

A Short Analysis of Senator Feinstein's "Proof" of the Efficacy of the 1994 Assault Weapons Ban

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Introduction

Although she had already expressed her intention to introduce a new assault weapons ban bill in the Senate, the tragedy that occurred at Sandy Hook Elementary seems to have caused Senator Dianne Feinstein redouble and expand her efforts to outrageously vilify what are some of the most popular and widely owned firearms in the United States. My goal in writing this is to expose the out of context citations, highly questionable data collection, use of inappropriate data sources, the assertion of opinion as established fact, the failure to establish baseline rates to show that data points being shown do in fact represent the trends claimed, and the logical error of mistaking correlation of data in time as proof of a causal relation are endemic throughout the sources her webpage cites as being “proof” of the efficacy of the 1994 Assault Weapons Ban (AWB).

Please see <http://www.feinstein.senate.gov/public/index.cfm/assault-weapons> for the original posting.

I have tried to keep this document simple and concise. Each section begins with the citation of the claim of proof taken from Feinstein’s webpage long with links to the relevant information, followed by an explanation of why that information is poorly researched, misrepresented, or simply cannot be taken as meaning what Feinstein claims it means.

It should be very telling that in many cases the only citations needed to disprove Feinstein’s claims are the very documents quoted on her page, as actually reading the entire document rather than cherry picking a sentence or sentence fragment leads to a completely different conclusion. It is curious that these studies are generally very old and cover very short spans of time rather than using more recent data. In trying to articulate the efficacy of a program that ran from 1994-2004 one should choose data to bracket that span to show the decrease during the ban and the increase after the ban. Unless that is not what the data shows, in which case you would use studies such as those Feinstein presented. Rather than further beleaguer the point, I’ll let the analysis speak for itself.

Thanks you for your time spent reading this and I hope you find inspiration herein to speak out against Senator Feinstein’s sanctimonious attack on our Constitutional rights.

Gregory J. Markle – 24 January 2013

(Note: Any boldfaced portions of quoted items are for the purpose of emphasizing key words and phrases.)

I would also suggest that you visit <http://www.justfacts.com/guncontrol.asp> for some excellent information on firearms ownership, firearms crime, and the effect of firearms laws on criminal usage.

Following are studies that have been conducted on the 1994-2004 *Assault Weapons Ban*:

- In a [Department of Justice study](#) (pdf), Jeffrey Roth and Christopher Koper find that the 1994 Assault Weapons Ban was responsible for a 6.7 percent decrease in total gun murders, holding all other factors equal. They write: “Assault weapons are disproportionately involved in murders with multiple victims, multiple wounds per victim, and police officers as victims.”
 - Original source (page 2): Jeffrey A. Roth & Christopher S. Koper, “[Impact Evaluation of the Public Safety and Recreational Firearms Use Protection Act of 1994](#),” The Urban Institute (March 1997).

Cited document (http://www.sas.upenn.edu/jerrylee/research/aw_final1997.pdf)

The claim that the report cited states that the 1994 AWB was “responsible for a 6.7 percent decrease in total gun murders” is simply a lie by omission. Here are citations for each time the 6.7% decrease is mentioned in the report cited (key phrases have been highlighted):

“At best, the assault weapons ban can have only a limited effect on total gun murders, because **the banned weapons and magazines were never involved in more than a modest fraction of all gun murders**. Our best estimate is that the ban contributed to a 6.7 percent decrease in total gun murders between 1994 and 1995, beyond what would have been expected in view of ongoing crime, demographic, and economic trends. However, with only one year of post-ban data, **we cannot rule out the possibility that this decrease reflects chance year-to-year variation** rather than a true effect of the ban.” - Page 2

“Our best estimate of the impact of the ban on state level gun homicide rates is that it caused a reduction of 6.7% in gun murders in 1995 relative to a projection of recent trends. However, **the evidence is not strong enough for us to conclude that there was any meaningful effect** (i.e., that the effect was different from zero).” – Page 6

“Based on these efforts, our best estimate of the short-run effect is that the ban produced a 6.7 percent reduction in gun murders in 1995. However, we caution that for the reasons just explained, **we cannot statistically rule out the possibility that no effect occurred**.” – Page 79

“The estimated ban effect in this category drops from a **nearly significant 10.9 percent reduction to a clearly insignificant 6.7 percent reduction**, which we take as our best estimate.” – Page 83

- In a [University of Pennsylvania study](#) (pdf), Christopher Koper reports that the use of assault weapons in crime declined by more than two-thirds by about nine years after 1994 Assault Weapons Ban took effect.
 - Original source (page 46): Christopher S. Koper, "[An Updated Assessment of the Federal Assault Weapons Ban: Impacts on Gun Markets and Gun Violence, 1994-2003](#)" (June 2004).

Cited document (<https://www.ncjrs.gov/pdffiles1/nij/grants/204431.pdf>)

Koper states he is relying on ATF Firearm Trace Data for his all of the conclusions made in this study. I will simply cite the second page of EVERY trace data document published by the ATF, all of which contain the following disclaimer:

Public L. No. 112-55, Consolidated and Further Continuing Appropriations Act of 2012, Sec. 516

- (1) Firearm traces are designed to assist law enforcement authorities in conducting investigations by tracking the sale and possession of **specific firearms**. Law enforcement agencies may request firearms traces for any reason, and those reasons are not necessarily reported to the Federal Government. **Not all firearms used in crime are traced and not all firearms traced are used in crime.**
- (2) **Firearms selected for tracing are not chosen for purposes of determining which types, makes or models of firearms are used for illicit purposes. The firearms selected do not constitute a random sample and should not be considered representative of the larger universe of all firearms used by criminals, or any subset of that universe.** Firearms are normally traced to the first retail seller, and sources reported for firearms traced do not necessarily represent the sources or methods by which firearms in general are acquired for use in crime."

The disclaimer specifically states that traces do not necessarily indicate any criminal activity yet every analysis Dr. Koper does assumes that they do; so, either Koper consciously chose to ignore the ATF statement that the data he was using was not suitable for his purpose or he started his "research" with a conclusion already in mind (or given to him to prove) and merely needed some authoritative filler data to justify the funds given to him to create what essentially is a "garbage in, garbage out" report.

- In a [Washington Post story](#), reporters David Fallis and James Grimaldi write that the percentage of firearms seized by police in Virginia with high-capacity magazines dropped significantly during the Assault Weapons Ban. That figure has doubled since the ban expired.
 - Original source: In Virginia, high-yield clip seizures rise. By David S. Fallis and James V. Grimaldi, Washington Post.

Cited document (http://www.washingtonpost.com/wp-dyn/content/article/2011/01/22/AR2011012204046_pf.html)

While the article contains some anecdotal, localized evidence of increased high capacity magazine seizures in Virginia for 2011 compared to 2004, it does nothing to establish that the year cited for a large amount of seizures isn't an unusual occurrence by citing what seizures were in the intervening years and previous to 2004. The modern sporting rifle has become MUCH more popular in the past decade because, just like WWII and Korean War soldiers who enjoyed collecting and shooting the M1 Garand and M1A that they used in the service, younger soldiers tend to feel very comfortable with civilian versions of the service rifle they carried. The popularity has risen greatly, in part, due to the large number of veterans of the conflicts in the Middle East over the past two decades and the increasing popularity of highly accurate AR-15s which have been developed for target shooting. This article does nothing to establish that the increased police confiscation numbers are not in line with the general popularity of the modern sporting weapon platform and not just indicative of increased criminal use. The article also does not delve into the fact that weapon seizures do not in any way mean that the firearm was used in criminal activity or illegally owned, it only establishes that in the course of their duties law enforcement had encountered these weapons.

- In a [letter to the editor in the American Journal of Public Health](#) (pdf), Douglas Weil and Rebecca Knox explain that when Maryland imposed a more stringent ban on assault pistols and high-capacity magazines in 1994, it led to a 55 percent drop in assault pistols recovered by the Baltimore Police Department.
 - Original source (pages 297-298): Douglas S. Weil & Rebecca C. Knox, "[Letter to the Editor, The Maryland Ban on the Sale of Assault Pistols and High-Capacity Magazines: Estimating the Impact in Baltimore](#)," 87 American Journal of Public Health 2, Feb. 1997, at 297-98.

Cited document

(http://www.feinstein.senate.gov/public/index.cfm/files/serve/?File_id=8e02a183-9fa1-4c6a-9132-f58f6323e360)

Of all the so-called “research” cited so far, this particular letter to the editor has the most questionable methodology. One has to wonder why for the seven years of data that is cited, their study only looks at the first six months of each year. What reasoning resulted in the exclusion of July through December of every year and wouldn’t it be an excellent idea to cite WHY one is omitting significant amounts of data so that it could be established whether or not the omission affects overall results? Sadly, no citation other than “Baltimore Police” is given for the data presented in the graph so no verification may be attempted without significant effort. The study also clearly shows that 1989 had less than half the recoveries than the year cited as demonstrating the “success” of the AWB and even 1990 was significantly lower, which makes any claim of “success” even more questionable. The scope of the data also is too small to rule out whether or not the years of 1991-1994 when recoveries were elevated were actually anomalously high and to rule out that the years of lower activity don’t actually represent the normal level of recoveries. Also, the 55 percent reduction cited is not based on a reduction in actual recoveries but uses a calculated “expected” recovery rate that assumed recoveries MUST increase when the data clearly shows that the recoveries sometimes dropped, notwithstanding what unknown effects reporting data for the other six months of each year would have on overall yearly totals. The study also fails to cite overall violent crime rates and firearm crime rates which may have resulted in an incidental increase in seizures of firearms due to increased police activity, just as the scope of the data does rule out that the years 1991-1994 may actually be anomalously high years with 1989-1990 and the trend in 1995 representing the normal trend. We might further judge the research capabilities of those involved in this letter by the fact that they, like Koper above, cite ATF Trace Data subject to the same disclaimer quoted above as being indicative of over firearm trends contrary to ATF’s statement that the data is not suitable for such claims.

- A recent [study by the Violence Policy Center](#) finds that between 2005 and 2007, one in four law enforcement officers slain in the line of duty was killed with an assault weapon.
 - Original source (pages 6-7): Violence Policy Center, "[Target: Law Enforcement—Assault Weapons in the News](#)," (Feb. 2010).

Cited document (<http://www.vpc.org/studies/targetle.pdf>)

The actual statements on page six and seven of the VPC report cited actually state that “more than one out of four assault weapons incidents **involve** police” and that these “incidents are likely to involve shots being fired, with injuries to law enforcement personnel, gunmen, and bystanders.” It most emphatically does NOT state that “one in four law enforcement officers slain in the line of duty was killed with an assault weapon” as Feinstein’s page claims. The report does mention law enforcement fatalities in incidents involving assault weapons later in the same section when it states “there was at least one fatal law enforcement injury in four of the 64 reported” but one in sixteen is significantly less than the one in four erroneously cited on the Feinstein page. The VPC report also did not establish whether the assault weapon was used to shoot the officer, only that one was “involved” in the event which could mean it was found in a closet or car trunk after the incident ended and was never fired or even brandished as part of the criminal activity cited. There also is no comparison of the number of these incidents with overall firearms crime rates to establish the relative frequency of assault weapon usage, so it is never proven that assault weapons are used frequently enough to justify the drastic attack on civil liberties proposed by Ms. Feinstein.

It should also be noted that the VPC report depends on newspaper articles for it’s information and in the aftermath of the Sandy Hook media feeding frenzy it should be abundantly clear that media sources frequently misreport details, misidentify firearms used, and are generally a very poor source of accurate information of this sort.

- A [report by the Police Executive Research Forum](#) finds that 37 percent of police departments reported seeing a noticeable increase in criminals' use of assault weapons since the Assault Weapons Ban expired.
 - Original source (page 2): Police Executive Research Forum, "[Guns and Crime: Breaking New Ground by Focusing on the Local Impact](#)," (May 2010).

Cited document (<http://policeforum.org/library/critical-issues-in-policing-series/GunsandCrime.pdf>)

Once again, the hard data cited in this "report" is based upon the same ATF trace data that we have already established in NOT suitable to forming the conclusions being made. Still, this report is actually a fairly even handed look at firearms crime and the Police Executive Research Forum (PERF) appears to be an excellent organization which looks to be fairly diverse and unbiased. The number quoted by Feinstein above (37 percent) is the result of an informal survey though and not supported by any hard data. The report itself was funded by the Motorola Foundation, along with the MacArthur Foundation which is a significant contributor to PERF, both of which have a long history of funding anti-firearms lobbying groups. As a side note, Dr. Christopher Koper, who was cited twice before in Feinstein's summary, received \$280,000 from Motorola Foundation in 2008-2009 according to Koper's bio on the GMU website. (<http://gemini.gmu.edu/cebcp/KoperCV.pdf>)

Regardless of the funding sources the PERF report seems to treat all opinions and individuals respectfully and the concluding summary makes absolutely NO statements about gun control or weapons bans. The result of this report was advice that focuses on longer sentences, improved background checks, and being more proactive concerning the prosecution and incarceration of straw purchasers, all of which are very sensible suggestions which are generally supported by the entire firearms community, the National Shooting Sports Foundation, and the NRA.

It is, although, interesting to note the involvement in the seminar that led to this report of then Acting Director of the ATF Kenneth Melson who cites the work of "Violent Crime Impact Teams" in reducing firearms violence. A bit over seven months later the VCIT operating under the name "Fast and Furious" would become famous for having intentionally placed thousands of firearms of the type Ms. Feinstein seeks to ban directly into the hands of known violent criminal organizations. F&F would ultimately result in the death of Border Agent Brian Terry, ICE Agent Jaime Zapata, hundreds of Mexican citizens, and will likely continue to claim lives for decades to come. Scraps of evidence concerning a similar program called "Operation Castaway" which allowed firearms to go from Florida to

Honduras under similar auspices and other such programs have been buried under DOJ obfuscation and President Obama's executive order, which unfortunately has made ATF and DOJ records and personnel untouchable by investigators. It should also be noted that two individuals who at the time were actively involved in the Fast and Furious program were among the speakers quoted in this report.

Acting Assistant Director of the ATF Mark Chait stated during this seminar that "the biggest trend we've seen is an increase in assault weapons being used in crimes, especially along the Southwest border of the United States." Chait has recently been recommended for termination by an ATF Review Board for his involvement in Fast and Furious which was a major source for the very weapons the Chait was citing as being on the increase and his further statement "as we try to stop the flow of guns into Mexico" seems laughable now that we know that at the very time when he made that statement he was instrumental in making sure that such weapons were making their way to Mexican cartels.

William Newell, Special Agent in Charge of the Phoenix ATF office, was one of the key managers who oversaw the Fast and Furious program and is quoted in the report as saying "there has been an increase in violence in Mexico, both cartel-on-cartel and government-on-cartel. So the cartels have felt the need to arm themselves even more." This statement was made at a time when Newell was actively having dealers ignore background check failures, instructing them to sell large numbers of weapons to proscribed individuals, and ordering agents to stand down and allow these weapons to cross into Mexico.

Both Chait and Newell have been recommended for termination by an ATF Review Board for their involvement in arming violent Mexican cartels with the very weapons Feinstein seeks to regulate.

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