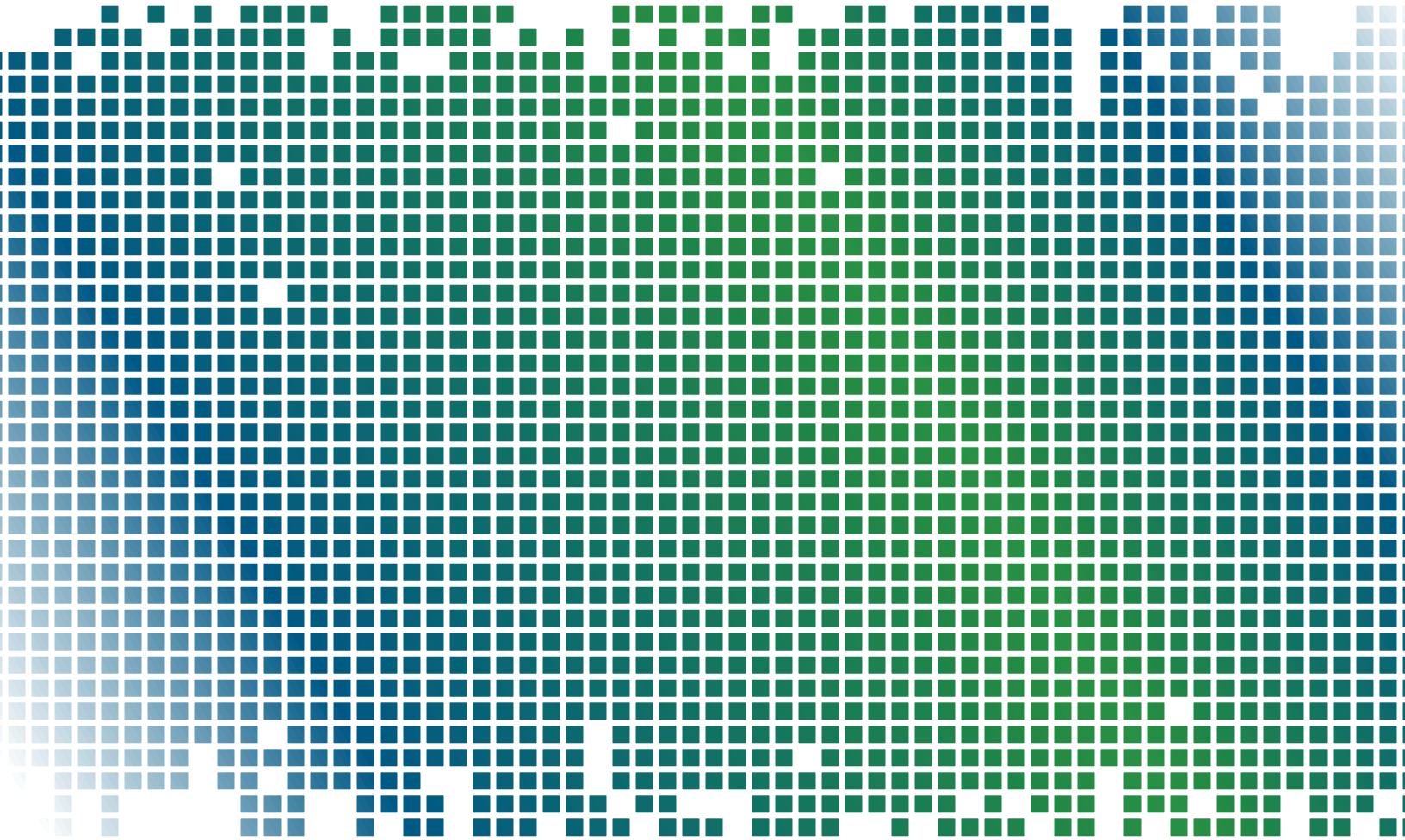
Only a Game:

Why Censoring New Media Won't Stop Gun Violence



MEDIA COALITION
DEFENDING THE FIRST AMENDMENT SINCE 1973

Executive Summary

The theory that media causes people to kill still enjoys wide popular support despite clear evidence to the contrary. This report shows that the data on the claimed harms of violent video games are highly controvertible, and even those that can be found are negligible and short lived.

Key Findings:

1. Crime statistics do not support the theory that new media causes violence.

- While media consumption has increased, violent crime rates in the U.S. have dropped, according to the government's National Crime Victimization Survey.
- In national populations, including the U.S., more video game sales correlate with less crime, according to a 2012 *Washington Post* review of the 10 biggest video game markets around the world.
- Profiles of mass shooters by the FBI and the Secret Service do not list an attraction to violent video games as a contributing or significant factor.

2. Research into the effects of video games on aggression is contested and inconclusive. Much of it suffers from methodological deficiencies and provides insufficient data to prove a causal relationship.

- Reviews by the governments of Australia, Great Britain and Sweden have all studied the research claiming a link between violent video games and aggressive behavior and concluded that it is flawed, flimsy and inconclusive.
- In striking down a California law aimed at restricting the sale of violent video games, the U.S. Supreme Court in 2011 noted that the scientific evidence the state relied upon had been rejected by nearly every court to consider it, and that "most of the studies suffer from significant, admitted flaws in methodology."
- Critics of these flawed studies have also noted a bias against publishing studies that find what scientists call "null effects"—that is, the experimental conditions they construct (e.g., "video games cause violent behavior") yield no measurable reactions, least of all those hypothesized at the start.

3. Censorship is barred by the First Amendment, but industry self-regulation works.

- "Video games qualify for First Amendment protection," wrote the Supreme Court in the 2011 California case. "Like the protected books, plays, and movies that preceded them, video games communicate ideas." The Court went on to find that violent content is protected in every medium, for adults and minors.
- A Federal Trade Commission undercover shopping survey published in March 2013 showed that the Electronic Software Review Board's rating system works: Retailers refused to sell M-rated video games to minors 87 percent of the time, up from 80 percent in 2009.

Conclusion: A majority of Americans may believe that fictional violence leads to violence in real life. But common sense and objective research does not show it.

Note: Only a Game confines itself largely to the issue of violent video games. A 2000 Media Coalition report, *Shooting the Messenger: Why Censorship Won't Stop Violence*, examines at greater length the scientific claims of short- and long-term links between all kinds of media — movies, TV and music, as well as games — and violent crime. The report concludes with recommendations for helping kids to become smart media consumers and a reaffirmation of the American way of fighting offensive speech: not with censorship but with "more and different speech, informed speech, critical speech."

Visit www.mediacoalition.org for more information, including links to these reports.

Introduction

Just before Christmas 2012, when 20-year-old Adam Lanza shot his mother, then took the lives of 20 first-graders and six adults at the Sandy Hook Elementary School in Newtown, Conn., it felt like one more in an endless procession of atrocities: among the most horrendous, Columbine High School in Littleton, Colo., in 1999; Virginia Tech in 2007; and the Aurora, Colo., movie theater in 2012.

Such horrific events beg for explanation. And after Sandy Hook, as in 1999 and 2007, America was quick to find one. From the political left and right — from President Barack Obama to National Rifle Association Executive Vice President Wayne LaPierre — fingers pointed at the usual suspect: violence-filled media, especially video games.

"I think video games is [sic] a bigger problem than guns, because video games affect people," said Senator Lamar Alexander (R-Tenn.). Sen. Joe Lieberman (I-Conn.) was equally sure: "The violence in the entertainment culture, particularly with the extraordinary realism to video games and movies now, does cause vulnerable young men, particularly, to be more violent," he declared on *Fox News Sunday*.

The theory that media, not guns, kill people still enjoys wide popular support. In a December Gallup poll 42 percent of respondents said an assault-weapons ban would be "very effective" in preventing school shootings. But more—47 percent—were confident that limiting depictions of gunplay in media would do the trick.[1] Asked by Public Policy Polling whether guns or violent video games posed a bigger threat, two out of three Republicans saw games as the greater peril.[2]

It was not the first time that kids' preferred media were blamed for turning youth into troublemakers—or criminals. "As long as the crime comic books industry exists in its present forms there are no secure homes," the crusading psychiatrist Frederic Wertham told the U.S. Senate Subcommittee to Investigate Juvenile Delinquency in 1954.[3]

Before comic books, adults worried about dime novels and penny dreadfuls corrupting youth. More recently, rock 'n' roll, goth culture and rap music aroused concern. Today such fears appear hysterical. It is clear they are factually unsupported.

Still, in the 1980s, panic arose again, over another new medium: video games. When *Ms. Pac-Man* arrived in the arcades in 1982, a rabbi warned on television that video games were teaching children that other people were "blips to be destroyed."[4] The next year, U.S. Surgeon General C. Everett Koop, proclaimed that this new form of play was a leading cause of family violence.[5]

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Members of Congress resurrected bills restricting the sale of video games. Representative Jim Matheson (D-Utah) introduced the Video Games Ratings Enforcement Act — similar to a failed 2008 bill — which would ban sales and rentals of video games with Entertainment Software Ratings Board (ESRB) ratings of M (Mature) and AO (Adults Only) to anyone younger than 17 or 18, respectively — and impose a $5,000 fine per violation.

Senate Commerce Committee Chair Jay Rockefeller (D-W.Va) introduced legislation directing the National Academy of Sciences to investigate the potential "direct and long-lasting impact" of violent media on children. He also called on Federal Trade Commission (FTC) and Federal Communications Commission (FCC) to "take a fresh look" at their obligations. Rockefeller was not reticent about what that investigation would prove or what the regulators should do about it. Criticizing court rulings that struck down similarly restrictive laws, Rockefeller proclaimed: "Some people still do not get it. They believe that violent

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video games are no more dangerous to young minds than classic literature or Saturday morning cartoons."[6] The president asked Congress for $10 million to research the possible links between media and gun violence.[7]

With the support of the YMCA, the chamber of commerce and local clergy, one Connecticut town initiated a "buyback" of violent video games that it intended to incinerate. When protesters called the program what it was — a book burning — the program was abandoned.[8]

The good news is that the debate may be slightly more measured than in years past. This time around, most proposals tend more toward scholarship than censorship. Not all politicians are jumping on the media-causes-violence bandwagon. Goaded by Fox News' Chris Wallace to "shame" her "friends in Hollywood" to slash the on-screen mayhem, House Minority Leader Nancy Pelosi said research was needed—but the way to reduce violence was with good gun laws, not censorship.[9] On CBS's *Face the Nation* Pennsylvania Congressman Tim Murphy (R-Pa.) plainly rejected the notion that video games cause violence. "We're chasing the wrong rabbit down the wrong hole," said the psychologist and the co-chair of Congress's Mental Health Caucus." The issue is: We need to be addressing mental illness."

Some professional organizations have also grown more circumspect. In 2005, the American Psychological Association (APA) passed a resolution declaring a strong link between violent media and aggressive thoughts, beliefs and behaviors. In 2010, invited to submit an amicus brief supporting that same contention to the Supreme Court, the APA declined—and retracted its 2005 resolution. "This is an area of ongoing research, and other perspectives are emerging," stated Executive Director for Science Steven J. Breckler. The organization planned a committee to reconsider the data.[10]

In 2000, Media Coalition did just that. The result was *Shooting the Messenger: Why Censorship Won't Stop Violence*. That report examined at some length the data and methodologies of the social and experimental science claiming to find short- and long-term links between all kinds of media — movies, TV and music, as well as games — and violent crime. It discussed the harms of government regulation and censorship, especially to children, presented the research on some of the real causes of violent crime and provided historical perspective on previous moral panics blamed on the media. It concluded with recommendations for helping kids to become smart media consumers and a reaffirmation of the American way of fighting offensive speech: not with censorship but with "more and different speech, informed speech, critical speech."

Only a Game confines itself largely to the latest media bugaboo, video games. For a fuller discussion of these issues, we suggest you take a look at *Shooting the Messenger*.

Media Coalition does not claim that the content of books, films or games is never ugly, frightening or even immoral. But to warrant abridging our cherished Constitutional freedoms of speech and expression, the dangers of that content must be immediate and grave, the evidence must be incontrovertible and a no-less-severe alternative to censoring the speech can exist. As this report will show, the data on the claimed harms of violent video games are highly controvertible; and even those that can be found are negligible and short lived. Meanwhile, the perils of censorship to democracy are great. To defend democracy, it behooves us to reject hysteria and consult the best science.

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The Science

Scientists are generally cautious. They like to stick to the facts and are reluctant to extrapolate broad conclusions from data that is inevitably limited. But many of those who argue that media violence is correlated with real-life violence have been uncharacteristically hyperbolic — from exaggerating by a factor of 10 the number of studies on media violence[11] to calling the links between media and violent behavior as strong as those between smoking and lung cancer.[12] They declare over and over and in spite of increasing research to the contrary, that all the evidence is on their side. "There's no debate in the academic community" about the effects of violent media, stated Kirstie Farrar, a University of Connecticut associate professor of communications science, in an article about that very debate.

In reality, the "[r]esearch into the effects of violent video games on aggression is contested and inconclusive," according to the Australian Attorney General's office, which reviewed the literature in 2010.[13] A "large part" of it "suffers from serious methodological deficiencies and provides insufficient data to be able to prove or disprove a causal relationship," concluded the Swedish Media Council.[14] During the first decade of the 2000s, seven of eight similar reviews by state bodies and non-governmental organizations came to the same conclusions as these two.[15]

But the grandiose claims continue to appear. Guy Cumberbatch, director of Britain's Communications Research Group, observes that "some of the strongest claims [of the dangers of video games] are made on the most flimsy of evidence."[16]

In this section, we look into these inconsistencies and deficiencies and present what we find to be a broader consideration of the data. For the sake of brevity, the report employs terminology introduced in the Australian report dividing the debate into two "schools." The "causationists" conclude, largely from psychology lab experiments, that "exposure to VVGs [violent video games] is a causal risk factor for increased aggressive behavior, aggressive cognition, and aggressive affect and for decreased empathy and pro-social behavior."[17] The same argument applies to other media, including television and film.

On the other side are "critics of causationists." Some of these recognize some small—usually statistically insignificant—short-term effects of video game play on aggressive behavior. But they condemn the lion's share of causationist methodology, its data and conclusions, as fundamentally flawed.[18] As for the purported preponderance of studies supporting claims of a link between video games and aggression, they caution that this impression is created by a bias against publishing studies that find what scientists call "null effects"—that is, the experimental conditions they construct yield no measurable reactions, least of all those hypothesized at the start.

1. THE REAL WORLD: CRIMINOLOGY

While media consumption has increased, violent crime rates have dropped.

Electronic media fills the lives of Americans, especially kids. "The amount of time young people [8- to 18-years-old] spend with entertainment media has risen dramatically," the Kaiser Family Foundation reported in 2010: Time spent with TV, music, social media, gaming, movies and reading was up more than 75 minutes daily in just five years, to more than 7.5 hours (10 hours, 45 minutes, with media multitasking). Video game playing increased almost a third, to about an hour and 15 minutes a day.[19] Four of the 10 most popular games sold in 2012 were rated "Mature" for violent content.[20]

If games of death and mayhem correlated with real-world violent acts, we should see a rise in crime during the current era. But we've seen the opposite: Over the last two decades, crime by both adults and youth has steadily declined in the U.S. "Violent victimization" has declined 72 percent since 1993, according to the National Crime Vic-

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timization Survey.[21] In 2011, the FBI reported a homicide rate of 4.7 per 100,000—lower than in 1964.[22] The rate of arrests of Americans ages 10 to 17 reached a historic low in 2010, down 55 percent from its peak in 1994.[23]

In national populations, more video game sales correlate with less crime.

Looking at the 10 biggest video game markets globally, the *Washington Post* found that "countries where video game consumption is highest tend to be some of the safest countries in the world." That's not because of video games, the reporter cautioned; it's because the richest countries, where people can afford expensive toys, "have on average much less violent crime."[24]

Some criminals play video games but so does everybody else.

The U.S. is the largest video game market in the world: 165 million players, or nearly 70 percent of the population.[25] Just about all American kids play video games: 97 percent of 12-to-17-year-olds, according to a Pew Research survey — 99 percent of boys, 94 percent of girls.[26] As one gamers' site headlined the news: "97 percent of teens play video games, remaining 3 are in comas."[27]

Meanwhile, less than one-fourth of 1 percent of the U.S. juvenile population was arrested for serious crimes in 2010.[28] Spectacular crimes like school shootings are even rarer. Glenn Muschert, a sociologist at Miami University in Ohio, said that, statistically speaking, the average American school might experience a fatal shooting — any fatal shooting — once every several hundred years.[29]

"Can an almost universal behavior truly predict a rare behavior?" asked Christopher J. Ferguson, associate professor of psychology at Texas A&M International University, of video gaming and school shootings, in a 2007 analysis of the available data.[30] The answer, contained in the data, is *No*.

Meanwhile, many criminals — notably, mass shooters — are not video game fans.

After the Virginia Tech massacre, rumors flew that shooter Seung-Hui Cho was an avid player of video games, particularly *Counterstrike*. But a subsequent report by the Virginia state government found that he hardly played video games at all. That's true of many mass shooters. When the U.S. Secret Service analyzed the traits and behaviors of 41 perpetrators for a 2002 report, it could delineate "no accurate or useful profile" of a potential school shooter. Of those traits, however, an attraction to violent games barely showed up: Only an eighth of the 41 had "some interest" in violent video games, and violent films or books piqued the interest of about a quarter.[31] The FBI did create such a profile, listing 20 contributing factors. Playing violent video games was not one of them.[32]

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2. INDIVIDUAL AGGRESSION: PSYCHOLOGY

Experimental measures of aggression and violence are inconsistent, not validated and unrelated to real life.

Because it is unethical to test aggression in the lab by allowing participants to hurt real people or animals, more abstract measures must stand in for real-life violence. One of the most common measures is the "noise blast," in which the putative "winner" of a game is instructed to punish the "loser" (in reality, a nonexistent opponent) by administering an unpleasant sound; the length and volume is up to him or her. Studies find that the violent-game players (or watchers of violent TV or film) give a more intense blast.[33]

But what does the blast mean? Is a level of six "aggressive" enough, or must it be eight or nine? Researchers — even the same researchers — using this measure have done so inconsistently in different studies.[34] And is an irritating blast of "whishing" white noise similar to radio static — as Lawrence Kutner and Cheryl Olson described it in their book *Grand Theft Childhood* — given to an unseen, un-reacting person a good surrogate for hurting an actual person? Maybe, maybe not. "In science new measures are supposed to be 'validated,' or proven to represent something in the real world," wrote Kutner and Olson, at the time the directors of the Harvard Medical School Center for Mental Health and Media. That hasn't been done for noise blasts. Consequently, "we are simply asked to accept someone else's belief that the test means what is being claimed."[35]

Other measures of aggression include reports by adults or children of their own or other people's attitudes and behaviors. Such surveys are vulnerable to value judgments, exaggeration or minimizing, faulty memory and other confounding factors. More fundamentally, "in many studies, aggression was measured through attitudes, thoughts, feelings, associations or behavior whose connection to actual physical vio-

lence was unclear or lacked empirical support," stated the Swedish Media Council report.[36] For instance, one instrument, using the reports of peers to measure personal aggression in others, asks children questions about their classmates such as "Who says mean things?" or "Who does things that bother others?" These may be signs of obnoxiousness, but they're hardly analogous to criminal aggression.[37]

In both laboratory studies and those seeking real-life correlations between video games and aggression, the effect sizes are small.

Such have been the findings of decades of research on TV viewing and violence.[38] Even the most recent, largest metastudy — that is, a study of many other studies — conducted by causationist researchers came up with no more than small, often statistically insignificant and short-lived, negative effects of video games on behavior.[39] As one critical article put it, "the best measures of aggression and violence produced the weakest effects." Meanwhile, more dramatic effects, particularly in the lab, turn out to be interpreted from measures of aggression applied in "problematic, unstandardized" ways.[40]

Video games are blamed for "desensitization" to violence, but watching the news has the same effect.

Some studies claim to show that chronic violent video game play destroys empathy and kindness by affecting the long-term emotional memory that supports such positive behavior[41] or dulling other parts of the brain that control emotions. But Ryerson University psychologists Holly Bowen and Julia Spaniol have found that such emotional memory is resilient; even "chronic exposure" to video games can't wipe it out.[42] In any case, video games are not unique among media. "Television and even violence in the news have been found to have a similar [short term, lab-induced] impact" on the brain, wrote Vaughan Bell, a psychologist based at King's College, London, in the Guardian.

Competition and fast pace, not violent content, may be responsible for exciting aggressiveness.

When researchers tease out the elements that make an action game exciting, the violence-aggression effect becomes negligible or disappears entirely. For instance, when Brock University (Canada) psychologists Paul Adachi and Teena Willoughby isolated competitiveness from violence in such games as *Left 4 Dead 2* (M-rated; set in a zombie apocalypse) and the E-rated game Marble Blast (rolling marbles), they found that "competition, not violence, may be the video game characteristic that has the greatest influence on aggressive behavior."[43]

Lab studies lack crucial social context.

All but the littlest children — and psychopaths — know the difference between fantasy and real life. A teenager may spend many gleeful hours chainsawing zombies to shreds. But when facing a living, bleeding human being or animal, his impulses to aggression — or, more important, thoughts of committing violent crime — are inhibited by social codes, legal penalties, morality and emotions from empathy to fear. It is also important to note that in many experiments, subjects are *directed* to commit aggressive acts, such as the noise blast, they wouldn't otherwise consider.[44]

Sex, sports and political debate can be aggressive too, but they're not criminal or harmful; in fact, they're socially valued.

Studies of media's contribution to aggression commonly leave out crucial personal factors that better explain such behavior.

While the data on the role of media in violent behavior is disputable at best, other factors have been firmly correlated with aggression, such as family violence, male gender and "trait" aggression (a personal propensity to fly off the handle).[45] The Swedish Media Council found only three of eleven long-term studies that showed a connection between video games and aggression took into account data on "family relationships and mental well-being." In two of the three, these factors explained the preference for violent video games and aggressive behavior.[46]

Aggression and violence—especially criminal violence — are not the same thing.

"Well-supported theory delineates why and when exposure to media violence increases aggression and violence," reads a 2003 study by Iowa State psychologist Craig A. Anderson and other prominent causationists.[47]

This is an irresponsible, and typical, conflation. Criminal violence or its analogous behavior in children is not the same as aggression. The former is a use of force that is meant to coerce or harm and also is against the rules or the law. It could be armed robbery or homicide, or kicking a kindergarten classmate. But many uses of force or inflictions of pain don't reach this bar—spanking a child, say, or giving an injection. Sex, sports and political debate can be aggressive too, but they're not criminal or harmful; in fact, they're socially valued.

Among the many well-understood psychological and social contributors to criminality, media violence is not one.

At an individual level, many factors "wield strong influences in the development of criminality, such as poverty, education, neighborhood, and exposure to real violence," wrote American University criminologists Joanne Savage and Christina Yancey in a meticulous 2008 metastudy of

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the research on the effects of violent media exposure on criminal aggression. But they concluded that media violence is not among those factors, and even the best-conducted studies do not support the hypothesis that it is. Moving from the individual to the society, moreover, socioeconomic "factors such as concentrated disadvantage, unemployment, population demographics, and the like may overwhelm individual-level factors in influencing violent crime rates," they added.[48]

Guns cause gun violence.

"The association between guns and problems such as homicide, robbery, aggravated assault, suicide, and accidents is unambiguous," wrote Savage in an unpublished op-ed after Newtown. "In any society some people are going to have fights, and want to rob other people, and take their own lives; in a society with guns, this number is going to be higher because it is much easier to kill and rob others if you have a gun." While not taking a position on gun control, Savage pulled no punches on media control. "[A]s a criminologist," she declared, "I have to say that focusing on media violence to reduce actual violent crime is a waste of time."[49]

3. FUN & GAMES: THE POSITIVE EFFECTS

"Action video games" — including first-person-shooter games — are good for the brain.

In numerous studies, University of Rochester cognitive scientist Daphne Bavelier and colleagues have found that action games, most of which are violent, improve multitasking and hand-eye coordination as well as sharpen decision-making and even vision.[50] Brock University's Adachi and Willoughby also argue that video games play "may be related to positive outcomes such as flow, cooperation, problem solving, and reduced in-group bias."[51]

Many gamers choose first-person-shooter games for the challenge, not the gore.

In a recent textbook chapter, mass communication scholars Brad J. Bushman of Ohio State University and L. Rowell Huesmann of the University of Michigan express concern that violent video games reward aggression by giving players more points for more killings.[52] Bushman and Huesmann are leading proponents of this view. But gamers see it differently.

While it may not be "apparent . . . from afar," video game critic Stephen Totilo told NPR's Neal Conan on *Talk of the Nation*, shooting games like *Call of Duty* and *Halo* are the most sophisticated, varied and challenging video games on the market. They offer players "some of the most interesting, in-the-moment decisions available when you're playing games," including myriad alternatives and consequences of failure and a measurable growing mastery. It all adds up to a terrific "test of will and improvisation and clever tactics," Totilo said.[53]

Video game playing is increasingly social.

Video gaming is not the isolating activity that parents and pundits fear it is. Three-quarters of the teens surveyed by the Pew Internet & American Life Project said they play video games with other people, either face to face or on the Internet.[54] Playing video games socially offers opportunities for learning to deal with nasty or threatening behavior. Almost two-thirds of those kids reported seeing or hearing "people being mean and overly aggressive while playing." But of those, nearly three-quarters also witnessed other players asking the aggressor to cut it out; a quarter said such positive interventions happen "often." "The gaming experience is rich and varied, with a significant amount of social interaction and potential for civic engagement," wrote the survey's authors.[55]

Multiplayer gaming can encourage friendship and cooperation.

"Meta-gaming (conversation about game content) provides a context for thinking about rules and rule-breaking," wrote Henry Jenkins, University of Southern California provost professor of communication, journalism and cinematic arts, quoting Loyola University sociologist Talmadge Wright. Wright came to this conclusion after many hours observing online communities interacting with video games. Commented Jenkins: "[T]here are really two games taking place simultaneously: one, the explicit conflict and combat on the screen; the other, the implicit cooperation and comradeship

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between the players. Two players may be fighting to death on screen and growing closer as friends off screen."

Psychological studies back up these observations. In one study, participants played the first-person shooter game Halo II either alone against an opposing player (directly "killing" or "being killed"), alone simply trying to best the kill rate of another player or on a team against a computer opponent. Then they completed a standard task that assesses competitive and cooperative behavior — a dime-trading exercise. "Compared with the competitive play conditions, players in the cooperative condition engaged in more tit-for-tat behaviors." (Tit-for-tat strategies, which mirror cooperative moves with cooperative moves and competition with competition, are seen as "a proxy for a person's desire for cooperative behavior between potential adversaries.") In other words, the social context of play was more salient than the content of the game, which was the same for all the players: violent.[56] Other research suggests that the ability to cooperate may be necessary to success as a video game player.[57]

Gaming may even lead to love.

On NPR, Totilo described a wedding of two people who'd met playing *Halo* online. The officiant was "dressed up as the main character, Master Chief, in big green Space Marine armor," said Totilo. And the bride and groom "proceeded out to music from *Halo*."

For some people, video games are life rafts.

There are many testimonials on GamesSavedMyLife.com crediting video games, violent and not, with helping players get along with siblings, recover from addictions, survive chemotherapy or "come to terms with the expansiveness and uncontrollable nature of life."

4. NEEDED: CAUTION AND DIALOGUE

Causationists and their critics facing off from opposite corners of the ring is not doing science — not to mention children, parents, video game designers and distributors, educators or policymakers — any good. "The psychological community would be better served by reflecting on this research and considering whether the scientific process failed by permitting and even encouraging statements about video game violence that exceeded the data or ignored conflicting data," wrote Christopher Ferguson in a recent article in *American Psychologist*. "Although it is likely that debates on this issue will continue, a move toward caution and conservatism as well as increased dialogue between scholars on opposing sides of this debate will be necessary to restore scientific credibility."[58]

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Congress Shall Make No Law …

In 2005, California Governor Arnold Schwarzenegger signed a law prohibiting the sale or rental of violent video games to anyone under 18 without parental consent. On June 27, 2011, in *Brown v. Entertainment Merchants Association and Entertainment Software Association.*, the U.S. Supreme Court struck down that law, ruling 7 to 2 that it violated free speech rights. "Video games qualify for First Amendment protection," wrote the Court. "Like the protected books, plays, and movies that preceded them, video games communicate ideas — and even social messages — through many familiar literary devices (such as characters, dialogue, plot, and music) . . . 'the basic principles of freedom of speech and the press, like the First Amendment's command, do not vary' when a new and different medium for communication appears . . . "[59] The Court went on to conclude that images and descriptions of violence are fully protected by the First Amendment for adults and minors.

The decision in *Brown* was the culmination of more than a decade of legal challenges to restrictions on video games with violent content. By the time the case was heard by the Supreme Court, federal court rulings in eight previous cases had affirmed the First Amendment speech protections of computer and video games and had reaffirmed the protection for speech with violent content. Prior to the Supreme Court decision in *Brown*, two lower courts found the California statute unconstitutional. When the case reached the Supreme Court, more than 180 leading First Amendment experts, national organizations, nonprofits, associations, researchers and social science experts joined in filing amicus briefs urging the Supreme Court to strike down the statute.

To uphold a legal restriction on speech in any medium, the government must first demonstrate a compelling interest — proving harm so dire that preventing it outweighs the Constitutional duty to protect our freedoms of speech and the press. Writing for the majority in *Brown*, Justice Antonin Scalia ruled that California failed to do so — in part because the scientific studies it cited were unpersuasive.

> The State's evidence is not compelling. California relies primarily on the research of Dr. Craig Anderson and a few other research psychologists whose studies purport to show a connection between exposure to violent video games and harmful effects on children. These studies have been rejected by every court to consider them,[6] and with good reason: They do not prove that violent video games *cause* minors to *act* aggressively (which would at least be a beginning). Instead, "[n]early all of the research is based on correlation, not evidence of causation, and most of the studies suffer from significant, admitted flaws in methodology." . . . They show at best some correlation between exposure to violent entertainment and minuscule real-world effects, such as children's feeling more aggressive or making louder noises in the few minutes after playing a violent game than after playing a nonviolent game.
>
> . . . In his testimony in a similar lawsuit, Dr. Anderson admitted that the "effect sizes" of children's exposure to violent video games are "about the same" as that produced by their exposure to violence on television. . . . And he admits that the *same* effects have been found when children watch cartoons starring Bugs Bunny or the Road Runner . . . or when they play video games like Sonic the Hedgehog that are rated "E" (appropriate for all ages).[60]

Overruling parental childrearing decisions is not the proper role of the state in a democracy, the majority suggested: "Not all of the children who are forbidden to purchase violent video games on their own have parents who *care* whether they purchase violent video games. While some of the legislation's effect may indeed be in support of what some parents of the restricted children actually want, its entire effect is only in support of what the State thinks parents *ought* to want."[61]

Minors have Constitutional rights too, the majority stressed. "No doubt a State possesses legitimate power to protect children from harm . . . but that does not include a free-floating power to restrict the ideas to which children may be exposed."[62]

The Court in *Brown* reaffirmed the right of individuals and families to say or sing, read or watch and now to play what they want — even if that expression is shocking or repulsive to some other people, including those in the statehouse.

… 'The basic principles of freedom of speech and the press … do not vary' when a new and different medium for communication appears …

Voluntary Ratings

California's defenders argued that the law was necessary to help parents keep violent or sexually explicit games out of their children's hands. But the Court wasn't buying it. The video game industry's voluntary rating system already accomplishes that to a large extent, it said.[63]

Not only the Supreme Court but also the FTC has commended the video game industry for its success in setting and enforcing standards that abridge no one's rights but, rather, help people make informed decisions about what video games to purchase, rent or download. The rating system maintained by the ESRB is "the strongest self-regulatory code" in the entertainment media, the FTC said in a 2009 report. In fact, the government links to the ESRB's ratings page from its own video game buying guide for parents.

The ESRB, instituted in 1994 by the Entertainment Software Association, offers three kinds of guidance, any part of which parents can use or ignore. It rates age-appropriateness on six levels, from EC (appropriate in Early Childhood) through AO, not to be sold to anyone under 18. An extensive list of content descriptors informs consumers about the kind and amount of violence, sex, gambling and drug and alcohol use in the game's content, from mildly racy humor to more explicit language or images. Finally, the ratings indicate the kind and extent of interactivity the game allows. In 2012, the ESRB expanded its rating system to online games and mobile apps.

The ESRB bolsters its rating system with education of publishers, retailers and consumers. It also closely monitors the labeling and marketing of video games, pursues timely correction of mislabeling and applies penalties for noncompliance, including product recall and fines of up to $1 million.

The FTC has commended the video game industry for its success in setting and enforcing standards that abridge no one's rights but, rather, help people make informed decisions about what video games to purchase, rent or download.

The FTC's undercover shopping survey published in March 2013 showed that the ESRB's rating system works: Retailers refused to sell M-rated video games to minors 87 percent of the time, up from 80 percent in 2009 — the best record in the entertainment industries. Parents rely on the code: Eighty-five percent are aware of it, and more than 70 percent use it regularly in choosing video games for their children, according to a 2012 survey.

The Eye of the Beholder, the Hands of the Player

Is *Macbeth* violent, is *Oedipus Rex*? How about *Grimm's Fairy Tales*, Wile E. Coyote cartoons, or professional hockey? Do films like Quentin Tarantino's *Django Unchained* condemn violence or revel in it? Is the aggression in the video game *Madden NFL* more acceptable than that in *Assassin's Creed*?

Media Coalition takes no position on the content of video games (or other media). Some people may be fanatic players; others may detest them. Some may find them appropriate for their children, others not. A majority of Americans may believe that fictional violence leads to violence in real life. But common sense and objective research does not show it.

What we do know is that judgments about "good" and "bad" violence are matters of taste and individual morality. And as the majority in *Brown* wrote, under our Constitution "esthetic and moral judgments about art and literature . . . are for the individual to make, not for the Government to decree, even with the mandate or approval of a majority."[64]

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Media Coalition, Inc., 19 Fulton Street, Suite 407, New York, NY 10038
www.mediacoalition.org

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About the Author

Judith Levine is a journalist and the author of four books and hundreds of articles and reports, including Media Coalition's "Shooting the Messenger: Why Censorship Won't Stop Violence." Her column, "Poli Psy," about emotions in politics, appears in the Vermont weekly *Seven Days*. Among the books she has written are *Do You Remember Me?: A Father, A Daughter, and a Search for the Self*, a memoir of her father's affliction with Alzheimer's disease and a critique of the medicalization of aging; and *Not Buying It: My Year Without Shopping*, a witty journal in which she examines consumerism and anti-consumerist movements.