

New York's Gun Battle

by {ga=dking}

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GUNS AND THE MENTALLY ILL

On April 16, 2007, Seung-Hui Cho killed 32 people on the Virginia Tech Campus. It marked the single largest loss of life from the actions of an individual gunman in American history. Cho had a history of mental problems and was declared mentally ill by a Virginia judge. Despite that, Cho was able to purchase firearms.

The incident led to national legislation that strengthened the Federal Bureau of Investigation's National Instant Criminal Background Check System and made it harder for people with a history of mental illness to purchase guns. Federal law requires that gun dealers check the system's database before selling a firearm to make sure the individual purchasing the weapon is legally allowed to own one.

Gov. David Paterson and state legislators reached an agreement on June 23, 2007 to change state law to allow the state Office of Mental Health to hand over the records of involuntarily committed patients to the national database. Opponents of the action raised concerns that patients would have their privacy violated by such handovers.

BY the end of March, however, the state had submitted only five records pertaining to involuntary commitments, according to Steve Fischer of the FBI and spokesman for the national database. Fischer said on April 24 -- just weeks after the shooting rampage that claimed 13 lives in Binghamton -- the national check system's staff received 73,884 files from New York State. Fischer said it is typical for states to "put in a big dump like that" after a major instance of gun violence.

A spokesperson for the state Office of Mental Health said it handed over 150,000 records in April. She said her office was careful in making sure they handed over only the files of people who were involuntarily committed. "It is more important to be accurate than fast," she said, noting that there were 20 years of records to sort through.

Jackie Hilly, executive director of New Yorkers Against Gun Violence, said the delay in putting up a significant number of records shows the task "wasn't taken seriously." "But I am happy they are up now," she said.

Fischer said he expects the state will begin sending records monthly. The spokesperson from the Office of Mental Health agreed that was the

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likely course.

Ten-year-old Naiesha Pearson was happily playing with other children at a Bronx playground during a Labor Day picnic on the day a bullet meant for someone else tore into her chest. Two men in their early 20s had gotten into an argument earlier in the day, and one of them decided to resolve it with gunfire. Naiesha was struck by one of the bullets. Her grandmother fainted, and fights broke out as onlookers tried to attack the shooter. Naiesha was taken to the Lincoln Medical and Mental Health Center where she was pronounced dead. Leonardo D'Eaza, the target of the shooting, was brought to the same hospital in critical condition; he survived.

Reporters quickly latched onto the story. "There was a lot of media hoopla afterward but they were quickly on to the next story," says Gloria Cruz, Naiesha's aunt. "It seemed like nobody cared, like there was no support."

That feeling of emptiness led Cruz to call [New Yorkers Against Gun Violence](#). Cruz asked if they had a chapter in the Bronx, and when she found out they didn't, she started one.

Earlier this month, Cruz stood with hundreds of mothers and other relatives who had lost family members to gun violence. The people who marched in the rally represent the everyday fallout from the illegal guns that are prevalent throughout New York City's underprivileged neighborhoods.

New York City has some of the strictest gun laws in the nation, and, under Mayor Michael Bloomberg, the police department has worked to strictly enforce them. Despite that in communities like parts of the Bronx [gunshots](#) regularly claim the lives of innocent bystanders as illegal weapons continue to pour into the city. If the city is to further reduce gun violence, it will need help from the state and federal government.

That assistance has often proved fleeting at best. New Yorkers Against Gun Violence executive director Jackie Hilly said that for many of New York State's politicians the issue of controlling illegal guns and monitoring who is allowed to carry a gun has become one they deal with "from tragedy to tragedy." "Their attention is so episodic that we don't get strong policy," says Hilly. "To get solid policy we need solid leadership."

Bloomberg's Crusade

Hilly says that the most consistent leadership on gun issues comes from Bloomberg and [Mayors Against Illegal Guns](#), the organization he formed with Boston Mayor Thomas Menino. The group boasts 340 mayors from across the country who want to stop the flow of illegal guns.

Bloomberg's push to rid New York City of illegal guns has seen results. The number of guns recovered from crime scenes in the city dropped by 13 percent from last year. The number of people shot to death dropped from 347 in 2007 to 292 in 2008. Overall, murders increased from 2007 to 2008, but only due to an increase in crimes committed with knives.

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Besides law enforcement initiatives that target high crime areas and gun buy-back programs, New York City has moved to tighten its already strict gun laws. In 2006 the City Council passed legislation that established a gun offender registry, which allowed an individual to purchase only one handgun in a 90-day period, and required gun dealers to inspect their inventory and report inventory losses to the police twice a year. Pistol permits in New York City, unlike those in most other localities in the state, expire every three years and must be renewed.

While this sort of action might have drawn massive outcry upstate, these measures were relatively uncontroversial.

Bloomberg's fight against guns has taken him farther afield. Concerned about the flow of illegal guns into the city in 2006, the mayor [authorize](#)
[d](#) private detectives to go to Pennsylvania, Virginia, Georgia, Ohio and South Carolina to see if dealers illegally evaded gun regulations. In particular, the detectives were investigating whether dealers knowingly took part in so-called "straw purchases," where one person fills out a gun background check but then gives the gun to another person.

As a result of the sting, the city [filed lawsuits](#) against 27 gun dealers. Bloomberg's strategy ruffled the feathers of Virginia politicians, who moved to pass legislation to ban this type of investigation, and of gun enthusiasts, who held gun raffles and giveaways in Bloomberg's honor.

Bloomberg's criminal justice coordinator, John Feinblatt, said the lawsuits "ended in settlements across the board." Dealers agreed to have gun sales videotaped and to submit to a database that would flag purchases made by someone who had previously purchased a firearm that was later used in a crime.

Critics say Bloomberg has been successful in his fight against illegal guns at the expense of civil rights. The National Rifle Association has [dub](#)
[bed Bloomberg](#) an "evangelist for the nanny state" and charges that his actions infringe on the Second Amendment that guarantees the right to bear arms. Further, the group says, his support for databases and checks violate a citizen's right to privacy. They say that Bloomberg is trying to extend New York City style gun control to other localities with different attitudes about firearms.

"I think this is mostly an ego thing for him," said Jacob Rieper, vice president of legislative and political affairs for the [New York State Rifle and Pistol Association](#). "If gun control really worked, New York City would be a utopia. And it's not."

But criticism hasn't stopped Bloomberg. This year, he [financed](#) a commercial that ran in Virginia criticizing the presumptive Republican candidate for governor, Robert McDonnell, for supporting what the mayor calls a loophole in Virginia law that allows private dealers to sell guns without background checks. The commercial featured the brother of a woman who was killed in the Virginia Tech massacre.

Focusing on the State

Feinblatt says that Bloomberg also has focused on implementing changes in New York state law. This is in keeping with a 2008 [study](#) by the [Legal Community Against Violence](#) that said, "In the absence of comprehensive federal legislation, it is up to state and local governments to adopt policies to prevent gun violence." The study found state laws to be effective in addressing gun issues that federal law does not, "and can act as a catalyst for the broader reform our country needs."

In New York, though, gun laws tend to be more controversial at the state than the city level. This became apparent earlier this year when Gov. David Paterson [chose](#) then Rep. Kirsten Gillibrand to fill the Senate seat left vacant by Hillary Clinton. Gillibrand, a Blue Dog Democrat from a rural upstate district, sported an A rating from the National Rifle Association. Gillibrand's stance drew [outcry](#) from many New York City and suburban representatives who felt she was insensitive to the effects of gun violence on their constituents. The conflict highlighted the divide between upstate and downstate New York on issues of gun law.

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On April 3, though, the conversation shifted when [Jiverly Wong](#) walked into the American Civic Association in Binghamton and opened fire, killing 13 people and spitting 99 shots from his two pistols in just minutes. The State Assembly moved quickly to pass legislation proponents say will help police prevent and investigate gun crime.

"They always have to wait until they have some tragedy to come out to exploit to push their agenda," says Rieper.

Identifying Ammo

The package before the legislature includes a bill that requires any semiautomatic pistol delivered or manufactured by a gun dealer in New York be capable of microstamping ammunition by 2011. Microstamping marks bullets fired from semiautomatic weapons with the information of the gun that fired it.

The microstamping bill, which was sponsored in the Assembly by [Assemblywoman Michelle Schimel](#) and in the Senate by [Sen. Eric Schneiderman](#) is the Bloomberg's number one gun legislation priority, according to Feinblatt. "What do criminals leave behind at the crime scene?" asks Feinblatt, "Gun casings."

Legislators have taken a cue from Bloomberg by insisting their legislation will help fight crime.

Schimel said that microstamping would give police the tools they need to solve gun crimes, 40 percent of which go unsolved every year. "Microstamping is a crime prevention issue. It is not gun control. This is evidence-based crime prevention," she said. The legislation has the support of a wide range of law enforcement groups including 70 police and sheriff departments across the state.

But opponents say that microstamping is unproven. "This is basically being pushed by one small company that hasn't exactly perfected it yet," said Rieper. But even if it did work perfectly, he said, "All it is going to do is point police back to the person who originally bought the gun. It could have been sold or stolen. It's not going to prove anything."

Opponents cite a [study](#) by the University of California at Davis that shows that the technology only works 54 percent of the time. They also complain that microstamping might negatively influence gun owners' ability to resell guns that are not equipped with the technology.

Limits on Licenses

Another bill would require that state handgun owners renew their licenses every five years. While pistol permits in New York City expire after three years, in some places in the state licenses last for a lifetime.

Some critics say the bill is a money grab designed to get gun owners to cough up licensing fees every five years. But Schimel, who is from Nassau County, disagrees. "I called the pistol permit division the other day and said, 'This is a money grab, right?'" Schimel said. "They said, 'No, we really want to know who has the guns out there.' They believe that it works."

According to Rieper, the measure aims to deter gun ownership and will do little to make the public safer. "How many times does a licensed hand gun owner commit crimes in New York State?" asks Rieper, "I bet it is less than the number of state senators who have right now."

[Assemblywoman Amy Paulin](#), who sponsored the bill in the Assembly, and Schimel both say that, just as drivers, physical therapists and a wide range of other license holders have to renew their permits handgun owners too should have to regularly demonstrate they still meet the requirements to hold their licenses.

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To bolster their arguments for license renewal, advocates point to Jiverly Wong. In 1997, he received a license for the gun he used in Binghamton. During the years since, many who knew him said he displayed increasing signs of instability. Advocates insist that, if Wong had been required to relicense his handgun, authorities might have noticed his condition. Under the proposed new law, owners would lose their license if they moved out of state and would require the county that issued the license to track down any guns that are no longer licensed. Wong moved to California in 2001, only to later return to New York.

The gun legislation is now pending before the Senate, where Democrats have a narrow majority. While supporters tout them up as crime prevention initiatives, gun rights activists seek to turn the conversation into a discussion of upstate versus downstate values.

A State Divided?

Tom King, president of the New York State Rifle and Pistol Association, posts a [blog](#) about gun rights on the website of the Albany Times Union. "Before I begin, let me define Upstate and Downstate," wrote King in February. "Upstate includes the entire state except the five boroughs and anyone who embraces the traditional values of firearms ownership, hunting, shooting and fishing. Downstate is everywhere/everyone else."

King decried downstate's influence on statewide gun policy, noting New York City has its own gun laws. "We are not Downstate sheeple that need to be protected from violence, the weather or ourselves. We are descended from strong stock that came to this country to escape oppression," he continued. "This proclivity for the blood sports is a part of our nature," he said regarding hunting. King did not return calls for comment.

Feinblatt takes exception to the idea that gun legislation pits upstate values vs. downstate ones. "It isn't an urban issue, it isn't just a suburban issue and it isn't just a rural issue," he said. Mayors from upstate cities like Utica, Syracuse and Albany belong to Mayors Against Illegal Guns. And upstate cities like Albany and Buffalo struggle with gun violence.

This year's budget contains \$4 million for a program called [Operation SNUG](#) that is specifically designed to target gun and gang violence in Buffalo, Rochester, Syracuse, Albany, Westchester County and New York City. "In cities across the state, our children are dying at the hands of gun violence, but through our commitment to SNUG, we can put a stop to that deadly trend now," said Senate Majority Leader Malcolm Smith during the unveiling of the program earlier this year.

Operation SNUG, modeled after Chicago's [Cease Fire](#) gun violence prevention program, focuses on direct intervention in communities where disputes all too often lead to shootings.

Passing further gun measures, though, remains a challenge. Austin Shafran, a spokesman for Smith, said that Smith supports the microstamping and permit renewal bills because, "they do not infringe on anyone's Second Amendment rights." But with a slim majority and a few rural Democrats who might oppose further limits on guns, Democrats will probably need the support of some Republicans to pass the measures. They say they have been reaching out not only to suburban and urban Republicans but also to rural legislators. They admit they do not know how successful these efforts will be.

Schimmel, though, is confident. "I wouldn't be working as hard as I am if I didn't think it was a go," said Schimmel. "Eric and I have not stopped since the legislation passed in the Assembly and we won't until we see them on the governor's desk."

Hilly and Cruz say they expect the specter of the Binghamton massacre to motivate politicians to find common ground. "It would be a real shame if our governor and Legislature didn't take action after what happened in Binghamton," says Hilly.

Meanwhile in Washington

Since 2006, Mayors Against Illegal Guns have been putting pressure on Washington to change laws they say restrict law enforcement's ability to stem the flow of illegal guns and prosecute dealers. Feinblatt said the issue has particular resonance for mayors. "Who are the people that get the calls at 3 a.m. that are going to break someone's heart?" Feinblatt asked. "It's the mayors."

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The organization has focused on repealing the [Tiahrt amendments](#), which put restrictions on how law enforcement can use the [Bureau of Alcohol, Tobacco and Firearms](#) gun-tracing database. The amendments also limit whom officers can share gun tracing data with and stops the ATF from requiring gun dealers to carry out inspections to insure no guns "go missing."

The National Rifle Association [maintains](#) that much of the information would not help law enforcement and can be misleading.

First introduced in 2003, the amendment is attached yearly to spending bills and for years became increasingly restrictive. In 2008, though, gun control advocates scored a victory by enacting a measure that allowed law enforcement to share gun trace data in related cases. It also gave the Bureau of Alcohol, Tobacco and Firearms some limited ability to release statistical reports using gun trace data to analyze firearm tracking.

This year advocates hoped that they might finally abolish the Tiahrt amendment completely. The Obama administration had said it supported doing just that.

Fear of Control

The administration's stance on gun control had sparked fear among gun enthusiasts. Following Barack Obama's election, [gun rights](#) groups and gun enthusiasts across the country were reportedly so nervous about the administration that they ran out to buy all the ammo and guns they could. Ammo became scarce in some states, and gun sales spiked.

For years polls showed that Americans support stricter gun laws. A 2001 Gallup poll, for example, put support for stricter laws at 54 percent. But a recent [Opinion Research Corp. poll](#) found only 39 percent of respondents backed stricter gun laws. Pundits say they think the drop can be tied to fears about the Obama administration's stance on guns as well as to a decline in crime.

But so far, it appears gun groups need not have worried. Congress kept the Tiahrt amendments relatively intact this year except for a change that allows state and local police departments to access the gun trace data when investigating individual crimes.

Bloomberg welcomed that change, calling it "an important step forward that will make communities across America safer." But Hilly said that the amendments make it illegal for law enforcement to share trace data with the public -- including government officials.

The Obama administration has already backed off on the reinstatement of the assault weapons ban that the Bush administration let expire in 2004. The new administration originally said it would [push](#) for reinstatement of the ban, but last month recanted, saying that the political cost of fighting the powerful gun lobby was too high. During a meeting in April with Mexican President Felipe Calderon, Obama [acknowledged](#) his administration favored the ban but admitted, "I think none of us are under any illusion that reinstating the ban would be easy."

For Cruz the issue of assault weapons is not political, it is far more visceral. She says a culture of retaliation has developed among young men in the Bronx who settle disputes by picking up a gun. "You have 14-year-old kids with AK47s, kids with semi automatics."

Cruz says she knows there will inevitably be more gun violence tragedies splashed across the front page while politicians wrangle over how to address the issue. But Cruz has faith that progress will be made.

"We wouldn't have the Brady laws if Jim Brady hadn't been shot with Reagan," said the woman who refuses to let her niece's death be in vain. "Terrible events can give birth to better things."