

# Evidence for Optimism

## Policies to Limit Batterers' Access to Guns

April M. Zeoli and Shannon Frattaroli

In 2010, at least 1,082 women and 267 men were killed by their intimate partners. Fifty-four percent of these victims were killed with guns (United States Department of Justice 2012). For at least the past twenty-five years, more intimate partner homicides (IPHs) have been committed with guns than with all other weapons combined (Fox and Zawitz 2009). Furthermore, women are more likely to be killed by an intimate partner than by any other offender group (Fox and Zawitz 2009; Moracco, Runyan, and Butts 1998). The evidence is clear: when a woman is killed, it is most likely to be at the hands of an intimate partner with a gun.

In this essay, we focus on policies to limit batterers' access to guns, the evidence that supports these policies, and evidence for improvement in their implementation and expansion. We begin with an overview of the evidence about gun usage in domestic violence and how batterers become known to

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the justice system. Second, we discuss existing legislation to remove guns from batterers. We then present promising evidence about policies to limit batterers' access to guns and their relationship to IPH, and we discuss implementation and enforcement of those laws. We conclude with federal gun policy recommendations to prevent IPH.

## Domestic Violence and Guns: A Brief Overview

Guns are the weapons of choice for IPH perpetrators. Domestic violence involving a gun is more likely to result in homicide than domestic violence that involves a knife, other weapon, or bodily force (Saltzman et al. 1992). Indeed, the risk of homicide increases when a violent intimate has access to a gun (Bailey et al. 1997; Kellerman et al. 1993), with one study estimating a fivefold increased risk (Campbell et al. 2003). Intimate partners are more likely to use guns to kill their female victims than are non-intimate partners who kill women (Arbuckle et al. 1996; Moracco et al. 1998). Moreover, there is growing evidence documenting the role of guns in nonfatal domestic violence perpetrated by men against women (Moracco et al. 2006; Rothman et al. 2005; Sorenson and Wiebe 2004; Tjaden and Thoennes 2000). These nonfatal uses of guns may warn of future fatal violence: batterers' use of weapons to threaten has been associated with a fourfold increased risk of homicide (Campbell et al. 2003).

There is a history of male-to-female domestic violence in the relationships of most women and men killed by their intimate partners (Bailey et al. 1997; Campbell et al. 2003; McFarlane et al. 1999; Smith, Moracco, and Butts 1998), making domestic violence against the female partner the leading risk factor for IPH (Campbell et al. 2007). Stalking may also be an important risk factor for IPH (Campbell et al. 2003), with one study reporting that 76% of homicide victims and 85% of attempted homicide victims were stalked by their abusers prior to the incident (McFarlane et al. 1999). Often this abuse is known to the authorities. Roughly half of women killed by their intimate partners had contact with the justice system to report violence and stalking within the year preceding their murders. These women reported domestic violence/stalking to the police, had their assailants arrested, filed criminal charges, and obtained domestic violence restraining orders (DVROs) against their batterers (McFarlane et al. 1999; Moracco, Runyan, and Butts 1998).

When women seek assistance from the justice system, they create opportunities for intervention that may prevent future violence and homicide. If

equipped with a comprehensive set of domestic violence laws, law enforcement may be better positioned to safeguard victims and save more lives. Laws that restrict batterers' access to guns are an essential component of any comprehensive approach to address domestic violence.

### Current Federal Law: Responding to the Risks

Two provisions under federal law address the dangerous combination of batterers and guns. In 1994, Congress amended the Gun Control Act to prohibit individuals who are under qualifying DVROs from purchasing or possessing guns (18 U.S.C. § 922(g)(8)). To qualify, a DVRO must be issued after a court hearing about which the respondent was notified and in which he had the opportunity to participate. This type of DVRO is often referred to as *permanent*. Eligible DVRO respondents include the petitioner's current or former spouse, someone the petitioner shares a child with, or a current or former cohabitant (18 U.S.C. § 921(a)(32)).

In 1996, Congress amended the Gun Control Act to prohibit those convicted of domestic violence misdemeanors from purchasing or possessing guns (18 U.S.C. § 922(g)(9)). This expansion is a lifetime ban and includes any misdemeanor that "has, as an element, the use or attempted use of physical force, or the threatened use of a deadly weapon" and was committed by an intimate partner (18 U.S.C. § 921(a)(33)). The list of those included as intimate partners under the misdemeanor law is more expansive than the DVRO gun prohibition and includes parents or guardians as well as those "similarly situated to a spouse, parent or guardian" (18 U.S.C. § 921(a)(33)). Importantly, this law applies to law enforcement and the military and includes qualifying offenses that pre-date the law.

### State-Level Domestic Violence Gun Legislation

Many states have laws limiting DVRO respondents' access to guns. State laws are often more inclusive than federal laws and some, for example, expand the definition of qualifying DVROs to include temporary DVROs. Courts usually consider and grant temporary DVROs before respondents have been notified of petitioners' requests for protection from abuse. This decision in the absence of the respondent is unusual in the U.S. justice system, but it is a direct response to the danger that DVRO petitioners face. Respondents to

DVROs have high rates of criminal justice system involvement (Klein 1996; Moracco et al. 2010; Vittes and Sorenson 2006) and often have committed severe domestic violence (Holt et al. 2003; Logan, Shannon, and Walker 2005; Sorenson and Shen 2005). Furthermore, women who seek DVROs often do so in the context of separation from their batterer (Logan et al. 2008), a time of heightened homicide risk (Campbell et al. 2007; Wilson and Daly 1993). Temporary DVROs allow victims to gain the protection a DVRO provides without requiring them to wait for a hearing.

Some states limit domestic violence misdemeanants' access to guns. These laws may also be more expansive than the federal legislation. One way in which both state DVRO and domestic violence misdemeanor gun restrictions increase coverage is by expanding the categories of intimate partners covered by the law, for example by including current or former dating partners. Current dating partners were responsible for 35 percent of IPHs committed between 1976 and 2005, but the share of IPHs committed annually by current dating partners has been increasing (Fox and Zawitz 2009). Additionally, one study found that more than half of DVRO applications were against current or former dating partners or fiancés and that applications against this group were more likely to mention guns than applications against current and former spouses combined (Vittes and Sorenson 2006).

There is great variation in state DVRO and domestic violence misdemeanor gun laws, including whether purchase of a gun is prohibited or only possession is prohibited. Not all states provide more coverage than the federal legislation, and many do not have these types of gun prohibitions. Because some states have only the federal law to rely on and because federal restrictions may be stronger than state restrictions, federal law is crucial.

## Evidence

Federal legislative strategies to address the risks associated with armed batterers rely on the existing system of identifying and prosecuting violent intimates through the criminal justice system and the DVRO system in place in courts in all fifty states. This approach is consistent with the evidence: past abuse in a relationship is the best predictor of future abuse and is the leading risk factor associated with IPH. It is also consistent with our current approach to regulating access to guns. Prohibitions on purchase and possession are largely based on disqualifying behaviors, with criminal

nondomestic violence convictions constituting the largest category of prohibited purchasers denied through background checks (Federal Bureau of Investigation 2011).

### *Evaluating Impacts*

Three studies have examined how state laws limiting access to guns for DVRO respondents and domestic violence misdemeanants affect IPH (Vigdor and Mercy 2003, 2006; Zeoli and Webster 2010). Vigdor and Mercy examined the effects of state DVRO and domestic violence misdemeanor gun restrictions on state-level IPH from 1982 to 1998 (2003), and again from 1982 to 2002 (2006). In both studies, DVRO laws were significantly associated with reductions in IPH risk, both for IPHs committed with guns and total IPHs. Further investigation uncovered that these reductions rested on the capacity of states to support background checks on would-be gun purchasers (Vigdor and Mercy 2003, 2006). This finding highlights the importance of ensuring that systems for implementing these laws are in place and supported: the prohibition against purchasing a gun can be effective only if background checks yield current, comprehensive, and accurate disqualifying information.

There was also a measurable difference in the effect of laws prohibiting gun purchases compared to laws prohibiting possession only (Vigdor and Mercy 2006). In states prohibiting purchase, total and gun IPH had an associated reduction of 10% to 12%; there was no measurable impact of possession-only laws. Purchase may be the more effective prohibited action because the restriction on possession relies on respondents to voluntarily surrender their guns or law enforcement to collect guns from newly prohibited respondents (Vigdor and Mercy 2006).

A later analysis of state domestic violence gun laws and IPH in 46 U.S. cities from 1979 to 2003 provides further evidence of the state DVRO laws' impact (Zeoli and Webster 2010). The 46 cities were in 27 states, 15 of which have DVRO gun prohibitions and 9 of which have domestic violence misdemeanor gun prohibitions. Cities in states with DVRO gun restrictions had 19% fewer IPHs and 25% fewer IPHs committed with guns compared to cities without those state laws (Zeoli and Webster 2010).

Taken together, these three studies provide compelling evidence that DVRO gun restrictions reduce IPH. Importantly, the results of all three studies show that those reductions are not limited to IPHs committed with guns, suggesting that there is no discernible substitution effect. Would-be killers do not replace

guns with other weapons to affect the same number of killings. Or, put another way, the evidence suggests that state DVRO gun prohibitions save lives.

Unlike the beneficial effects associated with DVRO laws, the three studies found no measurable impact on IPH of state laws restricting domestic violence misdemeanants' access to guns. This may be for a number of reasons. Misdemeanor convictions for domestic violence may be too few for researchers to detect an associated reduction in homicide (Vigdor and Mercy 2006). In addition, the statute under which a batterer is charged also may determine whether he is identified through a background check as prohibited or not, and many states do not have a specific domestic violence misdemeanor crime to charge (Vigdor and Mercy 2006). Finally, a lack of implementation and enforcement of the law may impact its effectiveness.

### *Implementation and Enforcement*

With the evidence concerning laws that address the risks associated with guns and violent intimates came attention to the implementation and enforcement of these laws. DVRO policies have been a focus of this research, which offers empirical insight into why DVRO laws prohibiting purchase fare better than policies that only prohibit possession and provides strategies for strengthening the possession prohibition. We are unaware of any research examining how domestic violence misdemeanor prohibitions are implemented and enforced. However, we suspect there are similarities in the processes involved because both laws require that information about the prohibiting offense be included in the background check system and that processes for retrieving guns from newly disqualified individuals be in place.

One evaluation of North Carolina's DVRO gun law found no measurable reduction in intimate partner gun violence among petitioners post-law but also documented no change in DVROs requiring respondents to surrender their guns or cases where guns were recovered from respondents (Moracco et al. 2006). The conclusion from this study is not that the law is flawed but rather that the implementation of the law did not allow for a real test of its merits. The implementation failure is likely not unique to North Carolina. Indeed, several reports offer anecdotal evidence of neglected implementation (Attorney General's Task Force on Local Criminal Justice Response to Domestic Violence 2005; Frattaroli and Teret 2006; Gwinn 2006; Webster et al. 2010).

Behind the failures to implement the gun possession prohibition are opportunities to better ensure the prohibition is realized (Frattaroli and Teret

2006; Wintemute et al. 2012). It is essential to know whether a respondent possesses guns and, if so, how many. Such information can be obtained from state registries and gun sale databases (where they exist), DVRO petitions, and petitioners. One evaluation of an initiative to implement the California DVRO law concluded that while each source provides some unique data about respondents' guns, the information is still incomplete (Wintemute et al. 2012). Facilitating disclosure of information about guns by petitioners through the DVRO application and hearing processes is critical (Frattaroli and Teret 2006; Webster et al. 2010; Wintemute et al. 2012), and the value of complete registry or record-of-sales databases that capture all gun transactions (long guns and handguns; private sales and dealer sales) cannot be overstated for any effort to fully enforce DVRO possession prohibitions (Wintemute et al. 2012). Knowledge of which respondents may have firearms allows law enforcement to better prepare for interacting with the respondent safely, and it may increase the likelihood that guns are recovered (Wintemute et al. 2012).

Even with information about the presence of guns, that information does not always translate into DVROs issued with instructions to surrender guns (Frattaroli and Teret 2006; Sorenson and Shen 2005; Webster et al. 2010). Still, there is evidence that oversight may reduce underuse of the DVRO gun law. Following an examination of the state's DVRO database, the California Department of Justice sent letters to relevant local agencies that called attention to the low utilization of the gun prohibition on DVROs in the database (Seave 2006). A review of the data following this exchange revealed a reduction in the percentage of orders without a gun prohibition (Seave 2006).

Service of issued DVROs is also a major barrier to realizing a DVRO gun prohibition. For those orders that are served by law enforcement, the act of service offers a chance for officers to facilitate removal of guns to ensure compliance with the DVRO. The value of law enforcement access to record-of-sale databases and to information provided by the petitioner to the recovery of guns has been documented, as has the importance of trained officers tasked with handling these exchanges (Wintemute et al. 2012).

Given the findings from the above studies, we hypothesize that the documented effects associated with DVRO gun restrictions likely reflect an effect of the purchase prohibitions and not the possession prohibitions. While the implementation of this law is complex and involves participation from different agencies, these barriers are not insurmountable, as the California initiative demonstrates (Wintemute et al. 2012). Additionally, a recent report suggests

that a small number of localities are engaging in innovative strategies to ensure that DVRO laws are being used to improve public safety (Klein 2006). Between the emerging initiatives at the local level and the literature that is developing on this topic, the time is right for federal action to organize and encourage the efforts needed to reduce the documented risks that result when violent intimates have access to guns.

## Policy Implications

There are many ways to strengthen federal law to reduce the violence documented at the start of this essay. Following is a list of recommendations that are evidence-informed and actionable—although not exhaustive.

*Goal: Prevent DVRO respondents and DV misdemeanants from purchasing or possessing guns.*

**Policy: Require all gun purchasers to submit to a background check.**

- Rationale: Under federal law, background checks are not required for sales from private sellers, providing prohibited batterers with easy access to guns. Requiring background checks for all gun sales will eliminate an important source of guns for prohibited batterers.

**Policy: Incentivize states to automate DVRO and domestic violence misdemeanor records for reporting to background check systems.**

- Rationale: Background check systems must be automated and updated regularly so that disqualifying information is included in the system and immediately available to gun sellers.

**Policy: Incentivize states to create gun registries or gun purchase databases.**

- Rationale: A mechanism to allow law enforcement to quickly learn whether a DVRO respondent or a person convicted of a domestic violence misdemeanor owns a gun would aid efforts to enforce existing prohibitions on gun possession among this group of people known to be violent.

*Goal: Expand federal law to prohibit other categories of violent intimates from purchasing and possessing guns.*

**Policy: Extend the DVRO prohibition to include those covered by temporary DVROs.**

- Rationale: The initial period after filing for a DVRO, during which a temporary DVRO is in place, is a dangerous time for petitioners. Federal law

should recognize and reduce this danger by extending the prohibition to include temporary DVROs.

**Policy: Expand the definition of intimate partners.**

- Rationale: Current and former dating partners should be included in federal law so all victims of violent intimate partners receive equal protection.

**Policy: Extend federal gun prohibitions to cover those convicted of misdemeanor stalking.**

- Rationale: Stalking is an important risk factor for intimate partner homicide. However, because misdemeanor stalking laws often do not include “the use or attempted use of physical force, or the threatened use of a deadly weapon,” the domestic violence misdemeanor gun prohibition does not apply.

**Policy: Extend federal gun prohibitions to cover persons who have violated a DVRO (permanent and temporary) because of threatened or actual violence.**

- Rationale: Those who violate court-issued DVROs because of violence may be especially dangerous and should be subject to the lifetime ban on gun purchase and possession to which domestic violence misdemeanants are subject.

*Goal: Provide the resources and support needed for state and local systems to implement and enforce domestic violence gun prohibitions.*

**Policy: Establish and fund a center that will provide the training and technical assistance needed to realize full implementation of laws that prohibit DVRO respondents and misdemeanants from possessing guns.**

- Rationale: Federal law enforcement authorities, with the help of model state programs such as the California Armed and Prohibited Persons System, are well-positioned to assist state and local law enforcement in developing their infrastructures to ensure these laws are realized for the benefit of public safety.

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# Reducing Gun Violence in America

*Informing Policy with Evidence and Analysis*

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# **MICHIGAN STATE** **U N I V E R S I T Y**

January 28, 2013

The Honorable Patrick J. Leahy  
The Honorable Charles Grassley  
Chairman and Ranking Member  
United States Senate Committee on  
the Judiciary  
Dirksen Senate Office Building 224  
Washington, D.C. 20510

Dear Senators Leahy and Grassley,

I wanted to share the following information in anticipation of the Senate Judiciary Committee's hearing "What Should America Do About Gun Violence," scheduled for Wednesday, January 30, 2013.



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I am an assistant professor in the School of Criminal Justice at Michigan State University. My research examines public policy as a tool through which to reduce domestic violence and homicide. I recently presented some findings at a Johns Hopkins University Bloomberg School of Public Health summit on gun violence. I am attaching a copy of that paper, which I co-authored with Shannon Frattaroli.

I thought I might also highlight some of my key findings in this letter for you. I hope you will consider entering this letter and the attached paper in the hearing record.

### **Background on Domestic Violence and Guns**

In 2010, at least 1,082 women and 267 men were killed by their intimate partners. Fifty-four percent of these victims were killed with guns. For at least the past 25 years, more intimate partner homicides have been committed with guns than all other weapons combined. The evidence is clear: when a woman is killed, it is most likely to be at the hands of an intimate partner with a gun.

Domestic violence involving a gun is more likely to result in homicide than domestic violence that involves a knife, other weapon, or bodily force. Indeed, the risk of homicide increases when a violent intimate has access to a gun, with one study estimating a five-fold increased risk.

## **Summary of Recent Studies and Findings on Reducing the Use of Guns in Domestic Violence and Intimate Partner Homicide**

- State laws prohibiting those under domestic violence restraining orders from accessing guns are significantly associated with reductions in intimate partner homicide risk.
- These reductions rest on the capacity of states to support background checks on would-be gun purchasers.
- This finding highlights the importance of assuring that systems for implementing these laws are in place and supported: the prohibition against purchasing a gun can only be effective if background checks yield current, comprehensive, and accurate disqualifying information.
- States that effectively prohibited the purchase of a gun by a person with a domestic violence restraining order saw a reduction in total and gun intimate partner homicide rates of 10 to 12 percent.
- One analysis found that cities located in states with domestic violence restraining order gun prohibitions had 25 percent fewer intimate partner homicides committed with guns.
- The data also suggests that would-be killers do not replace guns with other weapons to affect the same number of killings.

I hope that the Committee will find this information useful and would be pleased to provide any assistance to you and your staff as you consider proposals aimed at reducing gun crime.

Yours sincerely,



April M. Zeoli

cc. Senator Richard Durbin  
Senator Dianne Feinstein  
Senator Amy Klobuchar  
Senator Charles Schumer



January 30, 2013

The Honorable Patrick J. Leahy  
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The Honorable Charles Grassley  
Ranking Member  
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Chairman Leahy and Ranking Member Grassley:

In anticipation of the Senate Judiciary Committee's hearing today on gun violence, we write to submit our recommendations for Congressional action to reduce gun violence and to strongly urge you to advance common-sense firearms legislation that will help save lives. We hope you will enter this letter into the hearing's official record.

Together we serve as co-chairs of Mayors Against Illegal Guns, a bipartisan coalition of more than 850 mayors from across the country who are committed to keeping guns out of the wrong hands. Among our bipartisan ranks are Republicans, Democrats, and Independents who are charged with protecting small towns and big cities alike.

While we all come from a variety of backgrounds, we have united around the common goal of closing deadly gaps in our gun laws and ensuring that law enforcement agencies have the tools they need to keep our communities safe. Our broad coalition understands that protecting the Second Amendment rights of law-abiding Americans goes hand-in-hand with keeping guns away from criminals, drug abusers, the seriously mentally ill, and other dangerous individuals.

To that end, we fully support the following three legislative proposals – and we hope you will support them as well:

- **Require every gun buyer to pass a criminal background check:**

Background checks are the only systematic way to stop felons, domestic abusers and other dangerous people from buying firearms. These checks are instantaneous and highly effective. Since its inception, the National Instant Criminal Background Check System (NICS) has blocked nearly 2 million permit applications and firearms sales to individuals who are barred by federal law from owning guns. But criminals and other prohibited purchasers avoid these checks by buying firearms – including online and at gun shows – from unlicensed “private sellers” who are not required by federal law to conduct the checks. In 2012, an estimated 6.6 million guns were transferred between private individuals without a background check – up to 40 percent of the U.S. annual total.

The Fix Gun Checks Act – H.R.137 (113th Congress)/S.436 (112th Congress) – would close this enormous gap in our laws by requiring a criminal background check for every gun sale, with reasonable exceptions, including but not limited to temporary transfers during hunting and for self-defense. Expanding background checks for all gun sales is relatively simple to accomplish. Private sellers would be required to sell their guns through licensed dealers, who can manage the transfer safely and are equipped to conduct background checks and retain sales receipts should law enforcement need to investigate a crime involving the gun in the future. The federal government is currently required to destroy records of successful background checks for gun sales within 24 hours of the check. This system protects the privacy of the buyer and seller and ensures that the seller is free from liability if the gun is used in a crime by a future buyer.

Background checks are an effective way to reduce crime and gun trafficking. In states that require a background check for every handgun sale, intrastate gun trafficking is 48 percent lower,<sup>1</sup> and 38 percent fewer women are shot to death by intimate partners, even though the number of non-firearm homicides is nearly identical regardless of the background check laws.<sup>2</sup> After Missouri repealed a state requirement that a background check be conducted before every handgun sale in 2007, the share of crime guns purchased in-state increased by nearly 30 percent, and the share that appeared to have been trafficked doubled.

- **Get military-style weapons and high-capacity ammunition magazines off our streets:**

Military-style weapons and high-capacity ammunition magazines have no appropriate civilian or sporting function. They are designed to kill large numbers of people quickly and they have repeatedly been used to do so, including 28 percent of the mass shootings in the last four years. A study by our coalition of mass shootings since January 2009 revealed that killers who used assault weapons or high-capacity magazines shot more than twice as many people and killed 50 percent more than other shooters.

Though loopholes in the 1994 assault weapons ban weakened its effectiveness, over time it began to have a clear effect on criminal access to these dangerous technologies. According to a Washington Post analysis, the ban was associated with a 60 percent decline in the share of crime guns with high-capacity magazines recovered in Virginia between 1998 and 2004. After the federal ban expired, the share of crime guns recovered in the state that had high-capacity magazines increased each year through 2010, more than doubling from the 2004 low.<sup>3</sup> Since the ban expired, 37 percent of police agencies observed increases in criminals' use of assault weapons and 38 percent observed increases in criminals' use of semiautomatic firearms with high-capacity magazines, according to a 2010 survey by the Police Executive Research Forum.<sup>4</sup>

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<sup>1</sup> Daniel Webster, Jon Vernick, & Maria Bulzacchelli, "Effects of State-Level Firearm Seller Accountability Policies on Firearm Trafficking," *Journal of Urban Health*, July 2009. To gauge gun trafficking, the authors measured the ratio of likely trafficked guns recovered from crime scenes to the total of guns recovered. A "likely trafficked gun" was defined as having been recovered at a crime scene and not in the possession of its original purchaser within one year of its last legal sale.

<sup>2</sup> U.S. Department of Justice, Federal Bureau of Investigation, Supplementary Homicide Reports, 2011. Available at <http://bit.ly/V1GvFe>. Excludes New York due to incomplete data.

<sup>3</sup> David Fallis & James Grimaldi, "VA data show drop in criminal firepower during assault gun ban," *Washington Post*, January 23, 2011, available at [http://www.washingtonpost.com/wp-dyn/content/article/2011/01/22/AR2011012203452\\_pf.html](http://www.washingtonpost.com/wp-dyn/content/article/2011/01/22/AR2011012203452_pf.html).

<sup>4</sup> <http://www.policeforum.org/library/critical-issues-in-policing-series/GunsandCrime.pdf>.

The Assault Weapons Ban of 2013 (S.150) would save lives by banning the manufacture and import of assault weapons and high-capacity magazines. By banning the transfer of grandfathered high-capacity magazines and requiring background checks for transfers of grandfathered assault weapons, the bill would keep the existing stock of weapons out of the hands of criminals.

- **Make gun trafficking a federal crime:**

Today, there is no clear and effective statute making gun trafficking a crime. Prosecutors are instead forced to rely upon a weak law prohibiting engaging in the business of selling guns without a federal license, which carries the same punishment as trafficking chicken or livestock. As a result, according to the Justice Department's Inspector General, U.S. Attorneys decline to prosecute 25 percent of those cases while declining only 9 percent of drug conspiracy cases. Mayors Against Illegal Guns supports proposals to empower law enforcement to investigate and prosecute straw purchasers, gun traffickers, and their criminal networks. Anti-gun trafficking legislation – S.54 (113th Congress) and H.R. 2554 (112th Congress) – would create a federal firearms trafficking offense, punishable up to 20 years in prison.

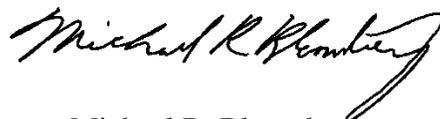
Last month in Newtown, Conn., the entire nation witnessed the tragic consequences of our failure to address gun violence after 26 innocent people – including 20 young children – were ruthlessly murdered at Sandy Hook Elementary School. While this travesty left our country shaken to its core, this bloodshed is all too common across the United States.

We need lawmakers in Washington to act, and we need you and your committee to lead on this critical issue.

Sincerely,



Thomas M. Menino  
Mayor of Boston  
Coalition Co-Chair



Michael R. Bloomberg  
Mayor of New York City  
Coalition Co-Chair

**CC: Senator Dianne Feinstein**  
**Senator Orrin Hatch**  
**Senator Charles Schumer**  
**Senator Jeff Sessions**  
**Senator Dick Durbin**  
**Senator Lindsey Graham**  
**Senator Amy Klobuchar**  
**Senator John Cornyn**  
**Senator Sheldon Whitehouse**  
**Senator Michael Lee**  
**Senator Al Franken**

**Senator Ted Cruz**  
**Senator Christopher Coons**  
**Senator Jeff Flake**  
**Senator Richard Blumenthal**  
**Senator Mazie Hirono**



**Statement by the  
NAACP Legal Defense and Educational Fund, Inc.**

**United States Senate  
Committee on the Judiciary**

**Hearing on “What Should America Do About Gun Violence?”**

**Hart Senate Office Building  
Room 216**

**January 30, 2013**

The NAACP Legal Defense and Educational Fund, Inc. (“LDF”) is pleased to submit this statement to the Senate Judiciary Committee in connection with the hearing on “What Should America Do About Gun Violence?” We want to thank Chairman Patrick Leahy, Ranking Member Charles Grassley and Members of the Committee for holding the hearing on an issue of such importance to all Americans.

The tragedy at Sandy Hook Elementary School in Newtown, Connecticut has devastated our nation and called into clear focus the question of what can be done to reduce gun violence in our communities. We are encouraged by the national momentum in the wake of the tragedy that appears to support meaningful action, once and for all, to prevent and reduce gun violence. Many of President Obama’s proposals are to be applauded, both in their scope and depth, and in their focus on the root causes of gun violence.

There is no doubt that communities of color would benefit from greater protections from gun violence. African Americans are disproportionately impacted by gun-related homicide. Indeed, “young black men die of gun homicide at a rate eight times that of young white men.”<sup>1</sup> Rampant and sustained gun violence has had a devastating effect on our families and communities. African Americans residing in urban areas are much more likely to die from gun violence than whites. In Chicago last year, 87 percent of the 500 homicides were gun-related; while African Americans are thirty-three percent of Chicago’s population, they comprised 70 percent of the murder victims.<sup>2</sup> Without question, the issue of gun violence and how to prevent or reduce it is a critical one for the African-American community.

In view of the significant impact of gun violence on African Americans, LDF is supportive of Congressional action to ban assault weapons. We believe that this measure will help to ensure that military-style weapons and high-capacity magazines are off our streets and out of the hands of those who would harm our children. LDF is deeply committed to ensuring a safe school environment for our children. Indeed, for over seventy years, LDF has fought for access to a quality and safe educational environment for African-American children.

We are always mindful, however, that young black men and other people of color are also victims of the racially disproportionate enforcement of our criminal laws. Studies of the federal criminal justice system have long documented these racial disparities.<sup>3</sup> The enforcement of weapons-related laws is not immune from this serious problem. “Black arrest rates” for weapons offenses are “in the vicinity of four times the White arrest rates.”<sup>4</sup> Moreover, the United States Sentencing Commission has “detected notable differences in prosecutorial decisions to seek sentence enhancements for certain federal offenses involving a firearm depending on the race of

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<sup>1</sup> David Cole, *Who Pays for the Right to Bear Arms?*, N.Y. Times, Jan. 1, 2013, at A19.

<sup>2</sup> *Id.*

<sup>3</sup> “[B]lack male federal defendants receive longer sentences than whites arrested for the same offenses and with the same prior records. On average black males receive sentences that are approximately 10% longer than comparable white males . . . .” Sonja B. Starr & M. Marit Rehani, *Racial Disparity in Federal Criminal Charging and Its Sentencing Consequences*, (U. Mich. L. Sch. Program in L. & Econ. Working Paper Series, Working Paper No. 12-002, 2012, at 24).

<sup>4</sup> Graham C. Ousey & Matthew R. Lee, *Racial Disparity in Formal Social Control: An Investigation of Alternative Explanations of Arrest Rate Inequality*, 45 J. Res. Crime & Delinq. 322, 337 (2008).

the defendant.”<sup>5</sup> The disproportionate enforcement of weapons offenses is further evidenced in prosecutions of youth.<sup>6</sup>

Because of the pre-existing racial disparities in the federal criminal justice system generally, and prosecution of federal weapons offenses specifically, it is important to us that any federal legislation seeking to ban assault weapons contain some mechanism to ensure that people of color are not disproportionately prosecuted under the new law. A racial impact statement, which would require federal prosecutors to examine the disparate impact of their prosecutions under the new legislation, would serve this goal. Indeed, as you consider the various proposals to ban and/or restrict the use of dangerous weapons, we urge you to take care that racial disparities do not result from the enforcement of any new laws.

### **“Policing” Schools Is Not The Answer To The Sandy Hook Tragedy**

For the remainder of our comments, we focus on the importance of ensuring that proposals for reducing gun violence do not have unintended consequences when it comes to our students and schools. Sadly, the recent tragedy at Sandy Hook illustrates how this issue of gun violence can impact even some of the safest places in our communities – public schools. Unfortunately, this is not the first time our nation and lawmakers have been called to respond to gun violence in communities or at a school. In addition to the images of violence in communities captured on many evening news broadcasts, we have witnessed how gun violence also impacts school communities, in places such as in Heath High School in West Paducah, Kentucky; Columbine High School in Littleton, Colorado; and Virginia Tech University in Blacksburg, Virginia. These incidents have awakened the public’s consciousness on issues of gun violence. Yet, each time, the nation fails to respond to the root causes.

For example, in the wake of the shootings at Columbine High School, state and local lawmakers followed a trend that began even before that tragedy, adopting “zero tolerance” disciplinary policies and significantly expanding the presence of police and security equipment in schools.<sup>7</sup> Many other school districts followed suit.<sup>8</sup> These leaders soon learned, however, that the policies they adopted did not make schools or communities any safer. Instead, they offered only an illusion of safety while also leading to a host of unintended consequences that damaged children and entire school communities in the process. As Colorado State Senator Linda Newell

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<sup>5</sup> Brennan Center for Justice, *Racial Disparities in Federal Prosecutions* 10 (2010). One study has found “black and Hispanic offenders convicted of weapons charges” to be “especially unlikely to receive charge reductions from U.S. Attorneys.” Lauren O’Neill Shermer & Brian D. Johnson, *Criminal Prosecution: Examining Prosecutorial Discretion and Charge Reductions in U.S. Federal District Courts*, 27 *Just. Q.* 394, 424 (2010).

<sup>6</sup> Even though “white youth report committing higher levels of weapons possessions crime, . . . African-American youth are arrested 2.5 times the rate of whites for weapons offenses.” Eleanor Hinton Hoyt et al., Annie E. Casey Found., *Pathways to Juvenile Justice Reform: Reducing Racial Disparities in Juvenile Detention* 20 (2001).

<sup>7</sup> Russell Skiba et al., *Are Zero Tolerance Policies Effective in the Schools? A Report by the American Psychological Association Task Force* 23-25 (2006), available at <http://www.apa.org/pubs/info/reports/zero-tolerance-report.pdf>.

<sup>8</sup> *Id.* at 29.

of Littleton, Colorado noted, “As a result of our zero tolerance policies, nearly 100,000 students have been referred to law enforcement over the past decade, and who benefits from that?”<sup>9</sup>

We believe that meaningful gun control efforts will better serve the safety of our schools and communities, and we commend Chairman Leahy and Judiciary Committee Members for exploring such efforts. To the extent that this hearing and those in the future explore school safety in the context of gun violence, we must caution the Judiciary Committee against supporting proposals that would place more police in schools. Instead, we urge the Committee to focus on the root causes of gun violence which can prevent these tragic incidents.

As the nation wrestles with the fundamental question of how to keep our children safe, we must learn from the consequences of our prior efforts. But recent media reports and policy proposals suggest that we risk going down the same ill-fated path again. For example, Sheriff Joe Arpaio in Arizona’s Maricopa County has stationed 500 armed, uniformed volunteers outside county schools.<sup>10</sup> The Fontana Unified School District Police in California purchased 14 semiautomatic assault rifles.<sup>11</sup> Former U.S. Secretary of Education William Bennett has called for arming school teachers and principals.<sup>12</sup> And the National Rifle Association urges the installation of armed persons in every school while a number of others have called for either armed or unarmed officers in schools (these officers are often referred to as “School Resource Officers”).<sup>13</sup> All of these alternatives fail to address the root causes of gun violence. They are destined to have negative consequences while continuing to expose our schools and communities to danger.

While both school-based policing and zero tolerance policies were intended to address only the most serious threats to students’ safety and well-being, it is now common for students to face citations, summonses and even arrest by school-based police officers for the types of adolescent misbehavior that should be addressed by educators and parents. For example, in Florida, 16,377 students – 45 students per day – were referred to juvenile courts by school-based law enforcement officers during the 2010-2011 school year.<sup>14</sup> Two-thirds of these students were referred for misdemeanors, such as disrupting a school function, disorderly conduct, and minor schoolyard fights.<sup>15</sup> In Pennsylvania, school-based arrests practically tripled in the post-

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<sup>9</sup> Senate Committee Passes Bipartisan Bill by Senators Newell and Hudak to Ensure Student Safety and Success Today, March 1, 2012, <http://coloradosenate.org/home/features/senate-committee-passes-bipartisan-bill-by-senators-newell-and-hudak-to-ensure-student-safety-and-success-today>.

<sup>10</sup> Nirvi Shah, *Nations, Districts Step Up Safety*, Education Week, Jan. 23, 2013, at 1.

<sup>11</sup> Gillian Flaccus, *Fontana, Calif., Schools Get High Powered Rifles*, Assoc. Press, Jan. 24, 2013.

<sup>12</sup> *See Panel Examines How to Pre-empt Violence*, Comment to *Meet the Press*, MSNBC (Dec. 16, 2012), <http://video.msnbc.msn.com/meet-the-press/50215783#50215783> (Stating Former U.S. Secretary of Education William Bennett has called for arming school teachers and principals); *see also* William Bennett *The Case for Gun Rights is Stronger Than You Think*, <http://www.CNN.com/2012/12/19/Opinion/bennett-gun-rights/index.html> (last visited January 30, 2013).

<sup>13</sup> Wayne LaPierre, Remarks at NRA Press Conference (Dec. 21, 2012) (transcript available at <http://www.nytimes.com/interactive/2012/12/21/us/nra-news-conference-transcript.html>).

<sup>14</sup> Florida Department of Juvenile Justice, *Delinquency in Florida’s Schools: A Seven Year Study* 3 (2011), available at <http://www.djj.state.fl.us/docs/research2/2010-11-delinquency-in-schools-analysis.pdf?sfvrsn=0>.

<sup>15</sup> *Id.* at 8-9; ACLU of Florida, Advancement Project, and Florida State Conference of the NAACP, *Still Haven’t Shut Down the School-to-Prison Pipeline* 6-8 (2011).

Columbine era, between 1999-2007.<sup>16</sup> And in Meridian, Mississippi, the U.S. Department of Justice recently filed a federal civil rights suit against the city, county, state agencies, two youth court judges and the state itself for furthering what has become known as the School-to-Prison Pipeline. According to the suit, these officials “engaged in a pattern or practice of unlawful conduct through which they routinely and systematically arrest and incarcerate children, including for minor school rule infractions, without even the most basic procedural safeguards, and in violation of these children’s constitutional rights.”<sup>17</sup>

Racial disparities in the frequency of punishment and severity of punishment have grown since the adoption of zero tolerance policies and the increase of police presence in schools. According to the U.S. Department of Education’s Civil Rights Data Collection (CRDC), “across all districts, African-American students are over 3½ times more likely to be suspended or expelled than their white peers.”<sup>18</sup> And preliminary CRDC data indicates that African-American students account for 42% of the students referred to law enforcement and 35% of those arrested in schools, even though they only comprise 18% of the sample population used for the survey.<sup>19</sup>

Relying on police to address school discipline can also lead to substantial academic harms. A growing body of research suggests that excessive and overly harsh school discipline undermines academic achievement and our nation’s efforts to close racial achievement gaps.<sup>20</sup> And one study found that a first-time arrest doubles the odds a student will drop out of school; a first court appearance quadruples those odds.<sup>21</sup>

Policing schools harms students who are arrested but can negatively affect the educational opportunities of other students, as well. Police involvement in school discipline and extensive security measures can create an environment of alienation and distrust for all students, far from the type of learning environment all students need to succeed.<sup>22</sup>

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<sup>16</sup> Advancement Project. *Test, Punish, and Push Out: How “Zero Tolerance” and High-stakes Testing Funnel Youth into the School-to-Prison Pipeline* 18 (2010), available at [http://b3cdn.net/advancement/d05cb2181a4545db07\\_r2im6caqe.pdf](http://b3cdn.net/advancement/d05cb2181a4545db07_r2im6caqe.pdf).

<sup>17</sup> Complaint, *United States v. City of Meridian*, No. 4:12-cv-00168-HTW-LRA (S.D. Miss. filed Oct. 24, 2012), available at [http://www.justice.gov/crt/about/spl/documents/meridian\\_complaint\\_10-24-12.pdf](http://www.justice.gov/crt/about/spl/documents/meridian_complaint_10-24-12.pdf).

<sup>18</sup> Office for Civil Rights, U.S. Department of Education, *Civil Rights Data Collection Summary 2* (2012).

<sup>19</sup> *Id.*

<sup>20</sup> Skiba et al, *supra* note 7 at 44-48; Tony Fabelo et al., *Breaking Schools’ rules: A Statewide Study of How School Discipline Relates to Students’ Success and Juvenile Justice Involvement* x, 40-46, (2011); Anne Gregory, Russell J. Skiba & Pedro Noguera, *The Achievement Gap and the Discipline Gap: Two Sides of the Same Coin?* 39 *Educational Researcher* 59 (2010).

<sup>21</sup> Gary Sweeten, *Who Will Graduate? Disruption of High School Education by Arrest and Court Involvement*, 23 *Justice Quarterly* 462, 473-477 (2006).

<sup>22</sup> Matthew J. Meyer & Peter E. Leone, *A Structural Analysis of School Violence and Disruption: Implications for Creating Safer Schools*, 22 *Education and Treatment of Children* 333, 352 (1999) (finding highly-restrictive efforts to control students by involving police in school disciplinary matters cause higher levels of school disorder by diminishing students’ belief in the legitimacy of school staff authority); Randall R. Beger, *The Worst of Both Worlds*, 28 *Crim. Just. Rev.* 336, 340 (2003) (finding that aggressive security measures produce alienation and mistrust among students which, in turn, can disrupt the learning environment and create an adversarial relationship between school officials and students).

The federal government has become increasingly aware of better ways to keep schools and communities safe. In 2011 U.S. Secretary of Education Arne Duncan and Attorney General Eric Holder launched the Supportive School Discipline Initiative – an inter-agency collaboration tasked with developing policy solutions to replace exclusionary discipline practices and eliminating racial disparities in the process.<sup>23</sup> The FBI, the Secret Service, and others have warned that the best way to prevent violence targeted at schools is through improving the communication and connectedness between students and educators.<sup>24</sup>

Parents, students, educators and policymakers are also working at the local, state, and federal levels on similar initiatives. For example, Colorado lawmakers recently passed legislation that abandons the post-Columbine zero tolerance and law enforcement-driven policies in favor of school-based solutions.<sup>25</sup> And juvenile justice, law enforcement and education officials in Clayton County, Georgia were able to reduce their school-based court referral rate by almost 70% while increasing the graduation rate by 24% after ensuring that schools, and not police, were in charge of addressing school disciplinary issues.<sup>26</sup>

## **Conclusion**

In responding to the Sandy Hook tragedy, we urge the Judiciary Committee to address the root causes of gun violence. Furthermore, we urge the Committee to study the negative consequences of prior responses to school shootings, including harsh discipline policies and enhanced police presence.

Earlier this month, LDF joined Advancement Project, the Alliance for Educational Justice, and the Dignity in Schools Campaign in releasing an issue brief entitled “*Police in Schools Are Not the Answer to the Newtown Shooting*,” available on our website. Many of the findings detailed in our paper are also part of the record from a recent hearing of the Judiciary Committee’s Subcommittee on the Constitution, Civil Rights, and Human Rights entitled “Ending the School-to-Prison Pipeline,” held just two days before the tragedy in Newtown. We strongly recommend that the Committee review the issue brief ahead of any legislative responses to this tragedy.

Thank you again for the opportunity to submit this statement. We stand ready to work with this Committee on positive solutions to promote safe and healthy school environments.

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<sup>23</sup> Press Release, Department of Justice Office of Public Affairs, Attorney General Holder, Secretary Duncan Announce Effort to Respond to School-to-Prison Pipeline by Supporting Good Discipline Practices (Jul. 21, 2011), available at <http://www.justice.gov/opa/pr/2011/July/11-ag-951.html>.

<sup>24</sup> See Dewey G. Cornell et al. *A Call for More Effective Prevention of Violence* (Dec. 19 2012), available at <http://curry.virginia.edu/articles/sandyhookshooting>; United States Secret Service and United States Department of Education, *The Final Report and Findings of the Safe Schools Initiative: Implications for the Prevention of School Attacks in the United States* (May 2002), available at [http://www.secretservice.gov/ntac/ssi\\_final\\_report.pdf](http://www.secretservice.gov/ntac/ssi_final_report.pdf).

<sup>25</sup> H.B. 1345, 68th Gen. Assem. (Colo. 2012) (requiring school districts to develop and enforce discipline codes in a manner designed to reduce referrals to law enforcement and minimize students’ exposure to the juvenile and criminal justice system).

<sup>26</sup> *Ending the School to Prison Pipeline: Hearing Before the Subcomm. on the Constitution, Civil Rights, and Human Rights of the S. Comm. on the Judiciary*, 112th Cong. (2012) 4-5 (statement of Hon. Steven Teske), available at <http://www.judiciary.senate.gov/pdf/12-12-12TeskeTestimony.pdf>.

January 29, 2013

Committee on the Judiciary  
United States Senate  
Washington, DC 20510

Dear Senator Leahy:

On behalf of the more than three million members of the National Education Association – dedicated educators who serve and protect millions of children every day – we would like to offer our views in advance of this week’s Judiciary Committee hearing entitled, “What Should America do about Gun Violence?” We commend the Committee for holding this very important hearing and hope you will use this opportunity to identify immediate steps to address the epidemic of gun violence in our nation.

From Paducah, Kentucky in 1997 to Newtown just last month, every member of the National Education Association grieves when students and educators are victims of horrific violence. We are a family, so we grieve for the parents who have lost children, and we grieve for the families of the educators who time and time again put themselves between bullets and their students. Now, more than ever, we stand ready to speak out and mobilize to protect our students and communities from further pain and needless violence.

NEA devotes considerable resources to addressing school safety, including professional development for our members in school safety, bullying, bias/harassment, and cultural competence. We are running a “[Bullyfree: It Starts with Me](#)” campaign to ensure educators have the tools they need to identify and prevent bullying, which is frequently a source of isolation and depression for students and which can be a precursor to violent behavior. We have a world-class school crisis guide (<http://crisisguide.neahin.org/crisisguide/>) and several state affiliates have crisis response teams that are frequently deployed to help in tragic circumstances. But, preventing future tragedies requires more than this. It requires a comprehensive approach and a real commitment from our federal, state, and local elected officials to stand up and do what is necessary to protect our children.

NEA supports a multi-pronged approach to gun violence prevention. As President Obama said, there is “no single piece of legislation that will solve this problem.” If Congress were to pass legislation requiring background checks for every gun purchase, the nation would still need enough mental health services and professionals making diagnoses about individuals (and states submitting those records to NICS) to make the background check system reliable and effective. Furthermore, since schools are often the places in which some of the first signs of mental health issues can be spotted and diagnosed, it is all the more important to ensure adequate numbers of qualified school personnel to make these diagnoses and/or spot warning signs of potentially problematic or violent behavior. Complicating matters, there is a huge shortage of these professionals in our public education system (from pre-k through higher education), which impedes the ability of school personnel to ensure a safe, secure, respectful, and nurturing learning environment.

**NEA's recommendations for immediate federal action include:**

- **Common-sense gun violence prevention.** We strongly support closing loopholes and requiring background checks for every gun purchase in America – be it retail, online, or at a gun show. In addition, we support legislation introduced by Senator Feinstein (S.150) to reinstate the ban on assault weapons and high-capacity clips. We believe assault weapons and high-capacity magazines should be used by soldiers and police officers. These commonsense measures are very much in line with the views of NEA members. A [new NEA member poll](#) indicates overwhelming support for stronger gun violence prevention laws, including background checks and bans on assault weapons and high-capacity magazine clips. These measures will rally broad community support, especially when coupled with a greater focus on mental health and safe, secure, and supportive school environments.
- **Greater emphasis on mental health.** We need a national focus on mental health, including development of better screening tools to identify, evaluate, and treat mental illness. In addition, we should provide more funding for School-Based Health Centers and providers to staff the centers. We also must address the current lack of parity in insurance for mental health services.
- **School safety and student support.** We must make our schools safer, not only by enhancing their physical security and making sure they are prepared to respond to emergencies like a shooting, but also by creating safer and more nurturing school climates that help prevent school violence.

To do this, however, we must let communities decide for themselves what kind of personnel and assistance they need to ensure safety. To help schools, we should provide more resources for school counselors and school psychologists, and training for school personnel in not just school safety, but in diagnostic training to spot warning signs for mental health issues and/or potential for students to engage in high-risk or anti-social behavior. Funding for school security personnel, like school resource officers, could also be an option conditioned on local community support and appropriate training for officers and school personnel together, including on bullying, cultural competence, positive behavioral supports, and appropriate classroom management.

We can also support students, giving them access to programs that teach conflict management, an appreciation of diversity, and strategies for being a part of a school community. And, we can increase our focus on bullying prevention. We can make available resources and technical assistance from emergency preparedness experts to retro-fit or make school entrances and facilities safer.

We must note that America's educators resoundingly reject the notion of arming school employees as a means of ensuring school safety. Only 22 percent of [NEA members polled](#) favor a proposal to allow teachers and other school employees to receive firearms training and allow them to carry firearms in schools, while 68 percent oppose this proposal (including 61 percent who strongly oppose it.)

We thank you for the opportunity to submit these comments. We look forward to working with the Committee to ensure that we never again will have to grieve the loss of children and educators to senseless gun violence.

Sincerely,  
Mary Kusler  
Director of Government Relations



## VERMONT FEDERATION OF SPORTSMEN'S CLUBS, INC.

ORGANIZED 1875

*affiliated with the National Rifle Association*



January 29, 2013

Honorable Senator Leahy  
437 Russell Senate Office Building  
Washington, DC 20510

The Vermont Federation of Sportsmen's Clubs is an organization of clubs. We take gun safety very seriously, which is why the federation invests so much time in the training of shooters/hunters, development of ranges, training programs, and enactment of pertinent laws and regulations.

There are several factors that play a critical role in the complex problem of deterring violent crime. It is the experience of the federation that those who commit violent criminal acts do not obey laws. Hence, the federation has long held that laws which restrict the ownership of firearms by peaceful citizens do not deter crime and only serve to give advantage to the perpetrators of violent crime.

Vermont has long maintained a safe place to live, while still protecting the gun rights of peaceful citizens as acknowledged in the Second Amendment of the U.S. Constitution and the 16th Article of the Vermont Constitution.

The federation does not engage in the legislative or regulatory process in a hasty manner. We believe that laws created in haste, in the emotional aftermath immediately following a traumatic event, usually lack the sound public policy that society has a right to demand in its laws. We believe in a deliberate legislative process. Therefore, the federation will continue its long standing practice of offering our knowledge and experience to Vermont's federal elected officials.

A handwritten signature in black ink that reads "Clint Gray".

Clint Gray,  
President

Vermont Federation of Sportsmen's Clubs, Inc.



Testimony of Shannon Watts  
United States Senate Committee on the Judiciary  
“What Should America Do About Gun Violence?”  
January 30, 2013

Chairman Leahy, Ranking Member Grassley, and Members of the Committee, thank you for the opportunity to submit written testimony on the subject of What Should America Do About Gun Violence.

My name is Shannon Watts. I am the founder of One Million Moms for Gun Control. I founded this grassroots organization on Facebook on December 15, 2012, one day after the mass shooting at Sandy Hook Elementary School in Newtown, Connecticut. I am the mother of five children. I live in Indiana. Hearing the news that twenty six- and seven-year-old children had been gunned down at their school forced me to do something about the increasing gun violence in America. I acted out of heartbreak and compassion and a compelling need to create change.

Within four weeks—less than one month—more than 50,000 people have signed up with One Million Moms for Gun Control to support new gun safety laws. Eighty chapters of One Million Moms for Gun Control are now spread across the United States. On January 26, 2013, One Million Moms for Gun Control co-sponsored the March on Washington for Gun Control. More than six thousand people marched on a bitterly cold January morning, in Washington, DC, while thousands more marched and rallied in cities across the United States from Boston, to Chicago, to Denver, to Indianapolis, to Seattle, and more.

The velocity with which the movement has grown in such a short time shows a very real desire for Americans favoring stricter gun safety measures to be heard as the true signal above the noise. The signal is this: we need stricter gun laws in this country. What we have now is not

working. The December 2012 shooting at Sandy Hook Elementary was the 16<sup>th</sup> mass shooting in the United States in 2012 alone. This one statistic alone should suffice to galvanize change.

Change is difficult. The Second Amendment admittedly grants broad rights to citizens to bear arms. No one within One Million Moms for Gun Control is looking to abridge the Second Amendment. What we seek instead are common-sense, practical limitations to the currently, seemingly unfettered right to bear arms that results in more and more deaths every year of innocent children. We believe that this issue is ripe for compromise.

Real change is needed. Real change, in the form of an assault weapons ban such as that proposed by Senator Dianne Feinstein; real change, in the form of tighter restrictions on the size of magazine clips limiting them to no more than 10 rounds; real change, in the form of extended background checks for all gun purchasers, whether they make their purchase at true brick and mortar stores, over the internet, or at gun shows.

I am not a politician. I am not a lawyer. I am simply a mother, and a citizen, and I am deeply concerned. I speak from the heart in language that every parent, every grandparent, every teacher and every American can understand. Enough is enough. The time has come for a common-sense, bipartisan effort to change the national debate about guns. Too many Americans are dying in their schools, in their movie theaters, at their political gatherings, at their colleges, at their supermarkets, and in their homes to justify maintaining the status quo.

After the shooting in Newtown, I had to do something. I could no longer sit idly by, quietly wringing my hands and wondering what could be done about the gun violence in America. I respectfully submit that now, you, Senators, must do something. Not one of us, as Americans, can afford to sit quietly any longer.

TESTIMONY OF JOSHUA HORWITZ  
EXECUTIVE DIRECTOR, COALITION TO STOP GUN VIOLENCE  
HEARING OF THE U.S. SENATE COMMITTEE ON THE JUDICIARY  
“WHAT SHOULD AMERICA DO ABOUT GUN VIOLENCE?”  
JANUARY 30, 2013

Mr. Chairman and Members of the Committee,

I greatly appreciate this opportunity to provide written testimony on behalf of the Coalition to Stop Gun Violence (CSGV), a coalition of more than 48 national organizations dedicated to reducing gun death and injury in the United States. We seek to secure freedom from gun violence through research, strategic engagement and effective policy advocacy.

As the committee considers the gun policy reform proposals recently put forward by the White House, I would like to take this opportunity to comment on several relevant and important issues:

**Assault Weapons and High-Capacity Ammunition Magazines**

The mass shooting tragedies of the past few years have highlighted the destructive power of assault weapons and high-capacity ammunition magazines in the hands of criminals and dangerous mentally ill individuals. From a macro-level analysis, there is evidence to suggest that attacks using semiautomatic firearms “tend to result in more shots fired, more persons wounded, and more wounds inflicted per victim than do attacks with other firearms” (Koper et al. 2013, 166-167). Semiautomatic assault rifles are not our Founding Fathers’ muskets or even your grandfather’s hunting rifle. They are designed with military-grade features such as pistol grips and detachable magazines; and for the sole purpose of killing quickly and en masse (Koper et al. 2013, 160).

Previous attempts to restrict assault weapons were simply not stringent enough to affect the supply of the weapons. The two-feature test that was the standard under the 1994 Assault Weapons Ban made it possible for the gun industry to manufacture “copycat rifles” that violated the spirit and intent of the law. Senator Feinstein’s inclusion of a one-feature test in the “Assault Weapons Ban of 2013” is a significant improvement in comparison to the 1994 law.

Nonetheless, Christopher Koper, an associate professor at George Mason University, has investigated the effectiveness of the 1994 Assault Weapons Ban and noted some positive results. His findings indicate the law’s provision banning high-capacity magazines had the greatest effect on decreasing gun crime (Koper et al. 2013, 168). This is supported by a *Washington Post* investigation in Richmond, Virginia that demonstrated the use of high-capacity ammunition magazines in gun crimes decreased from 18-20% in the early years of the ban to 10% by 2004—and then increased back to pre-ban levels by 2008 (Koper et al. 2013, 165).

After bearing witness to the mass shooting tragedies in Aurora, Colorado; Oak Creek, Wisconsin; and Newtown, Connecticut; the American people are showing increased support for meaningful reforms to reduce gun violence. A recent poll conducted by researchers at Johns

Hopkins University investigated how the public felt about specific gun violence prevention policy measures (Barry et al. 2013, 240). Their data showed overwhelming support for both banning assault weapons (69%) and the sale of high-capacity ammunition magazines (68%) (McGinty et al. 2013, 241).

### **Universal Background Checks and Gun Trafficking**

Universal background checks represent another simple yet meaningful intervention that research indicates could reduce gun violence. In 1994, the Brady Act established the National Instant Background Check System (NICS) and mandated that all federally licensed firearm dealers perform a background check before selling a firearm. Since the NICS went into effect in 1998 there have been 161,836,595 checks performed and 996,558 federal denials (FBI 2013). This denial number does not include the hundreds of thousands of persons denied by the states that maintain their own databases for state prohibitions (known as point of contact states) (Bowling 2010, 2). Meanwhile, surveys estimate that 40% of firearm sales are made by private individuals, who are not required to conduct background checks under federal law (Wintemute 2013b, 96). These private transactions create an opportunity for criminals and other prohibited persons to purchase firearms without accountability or oversight (Cook and Ludwig 2013, 28).

Garen Wintemute, a professor at the University of California-Davis School of Medicine, has examined California state law, which not only mandates universal background checks on all gun sales, but also prohibits individuals who have violent misdemeanor convictions from purchasing a firearm (Cook and Ludwig 2013, 29; Wintemute 2013a, 85). He found evidence that universal background checks decrease the criminal acquisition of guns through private transactions in California (Wintemute 2013a, 85). Interestingly, Wintemute also found that these regulations have not harmed the gun industry in California (Wintemute 2013a, 90). Finally, Wintemute highlights that of the 927 persons who sought to purchase handguns in his study, “denial appears to reduce risk for new criminal activity among those persons who are denied [through a criminal background check]” (Wintemute 2013a, 85).

Ensuring that all firearm transactions include a background check would also make it easier for law enforcement to identify the original purchasers of firearms that are used in crimes, including straw purchasers and firearm traffickers (Wintemute 2013b, 104). According to the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), “about 85% of criminal possessors [of firearms] were not the [original] retail purchaser” (Webster and Vernick et al. 2013, 110). By allowing ATF to accurately trace crime guns and prosecute corrupt firearms sellers, we can curtail the criminal acquisition of firearms (Barga and Gagliardi 2013, 150). Wintemute also investigated straw purchases at gun shows in California and in neighboring states and found that where universal background checks were not required, straw purchases “were six times as common” (Wintemute 2013b, 103).

Finally, universal background checks will only be successful if there are strong federal incentives for states to submit disqualifying records to the FBI’s NICS database. According to Mayors Against Illegal Guns, a total of ten states have yet to submit any disqualifying mental health records to NICS (Mayors Against Illegal Guns, 2013). This suggests that measures need to be taken to alleviate the barriers that make state compliance difficult.

## **Mental Illness and Gun Violence**

Most Americans struggling with mental illness are not violent and never will become violent (Swanson et al. 2013, 36). However, the deluge of recent mass shootings perpetrated by mentally ill individuals beckons us to re-examine the current mental health standards for gun buyers. That said, when considering potential policies to prevent dangerous mentally ill individuals from gaining easy access to firearms, it is critical to address patient concerns about privacy and stigmatization with equal concern and vigilance (Swanson et al. 2013, 34).

The specific disqualifications related to mental health are quite narrow. Under federal law, an individual is prohibited from buying or possessing firearms if they have been "adjudicated as a mental defective" or "committed to a mental institution." A person is "adjudicated as a mental defective" if a court—or other entity having legal authority to make adjudications—has made a determination that an individual, as a result of mental illness: 1) Is a danger to himself or to others; 2) Lacks the mental capacity to contract or manage his own affairs, or; 3) Is found insane by a court in a criminal case, or incompetent to stand trial, or not guilty by reason of lack of mental responsibility pursuant to the Uniform Code of Military Justice. A person is "committed to a mental institution" if that person has been involuntarily committed to a mental institution by a court or other lawful authority. This expressly excludes voluntary commitment. If a person falls under one of these two categories, they are prohibited from purchasing and possessing firearms for life—although federal law now allows states to establish procedures for such individuals to restore their right to purchase or possess firearms.

The Health Insurance Portability and Accountability Act (HIPAA) of 1996 restricts what information about a patient's medical care can be disseminated to those not directly involved in that care. Mental health records *can*, however, be reported to NICS by state authorities in order to deny potential gun buyers at the point of purchase. As U.S. Secretary of Health and Human Services Kathleen Sebelius recently affirmed in an August 8, 2012 letter to Virginia Senator Mark Warner:

It is our understanding that in many states, the state court system or other parts of the state government that are not covered by HIPAA hold the mental health or other information DOJ seeks to have reported to the NICS database. In these cases, the HIPAA Privacy Rule does not affect reporting to the NICS database. However, the Privacy Rule would apply to the disclosure of mental health information held by a HIPAA covered entity. In these circumstances, the state can, though statute or regulation, require HIPAA covered entities to report the necessary information for NICS purposes, which would make the disclosure permissible under the HIPAA Privacy Rule.

Jeffrey Swanson, a professor at the Duke University School of Medicine and leading expert on the mental health aspects of gun violence prevention, examined the effectiveness of including individuals with a dangerous mental illness in a Connecticut state database used to screen gun buyers (Swanson et al. 2013, 33). Swanson looked specifically at individuals who were disqualified under federal law from buying firearms based on their mental health background, but who did *not* have a criminal record. The inclusion of their records in the Connecticut state database, Swanson found, resulted in a decreased risk of violent crime, particularly for first-time offenders (Swanson et al 2013, 45). Swanson noted, however, that without concurrent measures requiring universal background checks, dangerously mentally ill individuals will still be able to

purchase firearms from private party sellers without undergoing screening (Swanson et al. 2013 45).

Although the intersection between mental illness and violent crime is important, a greater population could be served through interventions to prevent suicidal individuals from purchasing firearms (Swanson et al. 2013, 49). According to the Centers for Disease Control and Prevention, suicides accounted for 61% of firearm fatalities in 2010; for a total of 19,392 deaths (Swanson 2013, 49). In particular, gun-related suicides are prominent in rural communities where firearms ownership is more prevalent (Miller et al. 2013, 5). Depression, however, is not a mental illness that will normally prohibit individuals from purchasing firearms (Swanson et al. 2013, 49). Furthermore, expanding federal law to preclude all individuals diagnosed with depression from buying guns would affect many non-violent patients and could deter some from seeking mental health care (Swanson 2013, 50).

With this in mind, there needs to be serious dialogue between mental health professionals and gun violence prevention experts concerning the mental health criteria that should be used to prohibit individuals from purchasing firearms. This dialogue should also consider which professionals are in the best position to identify and report dangerously mentally ill individuals to the NICS (Swanson 2013, 48).

Finally, when considering potential fixes to federal law, it is important to note that novel models for intervention have already been implemented at the state level (Swanson 2013, 48). Indiana, for example, prohibits access to guns based on a “dangerous individual” designation that does not depend on a previous involuntary commitment (Swanson 2013, 48). California prohibits the purchase and possession of firearms by individuals who have been voluntarily admitted to a psychiatric facility and are receiving inpatient treatment for a mental illness when an attending mental health professional states that the individual is a danger to self or others. Such state interventions could be considered as potential models for a new federal standard.

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*A Union of Professionals*

## **Newtown: A Call for Ideas**

*(Submitted on Behalf of the American Federation of Teachers)*

We have a collective responsibility to ensure that our public schools are safe sanctuaries—both physically and emotionally—for every child, every educator and every community. That’s the first step in creating safe, nurturing, supportive learning environments where teachers can teach and kids can learn and grow.

Each of us was shaken to our core by the brutal massacre of innocent children and educators in Newtown, Conn. Two of the educators who were killed and one who was wounded are part of the AFT family. We grieve for them as we do for the entire Newtown community. Right now, as we still mourn, we have to help those in Newtown heal and we have to act. The instinct to protect, to serve and to love children is at the core of every educator and school employee. It is why educators need a critical voice in ensuring what happened in Newtown never occurs again.

Creating safe schools can’t be an empty promise. It will require a balanced approach that addresses both the physical and emotional safety of kids, educators and school employees—including comprehensive school safety programs and procedures, welcoming and supportive school environments, mental health supports and commonsense gun safety legislation.

### **School Safety Programs and Procedures**

- Every state should have policies in place requiring individual school/building safety plans and districtwide safety plans. These plans serve as a guide to address all safety needs in the school, in areas such as lockdown procedures, chain of command, evacuations, personnel assignments in crisis situations, procedures for drills or practices, and reporting procedures.
- Every school should conduct regular audits or building walkthroughs to evaluate and analyze the effectiveness of their school safety and security plans.
- Audits should be designed and implemented by the entire school community, including administrators, parents, students, educators, school support staff and their unions. These same parties also should be given the chance to offer feedback before the results are publicly released.
- Appropriate state and local agencies need to devote more attention to ensuring that school communities and families are better informed about community- and school-level emergency preparedness protocols. This should include a special focus on the protocols for communication between the families of victims and the agencies responsible for incident management.
- Communication with and between students, school staff, parents, community and first responders is absolutely critical to every step and stage of safety planning and emergency preparedness. This holds true in planning and implementation of the plans as well as in the aftermath of tragedy.

- Schools should provide regular training for all school employees in their district's and school's emergency management systems and protocols to ensure that staff are able to protect and assist students during any crisis. All school staff also should receive regular training in violence prevention such as that required by New York state.
- As part of a school safety program, panic buttons or other methods of quickly contacting first responders should be available in classrooms.
- Our public schools should not be armed fortresses. Efforts to arm educators and increase guns in our schools put educators and students at risk and undermine our ability to provide a safe and nurturing learning environment for students.
- Whether to bring police officers into schools should be decided on a school-by-school basis; it should be the decision of the school community and must be part of a comprehensive school safety plan. Some schools, due to their remoteness or following horrendous tragedies such as the massacre in Newtown, may decide to have police at their individual schools. If a school decides to bring police into schools, they should be part of the fabric of the school community, not simply a stationed armed guard. School resource officers and programs like D.A.R.E. (Drug Abuse Resistance Education) provide rich learning experiences and opportunities for students in addition to being part of the school safety team.

### **Welcoming and Supportive School Environments**

- When unspeakable tragedies do occur, we must provide immediate and ongoing physical and emotional support and assistance to students, parents, educators and school employees to help them grieve, heal and feel safe once again.
- Safe and respectful environments must be created for all students in our schools. Investing in ongoing schoolwide practices to reduce bullying behavior, increasing after-school activities, and integrating community services and programs like peer counseling, wellness programs and other social supports, are just a few examples of how communities like Baltimore and Cleveland have been able to reduce school-based violence. There are many other programs (such as Peace First) that can serve as models for how communities can reduce school-based violence. Noted researchers have asserted that this type of connectedness is a key element in fostering a sense of belonging and security in neighborhoods, particularly among marginalized students.
- Programs encouraging partnerships between schools, local law enforcement and appropriate community agencies (such as mental health) must be created to prevent and reduce school violence. The program would establish the creation of school-based safety committees composed of parents, educators, student and administrators. Law enforcement and other agencies should develop ongoing relationships with school safety committees and work jointly with them to help create safe and respectful environments, prevent and address violent incidents in schools, and serve as a resource on all safety issues for the faculty, staff and student body.

### **Mental Health Supports**

- As a nation, we have a collective responsibility to help those who are suffering from mental health issues by making services more accessible. To do this, we need to reverse the recent

trend (documented below) of slashing funds for social workers and mental health services; we must let people know they are not on their own and help is available.

- States have cut at least \$4.35 billion in public mental health spending from 2009 to 2012, according to the National Association of State Mental Health Program Directors. In fiscal year 2012 alone, 31 states that provided information to the association reported cutting more than \$840 million. We must reverse this trend.
- We need to establish an appropriate ratio of students to counselors, psychologists and social workers in order to ensure that children get the diagnosis, support and help they need to reduce the incidence and risk of students feeling disaffected and isolated in their schools. Parents then have a responsibility to ensure their children participate in counseling or other services recommended by school or other mental health professionals.
- Community schools offer a vehicle for how schools can best deliver a wide range of coordinated services, including mental health services. This strategy puts in place a safety net to prevent students and families from falling through the cracks. At the crux of the community school strategy are coordinated, results-focused partnerships that include both public and private entities, to provide not only comprehensive educational and developmental services, but also access to mental health services for students and families, with the objectives of improving academic achievement, building school and community engagement, and improving the skills and well-being of the surrounding community residents.
- A concentrated and sustained public campaign to destigmatize mental health issues is needed. Effective prevention hinges on the networks of support available to students and members of their communities.

### **Commonsense Gun Safety Legislation**

The AFT supports commonsense gun control legislation, including:

- Banning assault weapons and large-ammunition magazines, such as the bill introduced on Jan. 3 by Rep. Carolyn McCarthy (D-N.Y.);
- Requirements for thorough background checks;
- Ending the “gun show” loophole; and
- Ensuring gun owners keep their weapons secure while creating or increasing penalties for those who fail to do so.

We have witnessed the violent effects of gun violence for too long—both in our schools and in our neighborhoods. The tragic massacre at Sandy Hook Elementary must be a galvanizing moment to change this. We stand prepared to not only flesh out these ideas but work with you to create safe schools and communities for everyone in America.

Eliot W. Nelson, MD  
February 5, 2013

Testimony for Submission to U.S. Senate Judiciary Committee

I deeply appreciate the opportunity to submit this statement of testimony to your Committee. I am a Professor of Pediatrics at the University of Vermont's College of Medicine, where I practice and teach primary care pediatrics. I have been privileged to serve with other pediatricians from throughout the country on the American Academy of Pediatrics Section and Council on Injury, Violence, and Poison Prevention. I serve voluntarily on Vermont's Child Fatality Review Team, and am fortunate to work with professionals from the Vermont Department of Health and from the Vermont Child Health Improvement Program. My interest in gun-violence prevention extends back to my years of pediatric training and teaching in Los Angeles in the 1980's. I am writing this as an individual citizen and pediatrician, and am not intending or presuming in any way to represent any organization or institution.

While the horrific shooting deaths of 20 children and 6 adults in Newtown's Shady Hook School have prompted a new level of public concern, firearm injury of all kinds has been a major focus of pediatric attention for many years because it consistently represents a leading cause of pediatric death. Over the past 20 years for which data are available (1991-2010), there have been 74,444 firearm deaths in children and youth under the age of twenty. After the first year of life, from ages 1-19 yrs, firearms were used in two thirds of all homicides (47,873/72,163), and in more than half of all youth suicides (21,211/39,510). For children these ages, almost one out of every seven children who died of *anything* died of a gunshot wound. Only about 7% of all pediatric firearm deaths were accidents; and most of these, like most of the homicides and suicides, occurred among teenagers aged 15 and older.<sup>1</sup>

Pediatricians, trained to rely on preventive medicine strategies, have recognized that a broad-based *public health approach* offers the best opportunity to reduce this toll. The strength of the public health approach lies in its multi-faceted nature: interventions can involve human behavior, agents that cause harm, and the environment that allows or enables injuries to occur. They can take the form of education, engineering strategies, or the establishment and enforcement of rules or laws.

In the wake of a violent tragedy, most people (and the news media) initially focus on the human perpetrator in seeking to understand the cause of the problem. However, the experience of injury prevention experts has demonstrated repeatedly that human behavior is often the least amenable to control and change. Instead, the greatest gains historically in reducing the mortality and morbidity of injury have been achieved by targeting agents and the environment.

Consider Motor vehicle crash deaths (the leading cause of pediatric death after the first year): these have been enormously reduced by engineering safer roads and cars; by seat belts and air bags and child safety seats; and by passage and enforcement of laws that have reduced drunk driving (and have helped establish a cultural shift that makes drinking and driving less socially acceptable than it once was). Similarly, drowning deaths have been addressed partly by teaching children how to swim, but also by enforcing laws and regulations requiring four-sided fencing with self-latching gates around swimming

pools. House fire deaths have been reduced by construction regulations requiring smoke detectors, and by requiring the use of flame-retardant materials, rather than by only trying to teach children not to play with matches or to teach people not to smoke in bed. And poisoning deaths in young children have been reduced greatly since passage of the Poison Prevention Packaging Act of 1970.

Note please that while some of these measures have caused inconvenience or even restricted in some ways our freedom (we can't get drunk and drive or let our children play freely in the back of the station wagon), they still allow us great freedoms to drive and to enjoy swimming pools and even to smoke in our homes – they just make all of these activities safer. They reflect a consensus about balancing freedoms with both personal and public responsibility to safeguard people's lives.

Several years ago an 18 year-old patient of mine walked into a local gun shop, spent 20 minutes and \$400, and walked out with an AK-47 or equivalent. The dealer could not have known that he had a history of serious depression, or that he would be confronted by his parents who demanded that he return the weapon, or that he would subsequently spend a cold December night with it in his car, contemplating suicide. That gun shop is about 2 miles down the road from a K-8 elementary school.

This story had a “happy” ending – no shootings or deaths. Yet it has haunted me ever since – and I must ask every one of you leaders who may read this: ***should it have been so quick and easy for that young man to acquire such a lethal weapon?***

Anyone who pays attention to the grim news of firearm deaths in our small rural state knows that even Vermont is hardly immune to gun violence. Our rates of homicide (mostly domestic violence) and accidental shootings are low compared to national rates; but our firearm suicide rates are high, such that Vermont's overall firearm death rate is more than twice as high as that of Massachusetts, and similar to those of Illinois and California (data from the CDC, covering 1999-2010).<sup>1</sup>

What might we do, and what might we ask our leaders in Congress to do, to help prevent the loss of so many lives in our country to gun violence?

Some have proposed placing armed guards at schools. Though I am aware of reports of successful use of a firearm in a school to disarm a potential shooter, I am also troubled that such an idea may be inspired by Hollywood-style fantasies. I wonder how many entrances in each school would need to be covered. And who can deny that bringing more armed individuals into schools might increase the risk of tragic mistakes, of misdirected fire? Even if one shooter is stopped, accidental shootings of innocent victims and bystanders would be a predictable consequence over time.

Waiting for an armed shooter to show up at a school, at which point he might then be successfully “taken out” by an armed guard, is a fine example of a REACTIVE way to prevent shootings. Public health experts seek PROACTIVE ways to achieve the same outcome – for example, by figuring out how we might prevent that shooter from getting his weapons in the first place.

The assertion that “the only way to stop a bad guy with a gun is a good guy with a gun” completely ignores the possibility of trying to prevent that “bad guy” from getting hold of the gun that he might use. It also glaringly overlooks the huge numbers of suicidal gun deaths that might similarly be prevented by making it harder to gain access to guns. (*please see more on suicide and guns below*)

It is estimated that there are close to 300 million guns owned by private citizens in our country, and that firearms exist in about one-third of all homes with children.<sup>2,3</sup> Keeping guns out of the hands of unsupervised children who should not have them may require broad-based approaches. At the level of personal responsibility, and in homes with children, both private teaching by parents and public education campaigns should be supported in an effort to make it harder to get hold of firearms. Unsecured guns in homes can be stolen or misused or mistaken for toys – with lethal consequences. A sizeable body of evidence, cited in the American Academy of Pediatrics’ recent policy statement *Firearm-related Injuries Affecting the Pediatric Population*,<sup>4</sup> shows that safe storage of them in homes with children can reduce the risk of both unintentional shootings and suicide.<sup>5,6</sup> Safe storage laws, generally known as “Child Access Prevention” laws, are associated with reduced risk of suicide in teenagers.<sup>7</sup> Such laws have been enacted in 27 states – but the provisions are very different from state to state. A national legislative standard could be helpful in defining the responsibilities of adult gun owners to store guns responsibly.

Nearly everyone seems to agree that we should keep guns away from potentially violent criminals and from those suffering from serious mental illnesses that could make them dangerous. While it is easy to say in the aftermath of shootings that “deranged” individuals are the problem, it can be much harder to predict which individuals will eventually become threatening or violent. What *is* clear is that in our country at this moment it is far too easy for such people to gain access to guns. And while guns indeed do not “kill people” by themselves, it is clear that guns too frequently intensify violence.

The need for strengthening of our system of background checks at the time of purchase or transfer of weapons should seem obvious. At a very minimum, such checks should apply to ALL sales and transfers of ownership of weapons outside of a family. Those checks should be able to identify individuals legally prohibited from gun purchase, including those who have been identified as potentially dangerous to themselves or others due to unstable mental illness. Unfortunately, at present the submission of names to the FBI database of potentially violent people with mental illness has been very inconsistent from state to state, making this a problem in urgent need of addressing (see recent article in the NY Times, Dec 21, 2012).

Of course, I know as a physician that most people with mental illness are NOT dangerous – and that we must take care to respect the privacy of our patients, in part to ensure that they will seek the care they need. Still, it can be daunting for primary care and mental health clinicians to try to assess the level of instability of any given patient. We do know that recent purchase of a handgun is associated with “a substantial increase in the risk of suicide” for the buyer.<sup>8</sup> We also know that depression can be accompanied by anger and sometimes by vengeful thoughts. Research has increasingly shown that suicidal behavior is often impulsive, precipitated by short-term crises that lead to cognitive impairment and irrational despondency, culminating in a sudden urge to end life.<sup>9</sup> In such cases, easy access to a gun

can be the major determinant that makes the behavior fatal – (and in extreme instances, that access to lethal weapons may contribute not only to mass shootings that end in suicide of the shooters, but also to countless instances of domestic homicide-suicide deaths). Importantly, a growing body of evidence demonstrates that suicidal impulses most often pass, such that the large majority of those who make serious suicide attempts but fail to kill themselves do NOT go on to die by suicide, even years later.<sup>9</sup>

In order to enhance the effectiveness of background checks, why not consider the advantages of the approach used in Canada, where two references are required to obtain a permit to buy a gun – AND where the spouse or domestic partner of the buyer is required to be notified of the application. Yes, such a practice would entail a bit more time to purchase a gun – there might even need to be a waiting period – but it would NOT prevent responsible citizens from owning firearms for hunting or sport-shooting or self-defense. Rather, it would make it possible for loved ones and friends to help keep gun ownership safer for all.

Regarding the proposed reinstatement of a ban on so-called “assault weapons,” it seems clear that even if this occurs there will still be huge numbers of these weapons in our midst. While it is hard for me to accept that such weapons have a legitimate purpose outside of the military or perhaps law-enforcement, I can understand that a ban on the sale of high-capacity magazines might achieve a significant reduction in the risk of mass shootings and might be more practical at present. At the same time, I believe we should examine the cultural environment that has led to the popularity of these weapons among sport-shooters. Perhaps we can find some common ground allowing us to recognize that limits on the ownership of such weapons can be reasonable. Perhaps we should consider that their lethality, in terms of rapid high-volume fire, might make further sales simply not worth the risk—just as we have accepted that the acquisition of fully automatic machine guns must be prohibited.

Finally, I must mention briefly that since 1996-97 serious study of the problem of gun violence in our country has incredibly been hampered by politically-engineered restrictions on funding for research on these injuries, their causes and prevention. The apparent fear was that findings from such research might yield evidence that could be used to promote “gun-control” efforts.<sup>10</sup> I have witnessed the chilling effect of these restrictions even within the small boundaries of our Vermont Health Department, where injury prevention proposals have been put forward with deliberate avoidance of mention of firearms – for fear of having funding cut or denied. I hope that Congress truly did not intend to perpetuate ignorance in this way – but that has been the result, and I ask that you enact clear legislation to reverse this indefensible impediment to public health research.

Whatever steps you take, I implore you to bear in mind that right now our laws make it too easy for people who are unsafe to get and keep guns. Legislation by itself cannot solve the entire problem of firearm violence and injury in our country. Whatever laws you might pass will not prevent every episode of gun violence, any more than motor vehicle traffic laws can stop every car crash – yet those laws undoubtedly save lives every day. By helping to establish clear rules and norms that we can live with and trust, you can both save lives and shape a safer environment for our children and for all citizens.

Thank you very much,

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