

Enforcement of Gun Control Laws and Minority Communities: Finding the Right Balance
Between Public Safety and Limiting Mass Incarceration

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Introduction

Ever since the resurgence of the Black Lives Matter movement after the brutal murder of George Floyd, people have been focusing more and more on racial justice. This focus has brought about many questions, including how different laws affect communities of color. One area that has been talked about more since the resurgence has been about gun policy. I have personally observed conversations on different social media platforms about what the leftist stance on gun control is. Most people came to the conclusion that the true leftist stance on gun control is to be opposed to it, because it discriminates against minority communities. There is a debate in the leftist community about gun control. Some believe all forms of gun control are bad, while others believe that some are negative while others are necessary for public safety. Todd C. Hughes and Lester H. Hunt agree that not every liberal is supportive of gun control. They wrote “broad bans on firearms are in fact not liberal policies at all” (Hughes and Hunt 2000, 1). They talked about how governmental policies are considered unjust and not liberal if they violate certain principles, which include autonomy, neutrality, and equality. They argue that gun control does violate these principles. Hughes and Hunt refer to leftists as “wide liberals,” as opposed to “narrow liberals,” people who are not as far left. They wrote “the emphasis that wide liberalism places on the autonomy principle creates a strong presumption in favor of liberty that makes it extremely difficult to justify almost any sort of ban on firearms, since such a ban would be an infringement on liberty” (Hughes and Hunt 2000, 14). People who identify as right wing also tend to favor loose gun laws, but for different reasons. The right wing community usually views lots of gun control laws as an encroachment on the second amendment. Some also feel like they have to protect themselves against minorities because they are afraid of them. People more

in the middle of the political spectrum believe strict gun control will work in reducing the amount of gun crime in America. Questions that I have come up with based off of these conversations are “does gun control really discriminate against minorities? Are gun laws enforced more strictly against non-white people than they are towards white people? If yes, are there certain gun control laws that do discriminate against minorities and others that either do not have an effect or actually help minorities?” I hypothesize that the enforcement of some gun control laws do discriminate against minority communities, while others help those communities. I predict that banning specific types of guns will discriminate against minority communities, while adding certain regulations like ERPO laws could help minorities. (ERPO stands for Extreme Risk Protection Order. They are more commonly known as Red Flag gun laws, which is when a person can alert a judge when they think someone they live with should not own a gun, and if the judge agrees they are temporarily taken away). To find out, I compared the arrest rates in New York City and South Carolina. I compared these two locations because New York City has several gun restrictions, while South Carolina does not. I looked at the racial breakdown of the prison inmates who were arrested for gun crimes and compared them to each other. I also compared the racial breakdown of the arrest rates for firearm offenses in New York City to other crimes in the city. I then compared the racial breakdown of firearm offenses from 2008 to 2020, because I wanted to compare before and after the SAFE Act was passed to see if that had any effect on the rate of minorities being arrested. The SAFE Act stands for Secure Ammunition and Firearms Enforcement Act, and it is a gun control bill that was passed in New York City in 2013 after the Sandy Hook shooting. It includes provisions like tightening restrictions on assault rifles and limiting magazine size. I then compared New York City arrest rates to South Carolina arrest rates. I looked to see if there were more minorities in prison for gun crimes in New York City

than South Carolina. Owning a handgun without having a permit to carry constitutes a gun crime in South Carolina. I obtained my information from the New York Police Department's year end enforcement reports, the South Carolina Law Enforcement Division, and the South Carolina Department of Public Safety.

Literature Review

The mainstream media does not always cover the full story when it comes to complex issues, and the issue of gun violence is no exception. The mainstream media, both conservative and more liberal sources, tend to focus on the mental health aspect of gun violence and mass shootings, which is not the full story. A team of researchers put together a study where they examined different news articles from the left, center, and right of the political spectrum. They then used automatic news frame detection to determine the frame of the articles. They found that all types of news media outlets politicized the issue of gun control after mass shootings. They also found that many right-leaning and neutral news sources classified the issue of gun violence as a mental health issue. The researchers wrote: "This finding about the conservative media is not surprising because connecting mental illness and mass shooting has been a common stance among pro-gun Republican leaders (i.e., 'guns don't kill people, people kill people'). More surprisingly though (and contrary to the common perception of mainstream media such as The New York Times, CNN, and CBS being liberal-leaning), our study suggests that these neutral, mainstream media has also largely framed the issue from the aspect of mental health, often more than the conservative media, which may indicate conservative media's strong agenda-setting power in the U.S. media ecosystem" (Liu, Guo, et. al, 2019). There are many other aspects, including domestic violence, street crime, police brutality, accidental gun homicides and

suicides, and much more. Another one of the aspects that is overlooked by mainstream media is whether or not gun control is enforced differently among various groups of people.

A book that describes the history of the racist beginnings of gun control is “This Nonviolent Stuff’ll Get You Killed” by Charles E. Cobb. The book is about how guns helped Black Americans defend themselves from the Reconstruction Era to the Civil Rights Movement, and that just because someone carried guns did not necessarily mean they supported violence. Cobb wrote about the violence Black Americans had to defend themselves from, from the Ku Klux Klan to white militias to the police, and how restricting access to guns ended up hurting Black people. Cobb pointed out that many activists at that time who called themselves nonviolent, including Dr. Martin Luther King, had guns for self protection. Cobb wrote “But King also acknowledged that there could be value in armed self-defense. ‘When the Negro uses force in self-defense,’ the advocate of nonviolence wrote in his response to Williams, ‘he does not forfeit support-he may even win it, by the courage and self-respect it reflects’”(Cobb 2014, 111-112). Although people remember Dr. Martin Luther King as a pacifist, he also recognized the importance of armed self-defense. An article that also explores this concept is “The Racist Roots of Gun Control” by Clayton E. Cramer. He wrote about how gun control laws have a racist inception, and lots of them came from fears white people had about Native Americans, and later on freed slaves: “governments openly stated that gun control laws were useful for keeping blacks and Hispanics ‘in their place’ and for quieting the racial fears of whites...In Louisiana...the importance of hunting to the colonial economy necessitated that slaves sometimes possess firearms” (Cramer 1995, 17). White fear and white fragility were a large part of the reason why gun control laws came about in the first place.

There is also literature about both the historical and current situation of how gun control has disenfranchised minority communities, and how the differences in people's economic situations, race, and environment they live in can cause that. In the article "Benevolent Racism: Upholding Racial Inequality in the Name of Black Empowerment," the authors are not actually opposed to gun control, but they do believe that using race as an excuse to be against gun control is a form of benevolent racism, or something that is meant to be empowering to people of color, but ends up being racist. The authors wrote "The problem, however, is that this emphasis on self-reliance and personal protection as solutions to violent crime ignores or downplays the multitude of structural and environmental factors--and their social-psychological effects--that promote high rates of homicide and interpersonal violence in urban Black communities" (Esposito and Romano 2014). They believe that saying Black people owning guns solves the problems they are disproportionately affected by downplays core reasons that cause those problems, like lack of access to quality education and food, and mass incarceration, and diverts attention away from solving these problems. On the other hand, author Robert J. Cottel feels differently. He disagrees with people on both sides of the argument, and also feels that arguments about gun control are too simplistic, but he feels as though guns can help minorities: "Not only do urban areas tend to gain in their fight against crime, but reductions in crime rates are greatest precisely in those urban areas that have the highest crime rates, largest and most dense populations, and greatest concentrations of minorities" (Cottell 1999). As was stated before, the way laws are enforced against white people and people of color differently is the reason why certain gun control laws can be discriminatory. Chris M. Messer, Krystal Beamon and Patricia A. Bell wrote about this, and cited the Tulsa Race Riot of 1921 as an example. They wrote "Many blacks not only attributed the riot to the immediate tactics of the police, but they also deployed a set of black

counter-frames that resulted in their legitimatization of self-protection due to a history of lived discrimination” (Messer, Bea mon & Bell 2013). This proved to people that their need for self-protection from white people and from the police were legitimate. Another scholar who wrote about the discriminatory beginnings of gun control and how that still exists today is Stefan B. Tahmessebi. In his article “Gun Control and Racism,” he wrote about how the first gun control laws came about in the Antebellum South that prohibited Black people, both freed and slaves, from owning guns and keeping them in servitude. After the Civil War, strict gun control laws were passed to take away their newly gained freedom. Tahmessebi also wrote about how gun control laws in the early 19th and 20th centuries were implemented to disarm agrarian reformers in the South and union organizers in the North. He wrote “ During the later part of the 19th century and the early part of the 20th century, gun control laws were passed in the South in order to disarm agrarian reformers and in the North to disarm union organizers. In the North, a strong xenophobic reaction to recent waves of immigrants added further fuel for gun control laws which were used to disarm such persons. Other firearms ownership restrictions were adopted in order to repress the incipient black civil rights movement” (Tahmessebi 1991).

There is also literature that focuses on how modern gun control laws discriminate against minority communities, whether they were meant to or not. Sociologist Jennifer Carlson has written extensively on this, including articles that focus on policing, the discriminatory aspects of gun licensing, the racialized nature of trauma caused by gun violence, and how a lack of understanding of this can lead to gun laws that are ineffective (Carlson 2012). She also performed an intersectional analysis of gun carry licensing and how it can be harmful to minority communities, especially Black men. Even if they are legally armed, law enforcement assumes that they are dangerous. Carlson wrote “Not only were African American men disproportionately

called into the gun board, but they also were exposed to a different set of racialized and gendered demands to obtain a license. This article thus examined the gun board as a degradation ceremony that featured two controlling images of Black masculinity—the Thug and the Deadbeat Dad—to discipline African American men” (Carlson 2017). She proved it is harder for Black men to acquire gun licenses than white men because of harmful stereotypes and biases held by law enforcement. Nicholas J. Johnson also discussed how the biased application of gun laws can target people of color in negative ways: “Where sheriffs and county governments embrace and facilitate a culture of defiance, should we expect that to play out in a purely egalitarian way? Or should we expect defiant sheriffs and county officials to exercise their discretion in a way that favors known constituents, locals, and cronies, with tougher enforcement against outsiders, such as those who are readily identifiable by race?” (Johnson 2020).

Another aspect of this problem is how gun control laws can negatively affect immigrants, which Pratheepan Gulasekaram wrote about in “Aliens with Guns: Equal Protection, Federal Power, and the Second Amendment.” They wrote about immigrant restrictions in gun laws, and how conversations about immigration often overlook how the second amendment applies to immigrants. Gulasekaram wrote “Purporting to survey the field, one legal encyclopedia flatly concludes, ‘noncitizens do not have the right to bear arms under either the Federal Constitution or most state constitutions.’ Despite this pronouncement, no federal court has actually come to this conclusion, because no such court has addressed the question. The handful of state courts that have considered the issue have not produced consensus” (Gulasekaram 2007). Gabriel Arkles wrote about immigrants, as well as queer people of color, in his article “Gun Control, Mental Illness, and Black and Trans Lesbian Survival.” He wrote about how queer people of color are the most likely to experience hate crimes, but when they try to fight back against their

attackers, they oftentimes get prosecuted, while their white attackers get acquitted. The victims who are queer and/or people of color are a lot of times found guilty, like in the Jersey Seven case (Arkles 2013). T. Markus Funk also wrote about how certain gun control laws can discriminate against vulnerable populations in “Gun Control and Economic Discrimination: The Melting-Point Case-in-Point.” He wrote about how some states implemented “melting point” laws. South Carolina, Hawaii, Illinois, and Minnesota have enacted these laws. These laws put a “melting point” requirement on guns and outlaws handguns with less than a certain tensile strength and handguns made of a powdered metal less than a certain density. Tensile strength is the resistance of the metal to longitudinal stress. Funk argues that this is a form of economic discrimination. Funk wrote that the handguns that do not meet the melting point requirement are made of cheaper materials and are therefore less expensive. He pointed out that poor communities are disproportionately victims of crime, and these are the very same people that are harmed by these melting point laws because they make them harder to defend themselves. To make matters worse, low-income communities cannot always afford security alternatives to guns, like buying alarm systems, and law enforcement does not protect low-income communities the way they do higher-income communities. Instead, police are sometimes the cause of violence. Without poor people being able to afford more expensive security alternatives to guns and not being able to rely on police, it is even worse that these laws are making handguns more expensive (Funk 1996).

More recently, people have also used racism as a reason to oppose gun control. Researchers have found that white people are against gun control because of racism. Alexandra Filindra and Noah J. Kaplan surveyed white people and found that racism was a factor in opposing gun control. They knew that after the National Rifle Association had become

politicized in the 1970s, white people saw minorities as “enemies of freedom,” and this made white people want to have loose gun laws. The study found that not much has changed. Another study they performed measured how well respondents were able to distinguish between someone holding a weapon and an object that is not a weapon. The study found that people had a harder time being able to tell whether or not an object was a weapon if it was in the hands of a Black person. The study also found that “Racial resentment is a statistically significant and substantively important predictor of white opposition to gun control” (Filindra and Kaplan 2015). Another study had similar findings. They found that “Symbolic racism was related to having a gun in the home and opposition to gun control policies in US whites. The findings help explain US whites’ paradoxical attitudes towards gun ownership and gun control. Such attitudes may adversely influence United States gun control policy debates and decisions” (O’Brien, Forrest, et. al. 2013) This study showed that many white gun owners hold racist attitudes, and that being white and racist also makes someone more likely to oppose gun control laws. This could be due to the fact that they are afraid of minority communities and feel like they have to protect themselves. These biases held by racist white people could result in hate crimes against the Black community, and if there are strict gun control laws, Black people may not be able to protect themselves.

Another aspect of the gun control debate is whether or not making certain guns illegal will actually work. Kwon et al. (2010) found that gun control laws have an insignificant effect on the amount of gun related deaths, while socioeconomic factors like unemployment rate, a state’s poverty level, and alcohol consumption have a noteworthy effect on gun deaths (Kwon, Scott, et. al 2010). This adds to the argument that banning something will not stop people from acquiring it. The same logic can be used for the marijuana and abortion debates; if you ban those things,

people will either go to a different state where it's legal, or get it illegally. The same can be said for guns. Lance K. Stell agrees that strict gun control simply does not work. Through his research, he demonstrated that reducing the number of guns does not reduce the overall homicide rate. He wrote "Since the homicide rate varied remarkably over the last one hundred years but the percentage of homicides committed with guns did not, the latter figure cannot provide an explanation for the former. Instead of giving us insight, a century's worth of data says that America's homicide rate is virtually independent of the percentage of homicides committed with guns" (Stell 2004, 40). In summary, lessening the number of guns will not make the homicide rate decrease.

The other side to this debate is that gun control laws are helpful to everyone, especially minority communities. A study by Gary Kleck and E. Britt Patterson found that although gun control levels tend to not have an effect on rates of violence, there were exceptions to this: "of 108 assessments of effects of different gun laws on different types of violence, seven indicated good support, and another eleven partial support, for the hypothesis of gun control efficacy" (Kleck and Patterson 1993). One could argue that gun control is good for minority communities, because according to the Bureau of Justice Statistics, males, Black people, and people ages 18-24 experienced the highest rates of firearm homicide from 1993 to 2010 (Bureau of Justice Statistics 2013). Another angle to look at how gun control can be good for minorities is through the lense of domestic abuse. Black women are more likely than their white counterparts to face both nonfatal and fatal partner violence (West 2004, 1487). A study performed by a group of healthcare professionals found that unemployment was the most significant risk factor for intimate partner femicide. According to the researchers, "Unemployment appears to underlie increased risks often attributed to race/ethnicity, as has been found and reported in other analyses

related to violence” (Campbell, Webster, et al 2003). Some researchers believe certain types of gun control can be helpful to women, especially minority women. Adrian Alpay wrote about domestic violence in America and cited facts from Everytown for Gun Safety. According to them, women in the United States are twenty five times more likely to be killed by guns than women in other high-income countries, and almost one million women in the United States have been wounded or shot at by an intimate partner (Alpay 2020, 11). Alpay wrote about the 1968 Gun Control Act, and how there was an addition named the Domestic Violence Offender Gun Ban in 1996. This is helpful for certain victims of domestic abuse. This helps victims who are married to their abusers and/or share children with them, however, there is a loophole known as the “boyfriend loophole” because the legislation does not help victims who are just dating their abusers (Alpay 2020, 17-18). Even though there is no legislation to protect these victims on a national level, there is in some states on a federal level, and these states have better outcomes for these victims. Alpay used information from the Giffords Law Center to Prevent Gun Violence to show that states that have stricter gun laws than just the Domestic Violence Offender Gun Ban experienced a sixteen percent reduction in intimate partner gun homicides. Additionally, states that required abusers to show proof that they gave up their firearms, adopted emergency protective order (red flag) laws, and adopted final protective orders saw a similar sixteen percent drop in related gun homicides (Alpay 2020, 21). A study from the Journal of Preventive Medicine had the same finding. According to the study, around half of the intimate partner homicides in the United States are committed by an unmarried partner. The rates of marriage also differ by race: Black people in America are the least likely to get married, so they have a greater number of non-marital relationships than white people. In states where the gun laws do not protect against people in unmarried relationships, this is a huge problem, especially for Black

communities (Sorenson and Spear 2018, 103-104). These researchers are also in favor of tightening the gun restrictions and closing the “boyfriend loophole.” They wrote that lawmakers should consider the facts when trying to renew the Violence Against Women Act that boyfriends and girlfriends are the most common perpetrators of inter partner violence, and the age at which people are getting married is at an all time high and the rate at which people are having children is at an all time low. Lots of people in relationships are not protected by the current definition of what it means to be a couple (Sorenson and Spear 2018, 107). The Biden administration is hoping to close this loophole.

Mental health professionals agree that red flag gun laws are important for keeping guns out of the hands of people who could seriously hurt themselves or someone else. A study conducted on psychiatrists in South Carolina found that many of them are supportive of gun control measures aimed at keeping their patients and people around them safe. About sixty eight percent of the psychiatrists believed that restrictions on people with mental illness owning a firearm should not be gotten rid of after a certain time frame. Seventy two percent of the psychiatrists answered that they think people with mental illness should be reevaluated at certain points after they have earned back their gun rights to see if they are still fit to own a gun. Thirty five percent believed a person with a history of suicidal ideation not involving a firearm should not have access to a gun, while seventy two percent of the respondents believed that someone with a history of suicidal ideation that did involve a firearm should not have access to a gun. Ninety percent of the psychiatrists said that a person with a history of homicidal ideation and a history of violence should not have access to a gun, and fifty three percent of the respondents answered that a patient with a history of homicidal ideation without a history of violence should not have access to a firearm. Nearly ninety five percent of respondents believed special training

should be included for people before conducting evaluations for whether or not they should get their guns back. These South Carolina psychiatrists were in favor of restricting access to firearms for people with mental illness (Nagle, Joshi, et. al. 2020).

On the other hand, people are against red flag gun laws. Jeffrey Swanson wrote an article about how these laws can discriminate against Black individuals. He wrote about a study out of King County, Washington, which includes the city of Seattle. The study found that Black people were overrepresented in gun removal orders by nearly two to one compared to their makeup of the county population. Swanson wrote “we should not ignore the fact that virtually all of these civil restraining orders were initiated by law enforcement officers, and approved by judges, who are embedded in systems of criminal justice that for decades have ensnared young men of color in staggeringly disproportionate numbers (Alexander 2010; Thompson 2019). Similarly, police officers were the petitioners in 97% of ERPO cases in California, a recent report shows (Pallin et al. 2020). Thus, if the statutory criteria for ERPOs included criminal history, one might expect upstream racial imbalances in law enforcement and the justice system to be reproduced in the demographics of ERPO respondents” (Swanson 2020). It is a well known fact that the criminal justice system is racist, so if the police are the ones initiating taking the guns away and the judges are approving it, this could mean they are taking them away from Black people who might not actually need them to be taken away and letting white people keep guns who should not have them. Since Black people are more likely to be convicted of a crime due to over policing of Black neighborhoods and unfair prosecuting practices, this results in Black people already having a criminal record, which could lead a police officer to believe that they need to take their guns away. Meanwhile, a white person could have committed the same exact crimes but just not have been caught, and they are still able to keep their guns. (Swanson 2020).

The existing literature on this subject shows that people have been against gun control for both racist reasons, and for reasons that are pro-racial equality. It also demonstrates that people do have biases towards people who hold weapons based on race. I am interested to see if the resurgence of the Black Lives Matter movement has changed these opinions at all. I believe that it has changed the opinions of people on the left. People are now being reminded more than ever that the police treat white people and people of color differently, and they figure that enforcing gun laws are no exception. This may have changed people on the left's opinions and made them not as supportive of as many gun control measures, including myself. On the other hand, I think this has fueled pro-gun Republican's fire when they make arguments against gun control, because now they can say that minorities are discriminated against with gun control. Even if they do not actually care about minorities, they can use that argument when defending their beliefs about the second amendment. The downside to this is that they can use racial equality as a scapegoat when arguing against gun control laws that are not even that restrictive and may actually help minority communities, like red flag gun laws. Overall though, I think this conversation has done more good than harm. This can really help the issue of mass incarceration and the prison industrial complex. If people see that many of the gun control laws imprison people of color and are not actually effective, they can encourage legislators to vote down the ones that do negatively affect minorities and tell them to support the ones that help them. This conversation can help people find the balance between public safety and making sure people are not getting arrested when they should not be. I hope this paper is able to help contribute to conversations around policing, law making, and racial justice.

Research Question, Argument, and Design

My research question is does gun control still discriminate against non-white people?

This study seeks to determine whether or not there are a disproportionate amount of minorities in prison for firearm offenses in places where there are strict gun control laws. I hypothesize that more liberal areas will tend to have more gun control laws, and more conservative areas will have less gun control laws. I hypothesize that areas with strict gun control will have a disproportionate amount of minorities in prison for firearm offenses, and areas with loose gun laws will not have a disproportionate amount of minorities in prison for firearm arrests. I hypothesize that this correlation is due to biases held by law enforcement and prosecutors and Black neighborhoods being over-policed. I predict that as the amount of gun control laws increase, the amount of minorities in prison will increase in absolute terms.

Data, Conceptualization, Operationalization

My independent variable will be the gun control laws, and the dependent variable will be the race of the people being imprisoned for gun crimes. I will conceptualize race as “physical differences that groups and cultures consider socially significant” (American Sociological Association). I will conceptualize arrested as “seize by legal authority and take into custody” (Oxford Dictionary). I will operationalize these variables by researching what gun laws different states have, and whether or not the arrest rates for gun crimes in those states differ by race.

I will conceptualize a liberal area as a blue area, or one that had the majority of people vote for the democratic presidential candidate in recent years. I will conceptualize a conservative area as a red area, or one that had the majority of people vote for the Republican presidential candidate in recent years. I will determine whether or not a location has strict gun control laws by looking at the data collected by the National Rifle Association. I will compare the arrest statistics and

gun control laws from New York City and South Carolina, because they are two locations that are different from each other, with New York City being liberal and South Carolina being conservative. For the population statistics, I used information from the census and the New York Police Department. I found the information for the arrest statistics from the New York Police Department, the South Carolina Law Enforcement Division, and the South Carolina Department of Public Safety.

Sample and Methods

I analyzed the data by using cross tabulation. My sample is New York City and South Carolina. I chose these two places because one is liberal and the other is conservative, and they both provided the racial breakdowns I need. There are limitations to this sample, since these are only two places in America. The other data I came across, like data for Boston and Tennessee, had the racial breakdown of people in prison, but they did not have it broken down by crimes.

Data Analysis: Results and Findings

Based on the data, my argument is that more liberal areas have more gun control laws, and places that ban specific types of guns have a higher rate of minorities in prison, while other gun control laws do not discriminate against minorities. According to the National Rifle Association, in New York City a permit to purchase, registration of firearms, licensing of owners, and permit to carry are required for rifles, shotguns, and handguns. In South Carolina, people do not need a permit to purchase, registration of firearms, or registration of owners for rifles, shotguns, and handguns. They do not need a permit to carry rifles and shotguns but do need one for handguns.

1. Gun Laws in New York City and South Carolina

	New York City	New York City	South Carolina	South Carolina
	Rifles and Shotguns	Handguns	Rifles and Shotguns	Handguns
Permit to Purchase	Yes	Yes	No	No
Registration of Firearms	Yes	Yes	No	No
Licensing of Owners	Yes	Yes	No	No
Permit to Carry	Yes	Yes	No	Yes

In New York City, a permit to purchase, registration of firearms, licensing of owners, and permit to carry is required for rifles, shotguns, and handguns. In South Carolina, a permit to purchase, registration of firearms, and licensing of owners is not required for rifles, shotguns, or handguns. A permit to carry is not required for rifles and shotguns but is required for handguns.

One gun control law that does not seem to discriminate against minority communities is the New York SAFE Act. This was passed in 2013 in response to the Newtown Connecticut shooting, where twenty children and six adults were fatally shot at Sandy Hook Elementary School, and the murder of two firefighters in Webster, New York (Spitzer 2014-2015, 750). To find out the effect this law has on minority communities, I looked at arrest statistics from before and after the act was passed. The arrest rates for minorities for firearm offenses did not increase, in fact there was about a ten percent decrease for Black communities, only a one percent increase

for Asian and Pacific Islander communities, and it stayed about the same for Native American and Hispanic communities. There was about a ten percent increase for white people.

2. Firearm Arrests for New York City

	2008	2012	2020
White	4.8%	4.2%	14.4%
Black	70.6%	73.2%	60.4%
Native American	0.2%	0.0%	0.0%
Asian and Pacific Islander	0.9%	1.2%	1.3%
Hispanic	23.6%	21.5%	23.9%

Firearms arrests in New York City increased for white people by about ten percent, decreased for Black people by about ten percent, and stayed around the same for other ethnic groups from 2008 to 2020.

The reason why I think this law does not discriminate against minorities is because this law is not very extreme. Democratic governor Andrew Cuomo did say that it was the toughest set of gun laws in the nation, but that is not saying much considering the nation in question is America. One of the main components of the law is tightening restrictions on assault weapons. New York State law put restrictions on assault rifles in 2000, but this law made them stricter by expanding the definition of assault rifle. The new definition included rifles that can accept detachable magazines and have at least one other characteristic that includes a folding or telescoping stock, a protruding pistol grip, a thumbhole stock, a second handgrip or protruding grip, a bayonet mount, flash suppressor, muzzle brake, a threaded barrel, or a grenade launcher.

The old definition of assault rifle had to have at least two of the above characteristics.

Semiautomatic shotguns and pistols are also restricted under the SAFE Act by expanding the definition. Shotguns are restricted even if they have just one characteristic named in the law.

New Yorkers who already owned assault rifles before the SAFE Act was passed that are now considered illegal can still keep them, but they had to get them registered by April 2014.

Even though they can keep them, they cannot sell or transfer them to someone else, except for authorized sources like the police, a firearms dealer, or someone out of state who can own it in their state. The SAFE Act also put restrictions on magazines. Before the SAFE Act was passed, magazines of any size obtained before 1994 were allowed due to the fact that they were grandfathered in. Under the SAFE Act, it is illegal to own a magazine that holds more than ten bullets, even if purchased before 1994. The SAFE Act also expands background checks. Before, they were just required for commercial weapon sales. Now background checks are also needed for private gun and ammunition sales. With the new procedure, people can still make private gun sales, but they have to go to a licensed dealer, pay a fee of up to ten dollars, and have the dealer run a background check using the National Instant Criminal Background Check System (NICS). People do not have to undergo a background check in certain situations: transfers to immediate family members are excluded. The SAFE Act also affects pistol permits. Now they have to be renewed every five years, but before they never had to be renewed. Another main tenet of the law is that certain mental health professionals have to report to state authorities any one of their patients who they think are likely to partake in behavior that would cause serious harm to themselves or others. Then, those people are checked to see if they are able to own firearms. The State Police are notified and they decide whether to suspend or revoke their licenses, and then seize the guns. Another effect of this law is that criminal penalties for firearms-related violations

were increased, including possession or use of guns on school property, related to drug trafficking, straw gun purchases, and other felonies like murdering first responders. The SAFE Act also allows people under an order of protection issued by a court to have their gun license suspended or revoked. Additionally, it requires that guns be stored safely in homes where others with criminal backgrounds live, and gun owners must report stolen guns within twenty four hours (Spitzer 2014-2015).

Even though this may sound strict because of all the regulations, in my opinion it is just a common sense gun law. The reason why is because the act is not outright banning a certain type of gun; instead it is tightening restrictions on certain guns and taking measures to keep guns out of the hands of dangerous people. The data shows that the SAFE Act does not have an adverse effect on minority communities. The only demographic that had a significant increase in firearm related arrests before and after this was passed is white people, which is not a minority community.

Although the SAFE Act does not discriminate against minority communities, parts of it could discriminate against the mentally ill. According to Jacobs and Fuhr, advocates for mentally ill people have stated that the SAFE Act stigmatizes those with mental illnesses by equating mental illness with violence, it will deter mentally ill people from seeking and/or continuing treatment, undermines therapeutic relationships, makes healthcare professionals subjected to confusing reporting requirements, and that over-reporting will occur due to bureaucratic reporting procedures. A great deal of mental health care specialists refute the claim that mental illness is the cause of violent behavior, and that mentally ill people are more likely to be victims of violence rather than perpetrators of it. The Executive Director of the National Alliance on Mental Illness New York said “There is a strong belief that people with serious mental illness are

dangerous and are responsible for a significant amount of the violence in this country. The vast majority of Americans with mental health conditions are not violent...Associating violence with people with mental illness serves to exacerbate stigma. Stigma isolates individuals and their families, makes them feel ashamed and to blame, and prevents them from seeking treatment when needed” (Jacobs et al 2016), 89-90). The consequences of stigma are real, as it can prevent people from getting help they need by making them feel ashamed. People who are against certain provisions in the SAFE Act say that this is the reason why it is harmful. This can be especially true for veterans dealing with post-traumatic stress disorder and other mental health problems. The New York City’s Veterans’ Mental Health Coalition predicted the SAFE Act would make veterans not want to seek psychiatric help. Thankfully, the U.S. Department of Veterans’ Affairs said that it does not have to follow the state law. The New York State Catholic Conference and New York State Psychiatric Association also were concerned that the SAFE Act would prevent people from getting help they need because they might fear they would be reported. The New York State Catholic Conference wants to amend the SAFE Act so that professionals only have to report patients that pose an imminent danger to themselves or others. Critics of the SAFE Act have also pointed out that it could also put psychiatrists and therapists “in something of a policing role” (Jacobs et al 2016, 92). The authors wrote “ In the new SAFE Act landscape, will therapists need to warn their patients, before encouraging them to fully disclose their emotional state and symptoms, that they will be required to report them to the state if they deem them at risk of causing harm to themselves or others, and that such a report will be practically certain to result in the abrogation of their Second Amendment rights?”(Jacobs et al 2016, 92). Patients may feel that they have to hold back their true thoughts and emotions or else their second amendment right might be taken away, which is not conducive to healing. Another objection is that the

reporting requirements for mental health professionals are inconsistent. There are already requirements in place for mental health professionals to report to police or named victims if they think a patient poses an imminent threat to themselves or others. This would be an extra and unnecessary step, and could violate the Health Insurance Portability and Accounting Act (HIPAA), because the SAFE Act puts in place a broader reporting requirement than just imminent threats. On the same note, over-reporting could be a serious issue with the SAFE Act. The New York State Conference of Local Mental Hygiene Directors (CLMHD), which represents the Directors of Community Services from fifty seven counties and the City of New York, said that the SAFE Act imposes a burden of having to review tens of thousands of healthcare professionals reports on counties. This would require the counties to hire hundreds, or possibly more than a thousand, new employees. This is an unreasonable amount of new people to hire. Although it is important to keep firearms out of the hands of dangerous people, parts of the SAFE Act tend to stigmatize mentally ill individuals and make the lives of mental health professionals harder than it needs to be. That part of the SAFE Act seems to do more harm than good, especially since there are already requirements in place in New York for mental health professionals to report to police and the named victims imminent threats to the patient or other people (Jacobs et al 2016).

3. Level of Violence Before and After the SAFE Act Was Passed

	2008	2012	2020
Murder and Non-Negligent Manslaughter	509 victims	405 victims	445 victims
Shootings	1806 victims	1624 victims	1868 victims

Violent crime stayed around the same between 2008 and 2020, and the number of shooting victims jumped between 2012 and 2020, which implies the SAFE Act did little to curb the overall rate of violence.

Even though that particular gun control act does not discriminate against minority communities, the data shows that other ones do. There is a disproportionate amount of people of color arrested for gun crimes compared to the population statistics. This is true for every sort of crime, but it is the highest for firearm offenses. This could be due to a number of factors, including over policing communities of color, unfair prosecutorial practices, poverty, and lack of mental health resources. According to Lieberman and Dansky, over policing has been a huge issue in America ever since President Nixon's "War on Drugs." This inspired other presidents and lawmakers, such as President Reagan with his "tough on crime" policies, to introduce laws that ended up hurting vulnerable communities and not actually bring down crime. Lieberman and Dansky wrote "Some of the new policing tactics that have been developed over the years include: 'hot spots policing' (a strategy that focuses on 'small geographic areas or places, usually in urban settings, where crime is concentrated'); the suppression of public, open air drug markets (shifting drug trade from public to private spaces in order to reduce the risk of violent conflict); Compstat ('a management process within a performance management framework that synthesizes analysis of crime and disorder data, strategic problem solving, and a clear accountability structure'); 'stop and frisk' (a program that encourages the police to stop and frisk individuals, ostensibly because the officers deem individuals to be armed and dangerous, but which almost never-less than 1% of the time-results in the recovery of a weapon); and 'broken windows' or 'quality of life' policing (a model that 'focuses on the importance of disorder.., in generating and sustaining more serious crime'))" (Lieberman and Dansky 2016, 963-964). The more policed a neighborhood is, the more likely people in that neighborhood are to get arrested

for various crimes. Another problem minority communities are disproportionately affected by is unfair prosecuting practices. Gershman (1992) argues that prosecutors have gained more power and prestige over the years, and that three generalizations hold true. One, that prosecutors hold more power than ever before; two, that prosecutors are more protected from judicial control over their conduct, and three; that they are more and more immune to ethical restraints. This allows them to exercise their power in a way that harms other people. Gershman wrote “The existence of a zealous desire to win a conviction necessarily results in willful, or even unconscious, misconduct...Overzealousness also manifests itself in other ways, such as hiding exculpatory evidence, engaging in racially motivated or other discriminatory charging practices, presenting inadmissible evidence, and engaging in inflammatory trial conduct” (Gershman 1992, 455). It is clear that prosecutors manipulate cases and use their power to take advantage of people, oftentimes people of color. This could be due to either conscious bias or unconscious bias. This results in unfair sentencing. Another issue that disproportionately affects minorities is poverty. According to Lieberman and Dansky, Concentrated poverty [in New York City] remains a problem, particularly in majority black and Latino neighborhoods. The poverty rate in New York City's majority white neighborhoods is 10.4%; in majority black neighborhoods, it is 17%; in majority Latino neighborhoods, it is 24.4%; in majority Asian neighborhoods, it is 20.5%; in mixed "minority" neighborhoods, it is 28.8%.” (Lieberman and Dansky 2016, 961-962). Poverty makes problems worse for communities, including mental health. Chow et al (2003) conducted a study about the rates at which different ethnic groups need mental health resources. They found that minority groups were more likely to use emergency services for mental health cases than white people. In high-poverty areas, Asian people were twice as likely to use emergency services than white people. In low poverty areas, minority groups were more likely than white people to

use inpatient services. In high-poverty areas, Hispanics and Asians were less likely to be hospitalized than whites, which is likely due to community poverty being ignored. A significantly higher number of minority children and young adults used public mental health services than their white counterparts. This is especially the case in high-poverty areas (Kwon et al 2003). Their study proved that mental health is worse in minority communities, and in low-income communities, it is harder to access mental health services. The combination of over policing, unfair prosecution, poverty, and mental illness all are contributing factors for why there are more arrests for minority communities than white communities.

4. New York City Population and Firearm Arrests Breakdown by Race 2020

	Population	Firearm Arrests
White	33.3%	14.4% (583 people)
Black	22.8%	60.4% (2496 people)
Native American	0.2%	0.0% (0 people)
Asian and Pacific Islander	12.6%	1.3% (42 people)
Other Non-Hispanic	2.5%	
Hispanic	28.6%	23.9% (999 people)
Total arrests		4161 people

Black populations had the most firearms arrests in 2020 in New York City, taking up twenty three percent of the population but being arrested for sixty percent of firearm offenses. The amount of firearm arrests for the rest of the races was either proportional or lower than the population.

5. Racial Breakdown of Crime in New York City 2020

	Firearm	Murder	Shootings	Misdemea	Rape	Robbery	Grand	Drug
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	Arrests	and Non-Negligent Manslaughter		shootings			Larceny	Felonies
White	14.4%	3.6%	1.7%	15.6%	6.7%	5.3%	14.0%	8.7%
Black	60.4%	60.2%	70.1%	45.4%	44.5%	59.1%	52.8%	47.5%
Native American	0.0%	0.0%	0.0%	0.3%	0.9%	0.2%	0.2%	0.0%
Asian and Pacific Islander	1.3%	4.1%	1.6%	4.1%	7.6%	3.3%	4.0%	3.9%
Hispanic	23.9%	32.1%	26.6%	34.6%	40.3%	32.0%	28.9%	39.9%

Murder, manslaughter, and shootings were the only crimes that were as high or higher for the Black community as firearm arrests. For Native Americans, it stayed about the same. For Asian and Pacific Islanders and Hispanics, firearms arrests were either around the same or lower than the other crimes. This leads us to the conclusion that the enforcement of certain gun control laws besides the SAFE Act discriminate against the Black community, but not other minority communities.

Black communities tend to be overrepresented in all of the crimes, but especially when it comes to firearms arrests and shootings. The Black community is also overrepresented when it comes to being a victim of shootings. Native American communities are not overrepresented in any of the crimes. White and Asian and Pacific Islander communities are underrepresented in all of the crimes. Hispanic communities are not overrepresented when it comes to firearms offenses or shootings.

The evidence from the study shows a mix of results. On one hand, the SAFE Act does not seem to discriminate against minority communities. That is one gun control act that is not discriminatory, however, even though that particular law does not, other gun control laws seem

to, because Black communities are still overrepresented when it comes to gun crime. This is most likely a result of laws being unfairly enforced against Black communities because those communities tend to be overpoliced. The evidence from South Carolina tells a similar story.

6. South Carolina Population and Weapon Law Violations Breakdown by Race 2019

	Population	Weapon Law Violations
White	68.6%	32% (1674 people)
Black	27.0%	68% (3593 people)
Native American	0.5%	
Asian	1.8%	
Hispanic or Latino	6.0%	
Native Hawaiian and Other Pacific Islander	0.1%	
Two or More Races	2.0%	

The Black population had much more weapon law violations than the white population. Black people make up twenty seven percent of the population in South Carolina, but were arrested for sixty eight percent of the weapon law violations. White people on the other hand take up sixty nine percent of the population but were arrested thirty two percent of the time for weapon law violations.

7. Crime for Adults in South Carolina Racial Breakdown 2019

	Weapon Law Violations	Murder and Non-Negligent Manslaughter	Sexual Battery	Robbery	Larceny/Theft Offense	Drug Law Violations	Arson	Intimidation

White	32%	28%	54%	29%	61%	53%	60%	53%
Black	68%	72%	45%	71%	38%	46%	40%	47%
Other	0.6%	0.6%	0.4%	0.2%	0.9%	0.6%	0%	0.5%

For white people, most of the other crimes were higher than weapon law violations, except for murder, manslaughter, and robbery, which were lower. For Black people, the only crimes higher than the weapon law violations were murder, manslaughter, and robbery. All the other crimes in the chart were lower. For other minorities, the amount of crimes committed were around the same. This indicates that the enforcement of the few gun control laws South Carolina has discriminates against the Black community and does not discriminate against other minorities.

The Black community is overrepresented in all of the crimes, but especially the weapons offenses. My hypothesis was that the Black community would not be overrepresented in gun crimes in a conservative area because gun control discriminates against minorities. This could be a result of the few gun control laws South Carolina does have. Like New York City, it is also likely because of unfair policing and prosecuting policies, lack of mental health resources, and poverty. One of the few gun control laws South Carolina has is a permit to carry a handgun. The cost of a gun license in South Carolina is fifty dollars (gunlawsuits.org 2021). Black communities are typically at a socioeconomic disadvantage, so it could be that the fine is discriminatory for that reason. When resources are already scarce and money is tight, someone probably is not going to want to pay a fee for a legal gun when they can acquire one illegally at little to no cost. A possible solution would be to lower the cost of permits so people from poor communities would still be able to afford them.

The discrimination against people of color does not stop at laws being enforced unfairly upon them. Research shows that sentencing is also enforced unjustly. People of color, particularly men of color, receive longer sentences than white people and females for the same crimes. David B. Mustard did a study on sentencing disparities between race, ethnicity, and

gender. His study minority communities receive longer sentences for crimes, and for firearms offenses in particular, Hispanic communities are discriminated against with longer sentences. Mustard found that for firearm possession and trafficking, Hispanic people received around four months longer of a sentence than white people (Mustard 2001, 304). Not only are non-white people economically disadvantaged and racially profiled, they also are given longer sentences than white people.

Conclusion

My research makes several contributions to the study of gun policy, and studies on racial justice. This study adds to the idea that the more liberal a place is, the stricter gun control laws there are, and that some of these gun control laws can discriminate against minority communities. I showed that one gun control law that does not discriminate against minority communities is the New York City SAFE Act. This law was passed in 2013, so I used data from 2008, 2012, and 2020 to show the effect this had on minority communities. The data showed that there was around a ten percent decrease from 2008 and 2012 to 2020 for firearm offenses for Black communities. It stayed around the same for Native American, Asian and Pacific Islander, and Hispanic communities. In terms of other gun control laws, it appears as though they do discriminate against minority communities. In both South Carolina and New York City, Black people were overrepresented for firearm arrests and weapons law violations by about forty percent. I thought it was going to be less for South Carolina because they have much less gun control laws than New York City, but it was about the same. Like I said, a possible reason for this could be that in South Carolina, the cost of a gun license is fifty dollars, and they are needed for handguns. Black communities tend to be socioeconomically disadvantaged, so lots of people from those communities may not have the money for a license, so they might just acquire a

handgun illegally. Because Black communities are more likely to experience poverty than white communities, they are more likely to experience crime due to a lack of resources. This could encourage people in those communities to want to acquire a handgun for self protection, but they probably do not want to spend fifty dollars on a license. Over policing of Black communities on top of all of this makes for a disproportionate amount of Black people in jail for gun crimes. In New York City, people have to pay a fee of up to ten dollars if they want to buy a gun through a private gun sale, which is much better than fifty dollars, however, other gun transactions can cost much more. According to the OLR Research Report, a fee for some guns can cost up to one hundred forty dollars for rifles and shotguns and three hundred forty dollars for handguns. Additional fees can cost up to ninety one dollars, not counting the fingerprinting fee (cga.ct.gov 2013). These fees are astronomically high, especially for people living in poverty. It is understandable why someone would want to acquire a gun illegally to avoid paying that amount of money, especially if they struggle to pay for food and rent and other necessities. Laws that require people to pay money for fees are not problematic for affluent people, but negatively affect low-income people. Having loose gun laws can come at a price, however. South Carolina is one of the most dangerous states in terms of gun violence in the United States. South Carolina is the fourth deadliest state for homicides committed with a gun. In 2013, for every one hundred thousand people in the state, there were 5.31 gun murders, which is forty seven percent higher than the national average. South Carolina also has the third worst rate of aggravated assault with a firearm in the country, which is 2.5 more times than the national average. Police officers are at a high risk of being killed in South Carolina compared to other states. The rate at which police officers are fatally shot with a gun is the tenth worst in the nation. Ten law enforcement officers were killed with guns between 2005 and 2014. Another group of people that is at a high risk of

getting killed by guns in South Carolina is women, particularly women of color. South Carolina ranked fourth worst in the country for the rate at which women were murdered by guns, which is 75 percent above the national average. South Carolina ranked the worst state for fatal domestic violence against women with a gun, having had the highest rate of these kinds of murders in the nation between 2004 and 2013. As I have said before, domestic abuse is a problem that disproportionately affects Black women. The Law Center to Prevent Gun Violence gave South Carolina an “F” for having very few gun laws (Center for American Progress 2015). New York City and South Carolina are on the opposite ends of the spectrum when it comes to gun laws: New York City has very strict gun laws, while South Carolina barely has any gun laws. It is a bad idea to be on either end of the spectrum. As I have proved, certain gun control laws can discriminate against vulnerable communities, like communities of color and the mentally ill. On the other hand, not having enough gun control laws can end up harming these same communities. Laws like red flag (ERPO) laws can help victims of domestic abuse, which will help Black communities. America clearly has a gun violence problem, with the staggering number of mass shootings this country has experienced. America also has a problem with mass incarceration, with the astronomical number of people behind bars, particularly Black men. Lawmakers need to find a way to solve both of these problems, and they need to find a way to be in the middle of the spectrum. America should not tip so far one way and discriminate against people with gun laws, but also not tip too far in the other direction where innocent people are getting shot left and right. Hopefully with the information from this thesis, lawmakers will find ways to keep the public safe from gun violence while not discriminating against minority communities.

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