



Massacre at *Pulse* Gay Nightclub and LGBT Gun Control Leadership

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In the early morning of June 12, 2016, Omar Mateen, a U.S. born citizen, used a semi-automatic rifle and pistol to kill forty-nine and wound another fifty-three people at the Orlando, Florida gay nightclub— Pulse. At the time, it was the deadliest mass shooting by a single shooter in U.S. history. During the shooting, he called 9-1-1 and *News 13* of Orlando and pledged his allegiance to ISIL and mentioned Tamerlan and Dzhokhar Tsarnaev (the Boston Marathon bombers) and other well-known Muslim terrorists besides giving prayer to Allah. He was shot dead about 5:00 AM by police officers.

In the following weeks, the FBI and other law enforcement agencies conducted a major investigation into the shooting. They found most of the wild speculations that Mateen was an "Islamic terrorist" be untrue. Although he was Muslim, it was determined that he had no formal connections with any terrorist group nor was radicalized by directed effort; although investigators found he often watched Islamic extremists videos. He was educated in criminal justice and worked while as a recruit for the Florida Department of Corrections but was involuntarily dismissed and never became a fully licensed corrections officer. He worked for G4S Secure Solutions in Jupiter, Florida from

2007 until his death. He made terrorist comments on the job that upset co-workers including stating that his family was linked to al-Qaeda and that he joined Hezbollah (which, ironically, is an enemy of ISIL). His comments resulted in a number of poor performance reviews and transfers within the company. The sheriff's department banned him from working at the courthouse because of his erratic behavior. He was temporarily placed on a terrorist watch by the FBI but soon removed. His belligerent behavior on the job followed a lifetime of bullying and being bullied, and violence in school including cheering in support of the hijackers during the September 11 attacks and claiming his uncle was Osama bin Laden. He was suspended from school for many days for his disturbing outbursts.

There was speculation that Mateen was a self-loathing closeted gay man. A number of witnesses came forward who claimed Mateen was seen at Pulse and other gay bars many times before the attack and that he was a member of a few online gay dating and male hook-up sites. Even his ex-wife stated that she thought he might be gay. FBI investigations could not independently confirm these allegations and stated that after conducting 500 interviews, they had not found any direct evidence of homosexuality but rather Mateen was seeing another woman who was not his wife (Tucker 2016).

Immediately after the attack, Mateen's father, Mir Seddique Mateen, was interviewed on TV and claimed his son became angry while witnessing a gay couple kiss in front of him at a Miami market. The father had a history of beating Omar and demeaning him in public. Seddique also hosted a satellite network Payam-e-Afghan TV and said on the Monday following the shooting, "In this month of Ramadan, the gay and

lesbian issue is something that God will punish,” though “the servants of God shouldn't have anything to do with it” (Hennessy-Fiske 2016).

So why did Omar Mateen attack the people at Pulse? It will most likely remain a mystery. But what is known is that he was born in the United States to immigrant parents, pledged allegiance to Hezbollah, ISIS, and Al-Qaeda (three organizations that are at war with each other indicating how ignorant he was of Middle East politics), was not radicalized through directed effort, was not religious, admired authority (including NYPD) and obsessed with guns and violence, was racist, a school bully who was expelled often for violence, beat his two wives, expressed anti-gay sentiments, and, perhaps, struggled with his own same-sex attraction.

But does it matter? This was an attack on gay people in a gay establishment with a high power weapon by someone who purposefully wanted them dead. It really doesn't matter if the gunman was Muslim, or it was an act of “terror,” or the results of gay self-loathing. The dead are still dead. They were gay people (and some friends and parents) enjoying each other's company in a safe place; and they were killed for being at the gay club. This was an antigay hate crime.

Yet, within the first 24-hours of the massacre, right-wing talking heads, church leaders, puffed-up conservative TV and radio pundits, and political opportunists, tried to blame Muslims for the deaths. Screaming headlines claimed ISIS was behind the attack on a Florida “nightclub” and Republican presidential contender Donald Trump blamed Obama for allowing too many Syrian refugees into the country. The *LA Times* first headlines called it an ISIS attack but failed to say that it was at a gay bar. Florida Attorney General Pam Bondi failed to mention in the initial interviews or on the state's

website that the attack targeted the LGBT community. Even while the drama was unfolding, gay people were being erased from the discussion. The event was being ‘straight-washed’. For example, the Vatican’s statement about the shooting used the term “innocent victims” but refused to use the word gay. The Republican National Committee used the term “terrorist” but failed to use the word gay. Representative Pete Sessions (R-TX) openly denied that the club was even gay or the victims were gay. The process of de-gayng the event was too much for some. In an act of defiance, Owen Jones, openly gay contributing writer to *The Guardian*, walked off from an interview on *Sky News* television because the host kept insisting the attack was against “all human beings” and not just gay people (Ford 2016).

But it gets worse. Just days after the shooting, Pastor Roger Jimenez of Verity Baptist Church in Sacramento released a YouTube video of a speech he made claiming Christians shouldn’t mourn the “death of 50 sodomites . . . The tragedy is that more of them didn’t die. . . I think that’s great” (Bever 2016). The same day, preacher Steven Anderson in Tempe Arizona celebrated the mass murders by posting his own YouTube video (Parkman, 2016) saying that, “there are 50 less pedophiles in this world,” and later added, “There’s no tragedy. I wish the government would round them [gays] all up, put them up against a wall, put a firing squad in front of them and blow their brains out” (*Tribune Media Wire* 2016; Joe.My.God 2016). In Fort Worth, Pastor Donnie Romero of the Stedfast Baptist Church prayed that god would finish off the shooting victims in intensive care (Foster June 20, 2016). And the very influential televangelist Pat Robertson of “The 700 Club” made the absurd claimed that the mass murder was the

result of liberals aligning themselves with LGBT rights advocates and radical Islamists and advised conservatives to sit on the sidelines and watch the two sides kill each other.

Chad Griffin, president of the Human Rights Campaign, had this to say about the Pulse mass murder:

Let's get one thing clear. And this is what disgusts me most about this whole tragedy. The maniac who did this was somehow conditioned to believe that LGBT people deserve to be massacred. And he wasn't just hearing these messages from ISIL. He was hearing it from politicians and radical anti--LGBT extremists here in our own country. Every time we see legislation that puts a target on the back of LGBT people; every time a preacher spews hate from the pulpit; every time a county clerk says that acknowledging our relationships violates her "religious beliefs"—it sends a signal that LGBT people should be treated differently, and worse (Green 2016).

Antigay Rhetoric and Hatred of Gays

Too often hatred toward gays is presented to be a "foreign" problem. Horrifying video footage on YouTube shows ISIS and other fundamentalist groups throwing gay men off the top of buildings as punishment for violating their interpretation of the Koran. Or, photos on the Internet showed teen-age boys in Saudi Arabia being hung for engaging in homosexual behaviors. Or, the reports of barbaric attacks on gays and lesbians in Uganda where homosexual acts warrant a death penalty by law. There are many countries around

the world where same-sex relationships are illegal and it is impossible to be openly gay or lesbian without fear of physical attack or murder.

Conservatives and the Religious Right often act as though it is a mystery as to why there are gay bashings and like to point to the legalization of same-sex marriage in the United States to underscore their contention that LGBT people do not face discrimination and that antidiscrimination laws are unnecessary. The reality is very different. In more than half the states in 2016, LGBT people can be fired from their jobs and/or lose their housing just for violating heterosexual norms. The majority of the world's religions preach anti-LGBT theology; not just radicalized Islamic beliefs but also most variants of Christianity. The hatred has been so great that gay people, in desperation to meet their spiritual needs, have founded gay-supportive versions of each religion. For example, the LGBT-supportive form of Catholicism is an organization named DignityUSA; gay Mormons have formed Affirmation, and so on. An umbrella religious-centered organization that has confronted hate speech by leaders of the Religious Right is Soulforce. Through its use of non-violent civil disobedience, they have been successful at meeting with some of the most powerful religious leaders to seek their pledge to reduce their antigay speech. For example, Soulforce with two-hundred of its members were finally able to meet with evangelical Southern Baptist pastor and televangelist Jerry Falwell (founder of Liberty Christian Academy and the highly influential Moral Majority political movement) in 1999. Falwell publically promised to reduce his antigay rhetoric but it made little difference. His disdain for LGBT people shone through his TV makeup smile.

Although there have been some gains toward equal rights for LGBT people, the battles continue and antigay hate spewed speech is everywhere. Omar Mateen wasn't just influenced by antigay rhetoric from fundamentalist ISIL, but also from his Muslim religion, toxic fundamental Christian religion, conservative political leaders, FOX news, the Republican Party, preachers, and more. Here is a short list of examples of what antigay leaders have said:

- Lt. Governor Dan Patrick of Texas tweeted a quote from the Bible condoning the murder of gay men at Pulse (McGaughy 2016).
- Colorado-based pastor Kevin Swanson claimed “God gave them up to vile passions.” “Violence” and “murder,” he said, are deeply tied to homosexuality (Tashman 2016).
- Georgia Representative Rick W. Allen read a Bible verse calling for the death of homosexuals on the floor of the House of Representatives before a vote on a spending bill that included an amendment barring discrimination based on sexual orientation and gender identity (Shutt 2016).
- During the 2016 United States presidential primaries, three of the Republican candidates (former Louisiana Governor Bobby Jindal, Texas Senator Ted Cruz, and former Arkansas Governor Mike Huckabee) attended the National Religious Liberties Conference hosted by pastor Kevin Swanson. During Swanson's speech, he advocated having the government round up and execute homosexuals. Much of the conference detailed the process by which the state would take actions to “kill the gays.” None of the three candidates (who also gave speeches at the event) distanced themselves from advocating murder of gay people (Eggert 2015).

- Directors and members of the National Rifle Association have made many anti-gay comments over the years. For example, Chris Cox, NRA's top lobbyist and director of political outreach for NRA Institute for Legislative Action stated at a NRA annual meeting that, "(transgender people are) twisted, perverted" (Johnson 2016). Longtime NRA board member Jeff Cooper was honored by the naming of a shooting range after his death in 2004 and who had praised Zimbabwe dictator Robert Mugabe for his efforts to criminalize homosexuality. He said that 'perverts [homosexuals] do not deserve civil rights" (Cooper 1996). Oliver North, prominent figure in the Iran-Contra scandal (for which he went to prison for lying), NRA board member, and Fox News contributor, attempted to smear President Bill Clinton by claiming that he was not put through the White House switchboard until he disguised his voice by using a stereotypic homosexual "lisp" (Baker and Jenkins 1993).
- Sarah Palin nominated Wayne Anthony Ross for Alaska's Attorney General (which failed). Ross wrote an opinion letter to the *Anchorage Daily News* concerning an antidiscrimination ordinance passed in 2009. His statement read, in part, "This bill seems to give extra rights to a group whose lifestyle was a crime only a few years ago, and whose beliefs are certainly immoral in the eyes of anyone with some semblance of intelligence and moral character" (Devon 2009).
- Dean Wycoff, director of the Moral Majority of Santa Clara County, CA, stated, "I agree with capital punishment and I believe that homosexuality... could be coupled with murder... It would be the government that sits upon this land who will be executing the homosexuals" (Young 1982, 77).

- Christian evangelical leader Franklin Graham visited Russia in 2015 and praised Vladimir Putin saying, “Homosexuality and same-sex marriage—those are sins against God . . . and I very much appreciate that President Putin is protecting Russian young people against homosexual propaganda . . . I call for prayers for the president of Russia, who is protecting traditional Christianity” (Badash 2015).
- Scott Lively, president of Abiding Truth Ministries (a fundamentalist Christian organization), is rabidly antigay and took his message to Russia and Uganda. Through his influence, Uganda passed a “kill the gay” legislation that criminalized all homosexual activity and initially required capital punishment. Lively was sued in federal court by the Center for Constitutional Rights under the Alien Tort Statute in 2012 for violating international law advocating persecution of Ugandan LGBT community (Broverman 2016).
- The National Republican Party Platform for 2016 included many antigay statements, including: defining marriage as being between one man and one woman; allow people and businesses to discriminate [against LGBT people] based on religious convictions; and restrict the definition of “sex” as found in Title IX of the Education Amendments of 1972 to exclude sexual orientation and gender identity.
- “Data from Public Policy Polling show that a third of Mr. Trump’s backers in South Carolina support barring gays and lesbians from entering the country. This is nearly twice the support for this idea (17%) among Ted Cruz’s and Marco Rubio’s voters and nearly five times the support of John Kasich’s and Ben Carson’s supporters (7 percent)” (Vavreck 2016).

- For hundreds of years, Christian churches have been the primary force behind antisodomy laws that have repressed LGBT people. Surprisingly, Pope Frances stated in 2016 that, “I think the Church not only must say it is sorry to the gay person it has offended, but also to the poor, to exploited women” (Catholic News Service 2016). Yet, later that year he remarked that teaching children that gender can be a choice is “a moment of annihilation of man as image of God” (Associated Press 2016).
- Maine Governor Paul LePage (Republican) used antigay language when he left a message on Rep. Drew Gattine (D) answering machine defending himself against charges of being racist. LePage said, “I would like to talk to you about your comments about my being a racist, you cocksucker” (Levine 2016).
- Pastor Kenneth Adkins stated after the Pulse massacre, “[I’ve] been through so much with these Jacksonville Homosexuals that I don’t see none of them as victims. I see them getting what they deserve” (Dickson 2016). Adkins was arrested and convicted in 2017 of child molestation. He “groomed” two teenagers (a boy and girl) to have sexual intercourse with him when they were only 15 years old.

And that is the point of listing all these examples of hate. There is no mystery. The Religious Right, Republicans, NRA, political conservatives, televangelist, FOX News, and others continually promote gay hate. Obtaining equal status for same-sex marriages is only one step toward sexual orientation and gender equality. Gay hate pervades American culture as explained by commentator and attorney Michael–In–Norfolk:

Just let this sink in... You say, 'How could this tragedy happen?' It happened because Omar Mateen's hate was born and bred in America, not overseas. Just 2 weeks ago you were calling trans women child predators. 1 year ago you were saying that our marriages shouldn't be recognized. 6 years ago you were saying that gay men and women couldn't die for their country. 10 years ago you told us we didn't deserve job protections. 13 years ago it took *Lawrence v. Texas* to decriminalize our sex lives. 18 years ago you took Matthew Sheppard. 23 years ago you took Brandon Teena. 36 years ago the American Government began their 5 years of silence as 10,000 gay men were massacred by AIDS. 43 years ago we were still considered mentally ill. And 47 years ago the riots of Stonewall began. For centuries this country has bred homophobia into our history, into our schools, and into the very fabric of society. Omar Mateen was the 'product' of American hate...America, you taught him this and even sold him the gun to do it (Michael-In-Norfolk 2016).

But antigay sentiments are just part of the problem. The Pulse nightclub murders came about because of easily available high power weapons. Perhaps the gay rights movement has the political power to shift the discussion on gun control?

History and Function of the Second Amendment

By the time of the American Revolution in 1776, it is estimated that the population of the newly formed country was about 2.5 million people of whom more than 90% lived and

worked on farms. The largest city was Philadelphia with a population of about 40,000 people and New York City had 25,000 people. It is believed that about 690,000 slaves lived in the South at that time and, in some of these states, there were more slaves than white people. It is estimated that only 6% of Southern whites actually owned slaves. [By 1850, slavery grew to over 4 million slaves and approximately one-third to one-half of all Southern families owned slaves.]

Slaves were constantly rebelling and escaping from their owners. The only way Southern whites, which were severely outnumbered by slaves, could maintain control was through the establishment of a militias system. Beginning in 1704, the Southern states required all white men (with a few exceptions) between the ages of eighteen and forty-five to serve on “slave patrols.” These militias performed monthly inspections of slave quarters, searched for contraband weapons, captured and returned run away slaves, and more. Punishment was swift and severe. In modern parlance, the South created a ‘police state’ to maintain control over slaves. Although militias were staffed locally, the state sanctioned and regulated their functioning including specified procedures and discipline together creating what is termed ‘well-regulated’ militias (Bogus 1998).

Many in the North did not agree with slavery. One tactic was to encourage slaves to run away and join local Northern militias. By doing so, slaves were often granted their freedom. For example, in the decade before the Revolutionary War, runaway slaves were granted freedom if they joined Royal Governor Lord Dunmore’s militia of the Colony of Virginia. His men had stitched on their jacket pocket flaps— “Liberty to Slaves.” British General Henry Clinton offered a similar option to slaves during the Revolutionary War,

as did George Washington's army (Hadden 2003). As such, many whites in the South feared the North's attempt to use military service as a means to emancipate slaves.

The newly drafted Constitution of the United States caused anxiety for many Southern slave owners. Article 1, Section 8 not only authorized the formation of a standing army (Clause 15), but also in Clause 16 authorized the federal government to raise and supervise state militias:

[Clause 15] To provide for calling forth the Militia to execute the Laws of the Union, suppress Insurrections and repel Invasions;

[Clause 16] To provide for organizing, arming, and disciplining, the Militia, and for governing such Part of them as may be employed in the Service of the United States, reserving to the States respectively, the Appointment of the Officers, and the Authority of training the Militia according to the discipline prescribed by Congress (Section 8).

Conceivably, the 16th clause "could also allow that federal militia to subsume their state militias and change them from slavery-enforcing institutions into something that could even, one day, free the slaves" (Hartmann 2013). During the ratifying convention in Virginia (1788), Patrick Henry (who was a Christian evangelical opposed to slavery on principle but who also financially benefited from their enslavement) noted that Article 1, Section 8 allowed the federal government "control over our last and best defense . . . and cannot suppress [slave] insurrections . . . without the interposition of

Congress.” Similarly, George Mason (who owned over 300 slaves) saw the potential deficit and said, “Under various pretences, Congress may neglect to provide for arming and disciplining the militia.” Patrick Henry continued, “May Congress not say, that every black man must fight? Did we not see a little of this last war? We were not so hard pushed as to make emancipation general; but acts of Assembly passed that every slave who would go to the army should be free” (Hartmann 2013).

Patrick Henry and many Southerners believed the new Constitution with its new federal authority over state militias could be used to reduce the power of slave-patrol militias. In theory, the proposed Amendment would allow the federal government to: disband the slave patrols, fail to send money for the slave patrols (the newly formed United States was desperately short of money), not provide arms or outright disarm the slave patrols, or simply declare any slave joining a militia to be free (as had been done before). Many Southerners and Patrick Henry feared the new Constitution could be used to strip the slave states of their slave-patrol militias. James Madison, slaveholder and primary writer of the Constitution, thought these positions to be untenable and a bit paranoid. Henry pressed Madison on the issue believing “a great deal of the property [slaves] of the people of Virginia in jeopardy . . .” (Hartmann 2013).

Madison began preparation of amendments to the Constitution (the *Bill of Rights*). His first draft of the Second Amendment read: “The right of the people to keep and bear arms shall not be infringed; a well armed, and well regulated militia being the best security of a free **country** [emphasis added]: but no person religiously scrupulous of bearing arms, shall be compelled to render military service in person.” Under pressure from Henry, Mason, and other Southern slave owners, Madison modified the wording by

changing ‘country’ to the word ‘state’ into the form we recognize today: “A well regulated Militia, being necessary to the security of a free **State** [emphasis added], the right of the people to keep and bear Arms, shall not be infringed.’

The Second Amendment says nothing about private gun ownership, but everything to do with consoling the concerns of the slave states and maintaining the power of their slave patrols. For over two hundred years, courts have consistently considered weapon ownership issues from the perspective of how the right to ‘bear arms’ is related to ‘a well regulated militia’; and the term, ‘well-regulated militia’, was concisely described from the very beginnings of the country by Alexander Hamilton in Federalist Paper No. 29— *Concerning the Militia* (Hamilton 1788). Clearly the founders of the country did not want just anyone with a gun running around claiming to be a representative of the law. In our modern society, National Guards function similarly as the historic “well-regulated militia.” Here, the Second Amendment simply restricts the federal government from denying state agencies the ‘right to bear arms’.

A further consideration is the term “to keep and bear arms.” It does not mean the same as “possess and own arms.” In the Eighteenth Century, the term “bear arms” had a purely military application. As the Tennessee Supreme Court ruled, “A man in pursuit of deer, elk and buffaloes might carry his rifle every day for forty years, and yet it would never be said of him that he had borne arms” (*Aymette v. State* 1840). Similarly, the Texas Supreme Court stated, “The word ‘arms’ in the connection we find it in the Constitution of the United States refers to the arms of a militiaman or soldier, and the word is used in its military sense” (*English v. State* 1872).

Of course there are other problems with the language of the Second Amendment. For example, what constitutes ‘arms’? Guns in 1791 would be made by an individual gunsmith (not on an assembly line), be single-shot weapons that had to be loaded through the muzzle and fired by means with a flintlock. It takes 20-30 seconds to reload a musket. The revolver would not be invented until 1835, percussion cap until 1842, and bullets loaded from a clip until 1890. The framers of the Constitution could not have imagined the weapons of today and their power, ready availability, or low cost. Further, the framers could not have imagined flame-throwers, rockets, airplanes, tanks, armor piercing bullets, machine guns, assault weapons, helicopters, grenades, drones, nuclear bombs, night-seeing goggles, biological weapons, chemical weapons, computer viruses, Kevlar vests, and more. “Arms” as used in the Eighteenth Century does not mean the guns and weapons so common today.

The Second Amendment is often cited by gun enthusiasts as granting an absolute right for the all people access to all kinds of weapons. Actually, the Second Amendment has nothing to say about personal gun ownership. Its original intent was to protect the right of states to form and maintain their own militias. The states had authority over the appointment of officers and training. Not all citizens were part of the militias and its members were to be “well-regulated.” The right to “bear arms” only makes sense in relationship to participating in state militias. Arms were limited to single-shot muskets of severely limited capacity. The Southern states were most concern with maintaining control over their militias so as to continue their police state over slaves. The Second Amendment is a relic of institutional slavery whose purpose was to support slave patrols.

The Regulation of Weapons

Courts have upheld the right of city, state, and federal governments to regulate weapons. For example, both Louisiana and Kentucky adopted bans on concealed weapons as early as 1813. One Alabama court declared in 1840 that its legislature had the power to “suppress the evil practice of carrying weapons secretly” (Tucker 2015). Images of the Wild West promulgated by pulp novels and, later, radio, TV and movies, give the impression that lawlessness and shootouts were the norm in western and frontier towns of the late 1800s and early 1900s. But, in reality, places like Dodge City, Deadwood, and Tombstone had stringent gun control laws. The very first law Dodge City passed when organizing as a legal municipal government was a gun control statute that stated, “any person or persons found carrying concealed weapons in the city of Dodge or violating the laws of the State shall be dealt with according to law” (Winkler 2011). A number of famous photos show placards or signs at the entry of western towns informing newcomers that their weapons had to be checked. For example, a Wichita, Kansas photo taken in 1873 shows a sign at the edge of town declaring, “Leave Your Revolvers At Police Headquarters, and Get a Check” (Winkler 2011). Often when people speak of the Wild West, they think of the iconic Gunfight at the O.K. Corral in Tombstone, Arizona in 1881 and interpret the event as vigilante violence using gunfire. Actually, it was an attempt by Deputy Marshal Virgil Earp to enforce the city’s law prohibiting anyone from carrying a concealed weapon. Katherine Benton-Cohen, professor of history at Georgetown University, wrote in response to the shooting of Gabrielle Gifford in Tucson

in January 2011, “The irony ... is that Tombstone lawmakers in the 1880s did more to combat gun violence than the Arizona government does today” (Benton-Cohen 2011).

The driving forces for gun control laws were economic. Residents and businesses of western towns wanted to attract visitors and business development. What business owner would want to set up shop in a town faced with rampant robbery? What family would want to move to a city where violence was common? None. Gun control ordinances were (and are) common and common sense.

Even in the heated debates over gun control, all sides still agree that certain individuals and weapons are to be controlled. No state allows citizens to own, for example, tanks, hand grenades, flamethrowers, missiles, and other high-power military-style armament. The National Firearms Act of 1934 (NFA) restricted the ownership sale of machine guns (including automatic rifles or pistols), short-barreled (sawed-off) shotguns, and silencers. In addition, there are many categories of persons who are precluded from owning firearms, including: persons convicted of felonies; fugitives from justice; persons who are unlawful users of, or addicted to, any controlled substance; persons who have been declared by a court as mental defective; illegal aliens or aliens who were admitted to the United States under a nonimmigrant visa; persons who have been dishonorably discharged from the Armed Forces; persons who have renounced the United States citizenship; persons subject to certain types of restraining orders; persons who have been convicted of a misdemeanor crime of domestic violence (which was just upheld by the Supreme Court in *Voisine et al. v. United States* 2016); and, most persons under eighteen years of age. What is often lost in the gun-control debate are the legal

theories underpinning the rights and responsibilities of individuals to gun ownership. Perhaps the LGBT experience may help clear the confusion.

Re-Purposing the Second Amendment

The National Rifle Association (NRA) was founded by a small group of Union officers after the Civil War and was concerned about the poor marksmanship demonstrated by the troops. It focused on guns used in hunting and sportsmanship. It testified in support for the first federal gun control law in 1934 that restricted machine guns and other weapons beloved by criminals such as Bonnie and Clyde. Yet, forty years later the NRA would become the organization most associated with anti-gun control.

Most attempts to broaden the Second Amendment to allow unfettered access by the general population to all forms of arms have been rebuked for centuries. The courts continually recognized that the Second Amendment clause specifying ownership and ‘bearing arms’ applied only for military purposes, and that states and local governments had the right to regulate firearm ownership. For example, the 1939 case of *U.S. v. Miller* explored the possession of sawed-off shotguns. The court said the use of a “shotgun having a barrel of less than eighteen inches in length” had no reasonable relationship to the “preservation or efficiency of a well-regulated militia” and the Second Amendment could not be used to guarantee “the right to keep and bear such an instrument” (*United States v. Miller*, 1939). Justice John Paul Stevens stated in a 2014 interview with the *Washington Post*, “When I joined the court in 1975, that holding was generally understood as limiting the scope of the Second Amendment to uses of arms that were

related to military activities. During the years when Warren Burger was chief justice, from 1969 to 1986, no judge or justice expressed any doubt about the limited coverage of the amendment, and I cannot recall any judge suggesting that the amendment might place any limit on state authority to do anything” (Stevens 2014). Chief Justice Warren Burger clarified, “The real purpose of the Second Amendment was to ensure that state armies - the militia - would be maintained for the defense of the state. The very language of the Second Amendment refutes any argument that it was intended to guarantee every citizen an unfettered right to any kind of weapon he or she desires” (Burger 1990).

So what changed? First, guns changed from being cumbersome costly tools used for procuring food and providing protection, to an emotional extension of the owner.

Having started with customers who needed guns but didn't especially love them, the industry now focused on those who loved guns but didn't especially need them. In the late 1800s, gun companies were innovators in advertising, among the first merchandisers to make extensive use of chromolithography, an early technique for producing multicolored print. Their calendars and other promotional materials were works of art, depicting exciting scenes in which gunmen faced off with bandits or beasts (Haag 2016).

Many gun manufactures of the mid-1800s faced bankruptcy. The end of the Civil War meant fewer sales to government armies and the international market also began to dry up. As the frontier was settled and marshals reduced lawlessness, the need for guns also decreased. By the early 1900s, Remington and Winchester sent “missionaries”

(salesmen) to demonstrate various guns at exhibitions and carnivals. Winchester rifles were marketed along with luxury goods such as diamonds, Packard cars, golf clubs, and liquor. Media and, in particular, the movies glamorized guns to build emotional desire. Gun ownership now reflected as extensions of wealth, power, and masculinity rather than an actual need.

Second, in the 1970s, the NRA made a major policy shift to promote the idea that people should have the unabridged right to any and all armaments. They wanted a “constitutional” provision to legitimate the public’s right to own guns. To illustrate, the entry to NRA headquarters in Fairfax, Virginia, has on the wall near the reception desk in large metal letters the phrase, “the right of the people to keep and bear Arms, shall not be infringed” purposefully leaving out the qualifier, “A well regulated Militia, being necessary to the security of a free state...” Tied to this policy change, the NRA raised money (mostly from gun manufacturers) and spent millions of dollars over the next thirty years subsidizing scholars and law professors who would embrace and promote a new view of the Second Amendment. The court was aware of what the NRA was attempting as observed by Justice Warren Burger in a 1991 MacNeil/Lehrer News Hour, “[the Second Amendment] has been the subject of one of the greatest pieces of fraud, I repeat the word ‘fraud,’ on the American public by special interest groups that I have ever seen in my lifetime.”

The strategy paid off with the 2008 Supreme Court decision in *District of Columbia v. Heller*. For the first time in over 220 years, the activist conservative majority of the Court decided that the Second Amendment affirmed to individuals the right to possess handguns in the home. The Court expanded the meaning of the Second

Amendment to say it applied to private ownership of firearms. Still, the majority cautioned that the government had the power to regulate the purchase of firearms. In the majority opinion, Justice Antonin Scalia added, “Yes, there is an individual right, but it can be limited... and the extent of the limits are not really clear. Dozens of judges have ruled...and overwhelmingly they have upheld district gun laws. They’ve said, ‘Yes, there’s an individual right, but society, too, has a right to protect itself” (*D.C. v. Heller* 2008). As expected, the confusion spawned by the *Heller* case encouraged more than a thousand gun control cases in lower courts. In 2010, Chicago’s attempt to outlaw the possession of handguns by individuals was overruled by the Court based on Fourteenth Amendment arguments, not on the Second Amendment (*McDonald v. Chicago* 2010).

After 220 years of court cases affirming the right of cities, states and federal government to regulate different aspects of arms control, five activist conservative judges on the Supreme Court muddied the legal understanding to allow a complete capitulation to NRA’s radical view of America; one where everyone carries a gun at school, work, on the street, shopping, at the movies, essentially everywhere, with stockpiles of guns and weapons at home to stop an imaginary invasion of unknown menace. Perhaps LGBT people can lead the way out of this quagmire.

LGBT People To Lead The Way For Gun Control

Although the Second Amendment initially concerned itself with the relationship between the “militia” (now evolved into the National Guard) and the “right to bear arms” (muskets used by select men “regulated” in their military use), it recently morphed through

political processes to be the rallying cry for right-wing extremists. For example, during the 2016 presidential race, Republican candidate Donald Trump suggested in coded language that Second Amendment zealots kill his Democratic rival Hillary Clinton. Speaking about the U.S. Supreme Court, Trump stated that Hillary Clinton “wants to abolish, essentially abolish the Second Amendment. By the way, if she gets to pick her judges, nothing you can do, folks... although the Second Amendment people, maybe there is” (D’Antonio 2016). “Second Amendment solutions” are often mentioned by fringe figures in ways that clearly advocate people using guns in uprising against those they disagree.

Hatred toward LGBT people, easy accessibility to powerful guns, and repeated calls to violence have taken their toll. LGBT people are the most likely target of hate crimes in America according to data collected by the FBI in 2015 (Uniform Crime Reporting 2016). In general, LGBT people are twice as likely to be targets as are African Americans and surpasses the level of hate-motivated crimes against Jews. In a report issued by the Human Rights Campaign, more transgendered people were murdered in 2015 than in any other year on record (Addressing Anti-Transgender Violence 2016). Compounding the violence is internalized self-hate that many LGBT people feel. Sometimes internalized homophobia leads to suicide, including suicide by guns. LGBT teens and young adults have the highest rate of suicide attempts of any group (Bagley and Tremblay 2000; Shapiro 2008). Guns only make it easier for a distraught LGBT teen to end his or her life.

Yet through all this, the LGBT equal rights movement has been one of the most successful human rights movements in United States history. Since the founding of the

earliest homophile organization (the Mattachine Society) in the 1950s to the legalization of same-sex marriage in 2015, it has been a scant sixty-five years; far less time than it took to eliminate slavery and legal segregation, or for women to win the right to vote. Still, LGBT people face legal discrimination in over half the states with regards to employment and housing, and face constant fear from antigay violence (Lorenz 2016). University of Michigan professor Heather Thompson believes that LGBT organizations can make a major impact on the issue of gun control. As an expert on social movements in the United States, she claims the LGBT movement is “one of the country’s most successful social movements of the 20th century...[and] By deciding this [gun control] is going to be their next political issue, an incredible amount of resources, not just financial but human capital, will be going into it... [the community has also] developed an ‘architecture of support,’ such as gay newspapers, websites and community centers” (Cohen and Bonifield 2016). Thompson believes that the Pulse massacre may be the turning point in gun control politics because of the extensive community organizing and capacity demonstrated by the LGBT community; if they choose to make it their issue.

Reducing Anti-Gay Violence

If the LGBT community rallies around gun control, what policy positions and actions should it take?

1. Separation of Church and State

The primary source of antigay hatred and violence is religion. Regardless that there are some modern gay-positive religious organizations, the core tenants and stories of the Abrahamic religions (Judaism, Christianity, and Islam) are patriarchal, pro-slavery, misogynistic, and antigay. Academics may quibble over the exact translation and interpretation of specific words or phrases; but it does not change that these dominant Western religions are antigay. Sodomy laws in every state and city have kept LGBT people in a marginalized and persecuted status for more than two hundred years; and these were, and are, implemented and enforced by religious leaders and politicians.

Gay people grow up in antigay environments. It takes a toll on their psyche creating self-loathing and internalized homophobia. Overcoming internalized homophobia can take years. For some LGBT people, they will never throw off the shackles of their self-hatred. The road to self-esteem requires understanding that antigay stereotypes and epithets are false; not only false but created to develop shame in LGBT people for not conforming to heterosexist norms. From that understanding comes the emotional strength to stand up for one's rights; to stand up against bullies who gain compliance through intimidation. It is not just LGBT people who have to overcome internalized self-hatred, but also heterosexuals. The hatred they have for gay people is learned and comes from their religious leaders. As LGBT people teach themselves to overcome antigay feelings, they need to also teach their allies to overcome their antigay feeling. Considering the small percentage of the population that are LGBT, the only way legal and social change is achieved is through the cooperation of non-gay allies. It is important for LGBT political organizations to foster heterosexual allies.

The LGBT political movement needs to continue its effort to change antigay

religious institutions. Soulforce is one such organization that has made some headway in reducing religious antigay rhetoric from evangelical pastors. Another example is the Stop Prop 8 efforts in 2014 that revealed the unethical and illegal political activism headed by the Mormon Church to stop same-sex marriage in California. The Mormon Church lost in court and same-sex marriage was ultimately upheld in California. Many members of the Church felt betrayed and complained to Church leaders. That then led to a major shift in the Mormon Church. It reevaluated its severe gay condemnations and opened a dialogue with LGBT religious leaders. Although there was an initial softening against LGBT people in the church, in November 2015 the Church of Jesus Christ of Latter-day Saints issued new and extremely antigay edicts both banning same-sex married couples and their children from attending church. Over the next ten months, scores of Mormon LGBT teenagers committed suicide because of the new policy (Karger 2016). Change comes slowly to the Mormon Church. These and similar efforts to reduce antigay sentiments need to continue with every religious organization.

But when the vitriolic antigay sentiments expressed by some preachers came to light after the slaughter at Pulse gay nightclub, something more needs to be done. The LGBT political movement could become leaders in advocating for a strong separation of church and state. Religious fundamentalist and conservative Republicans often claim the United States was founded as a Christian state; that is absolutely not true. Many of the founders of the country explicitly stated that the United States was not a Christian state. Stephen Foster (2013) wrote a comprehensive article listing thirty-five quotes from founders of the United States demonstrating their desire to keep the state separated from religion. Here are a few of those quotes:

- *“If I could conceive that the general government might ever be so administered as to render the liberty of conscience insecure, I beg you will be persuaded, that no one would be more zealous than myself to establish effectual barriers against the horrors of spiritual tyranny, and every species of religious persecution.”*

~ George Washington, letter to the United Baptist Chamber of Virginia, May 1789

- *“The Government of the United States of America is not in any sense founded on the Christian religion.”*

~1797 Treaty of Tripoli signed by John Adams

- *“I contemplate with sovereign reverence that act of the whole American people which declared that their legislature should make no law respecting an establishment of religion, or prohibit the free exercise thereof, thus building a wall of separation between church and state.”*

~ Thomas Jefferson, letter to the Baptists of Danbury, Connecticut, 1802

- *“I am for freedom of religion and against all maneuvers to bring about a legal ascendancy of one sect over another.”*

~ Thomas Jefferson, letter to Elbridge Gerry, January 26, 1799

- *“Because religious belief, or non-belief, is such an important part of every person’s life, freedom of religion affects every individual. State churches that use government power to support themselves and force their views on persons of other faiths undermine all our civil rights. Moreover, state support of the church tends to make the clergy unresponsive to the people and leads to corruption within religion. Erecting the “wall of separation between church and state,”*

therefore, is absolutely essential in a free society. We have solved ... the great and interesting question whether freedom of religion is compatible with order in government and obedience to the laws. And we have experienced the quiet as well as the comfort which results from leaving every one to profess freely and openly those principles of religion which are the inductions of his own reason and the serious convictions of his own inquiries.”

~ Thomas Jefferson: in a speech to the Virginia Baptists, 1808

- *“Christianity neither is, nor ever was a part of the common law.”*

~ Thomas Jefferson, letter to Dr. Thomas Cooper, February 10, 1814,

- *“The civil government functions with complete success by the total separation of the Church from the State.”*

~ James Madison, 1819, Writings, 8:432, quoted from Gene Garman, “Essays In Addition to America’s Real Religion”

- *“No religious doctrine shall be established by law.”*

~ Elbridge Gerry, Annals of Congress 1:729-731

- *“Persecution is not an original feature in any religion; but it is always the strongly marked feature of all religions established by law. Take away the law-establishment, and every religion re-assumes its original benignity.”*

~ Thomas Paine, The Rights of Man, 1791

The LGBT rights movement should never forget that religion is the source of antigay hate and used to justify violence toward gay people. The Christian Right, organized in the 1970s with the founding of the Moral Majority, was instrumental in electing Ronald Reagan as president in 1980. Since then, the Religious Right has grown

in strength and numbers and a “culture war” has raged for decades between the Christian Right, fundamentalist, conservatives and Republicans, against the progressive secular left. The Christian Right’s ultimate goal is to transform the United States into a Christian theocratic state that outlaws abortion, demotes women to second class status, reinstates slavery, and strips LGBT people of all rights including advocating for their death.

The LGBT political movement and allies need to work hard at preventing the takeover of the United States by the Religious Right and implementation of religious law (which, ironically, would parallel Islamic Sharia law—the very terrorism the Religious Right warns against). The LGBT political movement should align with other civil rights groups. Some of the issues that they could advocate for include: (a) elimination of all laws that regulate sex between consenting adults including the legalization of prostitution; (b) reinstating taxes on religious property and income; (c) elimination of all tax benefits for religious organizations; (d) elimination of all government support for “faith-based initiatives”; (e) elimination of government sponsored “prayers” at publicly funded meetings; (f) removal of all religious displays on public property; and (g) support efforts to teach evolution and evidence-based science in schools.

As the 20th President of the United States James Garfield stated, “The divorce between the church and the state ought to be absolute. It ought to be so absolute that no church property anywhere in any State or in the nation should be exempt from equal taxation; for if you exempt the property of any church organization, to that extent you impose a church tax upon the whole community” (Debate 1874).

2. Strong Definition of Public vs. Private Activities

Religious Freedom Restoration Act (RFRA 1993) and related laws are problematic. RFRA carved out exception to law seen to burden religion. Initially passed to recognize the rights of Native Americans for the use of peyote during religious ceremony, the Religious Right saw RFRA as a way to counter the growing “threat” of gay rights. Following a number of high profile gay-rights cases including bakers refusing to make wedding cakes for same-sex couples and courts ruling in favor of the gay or lesbian couple, Religious Right leaders pressured many states to implement their own version of RFRA. After the U.S. Supreme Court decision in *Obergefell v. Hodges* (2015) that granted the fundamental right to same-sex couples to marry, even more states passed their own version of RFRA. As such, RFRA morphed away from protecting a very small minority of religious believers and became “used as a sword to discriminate against women, gay and transgender people and others” (Melling 2015). Instead of directly addressing the issue of peyote use by Native Americans, the law created a broad interpretation of the Constitution to allow exceptions to law. In many ways, RFRA only confused the issues of private behavior, public space, and public access law. For example, the bakers who did not want to make wedding cakes for same-sex couples could easily have avoided the issue if they became private businesses rather than one serving the general public. For example, there are still many private golf courses, gyms, and other businesses that require membership and, as such, hold discriminatory rules that are legal. Gay bathhouses are an example of private businesses that serve a select membership thereby allowing actions that could be deemed illegal. If they were open to the public, the activities inside the establishment would run foul of many morals statutes. But, by being

a private club using a paid membership process, members are expected to approve of the sexual behavior going on in the club and not violate public morals. Although it is not typical, a baker could transform into a private business and establish rules denying baking cakes for same-sex couples (or any other discriminatory guideline) and its members would be in agreement; and no public access law would be violated. Although once a major supporter of RFRA, the ACLU now no longer supports the act because of how it has become a tool to discriminate. Similar to the comments made about the separation of church and state, the gay rights movement should focus on overturning all RFRA laws and support a strong legal separation of public space over private activities. If a business is open to the general public, then it must provide for all and not discriminate under public access laws. Otherwise, it needs to transform into a private business serving a selected membership that requires the membership to buy into the membership (like Costco serves only members who pay annual dues) and not serve the general public.

3. Enshrining Equality of the Law

We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the pursuit of Happiness. (Declaration of Independence 1776)

The preamble of the Declaration of Independence held lofty goals for equality and hope for a fledging nation. Unfortunately, the U.S. Constitution was crafted in a world where women had virtually no rights, slavery was legal, strict gender roles held fast, and

sodomy laws were adopted from British Common Law and used mostly to smear and persecute those not conforming to heteronormative values. It would take a Civil War to free slaves but, unfortunately, the costly war did not address the political maneuvering that led to restricting the rights of newly freed slaves. Legal segregation, voting restrictions, Jim Crow laws, the formation of the KKK, and race-motivated violence swept the land keeping African Americans in second-class legal status. It would be another hundred years before real strides were made to dismantle legal discrimination through the use of numerous court cases (such as *Brown v. Board of Education* in 1954) and passage of the Civil Rights Act in 1964. Still, fifty years later there is great disparity between Whites and Blacks in the United States regarding income, incarceration rates, housing, and more. Basic civil rights and the elimination of vestiges of legal discrimination seem to take a long time to evolve toward the goals expressed by the founders of the country.

We have seen the same process with women's rights and gay rights. No one act seems to dismantle all federal and state laws that keep segments of the population in second-class status. Instead it takes generations of activists to change deeply entrenched prejudices and the laws that maintain the status quo. Academic research is clear, reductions in legal restrictions against classes of people leads to reductions in hate crimes and creates a more equitable society. For example, a study that looked into the effect pro-equality laws had on hate crimes showed that levels of hate crimes reduced following the implementation of such laws. Brian Levy of the University of North Carolina in Chapel Hill reported, "If you went from no states having these laws, to all states implementing them, you'd see a 27 per cent decrease in reported hate crimes," (Hamzelou 2016).

Achieving legal same-sex marriage was a milestone for the gay rights movement. But it is not the end of the struggle. In more than half the states, LGBT people can still be legally fired from their jobs and lose their housing simply for not conforming to heteronormative laws. The LGBT rights movement needs to continue fighting to remove all discriminatory laws at the federal, state, and local levels; not only to achieve equality but to reduce anti-gay violence.

4. Reducing Gun Violence: Standing up to Fraud

Reducing antigay violence is only part of the problem. The flood of guns in the United States makes antigay violence deadly and increases the likelihood a gun will be used in suicide. Reducing the availability of guns should be a goal of the LGBT rights movement.

LGBT people are well suited to take on the battle over gun control. Not only are they well organized but they also have the temperament to take on the gun industry and bullies. The process of coming out creates strong activists and, ultimately, LGBT people come to understand that all antigay stereotypes and religious condemnations are untrue. Becoming openly LGBT builds emotional strength to stand up to bullies.

The gun control discussion has been co-opted by the extreme political right. The forty-year campaign by the NRA funded by gun manufacturers successfully influenced conservative activist judges on the U.S. Supreme Court to expand the scope of the Second Amendment in the *D.C. v. Heller* (2009). For over 220 years, courts clearly understood the Second Amendment described the relationship between the federal

government and state militias. It said nothing about private ownership of weapons thereby allowing local, state, and federal governments to implement and enforce many gun control regulations. The gay rights movement needs to stand up to pro-gun bullies and not let them make the fraudulent claim the Second Amendment gives them the right to arms. It does not. LGBT activists need to support efforts by all level of government to control guns.

But the fraudulent claim about the Second Amendment is only one such falsehood spread by the pro-gun lobby. There are many others falsehoods that the LGBT community needs to stand up against.

a. Gun Violence is a Problem—Contrary to opinions of some right-wing pundits, gun violence is a problem. Approximately 33,000 Americans die each year from violence committed by a gun (about the same number who die in car crashes). Of those, approximately 63% are suicides, 32% are homicides, 1.6% are mass shootings, 0.54% are police actions, and accidents/miscellaneous are 0.11% respectively (Uniform Crime Reporting 2016; Fong 2016). When comparing the U.S. with other developed countries, Americans are ten-times more likely to be killed by guns than people in other developed countries and, even though the United States' suicide rate is similar to other countries, the nation's gun-related suicide rate is eight times higher than other high-income countries (Grinshteyn and Hemenway 2015). "Overall, our results show that the U.S., which has the most firearms per capita in the world, suffers disproportionately from firearms compared with other high-income countries... These results are consistent with the hypothesis that our firearms are killing us rather than protecting us," stated author Erin Grinshteyn (2010), assistant professor at the School of Community Health Science at the

University of Nevada-Reno.

The U.S. media tends to give coverage to “mass” killings (defined as four or more people killed at the same event), “terrorist” murders (the term “terrorist” is not clearly defined — just as Ormar Mateen was initially claimed to be a “Muslim terrorist” when, in fact, he was not), and high-profile gang violence. Yet the overwhelming majority of death by gun is suicide. Even within homicide with the use of a gun, in almost 80% of the time the murderer was either a family member or someone known by the victim (Crime in the United States 2011). Random killings by strangers are extremely rare yet the image of an unknown assailant (usually portrayed as being African American, Latino, or Muslim male in his early 20s) is the cornerstone of the political right fear mongering. Focusing on mass killings, terrorist threats, or high-powered weapons is misleading and perpetrates fear. Legislation to regulate high-power weapons is also misleading and doesn’t address the cause of the majority of gun deaths— the simple handgun. Considering the much higher rate of suicide attempt by LGBT youths, handguns are a major concern to high-risk youth. The LGBT political movement needs to stand up to pro-gun fraud to state that gun violence is a major health concern in the U.S., handguns are the primary problem, and gun violence has multiple factors requiring multiple approaches.

b. Often it is claimed, “The way to stop a bad guy with a gun is a good guy with a gun.” — In an interview conducted by Rebecca Peters of the International Network on Small Arms and primary activist that led to the reformation of Australia’s gun laws after the Port Arthur massacre in 1996, Republican Presidential candidate Donald Trump stated about the killings at Pulse nightclub, “If you had some guns in that club the night that this took place, if you had guns on the other side, you wouldn’t have

had the tragedy . . .” Rebecca Peters responded, “I mean, to have a crowded, dark place with a lot of noise and a lot of people moving around, to have more than—to have had another person shooting in that place, or many more people shooting in that place, that would have increased the danger. The idea that the answer to the problem of too many guns is an even larger number of guns makes absolutely no sense at all” (Peters 2016).

There are many reasons why the claim that a “good guy” with a gun can stop violence is false. The FBI reported that between 2000 and 2013, only 3% of active shootings ended with a “good guy with a gun” stopping the “bad guy,” yet in 20% of all cases, it was an unarmed good guys who stopped the active shooter (*A Study of Active Shooter Incidents* 2013). In a majority of all cases, the active shooter stops shooting because of either committing suicide or being shot by the police; not by a “good guy with a gun.” When police arrive at an active shooting incident, if there are multiple people with guns it is initially impossible to determine who are the “good guys” and who are the “bad guys.” Police are very hesitant to walk into these kinds of confusing situations and can easily shoot the wrong person. In 2001, ABC News conducted an experiment on their 20/20 television show to test the confusion surrounding an active gun incident (McNiff 2009). It is a very revealing video that demonstrates that even when the average person is trained in the use of a gun, they are not able to respond to the initial confusion of facing a shooter and could not defend themselves. LGBT people need to stand up to pro-gun activists who utter this “good guy with a gun” fraud (*Unintended Consequences* 2001). For a humorous yet hard-hitting and insightful review of gun control, see comedian Jim Jefferies 2015 Netflix “Bare” Special.

c. Confiscating Guns is a Policy Used by Dictators to Take Power — It is

often claimed that despots confiscate guns to disarm citizens as part of their process in taking control over a country. Although this may seem logical, historical evidence does not support this contention. The three examples most often cited are: Hitler and the rise of Nazism in Germany, the Communist take over in China, and Stalin's rise in power in the Soviet Union.

(1) “The NRA, Fox News, Fox News (again), Alex Jones, email chains, Joe ‘the Plumber’ Wurzelbacher, Gun Owners of America, etc., all agree that gun control was critical to Hitler’s rise to power. Jews for the Preservation of Firearms Ownership (‘America’s most aggressive defender of firearms ownership’) is built almost exclusively around this notion— popularizing posters of Hitler giving the Nazi salute next to the text: ‘All in favor of ‘gun control’ raise your right hand’” (Seitz-Wald 2013). However, the idea that Hitler confiscated guns to consolidate power is mostly false.

In Weimar Republic, the government immediately preceding Nazi Germany, tough gun controls were replaced with even tougher gun control legislation designed to comply with the Treaty of Versailles in 1919. It banned all private firearm possession and implemented a government program to confiscate all guns. A few revisions were made to the law over the next two decades and, in 1938, Hitler as the democratically elected Chancellor of Germany made further revisions to earlier law that completely deregulated the acquisition and transfer of shotguns, rifles, and ammunition. The new law exempted many categories of people from gun ownership regulations altogether and lowered the legal age to purchase guns from twenty to eighteen years of age. Hitler effectively reduced or

eliminated legal barriers to gun ownership for all but a few designated groups such as Jews, gypsies, and homosexuals (Harcourt 2004).

Often it is claimed Hitler said in 1935, “This year will go down in history! For the first time, a civilized nation has full gun registration! Our streets will be safer, our police more efficient, and the world will follow our lead into the future!” This quote can be found all over the Internet, yet no source is ever given for the quote and is most likely bogus. No gun registration legislation was enacted in 1935 and such a quote would have been unnecessary (Harcourt 2004).

(2) When researching the issue of gun ownership and control in China, two quotes (and variations) are often found on the Internet: “China established gun control in 1935. From 1948 to 1952, 20 million political dissidents, unable to defend themselves, were exterminated by their own government,” and “After the communist takeover, from 1948 to 1952, 20 million Chinese, unable to defend themselves, were murdered.” Neither quote has a reliable academic citation and cannot be found to first source. The only link is found to the organization Jews for the Preservation of Firearms Ownership (JPFO). These quotations (and similar ones attributed to Hitler’s rise to power by confiscating guns) are fabrications of JPFO. “There is literally no law during the revolutionary period that prohibited anyone from having any guns. There is absolutely no source for claiming that the Party took people’s guns away. The claim that Mao or communism took guns away from people is completely made up... There is no trace of gun control in the revolutionary period, there is however very strict control under capitalism” (Unruhe 2011).

(3) Omer Bartov, a historian at Brown University commented about Stalin and gun control: “the very idea of either gun control or the freedom to bear arms would have been absurd to him [Stalin]. His regime used violence on a vast scale, provided arms to thugs of all descriptions, and stripped not guns but any human image from those it declared to be its enemies. And then, when it needed them, as in WWII, it took millions of men out of the Gulags, trained and armed them and sent them to fight Hitler, only to send back the few survivors into the camps if they uttered any criticism of the regime” (Seitz-Wald 2013).

Together, there is no direct evidence of despots disarming the populace through gun control regulation in order to seize control and establish a dictatorship. LGBT activists need to stand up against these fraudulent claims.

d. Spreading Misinformation — A common technique used to obfuscate any discussion is to spread misinformation. As mentioned before, the Jews for the Preservation of Firearms Ownership (JPFO) seems to have created some “data” to further their agenda. There are many examples of misinformation spread by the pro-gun lobby. One such report that obtained a considerable following was an undated article on BeliefNet website titled “Harvard University Study Reveals Astonishing Link Between Firearms, Crime and Gun Control.” The study claimed that there is a direct relationship between greater gun ownership and less criminal activity. However, the study with its astonishing findings was in fact a “polemic paper penned by two well-known gun rights activists. Its findings were neither peer-reviewed nor subject to academic scrutiny of any sort prior to its appearance, and the publication that carried it was a self-identified

ideology-based editorial outlet edited by Harvard students ... it was simply not deemed noteworthy at the time it was published due to the fact it was neither a study nor much more than a jointly-written editorial piece representing its authors' unsupported opinions" (LaCapria 2015).

The LGBT community needs to encourage legitimate academic research and strongly decry the fraudulent use of misinformation.

5. Strategies for Reducing Gun Violence

a. Support Science-Based Research into Gun Violence — In 1996, Congress inserted the Dickey Amendment into the federal government omnibus spending bill which mandated that “none of the funds made available for injury prevention and control at the Centers for Disease Control and Prevention (CDC) may be used to advocate or promote gun control” (Public Law 104-208). The amendment came about because of displeasure by the NRA with a study conducted by Arthur Kellermann et al and partially funded by the CDC in 1993 that found guns in the home were strongly associated with increased risk for homicide in the home (Kellermann et al. 1993). Later, Jay Dickey, an Arkansas Republican Congressman, regretted passage of the bill and stated that he wished scientific research had continued. In 2015, the American Medical Association (AMA) lobbied Congress to overturn the Dickey Amendment since gun violence is viewed as a “public health crisis” (Mangan 2016). Immediately after the Pulse massacre, the AMA again urged Congress to take action and lift the funding ban. “It is 100 percent

a public health problem,” Bindu Kalesan, assistant professor at Boston University’s School of Medicine, agreed, “The question becomes, what do you mean by public health? Smoking is a public health problem because it causes a lot of diseases and it is also preventable. Gun violence is 100 percent preventable” (Schumaker 2015). The LGBT community needs to actively support funding by CDC and other agencies into gun violence.

b. Programs Already Proven to Work — There are many gun control programs and some research to show which ones are effective (Leshner et al. 2013). Entire books have been written on this topic so only a few will be addressed here.

Dr. Julian Santaella-Tenorios of Columbia University Department of Epidemiology along with Columbia professors Magdalena Cerdá and Sandro Galea, as well as the University of North Carolina's Andrés Villaveces, examined roughly 130 studies that had been conducted in 10 different countries regarding firearm legislation and firearm related injuries (2016). Each of these 130 studies looked at some specific changes in gun laws and its effect on homicide and/or suicide rates. Most of those 130 studies looked at law changes in the developed world, such as the US, Australia, and Austria whereas a few looked at gun laws in developing countries, specifically Brazil and South Africa. The study found:

- Most importantly, gun violence declined after countries pass a raft of gun laws at the same time: The simultaneous implementation of laws targeting multiple firearms restrictions [such as banning automatic weapons] is associated with reductions in firearm deaths.
- [All gun control laws] included background checks.

- They all required permits and licenses for purchasing guns.

In reviewing studies just in the United States, they found that there is a strong relationship between restricting access to guns and a reduction in gun deaths. For example, a study of Missouri's 2007 repeal of its law requiring a permit to purchase a firearm (essentially, reducing background check) found that Missouri's homicide rate jumped by 25 percent immediately after the change in law. No other changes in law or circumstance appear to be able to explain the increase. Similarly, the Center for American Progress conducted research and found the same correlation: gun abuse is directly related to the levels of gun controls (Lichtblau 2016; Parsons and Vargas 2016).

President Ronald Reagan, as a Republican was a proud member of the NRA. Even after being shot in an assassination attempt in 1981, he called for the abolition of the Bureau of Alcohol, Tobacco, and Firearms—the agency responsible for enforcing federal gun safety laws. Yet, two years later he surprised the nation by endorsing the proposed Brady Law. Jim Brady, Reagan's press secretary, was severely wounded in the assassination attempt that left him partially paralyzed. Reagan's support for the law helped with its eventual passage in 1983. Later, in 1994 Reagan (along with former presidents Gerald Ford and Jimmy Carter) endorsed the Federal Assault Weapons Ban signed into law by President Bill Clinton. Unfortunately, the ban was allowed to expire in 2004 and neither president George W. Bush nor Barack Obama sought its reenactment. The marketplace in assault weapons greatly blossomed after the law's demise.

Probably the clearest case where gun control made a major difference with regard to gun violence are the actions taken by the Australian government. The 1980s saw an increase in the number and level of violence in crimes committed in Australia. This

culminated with the 1996 Port Arthur massacre where thirty-five people were killed and twenty-three wounded. The shooting shocked the country and both political parties came together to pass bi-partisan comprehensive gun control. Since the passage, there have been no mass shootings and overall gun violence has plummeted. Mostly the law established and enforced regulations related to the purchase, registration, and tracking of guns besides the importation, storage, and conditions under which people could own guns. It ban semiautomatic weapons, rifles, shotguns and assault weapons. The law also clearly stated about how guns were to be removed from persons not eligible for gun ownership. For example, if someone didn't qualify to own a gun (like being a felon), they would lose their license and their guns; they were required to turn their guns in. A buyback program was implemented. Over a million guns have been collected and destroyed in Australia (Peters 2016).

Hawaii, already with the lowest gun death rate of any state and fairly strict gun control laws, enacted three new gun control measures in the aftermath of the Pulse massacre. Now everyone who owns a gun is automatically entered into the FBI monitoring database, adds stalking and sexual harassment to the list of qualifications that disqualify people from buying guns, and requires all who have been diagnosed with a major mental disability to surrender their guns to authorities (Foster June 24, 2016).

From these examples come ideas that work and the LGBT community needs to support and promote such programs.

c. Other Suggestions — Some people have looked closely at the issue of responsible gun ownership. Owning a gun, or a house, or a car, and so on comes with

personal and social responsibilities. Here are some of the suggestions that have been discussed and sometimes implemented in gun regulation legislation:

1. When buying a gun, it is to be registered with local police who also enter it into a national registry. The gun manufacturer is to keep detailed records of where and to whom their guns and ammunition is sold.

2. The purchaser needs to be over a set minimum age, meet certain medical status, be qualified to own a gun (currently many categories of people are not allowed to own firearms including felons persons on a terrorist watch list, convicted of previous gun crime, convicted of domestic violence and abuse, and others), receive certified training, pass a test, carry liability insurance, show proof of adequate and secure storage, and more.

3. Establish, by law, that the purchaser of a firearm and ammunition to be fully responsible for any crime that may be committed with his or her firearm or ammunition. This one step would solve most of the problems with guns. The owner of guns would be encouraged to keep them safely secured in a locked box making it less likely for children to have access or for use in suicide. They would be less likely to loan guns to friends, sell their guns without formal title transfers, less eager to carry their guns into public spaces, and less likely to carry them in their cars (Miller 2016). It would virtually eliminate all criminal purchases (otherwise known as “straw” purchases where one person buys a gun and gives or sells it to another without reporting the transfer of ownership). Now if the gun or ammunition is used in a crime, the original purchaser is culpable. If the owner claims the gun was stolen, there would need to be a police report

verifying the claim. The police are to destroy all guns used in a crime.

Republicans often claim to be the party most concerned with personal responsibility. They should strongly approve the implementation of this law.

4. If a person's legal status changes due to incarceration or other acts that now reclassifies the person as being ineligible to own guns, all guns and ammunition owned by the person should be confiscated and destroyed.

d. Take the "Macho" Out of Gun Ownership — As discussed earlier in this essay, the gun industry changed its advertising approach in the late 1800s and early 1900s to glamorize guns and transform them from necessary tools to lifestyle accessories. Part of that transformation was to attribute the use of guns with being strongly masculine; i.e., a "macho" man. In recent years, movies and video games have been replete with Rambo-styled characters, huge body counts, and stylized gun attacks. One of the great advantages out gay men have is to no longer be controlled by measures of masculinity. Being called a sissy or worse has no affect on openly gay men. As such, out LGBT people are the perfect class of people to challenge the "macho" image of gun ownership.

e. Hold Media Accountable — Howard Friel, editor of *Guns and the Constitution*, studied news coverage on the issue for an article in Extra!, FAIR's magazine: "While the NRA's interpretation of the Second Amendment (focused only on the 'right to bare arms' and ignore the preamble: "A well regulated militia . . .") is repeatedly cited in newspapers and on TV, the federal judiciary gets virtually no coverage." When reporters matter-of-factly describe a politician as "a supporter of the Second Amendment," the well-established judicial view (that the Second Amendment has nothing to do with personal ownership of arms) isn't even in the picture (Friel 1996).

The LGBT community should insist that media correctly identify the meaning of the Second Amendment and not accept the NRA's interpretation. The gay organization Gay and Lesbian Alliance Against Defamation (GLAAD) could be instrumental in holding media accountable on the correct interpretation of the Second Amendment.

f. Forming Partnerships with Other Control Advocates Such as Police — There are many organizations whose mission is to reduce gun violence. Not surprising, many police organizations advocate for strong gun control. Police are at the forefront of interacting with a public that has too many guns. With more than 300 million firearms in the U.S., a simple traffic stop can be a life-or-death altercation with police. If the prevalence of guns was sharply reduced, police officers would not need to be on such high alert each time they interacted with the public; and police shootings would reduce. Organizations such as “Black Lives Matter” have a point about police over-reacting to perceived threat. If guns were rare, police would be much less likely to pull guns on suspects and accidental shootings would reduce. The LGBT community should reach out to law enforcement and support such organizations as the International Association of chiefs of Police (IACP), National Law Enforcement Partnership to Prevent Gun Violence (NLEPPGV) [which is comprised of: Commission on Accreditation for Law Enforcement Agencies, Inc. (CALEA); Hispanic American Police Command Officers Association (HAPCOA); International Association of Campus Law Enforcement Administrator (IACLEA); International Association of Chiefs of Police (IACP); Major Cities Chiefs Association (MCCA); National Association of Women Law Enforcement Executive (NAWLEE); National Organization of Black Law Enforcement Executives (NOBLE); Police Executive Research Forum (PERF); and Police Foundation (PF)], and

many others.

Conclusion

The mass murder of forty-nine people along with the wounding of fifty-three others at the Orlando Florida gay nightclub—Pulse—was a terrible tragedy. The gay people (and some parents and friends) were killed for being at the gay club. The crime was committed because of hatred of LGBT people. Regardless that right-wing commentators, church leaders, Republican politicians, and talk-show opportunists reported that this was a terrorist Muslim attack, it was a gay hate crime originating in a country that promotes hatred toward gays.

Hatred toward gays is nothing new. For hundreds of years, sodomy laws classified same-sex behaviors as an illegal perversion necessitating incarceration and sometimes death by capital punishment. Since the 1950s, an organized pro-homophile movement slowly formed and made inroads against legal discrimination. The Stonewall Riot in 1969 sparked the formation of hundreds of gay and lesbian organizations across the nation. The poor response by the government concerning HIV and AIDS in the 1980s sparked even more organizing but, most importantly, brought in many more non-homosexual allies.

Pro-equality allies are very important to LGBT rights. Because LGBT people represent such a small percentage of the population, the only way antigay laws can be overturned is for non-gay allies to advocate for equality. LGBT people and their allies have worked together to reduce antigay hatred spewed by religious and political leaders.

Considering that LGBT people can still be fired from their jobs or denied housing in more than half the state indicates that the struggle for LGBT equality continues.

Anti-gay hatred has its origins with religion. The LGBT community needs to continue its efforts to educate religious leaders to reduce or eliminate their anti-gay message and, most importantly, become strong advocates of separation of church and state. It is time to reduce the moral prejudice religion preaches against LGBT people. The U.S. was not founded as a Christian state and effort must be made to prevent radical Christians from transforming the U.S. into a theocratic state.

Some of the conflicts over gay-rights in the U.S. stems from a conceptual misunderstanding between private and public behaviors. Legislation such as RFRA only confuses the issue and spawns thousands of lawsuits. The LGBT community needs to strongly support a legal bright line between private and public spheres and advocate for overturning RFRA laws.

High-power weapons used by Omar Mateen facilitated the murders at Pulse. The level of destruction in such a short time would have been impossible without these weapons. Some political analysts believe the LGBT rights movement is perfect for taking on the gun lobby and influence gun control policies.

There are many challenges in discussing gun control in the U.S. First is the misconception that people have a Constitutional right to own and use weapons. The Second Amendment is often cited as the source of that unabridged right. For over 220 years, it was well understood by courts that the Second Amendment described the relationship between the federal government and state militias; and that the Amendment was a vestige of slavery. Not until 2008 was this understanding undermined by

conservative activist judges on the Supreme Court who gave a new interpretation and ruled that the Second Amendment affirmed the right of individuals to possess handguns in their home. This new interpretation came after forty years of activism and lobbying efforts by the National Rifle Association (NRA). Some judges were aware of this subterfuge and were vocal about how fraudulent the new interpretation was. The LGBT community needs to advocate for the original wording of the Second Amendment. There is no Constitutional right to own guns. That said, there is nothing to stop pro-gun advocates from crafting a new amendment to the Constitution to ensure private ownership of weapons and shepherding it through the approval process; but the Second Amendment should not be tortured, maligned, and re-interpreted to confer that right.

There has always been arms control in the U.S. History is replete with examples of cities, states, and the federal government enacting controls over weapons. Certain citizens are precluded from owning weapons. The types of weapons and ammunition citizens can own are also restricted. But by the directed efforts of gun manufacturers through the NRA and helped by conservatives and Republican politicians, America has been flooded with over 300 million handguns and rifles.

By any measure, gun violence is a problem in the U.S. There are many falsehoods perpetrated by the pro-gun lobby that the LGBT community needs to reveal and stand up to. Truths that need to be promoted include: gun violence is a real problem; a “good guy” with a gun is not an effective way to stop a “bad guy” with a gun; dictators have not used the confiscation of weapons as an effective means to consolidate power; and misinformation must be denounced. Activities the LGBT community should support include: encouraging science-based research into gun violence; enactment of

comprehensive gun control legislation; and review of programs that are effective at reducing gun violence. Specific recommendations include: the purchase of all weapons to be registered with police and recorded in a national registry; national definitions about who can own what kinds of weapons and the requirements for ownership (such as training, insurance, storage, minimum age, etc.); make the weapon purchaser liable for any crime the weapon may be involved or misused by family and friends; implement some kind of buy-back program; and remove and destroy weapons from those not qualified to own them or who engages in prohibited activities. Organizations such as GLAAD should include in their media watch awareness when incorrect definition of the Second Amendment are used and not allow it to degrade into meaning that the Amendment gives the absolute right to own weapons.

This article does not advocate for the prohibition of any particular kind of weapon nor for the confiscation of guns except for those precluded by law from owning guns (such as criminals). The definition of which weapons are to be prohibited and the classes of people denied the right to own guns are to be determined through open discourse based on scientific research and not political lobbying.

Finally, the LGBT community is unique in facing the “coming out” process. This takes years of reflection and deep strength of character. Ultimately, LGBT people learn not to be bullied by pejorative terms that imply weakness— such as a gay man being called “sissy” or lesbian called “dyke.” From this strength comes the ability to talk about guns without worrying about looking weak or maintain a “macho” persona. This holds true for any discussion about weapons. Taunts and stereotyping no longer work against open LGBT people and, instead, real issues can be discussed. The shooting at Pulse was a

terrible tragedy and the LGBT community could use this discussion to springboard a national effort to consolidate and advance rational gun control.

In Honor of those Killed at Pulse Gay Nightclub June 12, 2016

Edward Sotomayor Jr., 34 | Stanley Almodovar III, 23 | Luis Omar Ocasio-Capo, 20 |
Juan Ramon Guerrero, 22 | Eric Ivan Ortiz-Rivera, 36 | Peter O. Gonzalez-Cruz, 22 | Luis
S. Vielma, 22 | Kimberly Morris, 37 | Eddie Jamoldroy Justice, 30 | Darryl Roman Burt II,
29 | Deonka Deidra Drayton, 32 | Alejandro Barrios Martinez, 21 | Anthony Luis
Laureano Disla, 25 | Jean Carlos Mendez Perez, 35 | Franky Jimmy Dejesus Velazquez,
50 | Martin Benitez Torres, 33 | Luis Daniel Wilson-Leon, 37 | Mercedes Marisol Flores,
26 | Amanda Alvear, 25 | Xavier Emmanuel Serrano Rosado, 35 | Gilberto Ramon Silva
Menendez, 25 | Simon Adrian Carrillo Fernandez, 31 | Oscar A Aracena-Montero, 26 |
Enrique L. Rios, Jr., 25 | Miguel Angel Honorato, 30 | Javier Jorge-Reyes, 40 | Joel
Rayon Paniagua, 32 | Jason Benjamin Josaphat, 19 | Cory James Connell, 21 | Juan P.
Rivera Velazquez, 37 | Luis Daniel Conde, 39 | Shane Evan Tomlinson, 33 | Juan Chavez
Martinez, 25 | Jerald Arthur Wright, 31 | Leroy Valentin Fernandez, 25 | Tevin Eugene
Crosby, 25 | Jonathan Antonio Camuy Vega, 24 | Jean Carlos Nieves Rodriguez, 27 |
Rodolfo Ayala-Ayala, 33 | Brenda Lee Marquez McCool, 49 | Yilmary Rodriguez
Solivan, 24 | Christopher Andrew Leinonen, 32 | Angel L. Candelario-Padro, 28 | Frank
Hernandez Escalante, 27 | Paul Terrell Henry, 41 | Antonio Davon Brown, 29 |
Christopher Joseph Sanfeliz, 24 | Akyra Monet Murray, 18 | Geraldo A. Ortiz-Jimenez,

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[1.amazonaws.com/files/assets/resources/HRC-AntiTransgenderViolence-0519.pdf](http://hrc-assets.s3-website-us-east-1.amazonaws.com/files/assets/resources/HRC-AntiTransgenderViolence-0519.pdf)

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