

MASSAGING THE MEDIUM: ANALYZING AND RESPONDING TO MEDIA VIOLENCE WITHOUT HARMING THE FIRST AMENDMENT

David B. Kopel

Kansas Journal of Law and Public Policy
Spring, 1995. Volume 4. Article begins on page 17
Symposium 1995: The Impact of the Mass Media Revolution
Violence Panel

Copyright © 1995 by the Kansas Journal of Law & Public Policy; David B. Kopel

Over the last two decades, a large body of literature has linked exposure to violent television with increased physical aggressiveness among children and violent criminal behavior. [1] One such study was conducted by University of Washington epidemiologist Brandon Centerwall. He [2] found that homicide rates in the United States, Canada, and South Africa rose steeply about ten to fifteen years after the introduction of television in each nation. Centerwall noted that after television was introduced in Canada, the homicide rate nearly doubled, even though per capita firearms ownership rates remained stable. In the United States, the rise in firearms homicide paralleled an equally large rise in homicide with the hands and feet.

The data, therefore, imply that the underlying cause of the homicide increase was not a sudden surge in availability of firearms, because there was no surge in availability of hands and feet, and hand and foot homicide rose as sharply as firearms homicide. South Africa introduced television many years after its introduction in Canada and the United States because the apartheid government feared that television would be destabilizing. In South Africa, too, the homicide rate rose sharply after the first generation of television children grew up.

One method by which violent entertainment may promote criminal violence is simple imitation. Two surveys of young American male violent felons found that 22-34% had imitated crime techniques they watched on television programs. [3]

Imitation includes more than simply applying a crime technique the criminal learned by watching television. Fictional treatments of crime can inspire and empower potential criminals. John Hinckley drew encouragement in his attempt to shoot President Reagan from the dozens of times he watched *Taxi Driver*, a movie about an assassin who stalks a presidential candidate and wins a young woman's affection. The man who murdered twenty-two people in Luby's Cafeteria in Killeen, Texas, in October 1991 was found with a ticket

to the film *The Fisher King* in his pocket; the film depicts a mass murder in a restaurant. In January 1993 in Grayson, Kentucky, seventeen-year-old Scott Pennington fatally shot a teacher and a janitor and held a classroom of students hostage; he had recently written a book report on a Stephen King novel in which a student shoots a teacher and holds a class hostage. The revival of the American Ku Klux Klan and its countless violent crimes was inspired by D. W. Griffith's 1915 film *Birth of a Nation*. Griffith's twelve-reel film was the first modern motion picture and the first full-length film to demonstrate the immense commercial potential of cinema by grossing \$18 million. Based on Thomas Dixon's novel *The Clansman*, *Birth of a Nation* presented a distorted picture of the South during Reconstruction and extolled the Ku Klux Klan. [4]

Because Centerwall's study showed a doubling of the homicide rate after the introduction of television, he concluded that "long-term childhood exposure to television is a causal factor behind approximately one-half of the homicides committed in the United States, or approximately 10,000 homicides annually." He further estimated that as many as half of America's rapes and assaults could be related to television. [5] Another television researcher pegs the figures far lower. George Comstock, of Syracuse University's Center for Research on Aggression, surveyed 230 studies and concluded that television and cinema violence cause about 10% of American violence. [6]

Of course, not everyone who watches a Rambo movie or its television equivalent becomes a criminal. The harm of violent television is felt most by the already vulnerable segments of the population. [7] Alfred Blumstein, dean of John Heinz School of Public Policy and Management at Carnegie-Mellon, notes that "the glorification of violence on television has little effect on most folks, but it has a powerful effect on kids who are poorly socialized It dehumanizes them and becomes a self-fulfilling process." Repeated exposure to violence may, through a process of disinhibition, make violence seem ordinary. [8]

Proving cause and effect in the social sciences is never easy, however, and there are a good number of researchers who believe that the relationship between television and violence may be more complex than is generally acknowledged. For example, although heavy television viewing is definitely associated with violence, it may merely be a symptom of other problems such as parental neglect. [9]

Perhaps all sides of the television and violence debate can agree that reducing television violence should be a supplement to, rather than a substitute for, efforts to change the conditions that make the children so vulnerable and dangerous in the first place. As G.K. Chesterton remarked in the 1920s in response to a furor over a child who murdered his father with a carving knife after watching a silent movie: "This may possibly have occurred, though if it did, anybody of common sense would prefer to have

details of that particular child, rather than about that particular picture." [\[10\]](#)

The Role of Violent Entertainment

The debate over mass media's impact on violence among youths has continued for a very long time. In the 19th century, novelist George Meredith complained that the Punch and Judy puppet show (a much more violent version than its tamer 20th century incarnation) "inspires our street-urchins to instant recourse to their fists in a dispute." [\[11\]](#) Similar complaints were offered about mass-market short stories ("penny dreadfuls") sold to adolescent males. One older Victorian recounted the story of a boy who "was so maddened by reading one of the tales provided for his entertainment that he shot dead his father and brother." [\[12\]](#) The recorder of the City of London stated that "there isn't a boy or young lad tried at our Courts of Justice whose position there is not more or less due to the effect of unwholesome literature upon his mind." [\[13\]](#)

Adults who rail against the violent tastes of adolescent males might also consider the words of Gershorn Legman, a post-World War II critic of violent comic books: "Comic-books do not exist in a vacuum. American parents see nothing wrong with the fictional violence of comic books because they themselves are addicted to precisely the same violence in reality, from the daily accident or atrocity smeared over the front page of their breakfast newspaper to the nightly prize-fight or murder-play in movies, radio, and television coast-to-coast." [\[14\]](#)

Legman's observation about the entertainment tastes of adult Americans is at least as true today, given that football has displaced baseball as the national sport (in terms of television ratings), tabloid violence and sensationalism have become highly successful formats for evening news programs, [\[15\]](#) and the O.J. Simpson murder case apparently (in terms of volume of coverage) has become the most important news story of the 1990s.

As University of Florida English professor James B. Twitchell explains, "All mass media are audience reflectors and magnifiers Although the critical cant is that the media are manipulated by a few powerful business interests, the reverse is far more accurate. In no other industry are the promulgators manipulated so completely by the seeming whimsy of the many." [\[16\]](#) Twitchell also suggests that violent entertainment, like dreams, may have the beneficial effect of allowing the imaginary expression of repressed desires. [\[17\]](#)

Violent entertainment for young people did not, after all, begin with The A-Team or even Punch and Judy. Geoffrey Handley-Taylor analyzed 200 traditional Mother Goose nursery rhymes and found that over half dealt with the harsher side of life. In these dark rhymes, there were many cases of murder, torture, and cruelty to humans and animals accomplished by such

methods as decapitation, drowning, and dismemberment. [18] A content analysis of Grimm's fairy tales found them to be much more violent than prime-time television. [19] Even post-Grimm, modern versions of stories such as Hansel and Gretel (in which two children, after being abandoned by their parents and captured by a cannibalistic witch, save themselves by shoving the witch into an oven), Little Red Riding Hood (in which a malicious wolf procures information from a little girl, breaks into her grandmother's home, eats the grandmother, attempts to devour the girl, and is then shot by a hunter who slices open the wolf's stomach and rescues the grandmother), and Jack and the Beanstalk (in which a lazy, greedy boy, the hero of the story, steals valuables from a cloud giant and then kills the giant while fleeing the scene of the crime) are sinister and violent. As many parents recognize, these violent stories help children face and overcome their fears and thus play a socially positive role. [20]

It is less important, Twitchell suggests, to count the number of fictional homicides that the average sixteen-year-old male has watched than to consider why he wants to see so many of them in the first place. [21] From the eye-gouging wrestling matches of ancient Rome (which Gibbon blamed in part for the fall of the empire), to bull-baiting in the 18th century, to Punch and Judy and "penny dreadfuls" in the 19th century, and movies, comic books, professional wrestling, and television in the 20th century, adolescent males have displayed an insatiable appetite for violent entertainment. According to Twitchell, far from being antisocial, these entertainments "pantomime what is too traumatic to learn by actual experience Like fairy tales that prepare the child for the anxieties of separation, sequences of preposterous violence prepare the teenager for the anxieties of action. They are fantastic, ludicrous, crude, vulgar, and important distortions of real life situations, not in the service of repression or incitement (though they certainly have that temporary effect) but of socialization." [22]

Twitchell's analysis does not necessarily conflict with Centerwall's views. For the vast majority of adolescent males, media violence may be as beneficial an experience as Twitchell suggests. Perhaps that is why violent entertainment for young males has been such a constant in our culture. Unfortunately, for a disturbed, vulnerable fringe of adolescent males, violent entertainment may push them over the edge from simply thinking about violence to actually perpetrating violent crimes. Accordingly, reducing media violence remains a worthwhile component of an anticrime strategy as long as we recognize that we are only working at the margins. No matter what is done, there will still be large doses of violent entertainment produced for teenage males. Teenage males, in some way, need violent entertainment, just as older people, in some other way, need to fret about it.

Yet even if media violence were entirely eliminated, the criminogenic effect of modern electronic media might not disappear. As Reason magazine editor

Virginia Postrel points out, the Centerwall studies do not necessarily show a link between television violence and actual violence; the studies show a link between television itself and actual violence. [23]

Pitzer College English professor Barry Sanders, in his book *A is for Ox: Violence, Electronic Media, and the Silencing of the Written Word*, argues that replacing reading with electronic entertainment promotes violence. [24] Sanders argues that a sense of the "self" (the ability to use abstract categories) and many other core cognitive abilities are dependent on literacy. Most of today's young violent criminals are illiterate. If children live in what Sanders calls an "orality" environment where parents tell stories and engage in constant dialogue, then children are eager to master written language. But deprived of orality, children perceive writing as a hostile set of rules to resist and never master. Sanders identifies a number of reasons for the decline of orality (and hence literacy), including the declining number of hours that parents spend with their children and even the practice of bottle-feeding infants rather than breast-feeding.

At the center of Sanders's indictment is electronic entertainment. Although television surrounds children with words, it is a one-way medium that encourages passivity and retards the development of language skills. Modern culture in general, and television in particular, promote instant gratification and do not allow children a second of boredom. Because boredom is the garden from which creativity grows, illiterate, television-oriented children become present-oriented, uninterested in self-restraint, and less capable of human empathy. At the extremes, "a gang kid gets tossed and tumbled around as the daily flow of events washes over him. He lacks the skills that would enable him, like some other youngsters, to sit on the sidelines, contemplatively, and watch those events pass by [Gang children] enjoy no distance from the events going on around them They feel victimized, at the mercy of experience, unable to see meaningful choices that would allow them to exercise true agency." [25]

If Sanders is correct, then it is possible that literacy programs for at-risk groups may be important crime prevention tools. At the least, Sanders offers reasons to consider that violence may not be all that is wrong with electronic media. He reminds us that solving the violence problem, which is partly derivative of the literacy problem, cannot be accomplished without strong families.

Network Promises

From time to time, the major television networks announce new anti-violence initiatives. [26] Apparently in response to viewer preferences, network television programming in the mid-1990s contains a smaller number of violent police and detective shows than it did in the 1970s. But television remains violent. [27] The problem with grand statements by television

executives about violence control is that they fly in the face of entertainment economics. University of Pennsylvania Communications professor George Gerbner notes that violent shows require less expensive actors and can be more readily sold in foreign markets. For example, Rambo, as originally written, is the story of an American soldier in Vietnam. As released in the Middle East, the setting became World War II in the Philippines, and the North Vietnamese enemy became the Japanese. [28] In Central Africa, English-language versions of the Arnold Schwarzenegger movies are shown to non-English speaking audiences without subtitles. The violence, apparently, works as a lingua franca.

According to Gerbner, the problem is even more serious for children's programming. It is easier for cartoonists, especially those working on network assembly lines, to depict violence than to depict humor. Many violent cartoon plots are recycled from one show to another; only the characters are changed. [29] In a 1993 report delivered to the National Cable Television Association, Gerbner noted that cartoons and other children's shows contain more violence than any other form of programming. Children's programs created for the major networks were more violent than equivalent cable programming and averaged thirty-two violent acts per hour.

While television executives promise less violence, they are simultaneously pushing the latest fad in violent entertainment, the misnamed "reality-based television." Many "reality" shows, while based on case histories of real crimes, are a poor approximation of reality. Although they show numerous shootings, they rarely show the suffering that accompanies the shootings. Indeed, for all the graphic violence, television and film portrayals of gunfights are highly unrealistic. The cameras quickly cut away from dead and dying bodies. The fast break to the commercial teaches no lesson about the permanency of death or injury. Few quadriplegics with shattered spines populate the world of television shootings. [30] Gerbner terms the current style "happy violence." [31]

Accordingly, it is reasonable to consider what steps America can take to reduce the harm caused by violent entertainment beyond trusting the good will of the television networks.

Censorship and the First Amendment

No matter how compelling the academic evidence detailing the harm of television, nothing justifies censorship. The First Amendment, like the other guarantees in the Bill of Rights, is not subject to revision on the basis of cost/benefit calculations. The Amendment sets an absolute bar to certain kinds of government actions precisely because the authors of the Bill of Rights knew that broad freedoms sometimes caused harms and that cries for "reasonable" restrictions on freedom sometimes arise. [32] Putting aside the

First Amendment, it is unjust to censor entertainment for a huge majority of Americans because a small fraction of the population reacts inappropriately.

As an empirical matter, it would not be hard to build a case for selective self-censorship of media crime reports. The rapid spread of carjacking from coast to coast after a publicized incident in Detroit suggests that media reports about crime in one city give ideas to criminals nationwide. In Los Angeles, local newspapers widely publicized the story of a man who dropped concrete from an overpass onto traffic passing below. A few days later another man in a different part of the city dropped concrete from another overpass. The second man's concrete shattered the windshield of an Iranian student, and the flying glass blinded the student for life. In Italy, the press often voluntarily choose not to report suicides to avoid creating copycat suicides. [33] Would the Iranian student be able to see today if the Los Angeles media had behaved with similar restraint?

The number of assassins and mass murderers who perpetrated their crimes because they knew they would become famous is legion. Arthur Bremer, whose assassination attempt put George Wallace in a wheelchair, was motivated by the publicity that would result. John Lennon's assassin, Mark David Chapman, decided to end his status as "Mr. Nobody" by garnering the fame that would come when he "killed the biggest Somebody on earth." [34] John Hinckley, who nearly killed President Reagan and crippled press secretary James Brady, thought his act would attract the attention and love of actress Jody Foster. [35]

James A. Fox and Jack Levin of Northeastern University studied mass murders in public places during the last three decades. They concluded that the number of such murders has increased in part because the fame that one murderer achieves as a result of media coverage inspires other potential murderers to seek similar notoriety. [36]

Suppose there were a policy that prohibited the press from mentioning the name of an assassin or mass murderer. Would Arthur Bremer, Mark David Chapman, and John Hinckley have perpetrated their crimes if such a policy were in effect? Do the media need to report the names of every assassin and mass murderer, or would simply reporting all the other facts of the killing satisfy a "reasonable" understanding of the Freedom of the Press? [37] Would press associations that fought a law against reporting the names of assassins and mass murderers be accused of a "fixation" on the First Amendment? [38]

At least in some cases, government censorship of crime reports or crime entertainment could save lives. Such action would contravene the clear command of the First Amendment. The fact that the First Amendment does not allow the government to compel the media to act responsibly does not, however, preclude the media from choosing to act responsibly. Media stockholders are not precluded from proposing resolutions at annual

stockholder meetings. Nor are consumers precluded from initiating boycotts against media whose irresponsibility promotes violence.

Technological Changes

Certain other legal controls on television violence would likely not violate the First Amendment. Centerwall suggests that all new television sets be required to have built-in time-channel lock circuitry so that parents could lock out a station or set of viewing times, even when they are not home to supervise television use. [39] In 1990, Congress enacted the Television Decoder Circuitry Act, requiring that most televisions built in 1993 and thereafter have built-in closed-caption circuitry for the hearing impaired. [40] There was no objection that the Act's engineering requirements for television sets violated the First Amendment rights of television makers or viewers. Similarly, requiring a time and channel control to be included in new television sets, as proposed by Representatives Edward Markey (D-Mass.) and Jack Fields (R-Tex.), [41] would not seem to violate the First Amendment. [42] Newer and more expensive devices employ magnetic cards and card-readers to allow parents to control the total hours of television that can be watched. [43]

Lock-out devices are not a perfect solution. Some technologically skillful children will find ways to defeat them. But children with high-level engineering and computer skills are less likely to perpetrate violent crimes in the first place. The more serious weakness of lock-out devices involves children who are neglected or ignored by their parents or who have no parent in the home. In such cases, there is no one to implement a lock-out device. These children are most at risk of becoming violent criminals. Still, if violent programming declines in response to other parents using the lock-out device, even neglected children will benefit.

Another useful step would be to require the entertainment industry to comply with the same gun laws that law-abiding citizens must obey. The Hollywood moguls who promote pro-death movies such as Terminator and Lethal Weapon are a much greater threat to public safety than gun collectors who keep a few war-time souvenirs locked in a case on the wall. At the least, the entertainment industry ought to live by the same laws that it advocates for the rest of the country. Applying California's "assault weapon" ban to Hollywood, just as it applies to everyone else in California, would not violate the First Amendment.

There may be many other steps that could be taken to deal with violence-promoting entertainment. Those steps that do not infringe the freedom of speech deserve serious consideration.

Notes

1. For a good summary of the literature, see Brandon Centerwall, Television and Violence: The Scale of the Problem and Where to Go from Here, 267 JAMA 3059-63 (1992).

2. Brandon Centerwall, Exposure to Television as a Risk Factor for Violence, 129 AM. J. OF EPIDEMIOLOGY 643-52 (1989) (study limited to whites in South Africa and the United States).

For a critique suggesting that Centerwall's statistics are overstated, see Victor Strassburger, Television and Adolescents: Sex, Drugs, Rock 'n' Roll, 1 ADOLESCENT MED. 164-94 (1990). For a critique of the connection between television and violence, see Marjorie Heins, American Civil Liberties Union, Media Violence and Free Speech, presented at International Conference on Violence in the Media, Oct. 4, 1994, available on ACLU internet gopher.

3. See Centerwall, supra note 1, at 3059.

In England in 1993, two-year-old James Bulger was murdered by a pair of eleven-year-olds. The last video rented by one murderer was Child's Play 3. In the film, a baby doll comes alive and its face is splashed with blue paint. The murderers put blue paint on James Bulger's face. The film includes a kidnapping, and Bulger was abducted before being killed. The climax of the film shows two boys killing the doll on a train while mutilating the doll.

James Bulger was mutilated, bludgeoned, and left on a railroad track to be run over. The Video that Caused Murder, N.Y. GUARDIAN, Dec. 1993, at 3.

In France in 1993, a seventeen-year-old boy died from an explosion caused by a home-made bomb which he made in imitation of a technique shown on the detective show McGyver (a series which, ironically, sanctimoniously promoted gun control). The year before in France, some boys accidentally set their school on fire, again in imitation of McGyver. Marlise Simons, Blaming TV for Son's Death, Frenchwoman Sues, N.Y. TIMES, Aug. 30, 1993, at 30.

In Ohio in 1993, a five-year-old boy who was watching the Beavis and Butthead cartoon on MTV (a cartoon which is aimed at teenagers, not five-year-olds) set a fire that killed his sister after watching a segment in which Beavis and Butthead said that it was fun to play with matches. A few months before, three girls in Ohio imitated Beavis and Butthead's use of a match to ignite aerosol spray; the girls' fire damaged part of a house but caused no fatalities. Cartoon on MTV Blamed for Fire, N.Y. TIMES, Oct. 10, 1993, at 30. MTV moved Beavis and Butthead to a later viewing time, thus reducing the chance that young children whose parents negligently fail to exercise control over television (such as the five-year-old, who never should have been allowed to watch Beavis and Butthead in the first place) will see the show. Senator Fritz Hollings (D-S.C.) found the whole affair so outrageous that he denounced "Beaver and Buffcoat" at congressional hearings.

Some other cases of imitation: Nathan Martinez allegedly fatally shot his stepmother and half sister after watching Natural Born Killers six times.

While singing *Singing in the Rain*, a group of young men in Britain raped a woman, as in a scene from *A Clockwork Orange*. Claiming inspiration from *Magnum Force*, two holdup men forced their victims to drink Drano and then shot them, killing three. After seeing *First Blood* twenty times, a man shot his former boss; at trial, a psychologist testified "Rambo gives us permission to kill people," and the man was found not guilty by reason of insanity. Serial murderer Nathaniel White said that he did "exactly what he saw in the movie" *Robocop*. After taking a girlfriend to see *Interview with a Vampire*, Donald Sterling stabbed her seven times and then sucked her blood. ENT. WKLY., Jan. 27, 1995.

4. GEORGE BROWN TINDALL & DAVID SHI, *AMERICA: A NARRATIVE HISTORY 1076* (W.W. Norton 3d ed. 1992).

5. Centerwall, *supra* note 1, at 3061.

6. The Power of 'Cowabunga,' MACLEAN'S, Dec. 7, 1992, at 50.

7. Thus, Japan is apparently able to ingest large doses of extremely violent entertainment because its family structures and social cohesion are very strong. See DAVID B. KOPEL, *THE SAMURAI, THE MOUNTIE, & THE COWBOY* 413 (1992).

8. As one former gangster explained:

You try to get out of the car like Warren Beatty did in *Bonnie and Clyde* It all becomes scenes from movies -- you're doin' James Cagney and Edward G. Robinson, or any of the people you grew up watching as gangsters ... I know people who will hum music under their breath

Quoted in LEON BING, *DO OR DIE* 245 (1991).

9. See Heins, *supra* note 2 and sources cited therein.

10. Elizabeth Jensen & Ellen Graham, *Stamping Out TV Violence: A Losing Fight*, WALL ST. J., Oct. 26, 1993, at B1.

11. GEORGE MEREDITH, *AN ESSAY ON COMEDY* 18 (Charles Scribner's Sons 1897) (1877), quoted in JAMES B. TWITCHELL, *PREPOSTEROUS VIOLENCE* 86 (1989).

12. JAMES B. TWITCHELL, *PREPOSTEROUS VIOLENCE* 169 (1989).

13. *Id.* at 169.

14. *Id.* at 156.

15. Howard Kurtz, *Murder! Mayhem! Ratings!:* Tabloid Sensationalism is Thriving on Television News, WASH. POST, July 4, 1993, at A1.

16. Twitchell, *supra* note 12, at 223.

17. *Id.* at 232.

18. *Id.* at 233-34.

19. *Id.* at 305 n.7.

20. See generally MARIE-LOUISE VON FRANZ, *AN INTRODUCTION TO THE PSYCHOLOGY OF FAIRY TALES* (1975).

21. TWITCHELL, *supra* note 12, at 235.

22. *Id.* at 262.

23. Virginia Postrel, *TV or not TV?*, *REASON*, Aug.-Sept. 1993, at 4.

24. See generally BARRY SANDERS, *A IS FOR OX: VIOLENCE, ELECTRONIC MEDIA, AND THE SILENCING OF THE WRITTEN WORD* (1994).

25. *Id.* at 68-69.

Although social science plays a role in the book, a very large amount of the text is devoted to Sanders's interesting but unproven speculations. His discussion of guns is limited by the fact that most of what he knows about guns appears to have been learned from the *New York Times* and from *Wall Street Journal* reporter Erik Larson. Sanders is in the same position as someone whose knowledge about Wicca and the New Age Movement has been culled from Religious Right fundraising letters.

Sanders also puts too much emphasis on attacking the electronic screen as a medium; his complaints about the visual qualities of computer screens overshadow an essential difference between computing and watching television: with the computer, the user is active and the process is interactive.

As part of the denouncement of the computer, Sanders suggests that writing with a word processor is not really writing. Similar complaints were offered (and ignored) when writers switched from Spencerian script to typewriters.

26. Bob Dart, *War Against TV Violence*, *DENVER POST*, Dec. 5, 1992, at 1.

27. Centerwall, *supra* note 1, at 3063.

In 1993, the four major broadcast networks responded to criticism about violence by beginning to run warning announcements just before violent programs. Edmund L. Andrews, *4 Networks to Offer Warnings of Violence on TV*, *N.Y. TIMES*, June 30, 1993, at A1. The warnings will help adults avoid programs they find offensive and will assist parents who closely monitor their children's viewing. However, they will accomplish nothing for poorly-supervised or neglected children.

28. TWITCHELL, *supra* note 12, at 214.

29. Cultural Indicators Research Team, *TELEVISION VIOLENCE PROFILE*, (Phil.: Univ. of Penn. Annenberg School of Communications, Nov. 1993); see also *Prime-Time Violence*, *MACLEAN'S*, Dec. 7, 1992, at 40-41.

30. Some crime reenactment shows may help reduce crime. For example, *America's Most Wanted* has led to the apprehension of more than 250 felons.

Networks Promise Lawmakers a Harder Line Against Violence, WASH. POST, May 23, 1993, at A5.

31. Charles S. Clark, A Violent Reaction, ROCKY MOUNTAIN NEWS (Denver), June 19, 1993, at 7C.

32. See *American Booksellers Assoc. v. Hudnut*, 771 F.2d 323, 329-30 (7th Cir.1985), *aff'd*, 475 U.S. 1001 (1986). In *Hudnut*, the court explained that no degree of compelling evidence could overcome the command of the First Amendment:

[W]e accept the premises of this legislation [against sexualized depictions of women as subordinate]. Depictions of subordination tend to perpetuate subordination. The subordinate status of women in turn leads to affront and lower pay at work, insult and injury at home, battery and rape on the streets Yet all is protected as speech, however insidious.

Id. at 329. Ironically, some civil libertarians who embrace most strongly the courts' First Amendment protection of all free speech, no matter how strong the evidence that the speech causes harm, are willing to ignore the Second Amendment, because they believe that gun ownership is harmful. The appropriate response to both the censorship lobby and the gun-control lobby is to suggest that they seek to amend the Constitution rather than lawlessly ignore parts with which they disagree.

33. For scholarship suggesting that media reports of suicide do not cause a statistically significant increase in suicide, see Heins, *supra* note 2, at n.33 (and sources cited therein).

34. See generally JACK JONES, LET ME TAKE YOU DOWN: INSIDE THE MIND OF MARK DAVID CHAPMAN, THE MAN WHO KILLED JOHN LENNON (1993).

35. For further discussion of John Hinckley and the Bradys, see David B. Kopel, Background Checks and Waiting Periods, in GUNS: WHO SHOULD HAVE THEM? (David B. Kopel, ed., forthcoming 1995).

It is true that media are not ultimately responsible for crimes. Responsibility lies with the criminal who chooses to imitate the crime he sees on television. The media reports of crime are not intended to cause more crime. Similarly, criminals, and not gun manufacturers, are responsible for gun crime.

36. JAMES A. FOX & JACK LEVIN, MASS MURDER: AMERICA'S GROWING MENACE 21-22 (1985).

37. The assassin's name would not become a state secret. The media could simply choose not to use the assassin's name in stories. After college football bowl games began selling their names to the highest bidder (e.g., the Federal Express Orange Bowl), the New York Times announced that it would not use the corporate sponsors' names in bowl game stories. Thus, a New York Times

story will discuss the "Orange Bowl," and not the "Federal Express Orange Bowl."

38. Cf. President Clinton's assertion that the National Rifle Association was excessively "fixated" on the Second Amendment because it opposed bans on so-called "assault weapons." The White House, Office of the Press Secretary, Remarks by the President in Discussion with National Service Volunteerism, Mar. 1, 1993 (New Brunswick, N.J.). Much to the Clinton Administration's credit, White House press releases and other documents are available on the internet through the White House gopher.

39. Centerwall, *supra* note 1, at 3062-63.

40. 47 U.S.C. 609 (1994 Supp.).

41. Congress Considers Block on Violent TV, WASH. TIMES, May 13, 1993 (Associated Press); Edmund L. Andrews, A Chip that Allows Parents to Censor TV Sex and Violence, N.Y. TIMES, July 18, 1993, at 13.

42. If, however, Senator Chafee (R-R.I.) were calling for the confiscation of all privately-owned television sets, if some Washington lobbies insisted that no one needed their own television because they could always watch movies in public theaters, if other lobbies suggested that television viewing should be permissible only when the viewer was watching "legitimate sports," and if anti-television law ideologues claimed that the First Amendment freedom of the press granted no right to ordinary citizens, but instead protected government-sponsored speech from interference, then frightened television owners and manufacturers might resist any new government controls on television. The extremist attitude of many gun-control advocates toward the right to bear arms (insisting that handguns should be confiscated, or that only guns for "legitimate sports" should be permitted, or that the Second Amendment "right of the people" protects only guns owned by the government) poisons the dialogue about gun control. It is an important reason so many gun owners instinctively oppose all forms of control. See generally Don B. Kates, Bigotry, Symbolism and Ideology in the Battle over Gun-Control, 2 PUB. INT. L. REV. 31-46 (1992).

43. Tune Out, Kids, NEWSWEEK, Apr. 5, 1993, at 57.