1. Introduction

The United States has a lot of gun violence. In 2014, there were 3.43 gun-related homicides per 100,000 people, a much higher rate than any other country in the Organisation for Economic Cooperation and Development (OECD) except Mexico. The U.S. is also awash in guns: the country has more privately-owned firearms than people, along with over 40% of the world’s total guns.¹ There is good reason to believe that firearm possession by other members of the community, even law-abiding members, increases the risk of gun crimes to others. Privately-owned firearms in the U.S. are significantly more likely to be used in a violent crime than to deter the commission of one, and most gun crimes are committed either with a gun the assailant legally owns, one borrowed from a family member, or one stolen from a legal gun owner.²

Though widespread gun ownership imposes significant costs on some through greater risks of violent crimes involving firearms, efforts to regulate gun ownership or to abolish it for some or all classes of weapons faces significant political and legal hurdles. The Second Amendment, as interpreted by the Supreme Court in its 2008 decision in District of Columbia v. Heller, enshrines private gun ownership as a basic legal right. Many people own guns for their own safety, in order to deter potential assailants. Many gun owners also believe that gun control proponents are insufficiently attentive to the importance having guns plays in their culture or their conceptions of what constitutes a good life.

One way to think about how gun policy could be better would be to try to weigh the competing claims of members of both sides of the debate and to try to work out which are based on incorrect factual assumptions. Whether or not guns really make gun owners or anyone else safer is (at least partially) an empirical question, one we might eventually answer if we do the right studies and correctly interpret the data. If we do careful moral philosophy, maybe we will decide that even if we could promote the public good by restricting or abolishing private gun ownership, gun owners have a basic moral right to own guns that should not be violated for the good of others. Or maybe we’ll decide that the interests that gun owners have in owning guns are not basic interests, and weigh little in comparison with the interests others have against being subjected to a greater risk of violent assault.

This paper pursues a different strategy. The question I address here is: assuming that gun ownership in the United States imposes costs on some and realizes benefits for others, what is a fair way to distribute those costs and benefits? Suppose that gun owners have a morally significant interest in owning guns. What sorts of burdens may the state place on those interests in order to promote public safety? Here, I defend a plausible moral principle that individuals should, all things being equal, be required to pay the morally significant costs that they impose on others. This principle favors policies aimed at redistributing the costs of gun ownership to those who choose to own guns. I discuss three forms of policy responses that may satisfy this principle: making gun owners financially liable for the damage their weapons do to others even when they are lost or stolen; product liability for gun manufacturers, the costs of which would make guns more expensive to own; and a state-run scheme that imposes taxes or licensing fees on gun owners. Though I think these are plausible responses to the problem of making gun owners internalize the costs their choices impose on others, the argument here falls short of a full
defense of these policies. Rather, the costs such policies would impose on gun owners constitutes a morally acceptable minimum of burdens that state should be able to impose on gun owners with policies plausibly aimed at reducing gun violence.

2. Gun ownership imposes costs on others

The impact widespread gun ownership has on public safety is controversial not only among the public, but among academics researching the topic as well. Often, researchers are trying to answer a very general question: do guns make society more or less safe overall? For instance, John Lott has popularized the “more guns, less crime” thesis, which claims that increased access to guns and fewer gun-related legal restrictions lowers crime by deterring criminals from committing crimes. David Hemenway has argued that the public safety debate should be construed even broader, to include the overall effects that guns have on public health, including increasing suicides and accidents along with overall social violence. According to Hemenway, we should think of guns the way we think of tobacco, as a public health risk, and take public policy steps to mitigate the harms of firearm possession. Other public health researchers have presented evidence that gun owners are more likely to be shot with their own gun than they are to successfully use it for self-defense or to deter a crime.

For purposes of this paper, to ask whether or not guns make society safer overall is to ask the wrong question. It misses the morally significant fact that the decision to own a gun imposes costs on others by putting them at risk. First, even if it turns out that guns promote public safety, it would still matter how the public safety benefits of gun ownership are distributed. Suppose that

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your owning a gun makes you 5% less likely to be the victim of a violent crime because you might use it defensively in some future case. But suppose that it also makes me 3% more likely to be shot because someone might steal your gun and use it in a violent crime against me. If, for the sake of the example, we hold fixed everyone else’s chances of being shot or being the victim of a crime, then your owning a gun is in some sense an overall improvement to public safety. But it does this by making you safer at my expense. Who the policy benefits and who it burdens is morally relevant for assessing gun policy. The fact that your decision makes you safer does not compensate me for the risks it imposes on me, as would be implied if we thought that the only thing that matters is the overall effect guns have on public safety. Second, not all of the costs guns impose are harms to others. Over 60% of gun deaths are suicides. Suicide is often tragic, but it is importantly morally different from homicide. I suspect that suicide is not always tragic or harmful, since it may be the case that the best response a person has to the reasons available to them is to end their own life: if, e.g., continuing to live would require them to live in great pain, or to live inauthentically, or to give up important life projects that they have. But even when suicide committed with a firearm is harmful, it is generally a harm to the person whose decision it is to own a gun. If it turns out that gun owners are significantly more at risk of suicide because they own a gun, then a public health campaign to convince people not to own guns might be a good idea, in the same way that it is a good idea to institute a public health campaign that encourages people not to use tobacco. But the fact that your buying a gun makes you more likely to commit suicide is not a harm to others, the sorts of harms this paper aims to address.

The question relevant to my argument is: does owning a gun impose morally significant costs on others? I argue that it does. To show this, I defend four claims: (1) the prevalence of gun ownership predicts a greater incidence of gun homicide and injury; (2) the correlation between
gun ownership and gun homicide can be plausibly explained by the contribution increased gun ownership makes to increase violent homicide; (3) it is not the case that violent crimes committed using guns would be displaced by crimes of the same severity committed with other weapons if guns were less available; and (4) it is not the case that gun ownership deters more crimes than it contributes to—and that even if it does, this should not be deducted from the costs gun ownership imposes on others.

First, the prevalence of gun ownership contributes to a greater incidence of injury and death resulting from violent crimes committed with guns. It is generally accepted that there is a strong correlation between levels of firearm ownership and homicides committed by firearms. A wide-ranging study of levels of gun ownership and homicides of each state in the U.S. from 1981-2010 found that, when controlling for other major predictors of homicide, a 1% increase in the proportion of households that own at least one gun predicts an almost equivalent increase—0.9%—in the rate of firearm homicides. Of course, the fact that gun ownership predicts increased violence does not definitively establish that increased gun ownership causes violence. The causal relationship could be the reverse: it could turn out to be the case that a higher gun homicide rate encourages people to buy guns. These behaviors might also be mutually reinforcing: it may be the case both that an increase in homicides leads more people to buy guns and that increased gun ownership leads to increased homicides. However, the authors of the study also found that a strong correlation was present even when gun ownership data was lagged by one or two years. In other words, gun homicides were predicted by the gun ownership rate of the past one or two years. This is consistent with the hypothesis that increased rates of gun ownership cause more gun homicides, or that some third factor causes both, but it shows that

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7 Ibid.
there is not a one-way causal relationship from increased gun homicides to increased rates of household gun ownership. Additionally, there is reason to believe that the overall decline in the homicide rate in the U.S. is significantly influenced by advances in medical care. The fact that doctors are better at preventing patients from dying of gun injuries suggests that the national gun homicide rate, which has been flat for several years and is much lower than the 1980s and early 90s, masks a significant increase in shootings that today result in injury instead of death.⁸

Second, we have plausible candidate causal explanations for how increased rates of gun availability might result in more gun violence. The first candidate explanation is that the availability of firearms contributes to the formation of homicidal intentions. Using a firearm makes it more likely that attempted homicide will be successful, and makes it less costly to try to kill someone by lowering risks to the assailant. Whether or not someone is likely to form an intention to commit some act, such as homicide, is partly dependent on whether or not they think that act will be successful and how costly they anticipate that it will be to them. So we would expect firearm availability to make it more likely that people with homicidal desires will form intentions to act on them. There is some evidence to support this claim: violent crimes committed with guns are three times more likely to result in a homicide than crimes committed with knives and ten times more likely than crimes committed using another weapon. This suggests that the availability of firearms in these cases contributes to homicides that would not otherwise occur.⁹

The second candidate explanation is that the presence of guns primes individuals to behave aggressively and to respond to aggression violently. Participants in a behavioral psychology experiment were significantly more likely to respond to provocation from another

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study participant by applying electric shocks on them when a gun was visible in the experiment environment. Psychologists have found that handling a gun for 15 minutes (as opposed to a toy) made male study participants more likely to behave more aggressively toward one another.

The first two candidate explanations for the relationship between gun availability and gun homicides suggest that it is wrong to assume that guns are safe in the hands of law-abiding gun owners and only pose a threat to the public when they fall into the hands of bad individuals who are antecedently motivated to commit violent crimes. Instead, there is some reason to think that the prevalence of guns makes some gun owners who might otherwise obey the law more likely to form violent intentions and to respond to provocations with violence, since guns increase violent intention-formation and prime individuals to commit violent acts. However, even if we accept that we have little to fear directly from the actions of law-abiding gun owners, there is a third commonsense candidate explanation for the relationship between gun prevalence and gun crime: guns are often stolen or otherwise obtained from law-abiding gun owners by those who are not legally allowed to own guns and who intend to use them in crimes.

A high percentage of gun crime is committed by individuals proscribed from owning guns. Approximately five hundred thousand guns are stolen in the United States each year. A very small percentage of these weapons are recovered by law enforcement. The rest come into the possession of someone who is not legally entitled to possess them. Stolen guns are a major source of guns for individuals convicted of crimes. In a survey, 32% of men who had been convicted of at least one a felony reported having stolen their most recent handgun, and 70%

12 Cook and Ludwig, 130.
claimed that their most recent handgun was either “probably” or “definitely stolen.” Among the same group of respondents, 43% of those who rated the commission of a crime as “very important” to their having acquired their most recent handgun reported having stolen it, along with 49% of those who reported crime as a “somewhat important” motive. In addition to theft, guns are frequently acquired in secondary markets, both through unregulated straw purchases in the U.S. and in underground markets. Economic analysis suggests that the liquidity of an underground gun market is dependent on the prevalence of gun ownership in a community, since fewer willing sellers of guns coupled with the legal risks of advertising for those wishing to obtain a gun illegally make it difficult for potential buyers to find sellers.

The previous two claims help make the prima facie case that gun ownership imposes significant risks on those who might be victims of violent crimes: gun ownership co-varies with gun homicides, and this fact is plausibly explained both by the observation that guns make people more likely to engage in violence and by the fact that guns are often stolen and used in crimes. But there are two objections that may be raised here. First, one might argue that if guns were not used in homicides and other violent crimes, those intent on committing violent crimes would likely commit them anyway with whatever weapons they had available. According to this objection, guns are only a convenient instrument of violence, not a contributor to it. The denial of this claim, the assertion that the instrument of crime matters, and that gun crimes would not be displaced by the same crimes committed by different weapons, is sometimes called the instrumentality thesis by gun crime researchers. Second, one may object that, even if gun ownership contributes to some crimes being committed, the widespread prevalence of guns

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14 Ibid., 36.
16 Cook and Ludwig, 34.
ownership also deters crimes against others, and so does not have an overall positive impact on the crime rate. Showing that gun ownership imposes significant costs on others involves responding to both of these claims.

The best evidence in favor of the instrumentality thesis, and so against the claim that reduced access to guns would lead those who commit violent crimes to simply use alternative means, is to examine whether or not guns make a difference to whether or not some crimes result in death. As I noted above, gun crimes are significantly more deadly than the same crimes committed with other weapons. Street robberies committed with guns are between three and four times more likely to result in homicide than robberies committed with knives.\textsuperscript{17} Overall gun violence is closely linked to murders by any cause: for every 1,000 additional gun robberies, we should expect 0.48 additional murders, while increasing the rate of robberies with other weapons would only predict an increase the rate of murder by 0.14.\textsuperscript{18} The fact that individuals committing the same crimes are more likely to kill when they have guns suggests that gun availability makes a difference to the overall deadliness of crime.

Finally, it is not clear that gun ownership makes much of a difference to deterring crime. Here, we should distinguish direct uses of guns for self-defense—cases in which gun owners use a gun to prevent a crime against themselves—from the overall deterrent effect that widespread gun ownership purportedly has against crime. Reports of defensive uses of guns, which are acquired through survey data, are subject to overestimation by gun owners. Using a gun for self-defense is an uncommon event, and it is also one that validates the past choices of a person who

\textsuperscript{17} Franklin E. Zimring and Gordon Hawkins, \textit{Crime is Not the Problem: Lethal Violence in America} (New York: Oxford University Press, 1997), 114. Gary Kleck challenges an earlier estimate by Zimring that gun robberies are five times deadlier than knife robberies, but cites alternative studies that nevertheless show that gun robberies are three to four times as deadly as knife robberies. See Gary Kleck, \textit{Targeting Guns: Firearms and Their Control} (New York: De Gruyter, 1997), 227.

\textsuperscript{18} Cook and Ludwig, 36.
has chosen to purchase a gun. Because even high annual estimates that there are around 2.5 million defensive gun uses annually still only reflect that 1% of gun owners use their guns defensively,\textsuperscript{19} false positives are far more likely to be reported than false negatives. If we assume that the real rate at which gun owners use their guns for defensive purposes is equal to or less than 1%, then there are at least 99 times more opportunities for respondents to falsely report that they used their gun defensively than there are opportunities for them to falsely report that they did not use their gun defensively. This significantly biases estimates of defensive gun use upward.\textsuperscript{20} To illustrate this sort of statistical bias, an alarming 1% of American adults surveyed claim to have been personally contacted by intelligent extraterrestrial life, another rare event where the real rate is probably lower than surveys indicate (it is likely zero), and one where this low actual rate makes false positives far more likely than false negatives.\textsuperscript{21} In any case, as I have argued above, it’s not clear how defensive gun use is relevant to the extent to which gun ownership imposes costs on others. The only thing that a successful defensive use of firearms shows is that gun ownership may sometimes be good for gun owners, not that it is not costly to other members of society.

Aside from the rate at which gun owners use their weapons to defend themselves, it could also be the case that widespread gun ownership deters would-be criminals from committing crimes. Lott has popularized the claim that additional guns lead to decreased crime, but the time series data that he examines to support this claim does not show that. Instead, at best, it shows that after states liberalize gun laws by issuing right-to-carry permits, gun crime tends to go

\begin{footnotesize}
\textsuperscript{19} Cf. Kleck.
\textsuperscript{21} Ibid., 1437-38.
\end{footnotesize}
down. This does not show that more guns lead to less crime. The widely acknowledged correlation between gun ownership and an increased homicide rate suggests that such a relationship is probably not the case. There is little evidence that issuing permits to carry concealed firearms increases gun ownership, and whether or not individuals should be allowed to do so is orthogonal to my proposal that gun owners should pay the costs they impose on others. There is also reason to doubt Lott’s finding that concealed carry policies decrease the crime rate. The effect Lott finds is highly sensitive to the choice of control variables and the use of dummy variables in analyzing his data, and different authors have come to very different conclusions with the same data-set. In a 2005 review issued by the National Academy of Sciences, commissioned in part to examine Lott’s surprising claims, independent researchers concluded that “[w]ith the current evidence it is not possible to determine that there is a causal link between the passage of right-to-carry laws and crime rates.”

3. The Basic Equity Principle

The previous section canvassed the empirical literature on the connection between gun ownership and gun crimes, and concluded that gun ownership imposes significant costs on others through making it more likely that they will be the victim of a gun homicide. This presents a problem: people incur certain costs through their choices, but others pay these costs. This is what economists call a negative externality. One effect of negative externalities is that they give individuals who are responsive to the costs of their actions (so that they’ll do less of something the more it costs them) reason to make choices that are not optimal if we take everyone’s

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22 Cf. Lott, chapter 4.
23 Cook and Ludwig, 60-61.
interests into account. Because a gun owner does not pay the full costs of her decision to own a gun, she is more likely to choose to own a gun than she would be if she had to pay for the full cost (again, assuming she is responsive to costs). A rational gun owner may admit that the costs to gun ownership outweighs the benefits. However, the part of those costs that others pay through a higher homicide rate need not factor into her decision if she is behaving rationally.

A good start on the way toward a solution to making gun owners’ choices reflect the costs and benefits they impose on others would be to find some way to make gun owners pay (i.e., internalize) those costs. One way to do this would be to make gun owners pay, through licensing fees, taxes, or liability. There are, however, other alternatives that could provide the same rational incentive to gun owners as them paying the costs directly. For instance, those affected by the decision, or the government acting on their behalf, could pay prospective gun owners to not own guns. From the point of view of a rational agent, foregoing a benefit (and so incurring an opportunity cost) provides the same incentive as incurring a cost equal to that benefit. It makes no difference to the rationality of my decision whether you offer to pay me $100 to not own a gun, or whether you fine me $100 if I own a gun. Either way, owning a gun will make me $100 poorer than I would be if I choose not to own one. If it’s worth $100 to you (and everyone else) for me not to own a gun, then offering me $100 to not buy a gun gives me reason to consider the true cost of my buying a gun to you: now it’s worth whatever costs and benefits it has for me, minus the $100 it’s worth to you for me to not own it.

Put another way, we might suppose that gun owners in our society are behaving more or less rationally when they decide to purchase guns, given that they don’t have to pay all of the costs their ownership imposes on others. Because it’s not the case that each gun owner expects to pay the full cost of owning a gun, this equilibrium is not optimal: it reflects greater demand for
gun ownership than there would be if gun owners had to take the costs their choices impose on others into account. If we make gun owners consider those costs in their decision, either by imposing equivalent costs on them or by offering to pay them to behave differently, then the equilibrium of our society would be the same or near the socially optimal equilibrium. But there are as many ways to make it rational for gun owners to behave in a socially optimal way as there are ways to split the cost that they pay between actual costs (fines, etc.) and opportunity costs in the form of forgone benefits.  

So far, this discussion has been limited to the issue of achieving an efficient social outcome, i.e., one in which no alternative social arrangement would make any party better off without making someone else worse off. Efficiency—in this case, accurately pricing the social costs of choosing to own a gun—is important, but is not the only morally important consideration. Having a fair distribution of the costs and benefits incurred by a decision is also important. In addition to its being sub-optimal from the point of view of a social utility function, my argument is that it is unfair for gun owners to impose costs on others without paying for them.

Call the set of all socially optimal equilibrium solutions in which gun owners pay, either in the form of cost, forgoing a benefit, or some combination of both, the full cost of their decisions the efficient frontier of optimal social outcomes. Arrangements between gun owners and potential victims of gun crime along the efficient frontier accurately price the costs and benefits of gun ownership. When we’re trying to determine what the fair price is for a decision that creates externalities, like owning a gun, I suggest that we should focus only on solutions along the efficient frontier. One reason for this has to do, not with fairness, but with the moral

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26 This is an application of the Coase theorem. The Coase theorem holds that possible externalities will be efficiently priced if third parties are able to freely bargain with sufficiently low transaction costs. See R. H. Coase, “The Problem of Social Cost,” *Journal of Law & Economics* 3 (1960): 1-44. See below for a more detailed discussion.
attractiveness of efficient outcomes. In any arrangement not on the efficient frontier, someone—
either a gun owner or some other member of society who values their safety more than some gun
owner values owning a gun—could be made better off by their own lights without making
someone else worse off, if it were possible for them to transact with another party who is willing
to either give up some choice (in the case of the potential gun owner) or pay some cost (in the
case of the person threatened by gun crime). By definition, any inefficient outcome could be
made better by the lights of someone without making anyone else worse off.

An argument from basic fairness also favors arriving at an efficient pricing of the choice
to own a gun. Members of society are moral equals with one another. No person has less of a
claim to have their interests taken seriously than anyone else. Cost arrangements along the
efficient frontier force those who make decisions that may impose costs on others to at least
consider the importance of the issue to individuals who may have to pay those costs in their
decision calculation. Note that this is not a claim that it would be morally better on the part of the
person considering whether or not to impose an externality for them to efficiently price the other
person’s interest. Here I assume that the person who decides acts in their own rational self-
interest, and only considers the benefit to the other person because, if they didn’t, they will either
have to pay a cost, forgo a benefit, or both. Instead, the point here is that fair systems of social
rules should include the morally significant interests of other members of society in the
incentives they give members of society.

Notice that the claim that it would be morally better if gun owners were required to fully
price the costs they impose on others through gun ownership, even if this were to take the form
of paying gun owners ransom not to make choices that impose externalities on others, is
interesting given that it diverges rather strongly from actual practice in U.S. society. The upshot
of section 2 was that gun ownership imposes morally significant costs on others. If we make the very modest assumption that those costs are not trivial to those who experience them—that it’s worth *something* to members of society to achieve a lower risk of gun homicide—then we might expect that private individuals would try to pay some prospective gun owners not to own guns. Of course, we do not see this in our own society. Bargaining from an idealized position differs from actual transactions in a number of ways. Many people are uninformed about the risks to their safety from a high prevalence of gun ownership. The transaction costs of privately negotiating with gun owners would quickly overwhelm whatever benefit might be achieved by trying to pay people not to own guns. These transactions might be impossible to negotiate or enforce. Many of these problems, however, could be addressed if the state were to negotiate on behalf of those in whose interest it would be to lower rates of gun ownership. So an interesting upshot of the discussion so far is that contemporary practice may be improved even if the government or one of its agencies were to enact the most milquetoast, concessive response possible to the negative externalities gun owners impose on others with their choices: namely, to pay gun owners not to create them.

Such an arrangement would be better than the one we have, but it still would not be a fair response to the costs gun ownership imposes on others. Once we accept that the appropriate distribution of the costs and benefits lies somewhere along the efficient frontier, the question is only what distribution of the disincentive to own a gun should come from costs paid by gun owners to own guns or from subsidies by the state (or by private individuals, if such transactions could be arranged). Here, I think fairness strongly favors making prospective gun owners pay the full costs that they impose on others. Individuals should not receive benefits according to their ability to impose costs on others through their intentional actions. On this matter, John Rawls
articulates a deep moral truth when he observes that “to each according to his threat advantage is not a conception of justice.” There is a great deal of debate to be had about what constitutes fair social conditions, but whatever they are, they do not involve levering power in such a way that makes it possible to extract gains from the possibility of imposing costs on others.

That may seem thin in the way of argument. It is difficult to motivate a moral claim about fairness that. I think, already has powerful intuitive appeal. So I will pursue a more modest goal: to try to make this general way of thinking about fairly pricing externalities explicit, and to show that it is robust in that it captures our intuitions about similar kinds of negative externalities.

A general form of the principle that I have defended here is what I will call the basic equity principle. According to this principle, individuals should, all things considered, pay the costs that their non-coerced choices impose on others. This principle captures the basic idea that a satisfactory response to negative externalities should be somewhere on the efficient frontier, because individuals paying costs under the principle will be disincentivated from making a choice that imposes costs on others exactly to the extent that the choice is costly. It also captures the intuitive idea that, when we distribute the costs of externalities as incentives or disincentives to the person considering making a costly choice, we should not reward them because they are able to threaten others with their actions. They should not be bribed not to impose costs on others.

So much for explication. Now to show that this principle is robust. Consider how we respond to paradigmatic cases of imposing negative externalities: cases involving pollution. Pollution is a negative externality on others who do usually not have a say in whether or not it occurs. There are three basic ways to distribute the cost of pollution. One is to do nothing and let polluters pollute as much as they want. As in the case of the externality imposed by gun owners,

this is the morally worst option, both because some parties could be made better off without making someone else worse off, and because it fails to take some people’s morally significant interests into account at all. Another response is to pay polluters not to pollute. This gets right the idea that there should be some disincentive roughly proportional to the costs polluters impose on others attached to polluting. But it is unfair, because it rewards people for their ability to engage in noxious behavior. The fair response, both according to the basic equity principle and, I hope, our intuitions about public policy, is to make polluters pay the costs that they impose on others.

By analogy, I hope that this is a productive way to understand the problems of gun control and gun violence. Some theorists treat guns like any other threat in our environment to be mitigated or eliminated. Or they treat it analogously to tobacco, as an obstacle to public health or safety. The approach I have sketched in this section is different: on this view, we should treat guns like we treat toxic waste. Both are negative externalities imposed by the choices of others. This view does not support a complete prohibition of handguns; analogously, it’s not as if there is no acceptable amount of toxic waste that may be created as a byproduct of some really important aim someone might have. It’s just that the person who imposes these costs ought to pay them if they are important enough to impose on the rest of us.

One final observation about the basic equity principle: a tax on negative externalities is a Pigouvian tax, and it is supposed to be welfare-enhancing in the sense that it encourages individuals to produce only a socially optimal amount of costs, i.e., no more costs than they are willing to pay for themselves. One upshot of R. H. Coase’s discussion in “The Problem of Social Cost” is that there are alternatives to a Pigouvian tax that also result in rational agents have incentives to produce only the socially optimal amount of those externalities. For instance, we could pay them not to, assuming that this arrangement has sufficiently low (and so almost never
realizable) transaction costs. The Coase theorem does not purport to tell us what would be a fair way to achieve the social optimal amount of some negative externality. But I hope that the basic equity principle makes some headway in making Pigouvian solutions to the problem of negative externalities more appealing. What can be said for the externality tax is not so much that it has a monopoly on efficiently pricing social costs, but that it captures a basic notion of fairness.

4. How might gun owners to internalize the costs of their choice? Three policy proposals

In this section, I outline three policy proposals that aim to force gun owners to internalize the costs their choices incur on others. These policies should have the effect of reducing rates of gun ownership to the level where the benefits to gun owners matches the costs their choices produce. The aim is to discourage people for whom gun ownership is not very important, but who only make that choice because current policy makes it cheaper than it should be.

1. Strict liability and insurance. This proposal, mentioned by Hugh LaFollette, would make gun owners strictly liable for the damages done with their firearm, even in cases in which the firearm is stolen. Strict liability is notably different from other forms of legal liability, such as negligence, since it need not be proven in order to establish strict liability that someone behaved differently than they should have in any way (other than, perhaps, by engaging in the kind of activity that generates a strict liability in the first place). This is one way to make gun owners pay for the costs gun ownership imposes on others. Owning a gun imposes risks on others by increasing the level of gun homicides. When this risk is partially or fully realized, e.g., when someone is shot and either wounded or killed with a gun someone else chose to own, this proposal requires gun owners to pay that realized risk in the form of civil damages.

28 Hugh LaFollette, 280-81. LaFollette actually claims that guns should have the legal liability status as dynamite, but this is not quite what he seems to have in mind. Uses of dynamite are strictly liable for the damages they do through normal use and through additional costs resulting from negligence. But they are not usually responsible for damage done by someone who steals dynamite. See Lester H. Hunt, “Is There an Issue Here?” Criminal Justice Ethics 20, no. 1 (2001): 40-41.
Many gun owners would likely be judgment immune if they were forced to pay damages when their gun is used in a crime. The damages from gun injuries or gun homicides are great, and they may exceed the amount of seizable assets at a gun owner’s disposal. So rather than go after gun owners for every penny they have—while still allowing them to evade the full costs their actions impose on others through insolvency—a sensible companion to making gun owners liable would be to require gun owners to also pay insurance. That way, instead of paying the realized costs of gun ownership when someone gets shot, gun owners would be required to pay the fair actuarial risk that their actions would result in a significant liability. This approach is familiar from car insurance: drivers are liable for the damages that they do with their car, sometimes even when they are found not to be at fault (and so engaged in no civil wrongdoing or negligence). Paying the costs of gun ownership for the risk of a shooting and not just in cases where a shooting actually occurs also has the virtue of imposing the costs of gun ownership on gun owners not only when someone gets shot, but for the duration of their gun ownership while they imposing a higher risk of gun homicides and injuries on others.

The strict liability and mandatory insurance scheme faces some challenges. First, along with the next proposal, it is illegal. Both the Protection of Lawful Commerce in Arms Act and the Child Safety Lock Act include riders that bar holding gun manufacturers liable for crimes committed with their weapons or holding gun owners liable for crimes committed by third parties.²⁹ So both this approach and the next one would require legislative change. For my purposes, this is not so important. It is likely that any decent solution to the problem of forcing gun owners to pay the costs they impose on others would require changing laws. Another, more difficult hurdle to this proposal is that holding gun owners strictly liable for gun crimes is a somewhat unprecedented application of the notion of strict liability. Applications of strict

liability that are upheld in court generally involve activities that are uncommon, necessarily involve a risk of serious harm to others, and cannot be made safe with appropriate care.\textsuperscript{30} Owning a gun does not obviously satisfy any of these conditions, and it may well satisfy none. On the other hand, it is possible that explicit legislation could create an exception to the judicial norms of applying strict liability in current contexts.

A final hurdle for mandatory gun insurance is that there are difficulties with accurately pricing actuarial risk in new markets. Because no one is liable for crimes committed when their gun is stolen currently, insurers do not know how costly such events would be in order to set actuarially fair premiums. So they would probably use a conservative estimate and charge more than would be necessary to insure against the risk of gun deaths.\textsuperscript{31} This may introduce inefficiency that is unfair in the opposite direction: charging gun owners too much for their choices.

2. \textit{Product liability for gun manufacturers}. An alternative to making gun owners strictly liable for crimes committed with their guns would be to make gun manufacturers liable for crimes committed with their weapons. While this proposal does not directly require gun owners to pay the costs their choices impose on others, it is plausible that the choice to manufacture and sell weapons in the U.S. imposes externality costs in the same way as the decision to own weapons. Additionally, gun owners would indirectly pay the price of their choices, because gun manufacturers that stay in business would have to charge enough money for their weapons to cover their expensive insurance premiums. So instead of requiring gun owners to pay a monthly premium for the costs their choices impose on others, this proposal would require them to pay these costs up front when purchasing a weapon.

\textsuperscript{30} See Hunt, 41.
\textsuperscript{31} Mocsary, 1241-42.
An advantage to this proposal is that it is more similar to other applications of product liability than holding gun owners strictly liable is to other applications of strict liability, so it may be easier to implement and enforce. Additionally, private gun owners may evade paying firearm insurance, but it is unlikely that firms that manufacture weapons would stay in business if they tried to evade legal regulations. A downside to this approach is that it would be difficult to implement for the hundreds of millions of weapons already available on the U.S. gun market.

3. Taxes or licensing fees. The first two proposals distributed the costs consumers and suppliers have to pay in a market by shifting legal liability. The third proposal would be for the government to directly impose what it judges to be the costs of gun ownership on gun owners in the form of a tax or as a fee for licensing a gun. This proposal has the virtue that it does not try to do anything ambitious with legal liability, and so may be easier to implement. It may also be possible for individual states to implement a policy of this form, since states are not barred by federal legislation from charging licensing fees to gun owners. A downside to this approach is that legislators may not be as well equipped as insurers or judges to determine how much the increased rate of gun homicide should cost to gun owners. Legislators may also be more likely than judges or insurers to make decisions that benefit lobbyists or other powerful interests instead of trying to fairly price the social costs of guns.

In discussing these three proposals, I have avoided discussing exactly how we might arrive at an estimate of how much in the way of damages gun owners should be liable for when someone is shot with their weapon. On one hand, how to accurately assess the cost of imposing a risk is a difficult question outside of the scope of this paper. On the other hand, the legal system currently does this, so it does not seem like an insoluble problem. Courts have a way of deciding how much in damages to award to individuals who successfully bring wrongful death claims. So,
while interesting, the problem of establishing a cost is probably not intractable.

Still, it is not impossible to estimate what sorts of costs may be involved in these policies. The 1998 National Gun Policy Survey polled voters and asked them if they would be willing to vote for a program to reduce gunshot injuries by 30% while costing them $200 more per year in taxes. 63.6% of respondents said that they would. According to Philip Cook and Jens Ludwig, this implies that the American public was willing to pay about $24 billion for a 30% reduction in gunshot injuries (approximately $34.67 billion today, adjusted for inflation).\textsuperscript{32} That implies, according to the authors, that respondents were willing to pay about $906,874 (approximately $1,309,943.02 today) to reduce each gun injury.\textsuperscript{33} This is a significant amount, and in the previous section it was argued that a significant portion of it should be paid by gun owners. How much is unclear, because it is unclear how much gun owners’ choices contribute to those deaths, or whether making gun owners pay would reduce the overall gun death by 30%, or what the public would be willing to pay for a more modest (or more extreme) reduction. Still, even a small fraction of that amount would be a large cost for gun owners to internalize. Even 20% of that cost, about $250,000 per gun injury, would require gun owners to internalize enough cost to buy insurance for a firearm sufficient to cover the value of a mid-priced home.

5. Objections

Here, I respond to two objections to the argument sketched in section 3 and to responding to it by implementing policies of the sort described in the previous section.

1. Gun ownership is a basic right. When someone has a basic right to something, they are not required to pay the costs exercising that right imposes on others. For example, people have a basic right to freedom of speech. Exercising this right can sometimes impose morally significant

\textsuperscript{32} Cook and Ludwig, 102.
\textsuperscript{33} Ibid., 107.
costs on others. Speech that denigrates major world religions can significantly increase the risk of violent assault to innocent bystanders by causing riots or even prompting mass killings by extremists. However, basic rights are trumps: they should not be weighed against other socially important costs before it is decided that they may be exercised. Instead, respecting a basic right like freedom of speech, or owning a gun, requires protecting them even if doing so conflicts with the interests of others, at least when not directed against their basic rights.\(^\text{34}\)

I grant that if something is a basic right in the sense described in this argument, respecting it would rule out making someone fully internalize the costs of exercising that right. I deny, however, that the right to own a gun is a basic right in this sense. Gun rights are not basic in the strong sense that a right to freedom of speech is basic in a constitutional democracy. The right to freedom of expression protects core interests most individuals have to both have a say in their political community, and to freely exchange ideas so as to help form a better idea of what they should believe and what things are important to them. Individuals might have incidental interests in gun ownership, in that they might be important to their particular projects or to their ideal of a good life. But these are the sorts of interests that can be weighed against the interests of others, such as the interest to avoid being killed in a gun homicide. Generally, the fact that something is important to someone’s idea of a good life does not entitle them to require others to pay the costs of their choices.

One might argue that the basic right to own a gun is justified because individuals have a basic right to effective means of self-defense, and that this interest is more essential than the value some place on owning guns. But the interest underlying a claim to an effective of self-defense is an interest in safety. And in this case, making some (arguably) safer by allowing them

\(^{34}\) Michael Huemer, “Is There a Right to Own a Gun?” *Social Theory & Practice* 29, no. 2 (2003): 297-324. Huemer does not argue that the right to own a gun is basic in the way that I have described here. He acknowledges that it may sometimes permissibly be overridden.
to own guns undermines the goal of making others safer through lowering the rate of gun homicides. Additionally, there are other means besides using guns to exercise a putative right to effective self-defense. One can learn martial arts, buy a knife, walk in well-lit areas, purchase pepper spray or mace, or live in a gated community or a building with concierge service. So while owning a gun may be one way to have an effective means of self-defense, it is not necessary to accomplish this goal.

2. It may be true that people should pay the costs they impose in terms of increased risk of additional gun violence on others. But you should go after those who steal guns and use them in violent crimes directly instead of trying to get gun owners to pay this cost. The only way, on your argument, that gun owners impose costs on others is through the downstream effects of third parties deliberately acting wrongly, viz., those who steal guns and those who use them in crime. Generally, one is not morally responsible for the downstream consequences their actions have on others when those consequences depend on the deliberate wrongdoing of others.

To clarify: my position is not that gun owners are responsible for gun crimes. That would be a difficult position to defend, but it would probably require holding gun owners criminally liable for shootings resulting from crimes committed with a weapon they bought. (Again: not my position.) I only argue that gun owners should be required to pay the costs that their actions impose on others. So while individuals who commit gun crimes are, barring standard defeaters of moral responsibility, morally responsible for the crimes they commit, this does not mean that gun owners should be insulated from the predictable costs their actions result in for others.

The question I set out to answer was: what sorts of cost should gun owners be required to pay for the burdens that their actions place on others? The fact that those burdens are realized through the wrongdoing of third parties—gun criminals—does not change the fact that the
choices of gun owners impose costs on other members of society. Whether or not those costs occur depends on whether or not gun owners decide to own a gun. It is also true that whether or not those costs occur generally depends on the actions of those who commit violent gun crimes. But criminals who use guns to commit crimes are already liable for much steeper costs, including imprisonment, than gun owners. Given that there is violent crime, and that a well-known consequence of this is that guns are liable to be stolen and used in violent crime, the actions of gun owners put others at risk. This creates the moral case for liability on the part of gun owners.

6. Conclusion

In this paper, I presented evidence that gun ownership imposes morally significant costs on other members of society. According to the basic principle of equity, gun owners should be required to pay for the costs they impose on others. This arrangement both efficiently prices the social cost of gun ownership and is a fair response to the problem of distributing the benefits and burdens of gun ownership. Finally, I examined three ideal policy proposals that could address the negative externalities of gun ownership. This discussion falls short of a full defense of any of these policies. I did not, for instance, consider whether any of these policies could impose negative consequences or if any of them would make other forms of background unfairness in our society (income inequality, racial injustice) worse. Rather, these comments are intended to motivate the idea that we are not powerless to change the way that the costs of gun ownership in our society are distributed, and to establish a minimum moral baseline of costs that would be permissible to impose on gun owners. If we find some alternative policy that would successfully force gun owners to internalize most of the costs of their choices, then the fact that they might owe more under a more idealized policy structure shows that they would not have a complaint of fairness that such policies are unduly burdensome to gun ownership.