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# Gun Violence and Fundamental Rights

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In this essay I develop themes that I have pursued in two previous papers--"Self-defense and Coerced Risk-Acceptance" (1) and "Arms as Insurance" (2)--and then respond to some problems posed by Hugh LaFollette and Cynthia Stark.

## I The Argument Thus Far

Arguably, the right not to be unjustly assaulted qualifies as a "human right." In two previous papers in which I have defended the right to bear arms, I focused on two categories of unjust assailants--private and public sector assailants.

### (a) Private Sector Assailants: "Self-defense and Coerced Risk-Acceptance"

The core "self-defense" argument for a right to bear arms derives it from a fundamental right to preserve oneself from harm, conjoined with empirical facts about technology, the reliability of police protection, and reasonably expected threats. I argue that, given a right to defend oneself against reasonably expected threats, and given that a firearm provides the only practicable means of self-defense, a right to bear arms can be inferred. Whether this right may be overridden by utilitarian considerations or by other rights will depend on a weighing of the risks that a person will be exposed to as a result of being disarmed against the risks that will be imposed by the person being armed. The risks to which a person will be exposed will depend on the person's situation and the attacks that can be reasonably expected. The risks that the person imposes will depend on the weapon and the person's dispositions. On balance, given the empirical results from jurisdictions in which licenses to carry concealed firearms are controlled in the way that licenses to drive automobiles are, the risks favor a right to prepare oneself for assaults by rogue individuals.

### (b) Public Sector Assailants: "Arms as Insurance"

Unjust assaults by governments against those they govern constitute a far more significant category. In the last century, between 100 and 170 million people were murdered by their own governments. (3) Comparatively, the private sector contribution to unjust death is small. A pervasive and recurrent phenomenon in the twentieth century was that of "governments going bad." A familiar sequence was an initially acceptable arrangement of institutions and practices (a "social contract") which then degenerated into various forms of oppression, including genocide or other forms of mass killing of targeted groups.

If a government is to be legitimated by consent, some effective constraint on its power is necessary. However, the right to resist government with force can hardly be institutionalized directly into the arrangements by which a sovereign nation exists. Governments, by their position as sovereign, are the ultimate arbiters of all conflict and have the "legitimate" power to enforce their arbitrations, and being the ultimate arbiters of disputes, they may in effect change the terms of the "contract" arbitrarily. An ultimate arbiter is also a meta-arbiter. Once power is effectively monopolized by a government, the power to unilaterally rewrite or reinterpret the contract is also in place. Thus, no effective contractual or institutional constraint on the power of government can be built into the contract in a way that protects citizens against their government acting unjustly.

Any real "contractual" constraint on the power of government must be indirect. An indirect contractual constraint is not an explicit constraint so much as a provision that has a constraining practical effect. The rights to bear arms and to assemble do not directly assert that citizens have an effective right to resist their governors when the government begins to go bad. However, the

practical effect of such rights is to empower citizens to go some way toward nullifying the "social contract" should the government reinterpret it in an unreasonable manner. Consenting to be governed can be considered a reasonable act only if there is a right that makes it possible for citizens to resist their government if it behaves unreasonably toward them.

A right to bear arms makes it possible for citizens to resist their government should it become a rogue government. The further effect of an armed citizenry is to increase the costs and thus reduce the likelihood of rogue behavior by government. Governments that assault helpless citizens break "the social contract" with impunity. An armed and independently organized citizenry prevents such impunity. An armed citizenry does not guarantee less-than-totalitarian government, but by raising the expected costs of "social contract" violations by governments, it makes such violations less likely.

Having an armed citizenry has obvious costs. Law enforcement may be more expensive and dangerous. Citizens may feel incorrectly that the government has gone too far. Organizations outside of government control may work against the national interest. Citizens may themselves be subject to certain risks because of the increased costs of controlling insurrection and crime.

But all such costs are outweighed by the risk of a government seriously going bad. Such catastrophes are not reliably predictable far enough in advance to make it rational to consent to be governed without an implicit right to have some chance of forcible resistance.

## II Further Reflections

### (a) Prolegomenon

Why, among "developed" countries, does the United States lead in crimes of violence? When we look for explanatory differences, we find many candidates. One of the strongest explanatory possibilities is disparity of income and wealth. For example, among developed countries the United States displays by far the greatest disparity between incomes of the top and bottom ten percent of its population, with "traditional" violence occurring disproportionately among that bottom ten percent. In terms of wealth, the disparity is even stronger. Five percent of the population possesses over sixty percent of the wealth, whereas the bottom forty percent divide one half of one percent of the wealth. (4) Furthermore, the United States has severe but ineffective drug laws which create a violence-regulated industry that both recruits from and preys upon the powerless bottom ten percent. And, finally, it is also true that the United States has a greater than average rate of civilian gun ownership.

So what hypothetical cause of violence in the United States do those with the power to set public agendas seize upon? Civilian gun ownership. And what is the proposed solution to violence in the United States? They propose to pass laws to reduce gun ownership and thus reduce violence: if the underclass is violently unhappy about its lack of economic power, what we should do is make its available weapons illegal. (5)

This strategy for reducing violence can be comfortably endorsed by those with income and power since disarmament leaves the power and wealth with those who already have it. Another advantage of the disarmament strategy as a diversion of public attention is that any laws enacted will leave a residue of firearms violence to require yet further laws. The powerful can expect that the struggle to pass gun laws will be resisted with great fervor by law-abiding but pick-up-truck driving gun-owners, which means that serious discussion of other solutions to violence will be delayed. Proposals that would reduce the disparity of income and power, on the other hand, make those who have a lot of income and power uncomfortable, since they will have less income and power. (If your goal is to be able to drive your Mercedes SUV through "bad areas" safely, a solution that makes your Mercedes SUV unaffordable is no solution.) So, those in power support "too many guns" as the analysis of the violence problem and "more gun control" (6) as its solution. In crude terms, "more gun control" is the device of choice for keeping attention away from measures that would actually change the power distribution--a smoke screen.

A solution can be accepted for questionable reasons and still be right. Gun control may be like that. So, part of seeing through the gun-control smoke screen is showing the defects in the disarmament strategy. The first defect is that there is little reason to think such laws would work. The empirical problems are well known: the relevant criminological correlations do not hold, and gun control has not reduced crime in any non-totalitarian country. The most stringent laws possible in a free society would make guns as difficult to obtain as heroin or cocaine is now. And that is not very difficult. The second defect is that disarming any population is morally questionable. That has been the focus of my previous papers.

### (b) Further Thoughts on Personal Defense

In his original paper, LaFollette argued that, because weapons-ownership is a derivative rather than fundamental right, it can be overridden by less weighty considerations than would have been the case were it fundamental. (7) LaFollette's contention is that

interests are protected by rights. The more fundamental the interest, the more fundamental the right. The example he gives of a fundamental right is the right of free speech, which protects central human interests. The example he gives of a derivative right is the right to drink beer, which is grounded in our right to follow our interests but which, because it is so derived, can be restricted.

There are a number of problems with using the terms "fundamental" and "derivative" to discriminate rights. Here I will discuss only one. (8)

As used in discussions of rights, "derivation" refers to two different logical relations between rights and interests. In one case, a derived right is weaker; in the other case a derived right is just as strong, or almost as strong, as the interest from which it is derived. Here is a way of intuiting the two kinds of derivation: Consider a child in my wife's day-care center who has an allergy to peanuts such that the slightest contact with peanut material produces anaphylactic shock. Except in an emergency room, the child will probably die if touched with a peanut product. The child clearly has a right not to be touched with peanut butter. This right has a strength almost equal to that of her right not to be beheaded and an indefinitely large number of other rights not to have things done to her which would probably result in her death. All of these rights are almost equivalent in strength to her right not to be assaulted because, if any of these things is inflicted on her it will jeopardize or extinguish her life.

On the other hand, LaFollette's right to drink beer, derivative from the right to pursue happiness, is relatively easily overridden because LaFollette can pursue happiness by other means. The deprivation of beer-happiness can be compensated for by extra cigarettes or an ounce of grass. So his being denied beer does not entail his being denied the pursuit of happiness.

Here is an hypothesis about the logical relations between the different interests and the rights derived from those interests: when a derived right is weaker than the interest it protects, the derived right is a disjunct in a disjunction whose truth preserves the interest. My drinking beer is one of several ways in which I can pursue happiness. As a way of pursuing happiness, I have some right to drink beer. Since, however, it is not the only way, my pursuit of happiness is not necessarily thwarted by keeping me from beer. Given a person's preferences, the interest entails a disjunction. (9) The interest is thwarted only when all the disjuncts are false. My pursuit of happiness is thwarted only if I cannot drink beer and I cannot play pool and I cannot converse with my friends, and so on, for a large number of my interests. Schematically, with "IPH" as "interest in the pursuit of happiness," the derivation would be, (A1) "IPH only if ([A.sub.1] or [A.sub.2] or ... or [A.sub.n])." Its logically equivalent form is (A2) "(not [A.sub.1] & not [A.sub.2] & ... & not [A.sub.n]) only if not IPH."

When a derived right is just as strong as the interest being protected, the derived right is a (perhaps single) conjunct in a conjunction whose truth preserves the interest. If I have an interest in self-preservation (ISP), that interest is thwarted if any one of a number of catastrophes happen. If I am vaporized or if I am beheaded, or if I am frozen, or any of the other reliably causally death-efficacious things are done to me, my interest in self-preservation is thwarted. (B1) "ISP only if (not vaporized & not beheaded ... & not frozen)," so (B2) "(vaporized v beheaded ... or frozen) only if not ISP." For each disjunct in the antecedent of B2, having interest ISP preserved entails that the disjunct is false. Thus, whatever the strength of the interest, the strength of the right not to have someone make the disjunct true is just as strong.

By focusing on the "fundamental-derivative" distinction as a single distinction without noticing this difference, LaFollette has misunderstood the basic self-defense argument that motivates most advocates of an armed population. Another way to put this is that LaFollette has misrepresented the quantifier in my argument that, because for many people in many situations, a firearm is the only practical means of self-protection, they have a powerful right to own a firearm: "On [Wheeler's] view, guns are not inherently valuable, they are valuable only as a means of self-defense. I fail to see how this could make the right to bear arms fundamental. Not every means to a fundamental interest is a fundamental right." (10) My argument was not that guns are one among several means to protecting oneself in the situations envisaged in my paper, but that guns are the only currently practicable means. That a gun is the only practicable means in some situations generates a prima facie entitlement to have a gun. A means is a disjunct; the means is (the only) conjunct.

Analogously, were there a fundamental interest in health, then in current circumstances that fundamental interest would yield a derivative but still equally potent interest in having access to physicians' services and hospitals. In a world with adequate home medical robots, there would be practical alternatives, and hospital access could perhaps be limited to those able to afford personal care. In a world with different effective personal defenses, the interest in self-preservation would yield different derivative prima facie rights.

In neither the health-care nor the self-defense case does the presence of a fundamental prima facie right entail a derivative right that should be observed. In the case of a fundamental interest in health, the right to accessible health-care could be overridden by risks imposed by my having an extremely contagious and deadly ailment. Likewise, in looking after self-preservation, I

argue that rights to bear arms must be determined by balancing risks a person suffers by being disarmed against risks to others from that person being armed.

The "risks" in question are, roughly, the probability that the would-be gun owner will be assaulted and the probability that she will unjustly assault someone herself. The first probability diminishes the strength of the right to bear arms "transmitted" by the status of a gun as the only practical means to preserve the interest in not being assaulted. Thus, except in very extreme situations, the right of a person to have a gun will be less strong than the right of that person not to be assaulted. On the risk-to-others side, the lower the probability that others will be unjustly assaulted, the lower the right of others to prohibit the person from having the weapon. Arguably, very endangered individuals have stronger rights to prepare for self-defense. A former felon living in a very bad neighborhood might have a right to a weapon whereas another former felon in a safe neighborhood might not.

That something is the only means to an important interest indeed transmits the strength of that interest to the strength of a right to its only means. Of course, given the sense of "fundamental" as "non-derivative," any derivative right will be non-fundamental. The analogy would be axioms and theorems in a formal system. That a theorem is derivative does not make it less necessary than the axioms. The child's right not to be touched with peanut butter is derivative, but not thereby weaker than the child's "fundamental" right to self-preservation.

Cynthia Stark argues that the general principle of strength transmission leads to bizarre results. She cites two possible cases in which the transmission principle would lead to the assertion of a counter-intuitive right. Her counter-examples, however, are unpersuasive, at least in part because they lack sufficient detail to elicit clear intuitions. The first case, in which a person's self-respect required that the person mildly embarrass everyone he encountered, involves only a mild assault on others. Consider, however, the possibility that I have a facial disfigurement and speech defect that mildly discomfit everyone I meet. Nevertheless, my conception of myself as a human being requires that I engage people socially, even knowing of this effect. Do I not still have a right to continue to appear in public? (11) The second case, concerning the religious person whose right to practice his religion involves animal sacrifice, is puzzling, not least because such sacrifice is, according to Scripture, mandated by God, as long as there is a temple. Here the issue would seem to be about the rights of animals versus the truth of Torah. If animals have rights and are not just property allocated to mankind, then the second case becomes like the first case, a violation of rights. If animals have no rights or independent interests, then it is hard to see that the ascription of a right to sacrifice animals is any more problematic than the right (in that circumstance) to raise chickens. In both counter-examples, more stage setting would be needed to persuade me that there is a real counter-example in the offing. Compared to the obvious derivative right of the child not to have forced contact with peanut butter, and the plausible source of that right, the "bizarreness" of the examples would need to be strengthened.

I conclude this section with a note on practicality: what is practical is primarily concerned with the costs imposed by alternatives. (12) Some of the alternatives may be unaffordable; other alternatives may be excessively costly in other ways. The woman who must work evenings could quit her job as a way of reducing her danger of assaults. Many of the elderly who live in dangerous neighborhoods and are especially vulnerable to victimization, stay home after dark because they are denied effective self-defense. These, in my opinion, are excessively costly solutions imposed on them. I very much doubt that there is an algorithm for determining when the alternatives are sufficiently onerous to make a firearm or any other device "the only practical means." But in central cases the idea seems to me clear enough.

### (c) Further Thoughts About Resisting Government

The point of view taken in "Arms as Insurance" could be characterized as "suspicion of governments as such." There are several observations to make here.

First, being suspicious of government does not mean thinking that having no government is better than having some government. I am suspicious of used car dealers, but if I need the services of a used car dealer, I deal with one and take precautions. I think a rational agent should have the same attitude toward government in general and her own government in particular.

Secondly, the empirical evidence suggests very strongly that, collectively, governments are more violent and dangerous than citizens. If we think of governments as quasi-individuals, the past several millennia present us with a population that has been more violent and dangerous, statistically, than almost any population of humans. If a society's crime rate were close to that of the "society of nations" over the past millennia, it would be a very bad population indeed. This suggests that, if suspicion of used car dealers has some justification, suspicion of government is thoroughly justified.

Thirdly, the position taken in "Arms as Insurance" is that governments have a tendency to go bad. This drift should not be a surprise. Certain natural features of governments facilitate the degeneration. At least some of the time governors choose the governing line of work because they value power over other people. (13) If a governor values power, and a natural application of power is to increase power, then there is a reason to acquire as much power as possible. Furthermore, the natural "efficiency" interests of government encourage governments to reduce the resistance potential of citizens. Citizens with some power to resist government make government inefficient. Policies may have to be implemented with more force than would be the case were power more centralized. Since increasing government power can end only when citizens are helpless, it should not be surprising that governments are dangerous to those they govern.

Even given such rational or structural tendencies, One might wonder how governors could kill their own citizens, or direct others to do so. Part of the process is defining the troublesome group as "other," as not "us." The "other-us" distinction is already in place for foreigners. It is a small step from the necessity of killing foreigners to the necessity of killing those nominally citizens of a country but not really citizens, for instance Jews, blacks, cult members, or terrorists. Statesmanship, after all, has always included the willingness to have people killed for higher ends.

Various institutions, such as strong traditional prerogatives, ethnic and family ties, and local controls can work to limit central governors. Such constraints, though, since they are limitations on government power, are naturally opposed by governors. In the end, such institutions can only be defended by the possibility of meaningful resistance, that is, by force.

A surprising phenomenon, at least for me, is that suspicion of government, to the extent that it considers reasonable that there be an option of resistance to government, is viewed as a strange and radical idea by my contemporaries. The view expressed in "Arms as Insurance" was a liberal platitude not very long ago. Hubert Humphrey, a mainstream liberal politician of some prominence in the 1950s and 1960s could say without awkwardness:

Certainly, one of the chief guarantees of freedom under any government, no matter how popular and respected, is the right of citizens to keep and bear arms. This is not to say that firearms should not be very carefully used and that definite safety rules of precaution should not be taught and enforced. But the right of citizens to bear arms is just one more guarantee against arbitrary government, and one more safeguard against a tyranny which now appears remote in America, but which historically has proved to be always possible. (14)

## ACADEMIC JOURNAL ARTICLE *Argumentation and Advocacy*

# Tropes in the Rhetoric of Gun Rights: A Pragma-Dialectic Analysis

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Tropes in the Rhetoric of Gun Rights: A Pragma-Dialectic Analysis

Duerringer, Christopher M., Justus, Z. S., *Argumentation and Advocacy*

On April 17, 2013, Joe Biden did something uncharacteristic for a Vice President—he took his place as President of the U. S. Senate to preside over the defeat of a gun control bill he supported. Typically, the Vice President only makes it to the Senate chambers to cast a tie-breaking vote or to be present for a historic victory—certainly not to witness a historic defeat (Obama: Background, 2013). The legislation proposed was not draconian, or even aggressive gun control. Senators Pat Toomey (R-PA) and Joe Manchin (D-WV) put together a bi-partisan bill full of provisions supported by 65% of Americans (Metzler, 2013). The timing seemed to be appropriate as well: in the wake of the school shootings at Newtown, families who had lost children were lobbying congress alongside Gabrielle Giffords and a host of other high profile advocates urging action to prevent future tragedies (Sherfinski, 2013). Despite all of this strategy, pageantry, and timing, the bill failed and Vice President Biden was there to watch. This is just one in a long series of peculiar episodes in the gun control debate in the United States.

At the most basic level, this manuscript addresses the question: how do things like this keep happening? Despite broad popular opinion that it is wrong on multiple issues (Gun Control, 2013) and wields too much power (Young, Heremway, Blendon, & Benson, 1996), the gun rights lobby is incredibly effective at achieving legislative goals and directing the national conversation about guns. In this manuscript, we trace the most popular arguments in favor of gun rights (i.e., opposed to gun regulation) as they surface from opinion leaders, propagate in mainstream media, and come alive in social media. The origins of these arguments are sometimes opaque, but our concern is not so much where they start, but the places they end up and the effect they have on public deliberation about firearms. The content of these arguments should tell us about the status of the gun rights conversation in America and how it can be improved. Our engagement of these fallacies requires a move away from fallacious reasoning as an atheoretical taxonomy of bad arguments, and toward a systematized understanding of bad arguments grounded in the pragma-dialectics of van Eemeren and Grootendorst (1987). This case study serves as an example of how this can be operationalized.

The rationale for engaging these arguments is four-fold. First, there is durability to the argumentative structure of gun rights rhetoric. Specific arguments like guns don't kill people, people kill people and its variants have been in circulation since 1959 (Sarasota HeraldTribune, 1959). The controversies motivating them also stay the same; in 1972 Erskine analyzed polling data about gun control and noted many of the same trends we see today (e.g., a disconnect between policy and public opinion) going back to 1938. The faces and formats may change, but the durability of the arguments and issues begs for further examination.

Second, this ongoing public controversy is an issue of significance. Guns are an important civil right identified by the founders and consistently recognized by the Supreme Court. These rights are sometimes at odds with public safety issues. And this topic looms especially large in our current political context as politicians attempt to deal with the overwhelming tragedies of mass shootings through stricter gun control laws.

Third, these arguments seem to produce stalemate. Their historical durability suggests their appeal to the faithful; but they do not appear to win many new adherents. Despite grandiose claims that gun control efforts have led to record enrollment, the NRA's membership is estimated by the Washington Post to have topped out at about 3.1 million Americans (Kessler, 2013, February 8). That number represented slightly less than 1% of the population at the time this essay was drafted. The gun rights lobby has enormous financial resources and has, to a great degree, succeeded in thwarting efforts at gun control. And yet, its arguments do not seem to connect with Americans on a large scale.

Fourth, there has been a surprising shortage of attention paid to the NRA and gun control by communication scholars. As a discipline, we have produced a small number of articles about polling data and guns (see Mauser & Kopel, 1992, Erskine, 1972 and Smidt, 2012 as examples) one article about credibility in propaganda (Trent, 1971) and an interesting historic analysis of gun rights stories (O'Neil, 2007). A small number of other case studies explore issues related to gun control. Holistically, this is a neglected area for communication scholars who should be committed to understanding what arguments are made and how they work. These issues have received some attention among legal scholars (discussed later) but often with little attention to communication-specific issues like argumentative structure and media distribution. By way of comparison, a query of Communication and Mass Media Complete for the term "gun control" results in 20 peer reviewed articles while a query for "abortion" receives 233. While these are obviously different issues, the difference in scholarly attention by a factor of more than 10 highlights an area of American discourse communication scholars have been neglecting despite a robust national conversation highlighted by tragedies, stories, legal decisions, and political maneuvering.

We respond to this lack of substantive discussion by taking on some of the most prevalent arguments used in favor of gun rights. We are interested in these particular arguments, as opposed to pro gun control arguments, because these are the most widely disseminated, perennial arguments that effectively freeze debate, and thereby affect public policy. (1) There are many others, but after an exhaustive search three arguments stand out:

\* Guns don't kill people, people kill people.

\* The only thing that stops a bad guy with a gun is a good guy with a gun.

\* If you outlaw guns, only outlaws will have guns.

Our analysis suggests these prominent arguments circulated in support of gun control are deeply irrational--violating several of the implicit norms of rational discourse that structure public arguments--leading all but the already-committed to distrust and dismiss the cause and forestalling any real resolution of our concerns about gun violence.

We track these arguments as they emerge in a variety of forums, which both justifies their selection and underscores their importance to the national conversation about guns. Our essay proceeds according to the following schedule: first, we review the sparse communication literature available; next, we develop a pragma-dialectical approach to argumentation and rhetoric as articulated by van Eemeren and Grootendorst (1987; 1992); using pragmadialectics as a guide, we go on to identify the numerous violations these arguments commit; and finally, we offer remarks which reflect upon the limitations of this study and suggest future directions for inquiry into argument about guns.

## Review of Literature

Despite voluminous national conversation about guns and violence on cable television shows and around dining room tables, there has been relatively little scholarly attention paid to the matter. This is doubly-true in communication studies. What communication inquiry the field has produced is principally focused on public opinion research. This is an important starting point for understanding gun control rhetorics because of the clear disconnect between public opinion and public policy on this issue. The issue of background checks at gun shows is a useful anecdote illustrating this point. According to Pew Research (Gun control, 2013) 81% of Americans including 81% of Republicans favor making gun sales at gun shows subject to background checks. Despite this majority, background checks were easily and separately rejected in the 2013 push for greater gun control (Cillizza, 2013). The failure to connect opinion to action is often blamed on powerful interest groups like the NRA (Medlock, 2005).

Tracking and analyzing public opinion surrounding gun control has been an area of scholarly engagement for at least 40 years. Erskine (1972) analyzed gun control survey results going back to 1938 and was troubled by some of the same things we see today, noting, "it is especially difficult to understand how the rifle lobby has been able to inhibit legislation when a majority of gun-owners themselves have for years been telling public opinion interviewers that they believe guns should be registered" (p. 455). When charting more nuanced statistics in 1996, Young et al. located a new trend in public opinion writing that "a large and increasing percentage of Americans think that the NRA has too much influence" (p. 637). This notion transitions us into a popular topic among social theorists: understanding how gun-rights groups like the NRA are so successful when, as Medlock (2005) notes, "polling data consistently shows that the positions taken by the NRA are not the positions favored by the American public" (p. 41).

Sociologists and political scientists have grappled with this question for at least the last 20 years. Their explanations have tended to fall into two distinct threads. The first tackles the problem from a delivery standpoint, analyzing the use of media, electoral politics, and the power of interest groups. The second takes on the substance of gun rights content, attempting to explain influence through merit in argumentation. While our inquiry is more concerned with content, both threads are critical in understanding the broader rhetoric.

The most critical is the singleness of purpose identified by Spitzer (2012) in the 5th edition of *The politics of gun control* as "prototypical" (p. 89). The sole focus of the NRA appears to be the promotion of gun ownership through the protection of gun rights. This solitary purpose allows the organization to quickly separate good politicians from bad ones based simply on their gun rights voting record (Spitzer, 2012) and mobilize NRA supporters who "are likely to be single-issue voters" (Medlock, 2005, p. 42). Results are mixed, but Kenny, McBumett and Bordua (2004) use a statistical model to illustrate "the NRA can have a statistically discernible effect on election outcomes, but not in all elections and for all candidates" (p. 331). Subsequent elections have called the significance of the NRA force into doubt. Following the 2012 elections Brown (2012) and Waldman (2012) independently concluded the NRA had no actual electoral impact; however, media outlets from Bloomberg News (Robinson & Credson, 2011) to *The Daily Beast* (Winkler, 2012) championed the effectiveness of the organization. From a policymaking standpoint, the actual impact of the gun rights lobby on elections is less important than the perceived impact of the organization and, despite some evidence to the contrary, there is "a strong perception that the NRA has the ability to swing elections" (Medlock, 2005, p. 42).

This, of course, brings us to the gun rights lobby's wildly successful use of the mass media to promote both themselves as an

organization and a particular set of beliefs about guns. The particulars of this relationship are a topic of disagreement among scholars. The central thesis of Patrick (2002) is that the NRA builds cultural cache from negative media coverage by counting on a distrust of the media from many of their potential constituents. Shapiro (2006) identified a more direct approach in the NRA buying a satellite radio program in order to circumvent campaign finance laws. Regardless of the particulars, the impact (as illustrated in the previous section) is a widespread belief in the political invulnerability of the gun lobby despite the previously mentioned finding from Young et al. that most Americans believe the NRA wields too much power.

The substance of the gun control debate as presented by the gun rights lobby has received substantial attention from legal theorists and political scientists, often taking up themes associated with communication studies. Lio, Melzer, and Reese (2008) engage in a framing analysis of gun rights and English-only movements in an effort to understand how arguments from organizations go mainstream. They argue the gun rights lobby has "appropriated the civil rights master frame, generally associated with the civil rights movement" (p. 12). This is especially significant for the current study because it frames guns in relation to people, not as an intrinsically valuable object. This theme of gun rights as a personal issue with political implications is continued in O'Neil's (2007) excellent examination of stories appearing in NRA publications. O'Neil found that while the stories span several decades the fundamental form of the stories, where a would-be-victim turns the tables on an attacker using a firearm, has remained the same. Framing the issue around individual rights rather than around guns themselves is a theme we will explore later in our own analysis. This finding builds on the previously mentioned justification that while the gun debate has spanned generations, the substance of the arguments do not change. A number of law reviews have engaged the argumentation structures used in gun control debates (see Braman & Kahan, 2006; Harcourt, 2004; McClurg, 1992; and Medlock, 2005). McClurg (1992) takes all participants in the gun rights debate to task for logical fallacies from appeals to emotion to false analogies. His far ranging piece identifies some key arguments utilized during the debates over the passage of the Brady Bill and provides a historic contextualization for our effort to identify some more contemporary arguments as they are manifest in a variety of forums. Harcourt's (2004) extensive analysis of the comparisons between gun control in the United States and the policies enacted in Nazi Germany cover a logical fallacy (*reductio ad hitlerum*) and the misappropriation of history for political gain endemic in our current political arrangement. Due to the newness of social media, neither piece (nor the Medlock inquiry) explores the mechanisms by which people make sense of and interact with these arguments. Part of our contribution resides in our ability to explore the manifestations of rhetoric beyond traditional media.

The existing literature base on gun rights advocacy is surprisingly scant. The political opinion research presents us with a problem--gun rights groups do not represent the population, yet wield enormous power at the legislative level. However the academic inquiries into the matter fail to give us a robust analysis of how the arguments yield such effective results. Our task in adding to this literature is to gain a better understanding of the most common gun rights arguments, where they are found, and what the arguments do. In the following section, we situate our study of these arguments within a pragma-dialectical perspective.

### Theoretical Approach

Although the study of argumentative fallacies dates to antiquity, much of this attention has been taxonomical rather than analytical. All too frequently, Tindale (2007) observes, "fallacies are assigned a label and a brief description, along with an admonition to students to avoid such mistakes in their own reasoning" (p. xiv). Without much in the way of a principled education in the reasons why such argumentative tactics are considered fallacious, students may find themselves unsure why an argument is wrong, except that it just is. Many argumentation textbooks attempt to provide some overarching sense of order to their treatment of fallacies, but the results are uneven. The enormously popular Freeley and Steinberg (2014) text divides its treatment of fallacy five broad categories while Herrick (2011) separates fallacies (of faulty assumption, directed to the person, of case presentation, and of suggestion) from appeals. Rybacki and Rybacki (2012) differentiate between fallacies of reasoning, appeal, and language. This lack of development beyond categorization, Tindale argues, has resulted in two failures: first, a failure to appreciate "that many of the fallacies are failed instances of good argument schemes or forms"; and second, a failure to recognize, "that to evaluate fallacies fully we need to consider the context in which the argumentation arises" (p. xv). In this essay, we adopt a theoretical framework which funds a principled study of fallacies as they occur in argumentative situations and, thereby, facilitates a more useful analysis that goes beyond simply identifying instantiations of commonly identified "bad" arguments.

Pragma-dialectics, an approach to argumentation developed by Frans van Eemeren and Rob Grootendorst (1987) and elaborated considerably since (see van Eemeren & Grootendorst, 1992; van Eemeren & Houtlosser, 2000; van Eemeren & Houtlosser, 2003; van Eemeren & Houtlosser, 2006; van Eemeren, 2010; van Eemeren, Garssen, & Meuffels, 2012.) provides a compelling and parsimonious theoretical framework for analyzing fallacious arguments within the context of a rational critical conflict resolution process. The authors begin with the observation that in order for argumentation to function in the resolution of disputes, "language users must observe a number of rules" (van Eemeren & Grootendorst, 1987, p. 283). Though these norms

pertaining to appropriate argument are typically implicit, they must enjoy relatively unanimous adherence if deliberation is to be productive. So we may observe, for example, that practically all advocates are aware that it is not a legitimate argumentative move to attack the physical appearance of another interlocutor. Likewise, interlocutors are aware that positions advanced must be defended if they are to be considered worthy.

Van Eemeren and Grootendorst (1987) propose that these ordinarily implicit norms can be described in ten rules, which they make explicit in their essay. First, no standpoint may be considered sacrosanct or immune from questioning. Second, one must defend her or his standpoint if called to do so (p. 285). Third, attacks must be made on the standpoints actually advocated by interlocutors (p. 286). Fourth, standpoints must be defended with recourse only to arguments related to that standpoint (p. 286). Fifth, interlocutors may be asked to answer to the implications and assumptions of their positions, regardless of whether they are explicitly declared (p. 287). Sixth, standpoints must be defended on the basis of premises, which are taken as true by all interlocutors (p. 288). Seventh, standpoints must be defended on the basis of arguments in which argumentation schemes are deployed as is commonly considered appropriate (p. 289). Eighth, the arguments used to defend a standpoint must be valid if their premises are made explicit (p. 290). Ninth, a failed defense of a standpoint must result in its withdrawal while a successful defense must result in the withdrawal of doubt about that standpoint (p. 291). Tenth, standpoints and supporting arguments must be stated as clearly as possible (p. 292).

On this view, argumentative fallacies are best understood as illegal moves, violations of these basic rules of argumentative motion. Fallacious arguments are not to be disregarded only because they have been found, over time, to lead to bad decisions but also because, fundamentally, they work by violating implicit norms of rational argument and, thus, short-circuit the process of rational critical debate. In addition to providing a principled explanation for why a given argument is or is not fallacious, this model offers the promise of identifying 'new' fallacies that may have previously evaded scrutiny (van Eemeren & Houtlosser, 2003, p. 389).

It must be granted that this basic formulation is an idealist model of argumentation insofar as it presumes that "discussants have the intention of jointly resolving the dispute" (van Eemeren & Grootendorst, 1987, p. 283). While, in an ideal critical discussion, interlocutors are imagined to be chiefly interested in arriving at the best rational conclusion to their difference of opinion, actual public argumentation is often quite a bit different in some important ways. Public deliberation over controversies like gun control is typically structured less like a critical discussion between advocates oriented toward each other and more like debates in which all advocates are oriented toward winning the approval of an audience (Zarefsky, 2006). In such cases, debaters are not only interested in resolving the issue, but they are interested in resolving it in their favor. To this end, arguers will often make specific choices-about topic choice, audience adaptation, and presentational devices-which best steer the dispute toward a favorable conclusion.

There is nothing inherently troublesome about this recognition: if advocates each try, in good faith, to draw the audience's attention to the most significant merits of each side in a given dispute, the selectiveness and the seductiveness of this "strategic maneuvering" would seem to come out in the wash. Furthermore, strategic maneuvering may well raise important issues germane to the controversy under dispute. The risk associated with strategic maneuvering, however, is that interlocutors may "allow their commitment to having a reasonable exchange to be overruled by their eagerness for achieving effectiveness" (van Eemeren, 2010, p. 198).

Indeed, there are often strong incentives for interlocutors to deliberately violate the rules of argument, to advocate in favor of a decision that, even if wrongheaded, promises to benefit them directly. In recent years, observers have watched as legislators who advocated weakening important regulations on private industry exited public office and quickly found very lucrative jobs in those same industries. And there are often reasons why interlocutors may want to prevent the public from resolving a controversy at all, since even indecision can function as a form of victory for some interests. The petrochemical industry, for example, has profited greatly from simply creating enough doubt about research on climate change to stall legislation (Ceccarelli, 2011). The tobacco industry, likewise, relied for years on strategies intended to delay any judgment about their products (Oreskes & Conway, 2010).

In the ongoing public controversy over gun control, it is clear that those opposed to new legislation have the advantage of presumption. And to meet their short-term goal of halting proposed gun-control legislation, the antagonists benefit from any kind of gridlock or stall in public deliberation. But in the long-term, it also seems clear to us that advocates for gun rights seek more than homeostasis.

The task of the analyst is to consider the argumentative strategy in the context of the deliberation and determine to what degree it violates implicit norms of critical discussion (van Eemeren, 2010). At points where an advocate's strategic maneuvering privileges rhetorical effectiveness (e.g., "winning") at the expense of critical deliberation, their discourse becomes fallacious and

"derails" the proceedings (van Eemeren & Houtlosser, 2006). Such derailments turn out to be against nearly everyone's interests in the long run. It is certainly in the interest of the general public that differences of opinion be resolved on the merits under the principles of rational critical debate. And in some sense, it is even in the interest of pro-gun advocates that this public controversy move beyond stalemate. If they are to gain membership beyond 1% of the population and to remove extant gun legislation, gun rights advocates' arguments must connect with a much broader audience and move us beyond gridlock.

Fortunately, the need to "maintain the image of people who play the resolution game by the rules" helps ensure that these profoundly rhetorical acts coalesce into a rational dialectic (van Eemeren & Houtlosser, 2000, p. 295). Because known rule-breakers are regarded with derision and risk being ignored if such behavior continues, interlocutors can be expected to reaffirm their commitment to the proper argumentation if they are publicly called out for their violations (Innocenti, 2011). And when such violations are identified, van Eemeren (2010) argues, "the derailment of strategic maneuvering can be instantly repaired" (p. 201). Our project in this essay is to examine three of the most prevalent, deeply problematic arguments forwarded in opposition of gun control legislation in the hope that this "calling out" will equip readers to have better discussions in and outside the classroom.

Before we proceed, we must acknowledge that these arguments are almost never enunciated in a strictly propositional form. They do not proceed by spelling out premises on the way to an elegantly stated conclusion. Some might contend that they are not, in fact, arguments at all--that they are mere slogans or pithy one-liners. We want to offer two responses to this critique. First, we find that these evergreen responses to gun-control efforts do meet a range of definitions typically offered for argument. Argument has been defined as an attempt to persuade by reason giving (Bermejo-Luque, 2011; Freeley & Steinberg, 2014), or a persuasive attempt to express a point of view (Lunsford, Ruskiewicz, & Walters, 2013). To this end, it seems to us that much of the most effective argumentation in contemporary culture presents itself in similar form. Nor is this a new development; rhetoricians have, since the time of Aristotle, understood the persuasive force of arguments that leave their premises implicit. Aristotle understood that enthymemes like these work so well because they are pithy and because they allow audience members to unpack them individually and supply missing premises with doxa. Second, we suspect that this truncated, incomplete kind of argument is all the more effective for failing to spell out its entailments. We argue that these pro-gun arguments short-circuit rational debate precisely because they violate norms of argument in ways that are not easy to pinpoint at first blush. This is because the violations they commit are not in their overt content but typically in the premises they imply or the scheme of reasoning they require. In short, these are enthymemes whose peculiar power to foul up productive argument is due in part to the fact that they are enthymemes.

## ANALYSIS

### Guns Don't Kill People, People Kill People

The argument has been so widely disseminated that it is frequently believed to be the official motto of the National Rifle Association. Pithy and memorable for its anaphora, "Guns don't kill people, people kill people" still adorns many bumpers and is often among the first arguments deployed in response to renewed calls for gun control.

The first person credited with circulating the slogan was not an ambassador of the NRA but Fred A. Roff, the president of the Colt Patent Firearms Company. (2) In the late 1950s, Westerns dominated television, and hundreds of "fast draw" clubs were formed by young people who wanted to live out some of the excitement of the old West. Unfortunately, this enthusiasm was not always married with prudence, and some would-be gunslingers drew real blood practicing in their living rooms. In response, (and perhaps to head off litigation) firearm manufacturers like Colt began offering gun safety training to consumers. When he uttered the famous phrase, Roff was not defending the rights of individuals to own whatever gun they chose but, in fact, explaining the need for such programs and advocating for gun control of a sort: "'Our big concern,' says Roff, son of a police chief, 'is to make sure that guns get into the hands of only those who know how to use them. Guns don't kill people. People kill people'" (Associated Press, 1959, May 31).

While it did not author the "guns don't kill people ..." argument, the National Rifle Association is certainly its biggest champion. Longtime firearm enthusiast and five-term NRA president, Charlton Heston often made the argument. He explained, "Here's my credo. There are no good guns, There are no bad guns" ("Charlton Heston," n.d.). Heston's comment resonates with the countless vernacular voicings of this argument that attempt to articulate handguns and rifles with other widely employed implements, such as pencils and forks, in an attempt to drain firearms of any negative connotation and cast them simply as value-neutral tools. (3) Like all tools, the logic goes, the blame for the shabby use of the tool goes to the person operating it.

Current NRA spokesman Wayne LaPierre is equally well known for issuing the argumentative slogan in press conferences and platform speeches. In response to the tragic shootings at Sandy Hook elementary school in Newtown, Connecticut, LaPierre

opined, "Guns don't kill people. Video games, the media and Obama's budget kill people" (Tassi, 2012, December 21). Mr. LaPierre went on to indict Hollywood:

There exists in this country, sadly, a callous, corrupt and corrupting shadow industry that sells and stows violence against its own people, through vicious, violent video games with names like "Bulletstorm," "Grand Theft Auto," "Mortal Kombat," and "Splatterhouse." (Tassi, 2012, December 21)

In this novel variation on the theme, LaPierre deflected blame not back onto mass killers, who the NRA likes to cast as irretrievably evil, but onto other tools. We suspect it is likely that LaPierre intended this remark to be taken somewhat flippantly because, at face value, it seems to undermine the core position that tools (like video games and handguns) are not to blame for their misuse.

Of course, the NRA is hardly the only organization to deploy this popular argument in the fight against gun control. After a Boston area man shot and killed seven of his coworkers, Lamar Heston, a lobbyist for the Gun Lover's Association, told *The Washington Post*

The message in our e-mails to our members is that it wasn't a gun that killed seven people, but a person. If the seven people had worn bulletproof vests, they would still be here. This incident proves that guns don't kill people. Crazy people kill people. If that man didn't have a gun, he would have attacked his company with a carving knife. What we're trying to do is make carving knives illegal. (Buchwald, 2001, January 2)

In addition to "blaming the victims," Heston's response again demonstrates the way that this argument attempts to shift all of the audience's attention away from the murder implement and onto the murderer. Heston seems to be suggesting that, even if we could roll back the clock on the technology of violence and eliminate every gun on earth, we would have earned no real advantage since evil people would still commit evil, violent acts with other implements. Of course, Heston stops short of actually claiming that it is equally easy to kill seven strangers with a carving knife—a matter we shall attend to later.

Even filmmaker Michael Moore, who is often despised by conservatives for his vocal opposition to neoconservative dogma, made the argument in his film, *Bowling for Columbine* and in his press appearances in support of the film. Moore's argument, which he reiterated in an editorial on his web site, is founded upon the observation that, while many other countries permit their citizens to own firearms, tragedies like the Columbine massacre are exceedingly rare outside of the United States:

The right ... will ceaselessly remind you that a gun cannot fire itself—that "Guns don't kill people, people kill people."... I would just alter that slogan slightly to speak the real truth: "Guns don't kill people, Americans kill people." (Moore, 2012, July 24)

Again, the argument drains guns of any particular significance and places responsibility for the shootings solely upon the shooters. Moore's variation is notable in that it does not suggest that these acts are motivated by some deep-seated evil in the character of the shooters; instead, Moore blames the deep undercurrents of paranoia and anger that seem to continually percolate in American culture for inciting frightened, wounded, loners to violence.

The argument has also worked its way into popular culture, earning both ridicule and endorsement. In the animated series *King of the Hill*, the lovable but loony conspiracy theorist Dale Gribble claims, "Guns don't kill people, the government kills people!" (Judge, Daniels, & Kuhlman, 1997, September 21). Stand-up comedian Eddie Izzard lampooned the argument in his *Dress to Kill* special:

The NRA says 'guns don't kill people, people do.' But I think that the gun helps. You know? I think it helps. I think that if you just walked around going 'Bang!' you wouldn't kill too many people would you? You'd have to be really dodgy on the heart for that to work. I think that people should just try that. Walk around going 'BANG, BANG, BOOM, RATTATAT, BOOM, RATTATAT, BOOM!' I think that they should just try it. (Jordan & Izzard, 1999)

The argument has also been deployed in the defense of representations of violence in popular media. Responding to criticism about her use of prop guns in on-stage choreography, Madonna took a position similar to Moore, telling *Good Morning America*,

That would be like asking people to not have guns in action movies.... Guns don't kill people, people kill people. That whole first section of the show is like an action movie, and I was playing a supervixen who wanted revenge.... [Gun violence] comes from fear and ignorance, and people not really raising their children or paying attention to what's going on. (Chumley, 2013, June 24)

And after facing criticism for his participation in a public service announcement calling for some kind of reform in the wake of the shootings at Sandy Hook elementary school, Bourne Supremacy star Jeremy Renner renounced both gun control and censorship of violent media content in a statement on his personal web site: "Taking guns from people is no answer. I own guns and want to keep it that way. But guns don't kill people ... people kill people. Blaming movies or video games is no actionable solution" (Cover, 2013, January 21).

This argument has also been refashioned into memes for social media. Popular instances feature photos of forks with text like "if guns kill people ... forks make people fat" which centralize the tool in an attempt at mockery. Similar memes also centralize cars, spoons, and a number of other inanimate objects.

Nearly every deployment of this enthymeme violates the argumentative norm requiring interlocutors to address viewpoints actually advanced. In fact, no one has actually alleged that guns are, by themselves, responsible for violence or crime. By reducing to absurdity the actual arguments made by gun control advocates (that guns are a contributing cause of death and a factor which worsens the reach and severity of violent crime), these arguments position themselves against a ludicrous position which can then be swept aside just as easily. Indeed, we shall see that anti-gun-control arguments routinely commit this argumentative fallacy, nearly always alleging a far more sinister or complete form of control than has ever been seriously advocated in the United States.

Moreover, this argument, regardless as to whether it is deployed on a Facebook wall or the Senate floor, also appears to violate the argumentative norm that positions must be articulated in unambiguous terms. The claim that "guns don't kill people" uses the word 'kill' in a nebulous way that hinders critical evaluation. Both sides clearly agree that firearms are effective means of projecting lethal force--this is why they are such popular means of self-defense and is the basis for a great deal of advertising for firearms. One could get closer to the claim actually sought by rephrasing the claim as follows: "guns are not responsible for deaths; people who use guns to kill others are responsible for those deaths."

This argument may also be held to be fallacious insofar as it violates the argumentative norm requiring the proper application of a given scheme of argumentation. At the bottom, this argument asks the auditor to make an either/or decision: either guns are responsible for gun violence or the persons who control guns are responsible. The presumption that deaths and injuries are either caused by humans or guns is premised on a faulty application of causal reasoning.

It may be possible to grasp the error of this logic by way of a parallel example: consider an authoritarian regime that crushes a popular rebellion with chemical weapons, killing many thousands of citizens. Was it the regime or the chemical weapon that killed the people? Of course, the answer is yes: yes, the regime initiated the events that would ultimately lead to the deaths, and yes the chemical weapon played a key part in that process. We think it fair to say that both humans and firearms are responsible for deaths and injuries. Humans do make decisions that set off chains of events that lead to deaths and injuries, but they use firearms to achieve those injuries and deaths. It seems that Mr. Izzard is right; people make the decision to kill others, but the guns often do help them achieve this end with particular efficiency.

To borrow from the lexicon of pathology, we might say that guns represent a proximal cause of death while humans who pull triggers represent distal or underlying causes of death. To return to our earlier example, an abusive authoritarian regime may be a distal or underlying cause of death, while a chemical weapon represents a proximal cause of death. Many nations strive to limit the spread of such weapons because they understand that such proximal causes can have a strongly mediating influence on outcomes. We may not be able to prevent every tyrant from attacking his own public, the logic goes, but we can work to limit the use of the most dangerous, irreversible, and indiscriminate means of attack.

While it is undoubtedly true that humans will continue to seek to harm others, it is also equally true that firearms represent a particularly powerful and efficient means of effecting harm (and typically the most efficient means of inflicting violence available to humans). It is for this reason that humans achieve far more mass murders by way of firearms than fists, slingshots, or nunchuks. At Sandy Hook Elementary School, Adam Lanza used his mother's arsenal of firearms to gun down 26 adults and children in approximately fifteen minutes. It might be possible to beat to death an equivalent number of people in an hour's time, but it is ludicrous to suggest that it is equally easy to achieve such a task. By suggesting that either humans or guns produce an outcome, this argument improperly oversimplifies the problem of gun violence, thereby preventing audiences from arriving at truly well reasoned conclusions about firearms.

The Only Thing That Stops a Bad Guy with a Gun is a Good Guy with a Gun

Although the specific phrasing of this argument is rather new--it begins appearing in the late 2000s and gains mass circulation

in the wake of the Newtown massacre in 2012--the logic behind this slogan has been a mainstay of anti-gun-control rhetoric for some time now. Mirroring the paradoxical logic of Cold War era "Mutually Assured Destruction", the "good guy with a gun ..." argument assures us that the only effective response to the threat of violence is the counter-threat of the same.

The National Rifle Association's "Armed Citizen" newsletter frequently makes this argument as it prints narratives that attest to the power of regular citizens to interrupt or deter criminality through the ownership and use of firearms. The association's most visible representative, Wayne LaPierre (2003) has advocated in favor of arming nearly everyone, from airline pilots and school teachers to women (in general, apparently) on the basis of the presumption that wide distribution and visibility of firearms will dissuade evil-doers or, at a minimum, allow others to intervene and halt gun violence with some gun violence of their own. And he most famously suggested that the solution to school shootings such as the massacre at Sandy Hook elementary school in Newtown is to place armed guards at all schools, saying, "The only thing that stops a bad guy with a gun is a good guy with a gun" (Tassi, 2012). Other opinion leaders have adopted the argument, as well. On the eighth anniversary of shooting that left two United States Capital Police officers dead, Republican Congressman Bill Frist praised the efforts of fallen officer Detective John Michael Gibson, who alerted those present to the danger and shot the attacker: "Gibson's actions saved lives. As one staffer put it at the time, 'Thank God there was a good guy with a gun'" (Congressional Record, 2006).

The argument appeared again in the controversy that erupted over the attempted assassination of Arizona Congresswoman Gabrielle Giffords. In January 2011, an armed gunman killed several audience-members and shot the congresswoman in the head. In response, Congresswoman Gifford's husband, Mark Kelly began advocating for increased gun control. California Congressman Tom McClintock criticized the effort:

The best defense against a bad guy with a gun is a good guy with a gun. A good guy with a gun there on Saturday could probably have prevented six deaths. In fact, it turns out there was a good guy with a gun shopping in the Walgreens next door... He arrived just as Loughner was being subdued. Had he not been subdued, that good guy with the gun would have been the only thing standing between the lives of the rest of the people there and this mad gunman. (Fox Business News, 2011)

A wide range of vernacular voices has begun disseminating the argument as well. Web sites like Ricochet.com provide anecdotal evidence to support the claim, highlighting cashiers, proprietors, and law-abiding customers who successfully brandish their weapons to scare off would-be robbers and assailants. A number of Facebook groups named after the argument have emerged in recent years and the like-minded may purchase similarly adorned t-shirts and hats from the NRA, zazzle.com, cafepress.com, and countless other specialty companies who cater to gun enthusiasts. Also, a large number of memes and comics endorsing variations of this argument circulate among individuals and groups on Facebook and other social media networks. Some of the more popular items we came across included a contemporary soldier with the slogan underneath his photo. Other memes played on the racist stereotype of the African-American criminal and the white vigilante activist.

Because it functions enthymematically, it is not always immediately clear whether this argumentative slogan is intended to imply that only a responder with a gun will stop a shooter in the act of killing or if the only way to dissuade would-be shooters is through the deterrence effect of firearms. The first possibility is evidenced most clearly in the anecdotal stories found in the "Armed Citizen" and on Ricochet.

Regardless of whether meant to imply physical force or simple deterrence, these arguments contain a number of flaws that deserve our attention. In the case of the physical force variant like that referenced by Bill Frist, this argument improperly implies a scheme of direct causation (a violation of argumentative norm #7) between the presence of "good guys with guns" and an end to gun violence. Unfortunately, there are a number of factors that likely trouble this simple cause-effect relationship for most undecided auditors.

First, note the strategic maneuvering involved in the naming of would-be shooters as "bad guys" and would-be responders as "good guys." By naming the parties in this fashion, the argument traffics in what Zarefsky (2006) terms persuasive definitions. A form of strategic maneuvering, the persuasive definition is "a non-neutral characterization ... an implicit argument that one should view the thing in a particular way [that is] ... put forward as if it was uncontroversial and could be easily stipulated" (p. 404). To the degree that a persuasive definition merely draws our attention to an important aspect of an object or phenomenon, it is not inherently fallacious. But at the point that a persuasive definition forestalls rational debate, hinders the use of appropriate schemes of reasoning, or fails to begin from commonly accepted starting points, it functions as a fallacy.

In this case, we argue that the attempt to name would-be responders as "good guys" crosses into fallacy insofar as it works to substitute the good intentions for competence and, thereby, limits the audience's ability to reason about the validity of claims about the efficacy of armed responders to safely and effectively meet armed shooters. Because many shootings are seemingly random ambushes, responders will nearly always have rather limited information. Shooters often choose densely populated,

chaotic, or dark venues where they will be able to remain undetected for some time. In the Aurora massacre for example, the shooter, clad in black tactical gear, tossed two smoke canisters into a darkened theatre and opened fire. As such, it is reasonable to conclude that any responder who opened fire in order to stop the shooter might just as well have hit other innocent moviegoers.

Nor does the possession of a firearm necessarily mean that one will actually deploy that firearm in a moment of emergency. No amount of cleaning a gun or firing at clay pigeons prepares the average citizen to pull the trigger and know that they will very likely end the life of another human. A certain degree of trepidation might be expected even if this citizen were sitting, secure in a sniper's nest, far above a crime in progress. But when we add to the situation the very real fear that could arise in those who are corporeally in the shooter's vicinity, audiences may not reasonably conclude that an armed responder will necessarily pull the trigger and aim with any accuracy. (4) But when responders are cast simply as "good guys," auditors may be invited to imagine them more like heroes of the silver screen than everyday people who do their best. And it is this conflation that allows the implication of a direct causal relationship between armed responders and the cessation of a shooting.

Meanwhile, the choice to name shooters "bad guys" seems to do other rhetorical work. Where "good" seems to substitute for "competent," "bad" appears to define shooters as irreconcilably evil. By defining shooters as "bad" rather than dangerous, mentally ill, or criminals, this persuasive definition helps the NRA and its advocates brush away non-violent responses to shooters. Criminals, we understand, can often be deterred. People suffering with mental illness may be successfully treated and helped to resume reasonably peaceful lives. But evil is irreconcilable and can only be fought and destroyed wherever it appears. The persuasive definition of responders as "good guys" fallaciously permits a direct causal scheme of reasoning; the persuasive definition of shooters as "bad guys" fallacious permits advocates to identify violence as the only effective response.

The "deterrence" variant of the "good guy with a gun ..." argument is flawed as well: it relies upon an implicit assumption about shooters, which hardly all would endorse. That is, these arguments assume that, like the rest of the general population, shooters will be discouraged from committing gun violence by the fear of personal injury or death at the hands of responders with guns. (5) Unfortunately, it is often the case that these law breakers are perfectly willing to endure any injury and even death- either because they suffer from mental illness or, like some terrorists, because they are fully willing to lay down their lives in order to advance their cause. Thus, we have little justification to believe that what is true of ordinary citizens and petty criminals (i.e., that they are deterred from crime by the threat of punishment) will be true of those who would commit gun-violence. Because it does not begin from materials that are commonly accepted (rule #6), this variant of the argument may also be regarded as fallacious. Because deployments of this argument seem either to ask the audience to begin with a problematic line of reasoning (i.e., the straight-line causal relationship between good guys and the forcible end to violence) or a troubling assumption about the nature of criminals, we suspect that this argument falls on deaf ears more often than not.

#### When Guns Are Outlawed, Only Outlaws Will Have Guns

While it is unclear who first uttered this famous argument, it has survived at least the past three decades: our archival searches find it in quoted but unattributed in Roger Freeman's (1981) *The Wayward Welfare State*. In 2011, the Cato Institute's senior fellow Jeffrey Miron explicated the famous slogan:

Thus the classic slogan--when guns are outlawed, only outlaws will have guns--isn't only a word play; it is a fundamental insight into the folly of gun prohibition. Such an approach means the bad guys are well-armed while law-abiding citizens are not. (2011, January 13)

In addition to the National Rifle Association, a number of high profile figures have adopted the enthymeme. Libertarian presidential candidate in 2012 Gary Johnson endorsed it in an interview with *Playboy*.

I'm one of those who believe the bumper sticker: If you outlaw guns, only outlaws will have guns. The first people who are going to be in line to turn in their guns are law-abiding citizens. Criminals are going to be left with guns. I believe that concealed carry is a way of reducing gun violence. (On the issues)

And perhaps no one took the slogan further than Paul Craig Roberts, writing for the *Washington Times*, when he wrote, "The National Rifle Association is exactly correct: 'When guns are outlawed, only outlaws will have guns.' This seems to be what the liberals want." Why would liberals want to empower criminals relative to law-abiding citizens? Roberts warns menacingly, "It is part of their income redistribution policy. Once law-abiding people are disarmed, burglaries will explode" (Roberts, 2000).

In vernacular, this argument frequently takes the form of memes and cartoons. One such meme from the popular *Willy Wonka* series matches Gene Wilder's quizzical look with the argument variation "Oh, if guns were illegal no one would have one?"

Please, tell me more about how nobody can buy drugs." This is a broad indictment of virtually all law; some of the other incarnations are more specific. One meme takes on the familiar gun free zone sign with the language "ATTENTION CRIMINALS This is a defense free crime zone. All law abiding patrons of this establishment have been disarmed for your convenience." This argument of course implies criminals disregard gun prohibitions at a local level and would also do so at a state or national level. These vernacular voices illustrate how the broader argument is operationalized and modified at the personal level.

This argument suffers from a number of serious flaws related to both content and logic. Perhaps most vexingly, this enthymeme is usually proffered in response to gun control advocacy, but it does not actually attack the substance of any proposed gun control legislation. Even when politicians reference the argument, for example the aforementioned

Gary Johnson, it is done so without reference to specific legislation proposed by anyone. This violates the argumentative norm (rule #3) requiring interlocutors to attack standpoints actually advanced. Literally no one is advocating for "outlawing guns." The most ardent advocates of gun control have called for a restriction on particularly efficient or lethal guns, others have called for limiting magazine capacity or ramping up background check processes that might limit purchases to those without a serious mental illness-but no one has called for the outlawing of guns. Thus, there is no chance that law-abiding citizens will be left with no guns. At worst, it may be that the good guys are supplied with less dangerous, less lethal guns than the "outlaws," though we shall see that this might not be the case either.

These arguments may also be regarded as fallacious insofar as they violate the argumentative norm (rule #6) requiring arguments to begin from commonly accepted starting points (i.e., doxa). These arguments rely on the principle that those who would use guns for criminal ends are wholly and irretrievably lawless and unresponsive to the threat of punishment under the law. This is not necessarily a point of agreement for all interlocutors, since it may be observed that well-meaning, law-abiding subjects sometimes become criminals after some kind deeply traumatic event causes a psychotic break. Thus, they would likely have been law-abiding citizens all the way up until they grab their already-handly firearm and decide to visit the local elementary school.

Additionally, and perhaps most damningly, these arguments fail because they fail to make appropriate use of their scheme of argumentation (rule #7). These arguments presume that each person must voluntarily follow a law for it to have any impact upon curbing misbehavior. However, in the case of gun control law, it seems reasonable to presume that most of the crime prevention will not be done by would-be shooters but by the well-meaning gun shop owners and mental health professionals who would, because the law compels them to do so, ensure that guns don't end up in the hands of the seriously mentally ill. The argument implies that "outlaw" adherence to the law is a necessary cause for the effect of violence reduction. In fact, there may be a number of other persons whose behavior will be modified by gun control laws and these changes might effect a reduction in gun violence. Thus, it is not at all appropriate to say that, because a would-be shooter would ignore a law, the law would not successfully limit his/her behavior.

## CONCLUSIONS

Earlier, we noted a troublesome tendency in communication studies to treat argumentative fallacies taxonomically rather than analytically. One of our contributions in this essay has been to demonstrate one way of studying fallacious argument, based in pragma-dialectic perspective, which goes beyond the descriptive to understand why a set of arguments ought to be regarded as fallacious-not simply because they may be found to fit a verboten pattern of argument but because they make argumentative moves which violate implicit norms of argument and, thereby, short-circuit the process of rational critical debate. We hope this project might prompt others to consider further inquiry into argumentative fallacy that goes beyond the descriptive.

On a more practical level, we have aspired to provide an analysis of popular argument, which might help those concerned about firearms and gun violence in the United States to understand why these arguments have persisted so long and, yet, moved the national debate so little. For gun control activists, our essay suggests the need to clearly and assertively "call out" parties who advance these fallacious arguments in much the same way that one must publicly out those who would cheat in any other area of public life. By intervening in these problematic arguments, interlocutors can help to reinvigorate conversations that have been derailed. Our analysis repeatedly found, for example, that these arguments attempt to refute standpoints that have not been advanced. Thus, it would be productive for protagonists to call out these straw men and insist that the public hear reasoned criticisms of the plans actually proposed. Another frequent finding has been the improper application of reasoning schema (e.g., the reduction of the complex of factors that lead to mass casualties down to an either-or choice between human evil or the lethal power afforded by firearms). We suggest that protagonists make explicit, and thereby bring scrutiny to this line of reasoning usually left implicit. It is telling, for example, that a standup comedian offered the best intervention into the faulty reasoning employed in the "guns don't kill people" argument. Interlocutors should point out and question, for example, the reasoning that

the success of gun-control legislation hinges entirely upon the willingness of evildoers to follow the law. For the antagonists, we hope our work here will help explain why so few Americans have been persuaded by these long-circulated enthymemes. If gun-rights lobbies and activists want to roll-back extant gun legislation or build broader consensus about the importance of 2nd amendment freedoms, perhaps this recognition will prompt the development of sharper argument about the efficacy of gun control and the value of firearms in the future.

Our goal in this essay has not been to take a particular position on the issues of gun violence and gun ownership in the United States. We have labored to make it clear that we do not aspire to attack conservative arguments from the left but to demonstrate that they fail to win new adherents because they do not begin from the middle. We are not yet convinced that increased gun regulation will result in a substantive reduction in violence. In fact, one of our concerns has been that these arguments often stall public deliberation before more meritorious arguments are given much attention at all. Rather than bandying about arguments against viewpoints never even advanced or making ill-conceived claims about the power of guns to stop evil-doers in their tracks, we would welcome inquiry into how an enlightened democracy ought to manage weapons, about the protections actually provided by the 2nd amendment, and about the efficacy of gun control proposals actually advanced.