



Real possibilities for gun law reform - but devil is in the details

By: Trevor Burrus – April 2, 2013

A number of competing gun-control proposals are being prepared in the Senate. While there are a few sensible provisions on the table, we should not be too optimistic any of the bills will do much to prevent tragedies like Newtown, nor lower the rate of gun violence in America. Any serious proposal for reducing gun violence must focus on the people who commit gun crimes and why, rather than on the guns used in the crimes.

Supporters of common-sense controls should continue to resist, and even filibuster, pointless and counterproductive proposals such as the so-called assault weapons ban, high-capacity magazine bans, and universal background checks. Proposals to beef-up penalties for straw purchasers and provide more mental health information in the National Instant Criminal Background Check System (NICS) have merit. But school safety measures should be left to the states, as a matter of both good representative government and of constitutionality.

The ineffectiveness of the “assault weapons” ban has been proven by the U.S. government’s own studies. The Department of Justice’s comprehensive survey of the 1994-2004 ban concluded that it had essentially no effect on gun violence and, if it were renewed, the effects would be “small at best and perhaps too small for reliable measurement.” During a recent Google + Hangout appearance, even Vice President Biden admitted the ban would do little to curtail gun crime.

Still, many Democrats are irrationally fixated on what are arguably the most responsibly used guns in the country. They maliciously libel the millions of responsible owners as having a weapon only good for “spraying death.”

This is politically unwise. Hyperbolic rhetoric will only harm Democrats’ chances to pass any reforms. Pushing for a proven-ineffective gun law makes Republicans uneasy because such laws are often touted as “a start.”

A proposal being authored by Sen. Charles Grassley (R-Iowa) appears likely to boost penalties for “straw purchasers” — those who purchase a gun on behalf of someone who would not pass a background check. That may indeed keep guns out of some bad hands; many criminals obtain guns that way. But straw purchasing has been a federal felony for decades. The purchaser, the purchasee, and even a licensed federal firearms dealer who knowingly participates in a straw purchase can all receive up to 10 years in prison. Raising the penalties could deter more people, but capturing straw purchasers is difficult because the actual offense is merely lying on a form.

Some recent mass shooters, such as James Holmes in Aurora, Colo. and Seung-Hui Cho at Virginia Tech, had histories of mental illness. But current rules prevent most

psychological data from being entered into NICS. Strengthening such reporting could help, but here the devil is in the details. Mental health professionals should not be required to report anyone about whom they feel a vague sense of unease; this would dissuade many people from seeking help — including potential mass shooters most in need.

Also, there must be means for individuals categorized as mentally unstable to challenge that designation. Otherwise, carelessly maintained mental health records could become like the no-fly list in air travel: easy to mistakenly get on and nearly impossible to get off. In a country where everyday people are increasingly taking psycho-pharmaceuticals, this is not an unreasonable concern.

Finally, any federal legislation must resist the temptation to mandate blanket school-safety measures. For one thing, the Constitution grants the federal government no such authority. For another, not only does an 80-student schoolhouse in Kansas not have the same security concerns as a 4,000-student high school in New York City, states have different attitudes towards guns, and they should be allowed to demonstrate those attitudes in their schools. Some states, like Utah, have for decades allowed permit holders to carry weapons onto public school grounds, with no incidents of misuse. Citizens in other states, particularly in the Northeast, might be disgusted by the idea of guns in schools. Regardless of the merits of either policy — although we should remember that gun-free zones can turn into victim zones for opportunistic shooters — states should make these decisions. Our country is too diverse for federal intrusion on these matters.

It may be possible to bridge the great divide in Washington with sensible gun laws. To do so, Democrats must stop pursuing ineffective laws, and Republicans must confront the problems of how guns get in the wrong hands. Unfortunately, policies that do more to contribute to gun violence, such as the failed drug war, are not on the table. Nevertheless, compromise may be possible.