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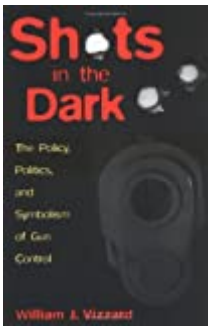

William J. Vizzard. *Shots in the Dark: The Policy, Politics, and Symbolism of Gun Control.* Lanham, Md.: Rowman & Littlefield Publishers, 2000. xviii + 255 pp. $65.00 (cloth), ISBN 978-0-8476-9560-7.

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Straight Shooting

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This is a very smart book on a very contentious subject. William Vizzard has done us all a favor by presenting a rational examination of gun regulation in contemporary America. Though it has proven extremely difficult to break free of the complex emotions surrounding gun ownership and gun use in the United States, it is well worth the effort, if only for scholarly reasons. It goes without saying that ideological absolutists will battle over every qualifier with which they disagree, but the rest of us have a lot to learn from this work.

From his first sentence, Vizzard hopes to persuade the reader that the regulation of firearms is a more complicated issue than often represented. "Gun control," Vizzard begins, "shares one characteristic with a multitude of other policy issues: the less one knows about it, the simpler it seems" (p. ix). As with anyone who writes on anything to do with guns, Vizzard reports that people are constantly asking him whether he favors gun control. "Asking how one stands on gun control is much like asking how one stands on traffic laws; it is meaningless without more specificity" (p. ix). What follows in *Shots in the Dark* builds on this premise, that some level of gun regulation is requisite if only for public safety, and that the real policy questions before us are those of degree.

But Vizzard is intelligent enough to know that many people will reject everything that follows as they reject that premise. Readers of *Guns & Ammo* or *American Rifleman* know that there are those who feel that any and all regulation of firearms requires a Constitutional amendment, all existing laws to the contrary. As Justice Antonin Scalia suggested, you have a Second Amendment right to own a machine gun. If you want to take a concealed gun onto an airplane, those metal detectors and federal officials preventing you from doing so are violating your Second Amendment rights. As Vizzard notes, there is strong evidence that the majority of American gun owners reject such absolutist positions for practical reasons, but it is the impractical people who drive much of the debate. The National Rifle Association, for instance, has worked for the last twenty years to polarize the debate into only two positions: pro-gun and anti-gun. Failure to adhere to the party line throws one forcefully onto the anti-gun side, even if one is an enthusiastic gun

owner. Because President George Bush could think for himself, he lost the support of the NRA for re-election. Dubya, call home.

Professor Vizzard hopes to reclaim the debate for more pragmatic considerations of gun regulation. In other words, specific proposals should be examined for fairness and their practical ability to attain intended goals. It is refreshing to read a book that makes this effort, one free of cant and ad homonym attacks on opponents, real and imagined. It is worth noting, as Vizzard does, that the author brings a unique set of experiences to the subject. Currently a professor of criminal justice at the Sacramento branch of California State University, Professor Vizzard served for twenty-seven years with the Bureau of Alcohol, Tobacco, and Firearms. As one of Wayne LaPierre's "jack-booted thugs," Professor Vizzard may be dismissed by some as immediately suspect. In a rational world, Professor Vizzard's credentials would earn him greater credibility, as he brings long experience with the nature of firearms and law enforcement to the subject.

That firearms are subject to regulation appears beyond question to Professor Vizzard. "As items of commerce, firearms are subject to regulation at the federal level" (p. xvi). Vizzard is uninterested in the debate over the original intent of the Second Amendment and is willing to accept the Supreme Court's understanding that nothing in the Constitution limits the state or federal governments from regulating guns. However, to date gun control efforts have been driven by image and the need to battle the NRA, making the resulting legislation ineffective and inconsistent. The reality of America's political structure insures that "political expediency has shaped policy that lacks impact and presents significant implementation problems." Gun control advocates and opponents "locked in a battle over symbolism and worldviews, have contributed to policy deadlock and irrational policy outcomes" (p. xviii). There is thus little sustained analysis of the most effective response to the impact of firearms on our society.

Of course an obvious first question must be: do firearms pose a hazard? The ground is highly contested. Those working in public health find the answer self-evident; even with homicide rates declining, they point to the high number of shootings, intentional and accidental, and the enormous social costs of these events. Much of this argument focuses on homicides, which are 75 times higher in the US than in England. Franklin E. Zimring and Gordon Hawkins offer a valuable examination of the available research in a comparative context in *Crime is Not the Problem: Lethal Violence in America* (New York: Oxford University Press, 1997). In the United States guns are responsible for two-thirds of all homicides, with 80% of that number being committed with handguns. Since the 1975 Rushforth, et al., study, and continuing through the research of Arthur Kellermann, Donald Reay, and many others, doctors examining the numbers have concluded that those who own guns are more likely to be shot than those who do not.

But what if guns actually save many more lives than they take? Gary Kleck and Mark Gertz have argued that there are two and a half million defensive uses of firearms every year in the United States (as compared to the government's calculation of sixty to eighty thousand per year). Added on to the nearly two million acts of violence a year, these calculations would mean that the United States is even a more dangerous country than previously assumed. It is important to note that Kleck and Gertz based their findings on phone interviews, hardly one of the more reliable sources of information. Given that Kleck and Gertz found that 15.6 per cent of their respondents reported shooting at their attackers and 8.3 per cent claimed to have hit those they shot at, we are left with an additional 207,500 shootings per year which are somehow going unreported. How have our hospitals not noticed this astounding national crisis? Could it be that all 207,500 of those shootings are like the classical wing-shots in the movies? Do the villains say "it's just a scratch" and continue their nefarious deeds? Have the two million people in America's prisons validated this plethora of shootings? On the positive side, we can be proud that the average citizen is such a good shot. As Vizzard points out, that ratio of hits per shot is better than is recorded by the police. It is curious though that those who own guns are between thirty and fifty times more likely to be attacked than those who do not. And Kleck actually believes that his own figures may be only a fraction of the total number of defensive gun uses. (See Vizzard's excellent analysis of this data on pp. 15-19). But then, as Vizzard points out, if we rely on information garnered by telephone interviews as an accurate reflection of reality, ten percent of America's population encountered flying saucers last year and our skies were cluttered with millions of alien spacecraft.

If we accept that guns do not pose a hazard to our society, but are in fact a positive contribution to public safety, then we should actively support the spread of firearms. If, as John Lott maintains, more guns produce less crime, then those of you who do not own firearms

should purchase one immediately. It is less clear if more guns per individual ensures less violence. If so, am I doing more to maintain public safety by owning five guns? Is there marginal utility to others and myself in buying five more? Vizzard suggests that at the very least we may want to consider gun safety courses as a prerequisite for such widespread ownership of firearms. I think it fair to say that most gun owners would endorse such an idea (certainly anyone who has been around a drunk amateur will appreciate the advisability of such training). But do we make it mandatory, as in Germany? I spent a year in Germany and went trap shooting at a gun club there regularly. It was the first time in my life that anyone asked for evidence that I actually knew how to use a gun, and the consumption of alcohol was strictly forbidden. Would the imposition of such standards interfere with an individual's right to own or use a firearm? Should we, as Franklin Roosevelt's Attorney General Homer Cumings suggested in 1934, consider the regulation of firearms in the same way that we regulate automobiles? Professor Vizzard is surely correct that there are a number of perfectly rational questions that have been avoided in the public debate over gun control.

If one does not agree that some degree of regulation of firearms is appropriate, then *Shots in the Dark* will prove an annoying work. So far Congress, legislatures, and the Supreme Court have all rejected the logic of unrestrained gun ownership. But what if the country reversed direction? As Vizzard cleverly observes, a victory in the Supreme Court "might undercut the ability of the NRA and other organizations to energize and activate their base" (p. 57). I am not so certain that he is correct on this count. For as long as I can remember, the NRA has been arguing that this election, whichever one it is, will decide the fate of private gun ownership in America. Even after Bill Clinton won election and reelection without any noticeable impact on one's right to buy guns, the NRA still warned that this last election was the decisive historical moment that would decide the future of gun use for all time. There is a core constituency in the United States for predictions of Armageddon, and they will always find reason to feel embattled before the liberal elites attempting to take away their guns.

Nonetheless, Vizzard is probably correct that the United States will never reach a point of accepting an absolute right to gun ownership. Accepting the NRA argument that people should enjoy an unrestricted access to firearms has consequences. "If a primary purpose of the law is to allow individuals to effectively oppose a tyrannical government," then the Supreme Court "could hardly limit arms to pistols and rifles" (pp. 57-58). Only in the most bizarre fantasies can it be imagined that a revolution against a United States government gone bad could succeed with shotguns, .22s, and handguns. If we are to properly prepare for an insurrection against our own government, which has the benefit of the most powerful military in the history of the world, we will need comparable weapons. It is difficult to imagine any court "granting a right to Stinger missiles, TOW antitank weapons, and machine guns, not to mention nerve gas, cruise missiles, tanks, and fighter planes. Thus recognition of the right depends upon its reasonable limitation" (p. 58).

If we accept, as Vizzard does, that a society is justified in preventing gun sales to some people (e.g., convicted criminals, lunatics, children) and the carrying of guns in some places (e.g. airplanes, courtrooms, legislatures), then the discussion must focus on what limitations are appropriate. Are there types of guns that pose a danger to their users and others? Should gun manufacturing be regulated for basic construction standards and features? Does the latter extend from safeties to safety locks? Is it in the interest of society to limit access to automatic weapons, machine guns, bazookas, and grenade launchers? Should there be limitations on gun advertising as there is on liquor and cigarette adds? Should the government attempt to regulate the sale of firearms? Should resources be devoted to the apprehension of unlicensed dealers? Where should police priorities be placed? Should regulation be left entirely to the states? Does it matter that every state has completely different approaches to gun regulation? Professor Vizzard does a first-rate job examining these and many other issues, any one of which could and should incite thoughtful debate.

Professor Vizzard fairly examines the specific complications and failings of recent gun laws. Congressional legislation tends to be incremental, addressing specific weapons or accoutrements, such as the misunderstood "assault weapons" and "cop-killer bullets." Manufacturers simply redesign and rename their weapons to get around these laws. State laws are going in many different directions, with little connection to one another, not simply between states, but within them as well. Even the permissive carry laws so popular in the past fifteen years are potentially contradictory, for they could easily serve as a means of gun registration. On gun control, Vizzard finds "the absence of policy" (p. 176). He therefore offers a number of recommendations that would bring laws into some sort of conformity. Vizzard calls for a move beyond the incremental legislation that has been the norm for the

past generation in favor of a more substantive, inclusive gun law. Such a law would require widespread public approval. "Compliance requires understanding, which, in turn, requires simplicity" (p. 154). Congress should encourage the states to move into uniformity within the context of "rational utility" (p. 155). Incremental changes bog down, confuse, and invoke the hostility of the NRA. Admit the latter as a given, Vizzard advises, and push ahead with clear, practical, meaningful reform legislation (such as state-issued licenses that are granted for driving) with implementation tied to federal highway funds.

Ultimately, Professor Vizzard appreciates that whatever recommendations he makes are likely to be ignored. "Our political structure favors policy deadlock by providing numerous mechanisms for obstruction" (p. 172). The policy debate over gun control is not about public safety or pragmatic questions of enforcement, but about personal identity and ideology. Any effort to make even minor changes in gun laws runs up against the effective lobbying of the NRA and the disproportionate power of the rural states in the US Senate. And polls are completely meaningless, since only the members of the NRA are willing to make guns the single issue that determines their votes. As Vizzard summarizes the situation, "Gun control enjoys broad but shallow support and faces passionate opposition" (pp. 128-29). A very telling survey by the National Opinion Research Center found that just 7.8 per cent of those interviewed ever took any sort of political action on guns, from joining an advocacy group to simply writing a member of Congress. That means that 92.2 per cent of those surveyed did not even take the time to send an email, despite any personal judgments they might otherwise express on gun control. Politicians are thus in the enviable position of not having to worry much about the broader public reaction to their legislative efforts. They do, however, have to worry about the National Rifle Association.

Vizzard follows the often peculiar history of the NRA. The NRA began with government subsidies in 1871 and continued to enjoy federal largesse, and even free federal firearms, up into the early 1970s. But then came the notorious "Cincinnati coup" of 1977, when extremists led by Harlon Carter and Neal Knox threw out the old leadership in order to transform the NRA into a "politically active organization" (p. 61). The old NRA had focused mostly on encouraging gun use and knowledge, and had been known to work with Congress to craft gun regulation. The new NRA would never compromise. Vizzard makes a nice distinction when he notes that "the conservative firearms community of the 1950s" would have been alarmed by the interest of young males in the new semi-automatic "toys" of the late 1980s; "the politicized firearms community of the 1980s showed no such concern" (p. 138). Thus the strange spectacle emerged of a once patriotic organization attacking the US government as tyrannical, labeling law enforcement officials the enemy. (See David Hardy, *BATF's War on Civil Liberties: The Assault on Gun Owners*, which was commissioned by the NRA [Bellevue, Wa.: Second Amendment Foundation, 1979].) Strange politics often resulted, for instance when the NRA reversed direction on terminating the ATF once it became apparent that President Reagan planned to do just that. The NRA needed the ATF as a straw man; "ATF's continued existence had become more important to the NRA than to the majority of ATF's employees" (p. 127).

In this context, Vizzard highlights the Congressional hearings called in response to the Oklahoma City bombings of 1995. "Rather than examine the implications of militias, militant separatists, or armed libertarian extremists," the House committee investigated ATF and FBI actions in Waco in 1993. It turned out that Republican staff members not only had close links to the NRA, but that "NRA staff members identified themselves as working for the committee and [were] contacting potential witnesses" (p. 77). Somehow David Koresh had become a hero of the resistance, and federal agents the oppressors. This formulation was slightly damaged when "Democrats put 14-year-old Keri Jewel before the committee to testify that sect-leader Howell (Koresh) raped her at the age of 10 with the consent of her mother" (p. 77). But there were many other anarchists for the NRA to lionize.

Lord Windlesham, in his excellent *Politics, Punishment, and Populism* (New York: Oxford University Press, 1998), has traced the effectiveness of the NRA in highjacking popular legislation aimed at extending gun regulation, in this case the 1994 Violent Crime Control and Law Enforcement Act. Windlesham argues that the NRA's "skill at exploiting the sense of righteousness attached to gun ownership" (p. 206) can call forth tens of thousands of letters in record time. Using the Second Amendment "as a smokescreen to avoid taking up a position based on the facts and the consequent hassle" (p. 209), the NRA placed guns in a specially protected legal position, guaranteeing that firearms remain one of the least regulated consumer items in the US. Vizzard links the NRA's success to the failure of gun control advocacy groups and of state bureaucracies to organize and seize the moral high ground. Vizzard finds that federal law enforcement agencies have been consistently unprepared

for the virulence of the NRA. Vizzard and Windlesham come together on this key point: proponents of gun regulation are always willing to compromise while the NRA is not. The result is that those favoring regulation always give-in to the NRA.

As a realist, Professor Vizzard understands that his call for reason will appeal only to those who are already reasonable. Given that large caveat, what he is suggesting is a fundamental shift in attitude toward gun control. Perhaps it is time to honestly admit that we are not talking about whether an absolute unqualified right to gun use and ownership exists or not, but about degrees of regulation. What would follow from such recognition would be more practical, and hopefully reasonable, considerations of policy formulation and a diminution of the ideological gridlock we currently face.

This effort on Professor Vizzard's part is laudable. I do, however, have two criticisms of *Shots in the Dark*, neither of which is intended to reduce the significance of this book. The first is purely rhetorical. Despite his opening statement that it is ridiculous to reduce the debate over gun control to a strict dichotomy, Professor Vizzard employs the language of that polarization, referring often to "both sides of the issue" (p. 20). I think that there are many sides to this issue, and that the value of *Shots in the Dark* is to demonstrate precisely that point.

There also appears to be a gap in Professor Vizzard's scholarship. He relies mostly on law professors and others who practice what he calls "advocacy research," with some additional input from political scientists. Since I am an historian, it should not be surprising that I believe that Vizzard's work would have benefited from a consideration of the historical development of gun regulation in the US. His chapter titled "Early History" begins in 1911, and he does not turn to historians for his knowledge of the past. One very important and perhaps vital lesson of America's history, it seems to me, is that enforcement is the essence of law and should be addressed in any proposal for gun regulation. For instance, Vizzard provides a very clever argument in favor of gun registration as an effective tool against career criminals. The petty thief would not have the initiative to seek out an illegal gun; the career criminal would be opening himself to further charges when caught – charges that would be very easy to prove. But there is one large problem: selective enforcement. It is obvious that racism and bigotry often warp American law. At the very least, any proposal for national registration must have careful and rigorously monitored guidelines. But even then, I must admit that the historical record makes me skeptical of the advisability of further gun regulation. One can fill a book (as I am currently doing) with instances of the selective enforcement of gun laws in the United States. I do not think that one can just walk away from that record with the assurance that we are not like that any more. Recent news stories about the continued reliance by police on "driving while black" when pulling over a suspect, and the persistent bias in the use of the death penalty should give anyone pause. Nonetheless, Professor Vizzard persuades me that reasonable people can benefit from exchanging just such views and information. *Shots in the Dark* is a book that all those interested in the nature of the current controversy over gun control should read.

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