez wrote the article and it published on February 21, 2018.

<https://www.vox.com/policy-and-politics/2018/2/21/17028930/gun-violence-us-statistics-charts>

Emma Gonzales' Manifesto

Mr. Lopez's article quotes Emma Gonzales, a student at Marjory Stoneman Douglas High School in Parkland, Florida. It was at this school that the 2018 Saint Valentines' shooting occurred taking the lives of 17 people. She made a powerful statement:

"They say that tougher gun laws do not decrease gun violence. We call BS. They say a good guy with a gun stops a bad guy with a gun. We call BS. They say guns are just tools like knives and are as dangerous as cars. We call BS. They say that no laws could have been able to prevent the hundreds of senseless tragedies that have occurred. We call BS."

This statement may well become the manifesto for the gun control movement. Fortunately, to better understand this movement, German Lopez has provided 5 clarifying propositions. Let's review them one-by-one.

Unique Gun Violence Problem

Mr. Lopez's Proposition 1. "America has a unique gun violence problem."

The article relies upon an analysis comparing the United States to what they have determined to be "way more gun deaths than other developed nations, and it has far more guns than any other country in the world." The analysis looks at only the United States in aggregate and the information derived from the Guardian newspaper as compiled from United Nations' sources.

The chart below demonstrates the critical features relating to firearms in America. The primary finding is the tremendous variation among the states regarding "gun murders". They range from .6 per 100,000 to 9.5 per 100,000. The former is similar to Canada, Luxembourg, Belgium, Italy Switzerland, and Macedonia while the latter is at Mexico and Philippine levels.

Both the Highest and Lowest "Gun Murder" State Rates Receive Low Gun Control Proponent Ratings

The difference does not appear to be state legislation favored by gun control organizations, because both the highest rates and the lowest rates receive low grades of D+ and F from the *Legal Center to Prevent Gun Violence*. We should determine what separates New Hampshire and Maine from Missouri and Louisiana and "bottle it".

There are significant clues, and we need to look to our laboratory of states for an answer. There are areas in America where there is a significant problem with "gun murder", but other states do not have this problem, and these states should provide lessons to all of us.

	2016 Murders/100,000	2016 Gun Murders/100,000	2016 Gun Deaths/100,000	Grade LC to PGV	Comparable Countries
New Hampshire	1.3	0.6	9.89	D+	Canada, Egypt, Luxembourg, Bulgaria, Belgium
Maine	1.5	0.8	9.24	F	Switzerland and Turkey
Oregon	2.8	1.2	12.53	C	Macedonia
Idaho	2.9	1.0	14.38	F	Vietnam and Bangladesh
New York	3.2	1.9	4.56	A-	Albania and Chile
California	4.9	3.5	8.11	A	Argentina and Costa Rica
Texas	4.8	3.8	12.03	F	Argentina and Costa Rica
Alabama	8.4	6.5	21.51	F	Nicaragua
Missouri	8.8	7.2	18.78	F	Anguilla and Paraguay
Louisiana	11.8	9.5	21.08	F	Mexico and Philippines
USA	5.3	3.5	11.90		

UDOC Small Arms Survey via Gardian 2012

The chart above also compares the factors of murder, gun murders, and gun deaths. Often gun control literature uses the measure of "gun deaths." This category combines firearm deaths from all causes and not just homicides.

The "gun death" category may advance a false impression that specific states with relatively low "gun murder" rates have high overall gun violence. This is achieved by combining murders with suicides. Both are tragic, but they are very different phenomena. It is misleading to combine them into a single measure without significant explanation. It is not useful in establishing policies to address "gun murders" throughout our country based on the American experience.

Variations Among States

The chart below defines relationships among the various states. The left column tells the proportion of "gun murders" to "gun deaths". As we indicated above, "gun deaths" include mostly suicides by gun combined with "gun murders." The right column defines for the states listed the percent of murders which are "gun murders".

	2016 Gun murder % of gun death	2016 Gun murder % of murder
New Hampshire	6.06%	46.10%
Maine	8.94%	55.08%
Oregon	9.94%	44.50%
Idaho	7.02%	34.83%
New York	40.78%	58.08%
California	42.96%	71.13%
Texas	31.79%	79.71%
Alabama	30.31%	77.60%
Missouri	38.20%	81.50%
Louisiana	45.09%	80.55%

The graph uses 2016 data.

We see variation relative to both the relationship of "gun murders" to "gun deaths" and murders themselves. At the top of the chart where gun murder rates are relatively low, a substantial proportion of "gun deaths" are a result of other factors, particularly suicide.

Lower Proportion of "Gun Murders" to Gun Suicides in New Hampshire, Maine, Oregon And Idaho

Likewise, in the same states, guns are the instrument of murder in a smaller proportion of the instances. The relationships are very different in Alabama, Missouri, and Louisiana, where most murders are by gun and gun deaths are in the range of 60% suicide and 40% murder, not 90% suicide and 10% or less-gun murder as is the case in New Hampshire, Maine, Oregon and Idaho.

The conclusion is that we need to review what is happening in the United States and understand the variation among the states. We must do this instead of rushing to broad, likely misleading conclusions.

American states with higher "gun deaths" may not have a "gun murder problem", but instead a suicide problem. This must be addressed, but because suicides are achieved by various means, effective measures must be developed. Overall, guns are the instrument for about 50% of the suicides in the United States, but this varies by state.

Because of the variation between the states, Mr. Lopez has not made his case. In fact, he probably missed the point.

Guns Versus Mental Health

Mr. Lopez's Proposition 2. "The problem is guns, not mental health."

The problem is neither guns nor mental health only – it is instead the failure of communities to manage firearm related issues. The thrust of the Second Amendment is about communities, but most of the actions on firearm issues are in places far away -- state capitols and Washington, DC.

Achieving effective firearm safety requires active communities and proactive local firearm policies. In the charts I have provided demonstrate in the United States there is tremendous variation in the number of "gun murders" between states. Extending the analysis to communities will, I believe, show increased variation.

Gun Violence Restraining Orders

There is an increasing consensus in the United States to remove from owning firearms people posing a clear and present danger. The conservative publication **National Review** has addressed this through gun violence restraining orders which they find potentially a useful tool to prevent violence. It must be narrowly framed and include due process guarantees.

<https://www.nationalreview.com/blog/corner/the-gun-violence-restraining-order-responding-to-a-libertarian-critique/>

America's Three Gun Frames

My investigation discloses there are three primary frames when understanding guns in America.

(1) The first is a free market frame, based on the marketplace. The free market is mostly the frame of the National Rifle Association and the Republican Party. Its principal goal is freedom and focuses on the supply-side in economic terms.

(2) A second is a regulatory frame, based on rules, and a faraway police entity (often a federal entity) enforcing the rules. Regulation is the frame of gun control advocates such as Everytown for Gun Safety and now the Democratic Party. Its principal goals are control to achieve safety using federal and state government Laws and rules. The results are often bureaucratic using harsh compliance regimes. It is difficult for the legal gun owner.

(3) I believe there is a third frame involving personal-protection based upon community service. It allows general access to an activity found to have a substantial public benefit and acceptable to a local community. It is

not the same as a marketplace. Instead, the third frame is best implemented through local institutions and community interaction. I believe, the language in the Bill of Rights about a "well-regulated militia" speaks to this frame.

Focusing on The Service Frame

With the service frame, gun ownership and use can become an operational risk management matter applied to a local community that achieves an efficacious solution. The benefit of the activity is established, and the risk is defined, often locally with state and federal support. Specific mitigation measures are elaborated to reduce risk to a reasonable level. In the context of the Second Amendment guarantee, this approach offers the best balance for the constitutional safeguard against the danger it poses.

The service approach also offers a greater opportunity for practical, proactive actions. For example, regarding firearms, every police agency and especially sheriff departments should have a firearms bureau or officer. Its purpose would not be solely intradepartmental such as training officers but also supporting the community members in the areas of safe operation and personal protection. This is called "local firearms mentoring".

The community firearms officer would work with local firearm clubs and ranges to assure effective firearms safety training. All of this would go miles to ensure a firearms community that would be safer for shooters and the general community.

Why is the service frame not a regulatory approach?

The regulatory approach allows a guarantee to be eroded one-bite-at-a-time based upon agenda driven political compromises often in more distant state capitols and the federal legislature.

They are susceptible to fixes or workarounds which are temporary accommodations which are often not transparent and not resilient as a Constitutional right must be. The regulatory frame largely ignores communities where in my opinion solutions rest. Its focus is preventing rather than improving.

Does Gun Control Work?

Mr. Lopez's Proposition 3. "The research shows that gun control works."

German Lopez uses the example of Australia to make his case for gun control working. He points out that in 1996, a 28-year-old man killed 35 people and wounded 25 more in Tasmania. The Australian authorities in response enacted a measure resulting in a gun confiscation.

All semi-automatic and pump firearms were required to be turned over to the authorities. This amounted to 650,000 guns turned-in/confiscated. For this, Hemenway and Vrinotis concluded

"Hemenway and Vrinotis in 2011: 'while 13-gun massacres (the killing of 4 or more people at one time) occurred in Australia in the 18 years before the (Australia gun control law), resulting in more than one hundred deaths, in the 14 following years (and up to the present), there were no gun massacres'".

There has been a close review of the effectiveness of the Australian National Firearms Agreement (NFA). Searching the literature, we found a statistical analysis by Wang-Sheng Lee and Sandy Suardi in the publication **Contemporary Economic Policy**, January 2010. The conclusion after significant analysis is,

This paper takes a closer look at the effects of the NFA on gun deaths. Using a battery of structural break tests, there is little evidence to suggest that it had any significant effects on firearm homicides and suicides. In addition, there also does not appear to be any substitution effect - that reduced access to firearms may have led those bent on committing homicide or suicide to use alternative methods. Although gun buybacks appear to be a logical and sensible policy that helps to placate the public's fears, the evidence so far suggests that in the Australian context, the high expenditure incurred to fund the 1996-gun buyback has not translated into any tangible reductions in terms of firearms deaths.

(Contemporary Economic Policy, "The Australian Firearms Buyback and Its Effect on Gun Deaths", p 76)

Other studies have been conducted subsequent to 2010, and the results are mixed. We have dueling data and at this point there is no general consensus. NFA proponents say that at least there has not been any "mass shootings" in Australia since 1996 but this too has caveats.

Definitions Are Central

Definitions are central in this analysis. The broad definition is ***Four or more shot and/or killed in a single event (incident), at the same general time and location, not including the shooter.***

But **PolitiFact** in October of 2017 explains that there is not a unified understanding: *"One strict definition used in the past by the federal government says at least four victims must be killed. Much broader criteria requires at least four victims be injured, though not necessarily killed. Other definitions land somewhere in the middle."*

<https://www.politifact.com/truth-o-meter/article/2018/feb/14/what-we-know-about-mass-shootings/>

By the broad criterion, the Monash University shooting in 2002 constituted a mass shooting with 2 killed and 5 wounded, as did the Hunt family murders where 5 (including the shooter) were shot and killed. Also, the Australian "Massacre" page in Wikipedia defines that through various means there have been nine mass killings with 56 deaths by multiple methods since the 1996 Tasmanian massacre.

None of these rose to the single major disaster of the Port Arthur 1996 massacre in Tasmania where 35 people were killed and 23 wounded. This profound tragedy led in Australia directly to the enactment of the NFA.

(Note: Additionally, in May 11, 2018 a shooting occurred in Margaret River that resulted in the death of 7 family members.)

The Australian Political Situation

The bottom line with this is the Australian political situation. The country does not have a Second Amendment and its related history. The cultural development of Australia has been very different than the United States. Essential Research in a poll conducted in January 2016 found only 6% of their public thought the NFA was "too strong", 44% felt it was "not strong enough", and 45% "about right".

Whether or not "gun control works" the Australian public which is more urbanized than the United States, feels safer, so the agreement continues. The public by large margins in Australian has determined that the NFA serves their safety. Australian commentators are quick to recognize this, but also, they also often relate the great differences between the American revolutionary and Australian colonial experiences. The wholesale transfer of the NFA to America may have very different results. Likely we will not achieve the consensus of Australia and ultimately safety will not be served in America.

<https://www.citylab.com/life/2018/02/australia-ambassador-on-why-gun-laws-cant-save-america/553655/>

Being Able to Defend Yourself with A Gun

Americans may own guns for self-defense. Australians do not own guns for self-defense because the applicant must give a "genuine reason" for firearm ownership and self-defense is not on the list. In Australia guns are available to farmers for protection against animals and for hunting and target shooting. In America, firearms may in many instances be used for the protection of self and family.

This distinction is a critical difference between the American and Australian experience. Though there is not a consensus about what the statistics mean regarding the National Firearms Agreement, an important contrast remains regarding whether firearms may be used for personal protection. To address more directly whether gun control works, we should look at the experience among the various states.

Firearms Action in America

Though the Australian National Firearms Agreement provides a case study on what gun control has done in another country, the most pertinent experience is America's. I had read much on the subject, but much of what I read appeared to me dubious, especially those that use the category "**gun deaths**". Therefore, I did my own comparisons using my Excel spreadsheet.

I gathered the numbers online obtaining the gun murders in each state using the rate per 100,000. To determine which states had from a proponent's perspective, the best measures, I relied upon the Law Center for the Prevention of Gun Violence. They provide their judgment about the strength of each state's gun laws. I used the Excel correlation function to determine the relationship.

The Correlation between "Gun Murders" and Gun Control Proponent Legislation is Weak

My most recent comparison using 2016 data, disclosed a relationship of .15 between state gun control legislation and the rate of "gun murder". This correlation is a weak relationship and does not justify a statement that "gun control works" as it relates to gun murders. On the other hand, if the relationship is between legislation and "gun deaths" the correlation is more at .70.

This stronger relationship is achieved because the standard of "gun deaths" combines murders, suicides and other categories. The relationship between gun laws and suicides is .77. This is stronger than the .15 for "gun murders" but is in the moderate range.

By this analysis Mr. Lopez's proposition is not supported as it relates to a general perception about gun murder prevention.

State and Local Actions

Mr. Lopez's Proposition 4. "State and local actions are not enough."

German Lopez recounts his impression that gun murders are high in Chicago because guns are easy to purchase in Indiana. His conclusion is questionable because effective interstate efforts should be developed to prevent an infusion of firearms. If we cannot curtail interstate gun traffic now, how will broader gun prohibitions he recommends be enforced?

Something is Going on Beyond Gun Control Legislation

America is not uniformly a nation of gun violence. Instead, many states using different approaches have been successful at keeping gun murders down. Given the Law Center for the Prevention of Gun Violence failing grades

for very successful states, something else must be going on beyond or instead of gun control legislation. This success should be a primary subject for investigation and action.

The Future of Gun Control in America

Mr. Lopez's Proposition 5. "America probably needs to go further than anyone wants to admit."

Going further with gun control than anyone wants to admit is central to this essay. Many Americans see little value in gun ownership. They do not live in a rural area where guns are a traditional aspect of the culture and important for day-to-day security. We are told fewer folks are hunting, and the primary reasons for firearm ownership and use outside the more rural communities are self-protection and skill development at the gun range.

Determining Safety: Place Matters

The Democratic party has moved in its 2016 platform from mild support for Second Amendment gun rights in 2012 to a dedicated campaign against gun violence and by implication, Second Amendment guarantees as interpreted in Heller. I believe in some circumstances in my life firearms have contributed to my safety. I do understand the desire for safety is essential and universal. Abraham Maslow establishes it in his "hierarchy of need" as primary, just above the physiological needs of food and water.

Others may see their family's safety differently, and I need to respect their perspectives and hope they will respect mine. For my circumstances in a rural place with law enforcement potentially not close at hand, having the capacity to defend myself from man and beast is essential. I believe most folks in my area agree and I only wish there was an increasing development of community approaches to secure safety from criminal activity. These must include work with community institutions.

Some Pros and Cons Based on A FAA Case Study

As this becomes standard, nation-wide success addressing violence should be more pro-active. I would suggest looking at how the FAA certifies pilots for some insight's pro and con. It involves training and a continuing educational involvement with the skill of pilotage. Each pilot either completes an educational program every two years or takes a test, called a bi-annual.

A set of cadre called Certificated Flight Instructors (CFI) has developed who are the foundation of flight safety and proficiency. It would be an easy reach because many organizations and agencies have already established a strong corps of firearm instructors and they could support a community-based effort through police and sheriff departments. This type of rigor with firearms ownership and use will further build a constituency based on proficiency and will also enhance the quality of safety for the general public without adding a stifling and overarching regimen of dense regulation offering sparse protection.

The Potential for Further Division and Continuing Impasse

My concern is that unless an approach to firearm use in America is established using the service framework including operational, federal and state leadership, risk management and local action agents, we will further divide as a people. Blue states such as my home Oregon will add each year to their requirements and will disqualify more people from firearms ownership and use although their gun murder rates are low.

Learning from History – The Progressive Reform of Prohibition

Recently, I finished the book [Last Call The Rise and Fall of Prohibition](#) by Daniel Okrent. He concluded

"In almost every respect imaginable, Prohibition was a failure. It encouraged criminality and institutionalized hypocrisy. It deprived the government of revenue, stripped the gears of the political system, and imposed profound limitations on individual rights. It fostered a culture of bribery, blackmail, and official corruption. It also maimed and murdered, its excesses apparent in deaths by poison, the brutality of ill-trained, improperly supervised enforcement officers, and by unfortunate proximity to mob gun battles." (page 373)

It is challenging to imagine where a gun prohibition approach may lead. The tragedies at Ruby Ridge and Waco not too many years ago are instructive as is the action of the FBI agent with the killing of Robert La"Voy" Finicum in 2016. These cases demonstrate that in the firearms regulation issue there is much potential for violent action and reaction by many parties.

We Felt Safe

In 1967 when I was 19 years old, my father allowed me to use three horses to take a friend to Parole Cabin Meadow near California's Little Kern River. After a long ride, my friend and I set up camp. We had three horses, two for riding and one for packing. We staked two horses and belled another that roamed around the meadow. After dinner, we settled down in our sleeping bags. As the night passed, we heard a scream that we thought to be a mountain lion. The horses started to move around, apparently becoming increasingly "spooked". The belled horse ran across the meadow and up the mountain on the other side, some distance away.

It was terrifying to descend into the night in search of the horse given the screams we had heard. I arose, put on my pistol and walked across the meadow and up the hill. Though it was very dark, after some searching, I found Happy, the belled horse. He was shaking. I took him down the mountain and across the meadow to camp. I tied him, and things settled down. I took off the pistol which had empowered my effort and went to bed. With a little support from my Ruger, we were able to take action that improved our sense of safety.

Out of Context

This experience may be out of life context for many. All of us, however, have our own profound life experiences and they build our perspectives. Each is personal and valid though situational. All policy effort requires us to consider others and respect their point of view to find a useful conclusion. Beneficial conclusions are challenging to find using broad measures.

Typically, communities using powerful tools such as risk management processes and the outreach of local leadership and management empowered through adaptable state and federal initiatives can provide **the more useful tailored results to achieve gun safety**. We should look to law enforcement to be a principal agent, not only in terms of enforcement, but also regarding training and community building addressing issues of safety.

(Information was taken from sources indicated. The values for the graphic material was taken from tables on the CDC and FBI websites. Other information was obtained from Wikipedia and the United Nations source cited by Mr. Lopez. Copy with links active is available on request)