

Where's Wyatt Earp When We Need Him?

By

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In 1881 a gunfight at the O.K. Corral in the unremarkable town of Tombstone, in the territory of what would eventually become the state of Arizona, almost immediately became legendary. Today, we still know about the deadly shootout involving lawmen Marshall Virgil Earp, his deputized brothers Wyatt and Morgan Earp, along with their friend Doc Holliday, against Cowboys Bill Claiborne, the Clanton brothers, and the McLaury brothers. But how many of us know that the notorious encounter was over gun regulations? Even back then, in what we think of as the wild, wild west, communities were trying to deal with easily avoidable gun violence, and they were smart enough to do so by enacting laws requiring civilians to turn their guns in upon entering town, which would be returned upon their departure.

Today, 140 year later, it's become legal to carry guns on the streets of Tombstone, as it is anywhere in Arizona, without even the need for a license or permit. But back then, many of the most notorious frontier towns, like Deadwood—South Dakota, Dodge City—Kansas, and Abilene—Texas had gun control laws that, as the Cowboys in Tombstone would learn the hard way, were enforced. Similar laws were established all over the country, including in Southern states, which became the first in the nation to prohibit carrying concealed weapons of any kind. In his book, *Gunfight: The Battle Over the Right to Bear Arms in America*, law professor, Adam Winkler says, "The first bans on possession of concealed weapons in public were adopted in Kentucky and Louisiana in 1813,"¹ and were passed in Indiana, Tennessee, Virginia, Alabama, and Ohio not long thereafter. Historian Clayton Cramer says, "Most people are surprised when I tell them that the South led the nation in the development of gun control laws ... But when you examine the history of laws regulating firearms and other deadly weapons, the South was decades ahead of the rest of the United States."² If only there were more conservatives living in the South, perhaps they could have conserved these laws.

The South may have led the way, but even western towns, considered among the wildest of them all, made gun control their first priority. Winkler says, for example, "When Dodge City residents originally organized a government in 1873, the very first thing they did was adopt a resolution supporting gun control. They resolved that "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."³

Such were the laws in Tombstone in 1881, when some of the most infamous members of a gang of outlaws known as the Cowboys were confronted by Marshall Earp and his deputies. In those days the word "cowboy" hadn't come into widespread use and was almost synonymous with "criminal." The Cowboys were an organized gang of "cattle rustlers and thieves"⁴ whose members were identified by the red sash they wore. Around this same time, Tombstone had grown from a population of about a hundred miners in 1877 to over 7,000 by the time the Marshal Earp and his brothers arrived just two years later in 1879. Virgil Earp, the U.S. Deputy Marshall for Pima County at the time, was ordered to relocate from Prescott to Tombstone due to the demand of the area's

growing number of citizens for law and order, especially when it came to the cattle rustling, horse thieving, stagecoach robbing, strongbox stealing Red Sash Gang.

By the time the infamous gunfight took place within the city limits, there was already a lot of bad blood between the Earps and the Cowboys, including the theft of one of Wyatt Earp's prized horses by Billy Clanton. On the evening before the gunfight, Ike Clanton began openly boasting that he was going to get the Earps and their friend Doc Holliday. When they heard about the threats, Virgil and Morgan went looking for him and sighted him carrying a shotgun in one hand and a pistol in the other. They snuck up, disarmed, and arrested him. A Judge fined him \$25 and set him free that same afternoon.

Angered by the incident, another member of the outlaw gang, Tom McLaury, confronted Wyatt Earp in the streets, which ended up a painful mistake on his part. (It wasn't wise to pick a fight with Wyatt Earp.) "A few hours later, Ike and Billy Clanton, a bloodied Tom McLaury, Tom's brother Frank, and another member of their gang, Billy Claiborne, were spotted in a gun shop,"⁵ which the Earps took as a sign they were preparing to make good on Ike's promise of retaliation.

When County Sheriff Johnny Behan heard about what was happening, he confronted the group of outlaws hoping to avoid problems. He asked for their guns, the possession of which was, again, illegal in Tombstone. Winkler says, "Ike and Tom replied that they were unarmed. Frank McLaury admitted he was carrying firearms but refused to turn them over unless the Earps were also disarmed. Behan, who didn't much like the Earps, let the Cowboys be."⁶ And the rest is history: "When the shooting stopped, Frank McLaury, Tom McLaury, and Billy Clanton were dead. Virgil Earp, Morgan Earp, Doc Holliday, and Billy Claiborne were wounded, but not fatally. Only Wyatt and Ike, two of the main protagonists, emerged unscathed from the Shootout at the O.K. Corral."⁷

It wasn't a good ending. Shootouts never are. But, when the smoke from the historic encounter clears, it's important to understand that the gunfight at the O.K. Corral was ultimately about gun control, not merely between those who resisted and those who enforced them, but between the outlaws and the citizens of Tombstone and towns like it all across America wanting to be safe from gun violence. They put laws in place they wanted enforced on their streets. Despite the portrayal of this event in the movies, and the gun violence typical of western pictures in general, there was less gun violence then than there is today, more gun regulations then than there are today, and most people then, including those who eventually became known as cowboys in general, were peace loving members of their community. Again, as Winkler writes, "By 1900, most cowboys admitted that they had never even seen a killing, much less killed a man themselves ... 'many more people have died in Hollywood westerns than ever died on the real frontier.'"⁸

Today, on the other hand, it seems as if we are living in the wild, wild west of Hollywood's imagination everywhere in our nation. Winkler introduces his book on the topic by recounting all the mass shootings that occurred the year just prior to its publication, beginning with Sandy Hook Elementary School in Newtown, Connecticut, on December 14th, 2012, when a twenty-year-old

gunman killed twenty kindergarteners and first graders, along with six adults. The children were shot at close range, one as many as eleven times, with an XM-15 semi-automatic rifle. Less than two months later, in February of 2013, four people were shot and kill at a Georgia health spa and three more at a high school in Cleveland Ohio. In April, seven people were shot to death at Oikos University in Oakland, CA. In May, three men and two women were shot to death at a Café in Seattle, Washington. In July, twelve were killed and 58 others wounded at a movie theatre in Aurora, Colorado. In August, six were gunned down at a Sikh temple in Wisconsin. In September, five men were killed by their former coworker. In October, three people were shot and killed at a day spa in Brookfield, Wisconsin. And, lest we forget, just a few days before the horrific Newtown shooting, another shooter killed and wounded patrons at a mall in Portland, Oregon.

That was all within the span of about a year. Other such incidents that stay with us include the October 1st, 2017, mass shooting in Las Vegas, in which a man killed 59 concert goers and wounded over 500 more. The 2016 shooting at the Pulse nightclub in Orlando, Florida resulting in the deaths of 49 people, and injuries to more than 50 others. In April of 2007, 32 were killed and 17 injured during a shooting at Virginia Tech. In December of 2012, the same year as Newtown, 26 were killed at First Baptist Church in Sutherland Springs, Texas. Thirteen were killed at Columbine High School in 1999, and 17 at Marjory Stoneman Douglas High School in Parkland, Florida in 2018. Twenty-six were killed shopping at a Walmart in El Paso, Texas, in 2019. Cafeterias, community centers, restaurants, municipal centers, Post Offices, military bases, hotels, mobile home parks, are among the varied locations, venues, and events where mass shootings routinely occur here in the land of the free to do whatever you want and the home of the cowards with big guns.

Last year, in 2021, there were 638 mass shootings resulting in the deaths of or injuries to four or more victims.⁹ Twenty-two of them involved victims in the double digits, the highest number being the 23 individuals shot by three assailants who got out of a white SUV and opened fire while they were standing outside a banquet hall in Florida. In all, nearly 40,000 people are killed in the U.S. every year by firearms. About 60 percent of those are suicides, the rest are homicides or accidents.

Before I continue, I should say that I am not antigun. Although I don't own a gun, never have, and likely never will, largely because I did not grow up in an area where learning to use a gun for hunting was a normal part of life. Many years ago, while out in the woods, I ran into a teenager carrying a shotgun and had no concerns about approaching him and asking for directions. But if I saw a teenager carrying a gun in the city, I'd turn and run the other direction. People who hunt to eat should have access to guns and, I suppose, there's an argument to be made for those who want to own a gun or two for home protection. But there are two arguments by many gun enthusiasts supporting the legal right to own what are essentially weapons of war made for nothing but killing as many people as quickly as possible that I want to challenge. One is the suggestion that the more of us who own guns the safer society will be, or that those who do own these kind of assault weapons are our protectors. The other argument is that owning such weapons is a Constitutional right based upon the 2nd Amendment.

Regarding the argument that the more guns there are on the streets the safer we are, there are already plenty of guns about and they've done nothing to stem the growing number of mass shootings in our society. According to a recent 2020 Gallop poll, a third of adults are gun owners and 44 percent of us live in a household with guns. It should be of interest to know that most mass shootings, about 61 percent, occur in private homes,¹⁰ not in public places, despite those committed in public being the ones that our attention. Additionally, a 2019 study by KXAN News in Austin, Texas, a state with one of the highest rates of mass shootings in the country,¹¹ considered the argument that "only people with guns can stop shooters." Out of 316 mass shootings, the investigation determined that only 50 were stopped by private citizens, and only 10 of those by citizens with a gun.¹² That's less than three percent of mass shootings thwarted by gun owners. On the other hand, nearly two people die every day from gun accidents¹³ and thousands of accident injuries ever year, offsetting any good they might occasionally do in a gunfight (not to mention all those killed in mass shootings and other homicides.)

There is also a belief among some gun enthusiasts that they our "sheepdogs," a term they use to describe themselves as the self-appointed protectors of society from the forces of evil and evildoers. Kyle Rittenhouse, the teenager who illegally crossed state lines with an assault rifle in 2020 to go to Kenosha, Wisconsin where demonstrators had gathered to protest the police shooting of David Blake, happened to be interviewed by a *Daily Caller* reporter on the scene prior to the terrible event that soon followed. "Part of my job also is to protect people," Rittenhouse said. "If someone is hurt, I'm running into harm's way. That's why I have my rifle. I've got to protect myself, obviously."¹⁴ And, as we all know, Rittenhouse found the fight he was looking for, resulting in the deaths of two individuals, although he was recently acquitted of all charges regarding his role in the incident. As it turns out, just yesterday, Dominick Black, who was 18 years old at the time, pled no contest for having purchased the gun for Rittenhouse, who was a year too young at the time to do so for himself. And, just two days ago, the three men convicted of killing 25-year-old Ahmaud Arbery while taking it upon themselves to "police" their neighborhood, were sentenced to life in prison, two of them without the possibility of parole.

Kyle Rittenhouse pled self-defense and was acquitted. As a jury of his peers determined, even after illegally obtaining a gun, illegally possessing a gun, and illegally transporting it across state lines, at best the only person this self-appointed sheepdog protected was himself, while two other men ended up dead because of his ill-fated "good deed." As for those convicted in the Arbery murder, a 25-year-old man cut down in the prime of his life, their lives have also been ruined. So much for the sheepdogs who think their guns are making a positive difference in the world.

The worst part of this mindset, as far as I'm concerned, is that the evil these sheepdogs are protecting us sheep from are other human beings, not abstract evil or intangible demonic entities—real living, breathing human souls like Ahmaud Arbery, and those killed by Rittenhouse: 36-year-old Joseph Rosenbaum and 26-year-old Anthony Huber, as well as 27-year-old Gaige Grosskreutz who survived being shot, but is now permanently disabled. And earlier this week,

there was an article in our local paper about a man attending a meeting of right-wing conservatives in Nampa, Idaho who openly asked, "When do we get to use the guns?" He said this in reference to delusional claims that the last presidential election was stolen. "That's not a joke," he continued, "I'm not saying it like that. I mean, literally, where is the line? How many elections are they going to steal before we kill these people?"¹⁵ Too many people willing to use guns for what they believe is a good cause want to use them against real people like you and me. Sheepdogs want to protect our democracy by killing democrats.

The point is, with nearly 45 percent of Americans living in homes with guns that do little to nothing to prevent the mass shootings in our country, not even the majority of them that occur in private homes, and with the killings of innocent people by gung-ho self-appointed sheepdogs and those calling themselves patriots, we can be clear that more guns on our streets and in our homes aren't making us safer. They may make some feel safer, but statistically they are making matters far worse. In fact, they are making us far less safe that we would be if we had practical regulations that reduce the number of guns in our society, especially assault weapons that enable someone to sit in a hotel room window and take his time shooting nearly 500 people, with enough time left to take his own life before any sheepdogs can show up and try to stop him.

Yet stronger gun regulations are regularly thwarted by those claiming they have the Constitutional right to bear arms. But that's not what the 2nd Amendment guarantees. It says, in a single sentence, "A well regulated Militia, being necessary to the security of a free State, the right of the people to keep and bear Arms, shall not be infringed." The 2nd Amendment, ratified in 1791, when the best guns were muskets and flintlock pistols, comes with a condition. The right to bear Arms is based upon the presumption that those who possess them will be part of a well-regulated Militia. So, at the very least, it should be interpreted to mean those in possession of firearms should be well-regulated, or that the weapons they possess should be well-regulated. Regulations have to be involved somewhere. To me this also means those who choose to own military style weapons, if it remains legal to do so, should undergo routine training by the U.S. military, regular fitness and mental health exams, and be limited on the number of weapons they reasonably need to possess in the unlikely event they should be called to duty. In reality, the militias in our country today are not well-regulated, nor are they preparing to help our government thwart foreign invasions. They exist, rather, with the idea of going to war with our government and with other Americans whose ideas they dislike and fear.

More importantly, why should anyone today have the right to own what is effectively a machine gun when the 2nd Amendment was written in reference to single shot weapons that, at best, could fire three round per minute? Private citizens can't own rocket launchers, or working military tanks, or landmines, or bombs, yet they can own military style semi-automatic rifles? How is it the Constitution has been interpreted to guarantee the right to own these particular weapons of mass killing, but to deny the right to possess these other types of arms? Doesn't the 2nd Amendment guarantee our right to bear arms *carte blanche*? It doesn't specify what kind, so if it is now

interpreted to mean military style guns that didn't exist when it was written, why not some of these other military weapons?

It should be obvious that I'm not arguing that it should be legal to own even worse kinds of weapons than we already do, but that we should not be allowed to own military style assault rifles any more than we have a right to own rocket launchers, tanks, bombs, or mustard gas, even though these are all ways of arming ourselves. Today, a semi-automatic assault rifle is as far from a musket as is a bazooka, yet, somehow, it's considered a constitutional right to bear the assault rifle but not the rocket launcher, when both weapons are effectively the same: squeeze a trigger and fire a missile.

Where are the sensible gun laws that will make our streets safe by keeping them out of our towns? Where are the laws that will keep them out of our schools and away from our concerts, cafés, nightclubs, and churches? Where is the well-regulated militia the 2nd Amendment requires? Where, for that matter, are the muskets and flintlock pistols it refers to? Where oh where is Wyatt Earp when we need him?

¹ Winkler, Adam. *Gunfight: The Battle Over the Right to Bear Arms in America* (p. 166). W. W. Norton & Company. Kindle Edition.

² Ibid.

³ Ibid.

⁴ Ibid., p. 158.

⁵ Ibid., p. 159.

⁶ Ibid.

⁷ Ibid.

⁸ Ibid., p. 164.

⁹ https://en.wikipedia.org/wiki/List_of_mass_shootings_in_the_United_States_in_2021

¹⁰ <https://everytownresearch.org/maps/mass-shootings-in-america-2009-2019/>

¹¹ <https://www.statista.com/statistics/811541/mass-shootings-in-the-us-by-state/>

¹² <https://www.kxan.com/texas-mass-violence/do-good-guys-with-guns-stop-mass-shootings-heres-what-the-statistics-say/>

¹³ <https://efsgv.org/learn/type-of-gun-violence/unintentional-shootings/>

¹⁴ <https://www.washingtonpost.com/nation/2020/08/27/kyle-rittenhouse-kenosha-shooting-protests/>

¹⁵ <https://www.spokesman.com/stories/2022/jan/01/as-offensive-as-it-is-its-not-illegal-idaho-deals/>