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FAMILY VIOLENCE IN THE UNITED STATES AND ABROAD

*Karen S. Burstein**

I would like to offer some context before I talk about what I think are the political aspects of this matter. Why gun control is such a knotty problem for us. Why, even though the facts are clear, we have difficulty coming to terms with our obligations to reduce the presence and consequences of guns and gun use in our society.

I should say that I actually came to this race for Attorney General as a result of a gun-related incident. I was a family court judge in Brooklyn, and my courtroom abutted a very crowded waiting room. In that waiting room there were two people, an estranged couple. She had an order of protection. He came up, passed her a note, and when she refused to talk to him—they were in a visitation dispute—he pulled his gun out and shot her. She died instantly. He shot a bystander, who came into my courtroom and bled on my counsel table saying, “Why me? Why me?” Another woman came in, cradling her infant child. Outside, there was chaos, as you can imagine.

As telling for me was that in a room next door, our Victim Service Agency, there were a couple of kids who were waiting to testify in juvenile delinquency matters. They were going to testify against their peers, a very brave act in all circumstances, but particularly difficult for children since they go back to the very arena in which the violence occurred. When that noise rang out in the waiting room, those kids went under the desks because they knew it was gunshot.

We are an incredibly violent society. I think we all know that, but we are incredibly addicted to our guns as well. One of our distinguished Canadian panelists can tell you that in 1992, 328 people were killed in Canada, while 23,000 people were killed in the United States by guns. If you add accidents and suicides, we’re talking about a total of about 38,000

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people. Half of the households of America have guns in them, and in those households the gun is forty-three times more likely to hurt a family member than it is to hurt a stranger. In fact, two times more women in the United States in 1993 were killed by husbands or lovers than by strangers. In fact, domestic violence is the leading cause of injury to women between the ages of fifteen and forty-four.

The other thing is that, of course, the National Rifle Association (NRA) keeps talking about how we have to protect ourselves against the intrusion of the militia. I guess they mean protect ourselves from the British forces in our home. I think we ought to keep this in perspective, that either the British, or I suppose, the New Jersey militia might want to come in. But the fact of the matter is that if there's a gun in the home and there's been a prior family dispute, it is five times more likely that the woman who has been battered is going to be murdered or involved in a shooting.

As we all know, domestic violence doesn't stop with only one member of the family. We see it with regularity, those of us who work in this area, and it's unfortunately true of both sexes, but in the case of men who are battering their women, an overwhelming proportion also attack and batter their children. Now, with children, we supposedly are a child-centered society. Actually, we pretend we're a child-centered society, right? You should see the family court. Outside in Brooklyn, an inscription says: "Through these halls of justice, the family will be preserved and children, who are the future of our nation, will be strengthened." The fact is, we care very little about our children. I think our education system witnesses that, in that there are, something like, 1.2 million latchkey kids in our society. They come home to a house with guns in them. It's not, therefore, an accident that fifteen children a day are killed by guns and about a third of them from accidental shootings.

Obviously, after the incident in family court, I thought about getting out of the court. The reason I thought about getting out of the court is very simple. All of the colleagues got together that day, or the next day, after we recovered from the first shock of it, and said, "The family court ought to be a gun-free zone: the only people who ought to carry guns, if anybody does, are our own security workers, our own security force because we know who they are and they can be monitored and they can be contained."

How did this shooting incident take place? They said, "Well, you know, we have a rule. You're not supposed to be able to come in if you are a litigant with a gun." But this guy was also a parole officer. By the way, he had a legal gun. This is not somebody who was sneaking something through. He came in, he showed his badge and his colleagues

way, he had a legal gun. This is not somebody who was sneaking something through. He came in, he showed his badge and his colleagues downstairs, because they thought, "Well, you know, he's an officer, let him come upstairs." They didn't subject him to the process that he should have been subjected to, and they weren't regularly subjecting anybody to that process.

Since that time there's been a change, but I know that if we are not vigilant, it will go back to the old process. In any event, we said, "Look, it's not going to be a good idea—we already have indecently long lines in the family court, it is not going to be a good idea to be putting everybody through metal detectors, or if we do, at least let's have some certainty that people don't come in with guns. Nobody, not police officers, not correction officers, not parole or probation officers, should come in with their guns. Let them just turn their guns in when they come downstairs and pick their guns up later." And they said to us, "It used to be true that the New York City Police didn't come in with guns to the family court, but they changed the policy some time ago and no one is going to listen to a judge about it." And I said, "No one is going to listen to a judge or to all of us as judges. We're inside of our courtrooms. There we have this power, but it never really extends past that door."

And that's when I decided that I had to go someplace where there was a forum large enough for my voice to be magnified, a voice that speaks to the concern that we all have. And so I started thinking a great deal about what the models are for getting control of this issue, and one of the models, of course, is traffic safety. We had, and we still have to some degree, a kind of slaughter on our highways. But as a society, when we addressed this issue through education, through liability, through tougher enforcement, we were able to reduce what was this terrible slaughter by about thirty percent.

Why can't we, if we all begin to organize this in an intelligent way, do the same thing with guns? That includes, it seems to me, not only using all the civil and criminal penalties we have for the possession of guns. I'm thinking about, for example, developing gun-free zones around schools with injunctive relief in place so if somebody, never mind about committing a criminal act, walks over the line, that person has violated the injunction, there's a contempt proceeding, and there doesn't even have to be a criminal proceeding. We should look at the manufacturers and the dealers, and think about what the cost of this product is, because that's how we, in fact, factor our liability laws. We should think about who should bear the cost—first we know what the cost is, and then we say who it's fairest to make bear it. If we actually thought about what it cost to

make a gun, it would probably be too expensive for anybody to own one, and maybe we ought to at least make those numbers evident.

And then, of course, we do have to do major education. We have to start telling people a lot of things, like they shouldn't hit their children, not even a little bit, hitting and, you know, fisticuffs—I can't believe I used that term. It just shows you how long I've been in this campaign—fisticuffs, all right, and knives and guns are not ways to solve disputes. There are other mechanisms we have for resolving problems people have.

Now, I said, "Why can't we do this?" It all seemed perfectly reasonable. When I began running, I called up a friend of mine, a person who I've been dealing with for a long time, a woman who is a state senator from upstate New York, and she said to me about my opponent who then was and is the incumbent, and she said, "Well, I'm not very happy about him, you know, because he's very strong on gun control."

I said, "Well, I guess you're not going to be very happy about me either because I'm very strong on gun control."

She said, "Well, that's it."

I said, "Don't you think we ought to have a discussion about this. Tell me what's so wonderful about a gun. Why do you need a gun? What is it that it does? I'm not talking even about rifles. Instead, I am talking about a handgun. Why do you need a handgun? What does it do?"

She said, "That's it. We can't have a discussion."

I said, "No, I'm serious about it. Tell me why."

She said, "It's our constitutional right to have a gun in our home."

I said, "All right, assuming *arguendo* you're right, although I think you're wrong, tell me why you need a gun."

And again we had this sort of shut-off, she wouldn't talk, and finally she said to me, "Because here we grow up with guns, and guns are something that define us, because everybody has a gun."

I thought yes, you know, it's a symbol of a certain kind of power and sexiness, and to take it away is to deprive somebody of that power and sexiness. Women begin to use guns because they're taking some of that power and sexiness which is largely a male power and sexiness.

And I said, "Lorraine, you know, people get very, very hurt with these things. Kids are killed by accidents."

She said to me, "That's because we aren't careful."

I said, "Don't you think we ought to do something about that?"

She said, "Yes, we ought to train people how to use guns."

I said, "No, if you train people how to use guns, you're not going to train a three year old; I mean, the child can still pick up a gun, or a five year old can."

She said to me, "I don't think we can have a discussion about this anymore."

So I want you to understand now that we are talking about a measure of irrationality that makes discourse very difficult, and I don't think that we can talk to the people who are either NRA fanatics or people who are worried about what the NRA will do to their political career. On the other hand, I think that there is a tide in this country that we can seize. It is a tide of revulsion against this kind of violence, and I think you know that it exists, notwithstanding the discussion I just had with this woman. I think you know that it exists by virtue of the successes, albeit hard-fought ones, in the Congress of the United States and in our state legislatures, defeats that have happened to an institution that is very powerful for a very simple reason. The NRA raises a lot of money, it contributes a lot of money to people, its partisans are passionate, and they speak and vote. So those of us who think this is an indecency, but who are not equally organized, who are not one-issue people, may not be able to counter them at the polls, at least not individually at the polls in every election. But, notwithstanding this incredible financial and political power, there have been successes. Governors and senators and representatives were prepared to take on that lobby. What does that come from? That comes from something that's happening inside this country. That comes from a moment, I think, that is beginning, where people say, "It isn't sexy, it's murderous, and that is something we can't tolerate."

I guess I want to conclude by saying everyone knows that domestic violence and rape and sexual assault are not about sex and love. They are clearly about violence, but sometimes there's a confusion because it happens inside homes, happens between people who love one another. There's this notion that there is a form of love, but it is really never about love. It is always about power and its abuse, and guns are about power and its abuse.

I remember, I was thinking about it recently, when I first came into politics in 1970. I was running an anti-war campaign, and I was talking about what I thought as the sort of falling apart of that consensus about social justice in our society. I said what turned the magnificent hymn "We Shall Overcome" into Abbie Hoffman's despairing "Boom," was that we had all forgotten: it is power that grows out of the barrel of a gun, not love and not peace and not justice. And I think we all remember that, and in some deep way are committed to it and begin to understand that really this is a fight for our lives and for the lives of our children. We are, I believe, on the way to winning it.

