

# Firearms: The Method Most Often Selected for Homicides and Suicides in Fairfax County

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## Part I: Background

### The League of Women Voters' Statement of Position on Gun Control, as adopted by 1990 Convention and amended by the 1994 and 1998 Conventions

The League of Women Voters of the United States believes that the proliferation of handguns and semi-automatic assault weapons in the United States is a major health and safety threat to its citizens. The League supports strong federal measures to limit the accessibility and regulate the ownership of these weapons by private citizens. The League supports regulating firearms for consumer safety.

The League supports licensing procedures for gun ownership by private citizens to include a waiting period for background check, personal identity verification, gun safety education and annual license renewal. The license fee should be adequate to bear the cost of education and verification. The League supports a ban on "Saturday night specials," enforcement of strict penalties for the improper possession of and crimes committed with handguns and assault weapons, and allocation of resources to better regulate and monitor gun dealers.

### Timeline of the League's activities on gun control as presented on the LWVUS website <sup>2</sup>

- 1990—The Convention adopted gun control position by concurrence.
- 1991—The League supported legislation banning semi-automatic assault weapons.
- 1992 and 1993—The League supported the Brady bill, which instituted a five-day waiting period and background check for the purchase of handguns.
- 1994—The Convention voted to amend the position on gun control based on federal court decisions limiting the meaning of the Second Amendment's "right to keep and bear arms." This section of the position was nullified by the Supreme Court decisions in District of Columbia v. Heller, 2008 and McDonald v. Chicago, 2010.
- 1998—The Convention again amended the position with: "The League supports regulating firearms for consumer safety."
- 1999-2001—The League worked to close major loopholes in current law. Although the Senate passed legislation mandating background checks for all gun show purchases, the House derailed this and other attempts to control gun violence, including child safety locks on guns.
- 2000—The LWVUS endorsed the Mother's Day 2000 Million Mom March
- 2004—The League opposed the Protection of Lawful Commerce in Arms Act, which would grant special protection for the gun industry by barring city, county or individual lawsuits against gun manufacturers and dismiss pending cases.
- 2004—The League supported legislation to extend the Assault Weapons Ban, which expired in September and
- 2004---Supported language to close the Gun Show Loophole to require all dealers to run criminal background checks at gun shows.
- 2000s—The League opposed congressional attempts to repeal District of Columbia gun safety laws.

### Firearm safety as a public-health concern

Kristin A. Goss, Ph.D., Co-President of the Arlington (VA) League of Women Voters and Associate Professor of Public Policy Studies and Political Science at Duke University, published *Disarmed: The Missing Movement for Gun Control in America* in 2008. She provided a brief history, summarized here, of the development of public health professionals' involvement with gun safety.

In the 1970s, medical and public-health officials began to study firearm use from an epidemiological perspective. Previously it had come under criminal justice. Physicians in New York and Washington D.C., among others, intervened in the gun control argument, characterizing guns as “pathogens” and violence as a “modern plague,” a preventable disease.<sup>3</sup> Many doctors responded to surveys agreeing with the public-health position, and many researchers published articles justifying it.

In the 1980s, federal authorities consolidated this approach. Under the Surgeon General, Dr. C. Everett Koop, the Centers for Disease Control and Prevention (CDC) established the Violence Epidemiology Branch. The branch became part of the CDC’s Center for Injury Prevention and Control in the early 1990s. The Center became the only consistent conduit for federal research grants in this area.

The National Rifle Association (NRA) began in the mid-1990s to lobby successfully to have this research defunded, claiming that the Center was taking a deliberately political stance against gun ownership. Toward the end of the ’90s and throughout the next decade, the CDC’s support for research into violence with firearms dwindled to nothing. The withdrawal of research support was due, not only to the activities of gun rights lobbyists, but also to the lack of interest in this research and data by gun control advocates at that time, according to Goss.

### **The national setting: Firearms are used more often than any other single method in homicide and suicide in the United States**

Mass shootings—Columbine, Aurora, Newtown, Navy Yard, Fort Hood—arouse public indignation and fear. However, “while tragic and shocking, public mass shootings account for few of the murders or non-negligent homicides related to firearms that occur annually in the United States,”<sup>4</sup> according to a report by the Congressional Research Services.

Moreover, deaths from suicide consistently outweigh deaths from homicide.

In 2009, the age-adjusted suicide rate for the total population (11.8 per 100,000 population) was approximately twice as high as the age-adjusted homicide rate (5.5). Persons ages 18–24 years had the highest rate of homicide in 2009, whereas persons aged 45–54 years had the highest rate of suicide. The suicide rate was higher than the homicide rate among those ages  $\geq 25$  years, and this difference increased with age. For persons ages

25–44 years, the rate of suicide was nearly twice the rate of homicide, whereas for those ages  $\geq 65$  years, the rate of suicide was nearly seven times the homicide rate.<sup>5</sup>

In 2011, according to preliminary data published by the CDC, there were 38,285 suicides; 19,766, or 52%, were firearm-related. For comparison, 11,101 homicides were firearm-related out of 15,953 homicides, almost 70%.<sup>6</sup>

Data from one or two years do not establish a trend, but they do give an indication of prevalence and a consistent pattern of suicides outnumbering homicides across the nation. Overall in Virginia, during the years 1999–2007, suicides accounted for the majority of firearm deaths (4,361), followed by homicides (2,772).<sup>7</sup> In the second part of this report, the Northern Virginia counties will be shown to have the same pattern.

Researchers have disagreed about the association between the prevalence of firearm ownership and homicide. One reason for that is that researchers are often measuring different things. For example, in 1993 Arthur Kellermann’s group, then based at the University of Tennessee, using data collected by the CDC, demonstrated that there was an association between gun ownership and homicide at home.<sup>8</sup> Gary Kleck, of the University of Florida, publishing in the same year, argued that an increased prevalence of firearms does not lead to an increase in violence, but he was looking at all homicides, not just those in the home.<sup>9</sup> These two researchers have criticized each other’s methods and conclusions. In this study methods are not addressed; an attempt has been made to represent a variety of views.

The year 1993 was a high-water mark of research into firearm use as a public-health issue. After that, funding for further research by the CDC was curtailed by an NRA-supported amendment in the Omnibus Consolidated Appropriations Bill of 1996 that prohibited the CDC from devoting funds to any research that might support gun control. This amendment effectively dried up most of the research funding into the role of firearms in public health.<sup>10</sup> The National Research Council (NRC) documented the incomplete or inconsistent data on such fundamentals as gun ownership, firearms markets, and injuries as well as deaths. This lack of data about gun ownership and gun use deprived policymakers of a solid basis for making good decisions.<sup>11</sup> Some important data collection did continue. The CDC created the National Violent Death Reporting System in 2002.<sup>12</sup> Non-federal organizations have reviewed available research and data, but have found inconsistencies that prevented them from making recommendations.<sup>13</sup>

There has been general agreement about the relationship of gun ownership to the rate of suicide. Kleck acknowledged that "...gun prevalence may influence the choice of method in suicide and also the overall frequency of suicide. Gun prevalence was positively associated with both total suicide rates and gun suicide rates and negatively, though non-significantly, related to the non-gun suicide rate."<sup>14</sup>

The NRA stated that there isn't a correlation between gun ownership and suicides. It pointed to the fact that Japan has a higher suicide rate than the U.S. and they are a "gunless" society. (Most suicides in Japan are from hanging.)<sup>15</sup> Gun availability is not the only factor contributing to suicides, but the close association between the ease of access to firearms in the U.S. and the increase in suicides using firearms cannot be ignored.

### Firearms and Unplanned Suicides

A World Health Organization (WHO) report attributed the variation in methods of suicide to cultural influence but emphasized that people would choose methods that came to hand. "Readily available poisons and firearms facilitate unplanned suicide acts, which are typical of impulsive suicide. Consequently, they increase the suicide frequency. It is noteworthy that the proportion of suicides in individuals with a background of severe mental illness is distinctly below average in firearm suicide."<sup>16</sup> That is, suicide cannot always be attributed to mental illness.

No one knows exactly how many households own guns in the United States. That makes it difficult to establish a relationship between the number of those households and the rate of suicide or homicide. Studies by Andrew Anglemeyer, Justin Briggs and Alexander Tabarrok explain why is difficult to get a true assessment of gun ownership in the United States. There is no national registry, so researchers obtain approximate totals by using surveys and proxy measures, such as the Behavioral Risk Factor Surveillance System (BRFSS), Google searches for gun-related terms, and firearm purchase data. Anglemeyer, of the University of California at San Francisco, found that there was a greater association between firearms and the frequency of suicide than between firearms and the frequency of homicide.<sup>17</sup> Briggs and Tabarrok, of George Mason University, used a combination of measures of gun ownership in each state and rates of suicide to quantify the latter relationship.

"...while there are signs of substitution from gun to non-gun suicide, the overall effect [of Ordinary Least Squares regression across several measures of

gun possession] remains positive. Taken together, these point estimates infer that a 1% rise in the prevalence of guns causes a mean increase of between 0.5 and 1.0 percent in suicides."<sup>18</sup>

Matthew Miller's group asked whether suicide by firearm could be distinguished from other manifestations of suicidal behavior. They determined that states in which gun ownership was high also had high rates of completed suicides by firearm, but rates of suicide attempts with other means did not correspond to the extent of gun ownership in the states. These researchers at the Harvard School of Public Health used the BRFSS survey as their source for gun ownership information; they did not discuss the difficulties of assessing the actual number of households with guns. The study concluded "that the availability of lethal means is associated with risk of death by suicide above and beyond the baseline risk of suicidal behavior."<sup>19</sup> As the WHO study noted, cultures influence choices of method. In other cultures, the most easily accessible method may be different.

There is a common belief that anyone who wants to attempt suicide will find a means to accomplish his or her goal. The NRA's fact sheet on suicide says,

Some would suggest that the rate of suicide may indeed be higher among firearm owners than non-owners. Gun owners are notably self-reliant and exhibit a willingness to take definitive action when they believe it to be in their own self-interest. Such action may include ending their own life when the time is deemed appropriate.<sup>20</sup>

It may be that people who complete suicide with firearms seem to have greater determination only because they actually accomplish their intentions, whereas those who attempt suicide by other means are less likely to complete it. Gun suicides are 85% fatal, while other means of suicide fatalities rates are below 5%, according to the Harvard School of Public Health. Suicides are often impulsive decisions, and guns require less preplanning than other methods of suicide, and they are deadlier.<sup>21</sup>

An idea of the range of deaths from firearms in the United States can be obtained from the Kaiser Family Foundation State Health Facts website, which has a table showing state by state the death certificate data maintained by the CDC. The average rate for the United States was 10.1, and the rate for Virginia was 10.8, a little above the mean.<sup>22</sup> This website does not publish data or commentary on the reasons for the

variations in death rates across the states.

### **Overview: What are Virginia’s laws on firearms and how do they affect public health and safety?**

In the area of firearms, as in other areas, Virginia law is composed of its Constitution, statutes (set forth in the Code of Virginia), judicial case law or common law, and local ordinances, such as those of the Code of Fairfax County. Opinions of the Office of the Virginia Attorney General are a source for the interpretation of existing Virginia law. A person authorized by statute, including the Governor, a member of the General Assembly, and the head of a state agency, may ask the Attorney General for an official opinion on the law. Members of the general public are not authorized to do so.<sup>23</sup>

The Virginia State Police, which has responsibility under Virginia law for, among other things, any necessary firearms background checks, maintains a website with selected provisions of Virginia firearms laws and provides answers to frequently asked questions about the implementation of laws for which it has responsibility.<sup>24</sup> The website mainly explains the legalities of gun ownership and carrying regulations. It does not address gun safety, but the Fairfax County Police Department does have a web page explaining safe storage of guns and ammunition.<sup>25</sup>

Much of the federal and state statutory coverage of firearms is outside the scope of this study, but the common-law understanding of using deadly force in self-defense and suicide are relevant here. Firearm possession by persons who have been convicted of domestic violence crimes has also been a legislative and judicial concern.

### **Legal status of deadly force in self-defense, suicide, and homicide in domestic violence**

After a homicide, it is not always clear whether there has been pre-meditation or whether the act was spontaneous, reducing the degree of guilt. To accommodate that question, there are levels in law of first- and second-degree murder and voluntary and involuntary manslaughter. The most vexing problem, however, is whether the homicide was committed in justifiable self-defense, entitling the perpetrator some protection from the law. In some states, legislators have enacted “stand your ground” laws to provide enhanced legal protection.

Use of deadly force in self -defense has been a concern in

the Virginia General Assembly in recent years, as it has in many states, because of efforts by gun rights groups to enact “stand your ground” laws, and because of the Trayvon Martin shooting case in Florida. According to the Center to Prevent Gun Violence, a majority of states (27) have “shoot first “ or “stand your ground “ statutes,<sup>26</sup> promoted by the NRA,<sup>27</sup> allowing deadly force in self-defense in public places with no duty to retreat first, as had been the case under common law.

Seven additional states, including Virginia, allow the use of deadly force in public with no duty to retreat, through the totality of their laws. Again according to the Center, the law in these seven states is different from the “shoot first” type of statutes in that self-defense must be raised as part of a criminal trial, and self-defense is not immunity from prosecution, as it is in Florida under “stand your ground.”<sup>28</sup> In other words, the law in these states is an expansion of the “castle doctrine,” named for the old English common-law doctrine that “a man’s home is his castle” which he is entitled to defend from intruders. (A full discussion of this doctrine is outside the scope of this paper.)

In Virginia, legislators have tried for several years to strengthen the common-law protection by embodying the castle doctrine in code. As reported in Watchdog.org’s Virginia Bureau, since 2010 a bill has been introduced in the General Assembly every year to codify common law (i.e., case law) by proponents who think having a specific provision in the Code of Virginia will strengthen the castle doctrine in Virginia. Opponents, including some gun rights groups such as the Virginia Civil Defense League, fear the language of such a new law would risk years of common-law case interpretation favorable to the use of self-defense in the home or “castle.” Some versions of the bills introduced have included language exempting persons who use deadly force in self-defense from civil law suits for damages. Opponents, again including some gun rights groups, have questioned the need for such language, noting that there is not a history of such lawsuits in Virginia. The last time such a bill was introduced was in 2013, when it was tabled once again.<sup>29</sup>

Suicide is considered a crime under common law in Virginia, though the person’s property is no longer forfeit to the state, as it used to be. Under English common law a person had to be of responsible age and of sound mind to be considered a suicide. Today, there is much more complex view of the motivations and mental states underlying suicide, leading some to question the criminalization of the act itself.<sup>30</sup>

During the General Assembly session of 2014, Delegate

Robert Krupicka (D-Alexandria) introduced HB 79, an attempt to abolish the common-law crime of suicide. The Criminal Law sub-committee of the Committee for the Courts of Justice tabled it for this year.<sup>31</sup> Although the legislators would not abolish the crime of suicide, they have made it clear that they wish to reduce and prevent suicide; the General Assembly passed Resolution 312 in 2003 that established a program, Suicide Prevention Across the Life Span Plan for the Commonwealth.<sup>32</sup> The effect of this plan and the coordinated practices of Fairfax County law enforcement and social service providers will be discussed in Part II.

The U.S. Congress made it a felony at the federal level in 1996 for a person convicted of a misdemeanor crime of domestic violence to possess a firearm or for a person to provide a firearm to someone convicted of such a misdemeanor.<sup>33</sup> There have been persistent questions about how this prohibition might be applied and enforced in states whose statutes are not aligned with the federal government's provision.<sup>34</sup> A bill was introduced in the 2014 legislative session to prohibit persons convicted of these crimes from possessing firearms in Virginia, but it was tabled. A new decision by the Supreme Court appears to have resolved the question in favor of the supremacy of the federal statute.<sup>35</sup>

### Pre-Emption and the Dillon Rule

A necessary consideration in the regulation of firearms between different levels of government is the doctrine of "pre-emption"—that is, the exercise of authority by a higher level of government to prevent or restrict a lower level of government from exercising authority in that same area. As the Law Center to Prevent Gun Violence sets forth on its website, pre-emption by the federal government of state government authority occurs when a properly enacted, constitutional federal law must be followed by the states--i.e. the federal law has been enacted pursuant to one of Congress's limited constitutional powers, and the Supremacy clause of the U.S. Constitution makes it binding on the states. But the federal law must express the intent to pre-empt the states.<sup>36</sup>

In general, Congress has not pre-empted the authority of the states to act in the area of firearms regulation. Consequently, states are free to pass their own laws and regulations concerning firearms so long as they do not directly and irreconcilably conflict with a federal law. Concerning state government pre-emption of local government authority in the firearms area, Virginia is one of many states that has a broad pre-emption statute that limits the authority of local governments.<sup>37</sup> For example, HB 992, a bill to allow local

libraries to ban firearms on their premises failed in the legislature this year.<sup>38</sup>

More broadly still, Virginia is a "Dillon rule" state, named for a rule of interpretation articulated by Judge John Dillon of Iowa. States are either "home rule" or "Dillon rule." Municipalities in "home rule" states have broad police powers to regulate the public, health, safety, and welfare. Municipalities in Dillon rule states are more limited. Fairfax County states on its website that it is an "urban county executive" form of local government and identifies in accordance with Virginia case law three categories of powers it possesses under the Dillon rule: powers specifically conferred by the Virginia General Assembly; powers that are necessarily or fairly implied from a specific grant of authority, and those powers that are essential to the purposes of government--not simply convenient. Also in accordance with the Dillon rule, the website identifies the rule of statutory interpretation that, if there is any reasonable doubt as to whether a power has been conferred by the state, the power has not been conferred. The League of Women Voters of the Fairfax Area in 2004 published a detailed study of the Dillon rule.<sup>39</sup>

### Conclusion of Part I

This study has demonstrated so far that firearms were the method of first resort in both suicide and homicide across the country. The study committee was not able to discuss questions of accidental injury from firearms, and the use of firearms in assault, robbery, rape and other non-lethal crimes because consistent data over a long period of time were not available. The data about the relationship of gun ownership to homicide and suicide, though uneven and inadequate because of reduced funding, were still sufficient to lead many researchers to concurrence about the relationship in suicide, if not in homicide. This part of the study also presents the legal framework by which firearms are governed in Virginia.

The second part of the study will deal with firearms in Fairfax County and the impact of state and federal law in Fairfax County. It will show that Fairfax presents the same pattern of firearm dominance in domestic violence homicides and in suicides. Law enforcement and medical and social service practitioners are coordinating their systems to improve prevention by more-effective screening and intervention procedures, better access, and public education about firearm safety and the risks to families of keeping firearms in the home.

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## Suicide in Military Service

Suicide among our returning troops is a particular concern. Since 2008, suicide has been monitored in a standardized way across all the services by the services’ suicide prevention programs and the National Center for Telehealth and Technology, which publishes annual reports. The report says that 301 service members died by suicide in 2011. “Service Members most frequently used firearms to end their lives (n= 172, 59.93% for all firearms, n= 141, 49.13% for non-military issue firearms), or hanging (n= 59, 20.56%)”<sup>1</sup>

Nearly half of those suicides involved personally-owned weapons. There has been some confusion about whether superiors may ask military personnel whether they own personal firearms and whether they may keep records about ownership. Section 1062 of the National Defense Authorization Act of 2011—backed by the NRA<sup>2</sup>—prohibited such questions and record keeping, but there are exceptions. Subsection (c) (2) states that this prohibition does not apply to creating and maintaining records about “matters related to whether a member of the Armed Forces constitutes a threat to the member or others.”<sup>3</sup> Because of the confusion, Jo Ann Rooney, the principal deputy for the undersecretary of defense, had to issue a memo stating, “It is therefore concluded that the standard professional practices of health care providers, social workers, counselors, and similar personnel to obtain and record information on privately owned firearms and other lethal weapons in order to prevent or reduce risk of self-harm or harm to others are unaffected by Section 1062.”<sup>4</sup>

A good example of a successful program to reduce military suicide rates is shown by the Israel Defense Force (IDF), according to an article in the *Times of Israel*. There was a serious suicide rate among its young soldiers. To combat this problem, IDF in 2005 instituted a new multifaceted policy of more intense investigation of problem cases, greater involvement of both commanders and mental health professionals, and reducing permissions for soldiers to bring their weapons home over the weekends. These changes reduced the total suicide rate by 40%. In 2013, IDF experienced a 50% decline from 2012 and a 75% reduction in suicides from 2010.<sup>5</sup> This example, though reported from another country, is another indication that the ready availability of firearms is one inducement to suicide.

### Endnotes

1. Luxton, David D., Osenbach, Janyce E., Reger, Mark A. Smolenski, Derek J., Skopp, Nancy A., Bush, Nigel E., Gahm, Gregory A. “DoDSER: Department of Defense Suicide Event Report. Calendar Year 2011 Annual Report.” National Center for Telehealth and Technology. Generated November 15, 2012. Web.

[http://www.t2.health.mil/sites/default/files/dodser/DoDSER\\_2011\\_Annual\\_Report.pdf](http://www.t2.health.mil/sites/default/files/dodser/DoDSER_2011_Annual_Report.pdf)

2. NRA-ILA Institute for Legislative Action. Legislation. “National Defense Authorization Act Passes With Pro-Second Amendment Provisions.” January 7, 2011. Web. <http://www.nraila.org/legislation/federal-legislation/2011/1/national-defense-authorization-actpass.aspx?s=amendment%20national%20defense%20authorization%20act%20of%202011&st=&ps=>

3. *Ike Skelton National Defense Authorization Act for Fiscal Year 2011* Sec. 1062, (c)(2) 10 USC Sect. 101 (a)(16), Pub. L. No. 111-383 Sec. 1062 (c)(2), 124 Stat. 1062, 1062-4363. (2011). Web. <http://www.gpo.gov/fdsys/pkg/PLAW-111publ383/pdf/PLAW-111publ383.pdf>

4. U.S. Department of Defense. Office of the Under Secretary of Defense. “Memorandum for Secretaries of the Military Departments: Clarification that Section 1062 of the Ike Skelton National Defense Authorization Act for Fiscal Year 2011 Does Not Change Clinical Practice Guidelines for Assessing Patient Risk of Harm to Self or Others.” July 22, 2011.

[http://www.ncdsv.org/images/DOD\\_ClarificationSec1062IkeSkeltonDoesNotChangeClinicalPractice\\_7-22-11.pdf](http://www.ncdsv.org/images/DOD_ClarificationSec1062IkeSkeltonDoesNotChangeClinicalPractice_7-22-11.pdf)

5. Newman, Marissa. “Suicide rates in the IDF hit record low: Seven cases reported in 2013, down 50% from last year and 75% from 2010.” *The Times of Israel*. January 1, 2014 Web. <http://www.timesofisrael.com/suicide-rates-in-the-idf-hit-record-low/#ixzz2yIuAoI86>