

SUMMARY REPORT



IN THE LINE OF FIRE

HUMAN RIGHTS AND THE US GUN VIOLENCE CRISIS

**AMNESTY
INTERNATIONAL**



Shirley Chambers has lost all of her four children to gun violence in Chicago.

Ronnie Chambers, a 33-year-old aspiring music producer, was shot in the head while sitting in a parked car on the West Side of Chicago on 26 January 2013. On a television talk show a few weeks earlier, he had explained that he was a former gang member who had been in and out of jail, but was now mentoring young rappers, trying to keep them away from gang life. Jerome Chambers, aged 23, was shot and killed while using a payphone outside the Cabrini-Green public housing complex on 26 July 2000. Three months earlier, on 27 April, his 15-year-old sister, LaToya Chambers, had been standing in the lobby of a Cabrini-Green public housing complex when she was shot and killed by a 13-year-old boy.¹ Five years before that, on 28 November 1995, 18-year-old Carlos Chambers was shot twice in the head by a classmate just blocks from their school, Jones Metropolitan High, in Chicago's South Loop.²

Gun violence in the United States (USA) is a human rights crisis. The sheer volume of people killed or injured each year in the USA by gunfire is staggering. In 2016, 38,658 lives were lost to gun violence.³ Of these deaths, 22,938 were suicides and 14,415 were homicides (an added 495 deaths were accidental, 300 were of an undetermined intent and 510 were legal interventions).⁴ According to the Centers for Disease Control and Prevention, some 116,000 people were shot and injured by firearms in 2016.⁵ The USA has both the highest absolute and highest per capita rates of gun ownership in the world.⁶ And yet, there is a lack of comprehensive and coordinated gun safety laws and regulations across the USA which helps perpetuate this relentless and potentially avoidable

violence. The right to live free from violence, discrimination and fear has been superseded by a sense of entitlement to own a practically unlimited array of deadly weapons, without sufficient regulations on their acquisition, possession and use. In the face of clear evidence of persistent firearm violence, high rates of gun ownership, and ease of access to firearms by individuals likely to misuse them, the USA is failing to meet its obligation to protect and promote human rights pursuant to international law.

Injury and death due to firearms affect people of every age, race and ethnicity, nationality, religion, sexual orientation, gender and gender identity, whether they live in a city, suburb, or rural

Demonstrators protest in front of the police station on 12 March 2015 in Ferguson, Missouri. (Photo by Scott Olson/Getty Images)



community, and whether they are affluent or living in poverty. However, gun violence manifests and affects certain people and communities in wholly dissimilar and disparate ways. Firearm homicides disproportionately impact communities of color and data suggests that the rate of gun homicides has increased in recent years. Moreover, the failure of the USA to implement laws and/or address existing gaps in protection in current policies leave marginalized groups such as children and those impacted by domestic violence (largely women) at risk of exposure to firearm violence. The use of firearms by private individuals to inflict injury or death on others often dominates the discussion on gun violence. Yet, access to firearms for individuals who may present a risk of harm to themselves needs to be acknowledged and is critical to addressing the full spectrum of firearm-related deaths.

The impact of firearm violence extends far beyond the numbers of those injured and killed. While mass shootings garner public attention and international concern, the relentless reality of gunfire in homes, schools, businesses and on the streets of the USA, and the long-lasting trauma and impact of gun violence on victims, survivors, families and communities, rarely does.

The failure of the USA to address these blatant insufficiencies in firearm regulation and the resulting loss of life raise serious human rights concerns. The USA has either signed or ratified several international human rights conventions that guarantee human rights impacted by gun violence and firearm-related injuries and deaths,

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including the International Covenant on Civil and Political Rights (ICCPR),⁷ the International Convention on the Elimination of all Forms of Racial Discrimination (ICERD),⁸ the Convention on the Elimination on all Forms of Discrimination Against Women (CEDAW),⁹ the Convention on the Rights of the Child (CRC),¹⁰ and the International Covenant on Economic, Social and Cultural Rights (ICESCR).¹¹ The USA, therefore, has a legal obligation to respect, protect and fulfill the human rights set out in these treaties and to exercise due diligence by taking measures to combat actual or foreseeable threats to these rights, including the right to life. In the context of firearms, this obligation also includes reducing and preventing violent acts against individuals and communities, addressing discriminatory violence, violence against children, gender-based violence, and the use of firearms in suicides and accidental deaths. The USA is obliged to exercise due diligence to prevent, punish, investigate and redress harm caused by private individuals and should pay particular attention to those most at risk, be they individuals or marginalized communities.¹²

Unfettered access to firearms and a lack of comprehensive gun safety laws and regulations are a fatal combination. There is an urgent need for better, consistent and coordinated federal and state laws to address current deficiencies that allow gun violence to flourish. The measures that would address many of the failings highlighted in this report are well known: comprehensive background checks; licensing, registration and training; reporting of lost and stolen firearms; regulation of semi-automatic assault rifles, semi-automatic shotguns, semi-automatic submachine guns, large capacity magazines, bump stocks and other dangerous devices; clear regulations on the carrying of firearms in public; investment in research on firearms and gun safety technology;

and limitations on the use of firearms for self-defense. The failure of the USA to adopt such measures raises serious human rights concerns, specifically with respect to the rights to life, security of the person and freedom from discrimination.

Under international human rights law, if a state does not exercise adequate control over the purchase, possession and use of arms by private actors in the face of clear evidence of persistent firearms violence, they could be considered to have breached their due diligence obligations. Amnesty International's framework to address the impact of firearm violence provides guidance on state human rights obligations in this context. These recommendations range from setting up systems of regulation to govern the acquisition, possession and use of firearms, as well as establishing measures to enable complex social interventions at the community level to reduce overall levels of firearm violence. States' responsibilities to prevent firearm violence, as part of their obligation to protect the right to life and other human rights, require two interrelated approaches: (i) Restricting access to firearms especially by those most at risk of misusing them; and (ii) Taking effective steps to put in place and implement violence reduction or protection measures where firearms misuse persists. States should establish robust systems for the regulation of the possession and use of firearms and ammunition to prevent them from being used by private actors to abuse human rights. These systems should include measures to address: licensing, registration, restriction of certain weapon types, security of stocks, research and public policy development.

The Second Amendment of the US Constitution provides for a right to bear arms. In fact, the USA is one of only two countries in the world where owning a gun is regarded as a right rather than a privilege.¹³ However, it is well established that this right is not absolute or unlimited. In the landmark *District of Columbia v. Heller* case,



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- ➔ Taking effective steps to put in place and implement violence reduction or protection measures where firearms misuse persists.



The failure to establish a comprehensive, meaningful and working system of firearm regulations is a breach of the USA's obligations under international human rights law. The consequences of this breach are both obvious and catastrophic, but they are not irreversible.

the US Supreme Court confirmed that federal and state governments may regulate firearms with respect to the type of firearms allowed, limiting those who may purchase, possess or carry firearms, and the permitted use of firearms.¹⁴ Despite this fact, federal and state firearm regulations vary in standards, where they exist. This is because the right to bear arms is a politically charged and partisan issue. For decades, the gun lobby has worked diligently and successfully to thwart firearm regulations around the country.¹⁵

The result of this is seen and felt every day all around the USA. Whether it is the shooting of dozens of young people at a nightclub or a school, the death of a woman who has suffered from an armed abuser and had appealed for protection, the loss or injury of a child who discovered an unsecured, but loaded gun, self-inflicted injuries and deaths with a firearm by those who present a recognizable risk of harm, or the pervasive gunfire that pierces the streets of urban communities

sometimes erasing entire families and generations; gun violence impacts the lives of everyone living in the USA. The effect extends far beyond just the numbers of those injured and killed to the entire community and all those impacted by the trauma who may fear for their lives and safety.

The failure to establish a comprehensive, meaningful and working system of firearm regulations is a breach of the USA's obligations under international human rights law. The consequences of this breach are both obvious and catastrophic, but they are not irreversible. The USA should act proactively to promote and protect human rights by implementing a system of laws which work adequately to restrict access to firearms for those most at risk of abusing them and by taking effective steps to put in place and implement violence reduction or protection measures where gun violence persists.

Amnesty International's report is a critical assessment of existing data and research related to the scope of gun violence in the USA, and an analysis of US laws and policies – where they exist – governing the acquisition, possession and use of firearms by private individuals, in the context of international human rights laws and standards. In this report, Amnesty International defines the term “gun violence” broadly, encompassing interpersonal and community-wide violence using firearms; implicit threats of violence that firearms represent in certain circumstances; misuse of firearms in the home; and acts of self-harm by firearms, including accidents and suicide. Amnesty International provides a clear set of recommendations, developed under the human rights framework in the context of firearms violence, which the USA must adopt to address this crisis.

KEY RECOMMENDATIONS:

1) Federal, state, and tribal governments should introduce and strengthen gun laws and policies nationwide. Therefore, at a minimum:

- » The US Congress should enact legislation requiring background checks on all firearm purchases and transfers, prior to carrying out any sale or other transfer. These background checks should be conducted indicating the absence of known risk factors for misuse;
- » The US Congress should ensure that federal, state and local agencies are reporting records accurately, completely, and as soon as possible to the FBI for inclusion in the National Instant Criminal Background Check System (NICS);
- » The US Congress should enact legislation mandating that firearms may only be obtained for purchase or transfer with a valid firearms license and a credible justification for ownership and use;
- » Firearm licenses should not be authorized unless the following minimum conditions are met:
 - › credible justification prior to purchase;
 - › in general, a minimum age of 21; and
 - › a background check has been conducted indicating the absence of known risk factors for misuse. Risk factors for consideration should include, at a minimum:
 - › prior criminal record, particularly for violent offences;
 - › being under indictment for a felony offence;
 - › history of gender-based, sexual or domestic violence; and
 - › medical unfitness including history of drug/alcohol abuse or mental health issues which might lead to the harm of self or others. Each application should be reviewed on a case-by-case basis by competent authorities drawing on all available relevant evidence.
- » The US Congress should enact legislation requiring the US Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) to register all firearms in a central national gun registry, which is digitized and searchable, and should provide appropriate funding through the legislation to support ATF's ability to implement these systems;
- » The US Congress should enact legislation prohibiting the carrying of firearms in public, whether open or concealed, unless there is a credible justification for doing so, and should reject federal legislation which would override existing state laws where safeguards and processes are in place to curtail misuse related to concealed carrying of firearms.
- » The US Congress should enact legislation requiring all lost and stolen firearms to be immediately reported to local law enforcement officials;
- » The US Congress must pass legislation banning the sale, transfer, and possession of semi-automatic assault rifles, semi-automatic shotguns, semi-automatic submachine guns, large capacity magazines, bump stocks, and other dangerous devices;

- » The US Congress should acknowledge that firearm violence is a public health crisis, repeal the Dickey Amendment, and enact legislation allocating adequate funding to conduct evidence-based research on the causes and effects of gun violence, and to research and develop viable strategies for gun violence prevention to inform policy making aimed at reducing firearm related deaths and injuries;

2) Federal, state, and tribal governments should introduce comprehensive and targeted gun safety measures to address the gun violence crisis in the USA by adopting measures to protect individuals and communities most at risk of gun violence in accordance with its obligations under international human rights law. Therefore:

- » The US Congress should pass legislation which supports the implementation and sustained funding of evidence-based violence reduction and prevention programs;
 - » The US Congress should pass legislation requiring the safe and secure storage of all guns and ammunition, and state legislatures should pass stringent and comprehensive safe storage and Child Access Prevention (“CAP”) laws that mandate all individuals to store all firearms unloaded under the protection of a gun lock or safety device;
 - » The US Congress should amend the current federal framework of firearms regulation addressing firearm possession in the domestic violence context by closing all loopholes related to dating partners and adding misdemeanor and other stalking offenses as triggers prohibiting firearms possession and use; and state legislatures should pass and implement laws establishing a clear process for the immediate surrender by and removal of firearms from prohibited abusers;
 - » State legislatures should consider passing legislation to implement procedures, such as Extreme Risk Protection Orders (ERPOs), providing for the temporary removal of access to firearms for individuals who may present a risk of harm to themselves or others. Such procedures should be implemented in a manner consistent with international human rights protections; and
 - » Federal and state authorities should ensure that survivors of gun-related violence have access to affordable and quality health care, which includes necessary, long-term health interventions, rehabilitation services, mental health care, and long-term pain management.
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1. FIREARM VIOLENCE AND HUMAN RIGHTS



Gun with knot in the muzzle, peace memorial in front of the UNO headquarters (Photo by JOKER/Walter G. Allgöwer/ullstein bild via Getty Images)

The impact of firearms violence on individuals and families all across the USA is profound and enduring. Persistent gun violence is denying people their civil and political rights including the right to life, the right to security of person and the right to be free from discrimination. It also undermines the enjoyment of economic, social and cultural rights, including the right to health and the right to education. In short, it is a human rights crisis.

Civil and Political Rights:

The right to life is fundamental to every major international human rights instrument and is the cornerstone of the international human rights system. The right to personal security places an obligation on states to protect individuals from foreseeable threats to life or bodily integrity from private actors under international human rights

law. A state's obligation with respect to the right to life is both a positive and negative obligation. States have an obligation to act with "due diligence" to take reasonable action to prevent human rights abuses before they occur, and to effectively respond when they do occur, including when those abuses are carried out by private individuals.¹⁶

In the context of firearms, this "due diligence" obligation also includes an emphasis on reducing and preventing violent acts against individuals and communities, addressing discriminatory violence, gender-based violence, the use of firearms in suicides and accidental deaths. States must also exercise due diligence to prevent, punish, investigate and redress harm caused by private individuals and they should pay particular attention to those most at risk, be they individuals or marginalized communities.¹⁷

Economic Social and Cultural Rights:

Gun violence and firearm-related injury and death also have a strong impact on economic, social and cultural rights of those living in the USA. Gun violence and firearm-related injury and death are prevalent in low-income urban neighborhoods with high levels of community violence, lack of access to public services and poor police practices.¹⁸ Easy access to and proliferation of firearms in these circumstances can have an impact on the community as a whole, across the full range of human rights. Patterns of persistent firearm violence can both inhibit access to basic services, such as health and education, and entrench deprivation which degrades those services over time. It can also impose significant economic costs on already struggling individuals and deprived communities, including loss of livelihood/income and costs of medical/psychological care, impairment, and long-term disability.¹⁹

At the community level, complex interventions mobilizing a range of state and non-state actors

for violence prevention may be necessary. The full enjoyment of all human rights requires a holistic approach which looks not just at individual violations, but patterns of violations embedded in specific socio-economic realities.²⁰ Therefore states, including the USA, also have a duty to actively prioritize marginalized and highly-impacted communities who face the biggest obstacles to realizing the full spectrum of their rights. Tackling entrenched firearm violence in the community is a multi-faceted problem involving active engagement and partnership with all relevant stakeholders – local authorities, law enforcement, and society and community leaders.²¹ Initiatives should be focused on those at most risk of perpetrating and being victims of firearms violence – often young males growing up in deprived urban neighborhoods. Only through long-term, adequately-funded, evidence-based projects, tailored towards specific social, economic and cultural contexts, and working in partnership with the affected communities, can authorities achieve sustained reductions in firearms violence and compliance with human rights obligations.

FIREARM REGULATION: A HUMAN RIGHTS FRAMEWORK

Amnesty International's framework to address the impact of firearm violence provides guidance on state human rights obligations in this context. States' responsibilities to prevent gun-related injury and death require two interrelated approaches. They must restrict access to firearms by those most at risk of abusing them and they must take effective steps to implement violence reduction or protection measures where firearms abuse persists. The following recommendations outline some key minimum steps that all states, including the USA, must take in order to comply with their human rights obligations to address firearm violence and gun-related injury and death.



“Given the potential harm and devastating impact of the misuse of firearms on the enjoyment of human rights, public policies with respect to civilian access to firearms should be reviewed and formulated through a human rights lens.”

–The Office of the United Nations High Commissioner for Human Rights in its 2016 report

Ensuring The Right to Life and Security of Person Generally

States should enforce minimum standards for the regulation of firearms to prevent them from being used by private individuals to abuse human rights. These measures should include:

- Licensing regulations to ensure that minimum conditions are met, including training; a credible justification for possession; a minimum age requirement; the absence of known risk factors for misuse, and a time limit;
- Registration of all working firearms in accordance with established international guidelines;
- Restrictions on the types of weapons civilians may purchase, possess or use;
- Mandated sanctions for illicit possession, transfer and use of firearms to ensure that all stocks of firearms and related ammunition are secure, with penalties for non-compliance; and
- Funding research on firearms and firearm violence.

Limiting Firearm Violence in the Context of Domestic Violence

In order to prevent and address firearm-related intimate partner violence, states must explicitly link laws, policies and practices on domestic violence with those on access to firearms and undertake effective collection and storage of data on alleged perpetrators of gender-based violence and domestic violence that is shared with licensing authorities when assessing license applications, with due regard to established principles of data protection. In cases where there is a history of actual or threatened violence these measures should include:

- The prohibition of access to firearms;
- Suspension of firearms licenses; and
- Removal of firearms.



The Rev. Jesse Jackson (L) and Rev. Michael Pfleger carry crosses as they march with other residents, activists, and family members of victims of gun violence down Michigan Avenue to draw attention to the city's rising murder rate on 31 December 2016 in Chicago, Illinois. (Photo by Scott Olson/Getty Images)

Preventing/Reducing Suicides and Accidental Deaths

States must restrict access to firearms by those at recognizable risk of self-harm and take other measures to reduce the risk of accidental deaths. These measures should include:

- Instituting waiting periods for firearm and ammunition purchases;
- Enforcing stringent safety requirements including safe storage (e.g. keeping firearms unloaded and under lock and key, or offsite);
- Investment in research into improving firearms safety mechanisms; and
- Public education to raise awareness around the dangers of firearms in the home.

Reducing Community-Level Firearm Violence

When implementing violence prevention measures for communities impacted by persistent firearm violence, states must:

- Implement legislation and take administrative measures to prohibit the possession of firearms and ammunition by private actors who represent a risk to public safety and protect those at most risk of being victims of firearm violence;
- Implement complex interventions mobilizing a range of state and non-state actors for violence prevention;
- Adopt well-funded, sustained, evidence-based violence reduction programs;
- Ensure full non-discriminatory access to economic, social and cultural rights, including health care, education, employment, housing and water; and
- Address the physical and psychological impact of firearm violence through targeted health care provisions.

Establishing Responsibility for Firearms Manufacturers, Distributors and Dealers

All companies have a responsibility to respect human rights. Lobbying for relaxation of firearm regulations or against initiatives which could prevent or reduce gun-related injury is not consistent with the responsibility to respect human rights. Companies manufacturing firearms and ammunition should adopt measures to minimize the risk that their products are used for human rights abuses. Such measures could include:

- Working proactively with relevant authorities to ensure the implementation of firearms regulations aimed at violence reduction and prevention;
- Refraining from lobbying for relaxation of firearms regulation, or against initiatives which could reduce firearm violence;
- Taking a proactive role in jurisdictions with weak and/or poorly implemented regulation of firearms, above and beyond the company's obligations set out in domestic law, to:
 - › cease manufacturing, marketing and selling to private actors certain types of particularly harmful weapon types,
 - › cease distribution to problematic dealers; and
 - › invest in research into, and introduce safety measures to prevent accidental discharge of weapons, to improve reliability of traditional safety devices, and develop newer technologies, such as personalized weapons; and
- Refraining from marketing/promoting products in such a way that might encourage misuse of firearms.

2. FAILURE TO PROTECT: GUN VIOLENCE IN THE UNITED STATES

No part of US society is unaffected by gun violence, and yet some individuals and groups are disproportionately at risk of being impacted. Failure to implement adequate policies and measures to address access to firearms by private individuals has far-reaching consequences, particularly for those living in urban and tribal communities, children, those suffering from domestic abuse, individuals who may present a recognizable risk of self-harm, and survivors of gun violence.

URBAN GUN VIOLENCE AND THE DISPARATE IMPACT OF GUN VIOLENCE ON COMMUNITIES OF COLOR

KEY STATISTICS:

- In 2016, African Americans represented 13.3% of the USA population but accounted for 58.5% of gun homicides.²⁷
- In 2016, a black male aged 15-34 was more than 10 times more likely die from firearm homicide than a white male of the same age group.²⁸

Firearm homicides disproportionately impact African American and Latino communities, particularly young black men. Firearm homicide was the leading cause of death for black men and boys ages 15-34 in 2016, and it was the second-leading cause of death for Latino men and boys in the same age range.²⁹ In 2016 alone, 5,366 black men and boys aged between 15 and 34 were victims of firearm homicide, and were more than 10 times more likely to die from firearm homicide than white men and boys of the same age group.³⁰

Firearms violence and the toll it takes on communities of color in urban settings is a symptom of a broader problem, one rooted in failures of federal, state and local government to address institutional racism and its multi-generational impacts. Without jobs, investment

in at-risk communities, adequately funded and resourced violence reduction and youth mentorship programs, and other support networks and services that can provide stability, gun violence remains prevalent. In addition to the loss of life, many are left injured or suffering from short- and long-term health issues including anxiety, depression and post-traumatic stress.³¹ Persistent firearm violence has an impact on all aspects of community life; it can prevent people from accessing critical healthcare and other services; leave children without safe spaces for play or even safe routes to school; and leave local businesses unable to thrive, resulting in lack of economic opportunity.³²

A critical factor for communities of color impacted by gun violence is the intersection with the criminal justice system. Excessive use of force by police, racial profiling and low homicide clearance rates are all factors which contribute to a lack of trust between law enforcement and communities of color.³³ And where the police have failed to gain the trust and cooperation of the community, they cannot solve crimes, further reinforcing the cycle of impunity and denying justice to the families of the victims.³⁴

The disparate impact of gun violence on urban communities of color raises serious concerns about the protection of human rights including the right to life, to security of the person, to freedom from discrimination and to equal protection of the law. The USA ratified the ICCPR and the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD), which explicitly protect these rights. The UN Human Rights Committee and the Committee on the Elimination of All Forms of Racial Discrimination have both highlighted the issue of gun violence in their most recent reports on US human rights compliance. They remain concerned with the increasing numbers of gun-related deaths and injuries in the USA and the

disparate impact on racial and ethnic minorities.³⁵ Both committees noted that the US government's failure to curb gun violence constitutes a violation of the right to life and the right to non-discrimination under international law.³⁶

The full enjoyment of all human rights requires a holistic approach which looks not just at individual violations but at patterns of violations embedded in specific socio-economic realities.³⁷ The USA has a duty to ensure that it does not discriminate on any of the grounds protected by international law, that it prevents discrimination by non-state actors, and that it takes measures to remedy the legacy of discrimination and ensure that rights are enjoyed equally by everyone. This includes actively prioritizing marginalized communities in order to remove obstacles to their realizing the full spectrum of their rights. To this end, successful evidence-based violence intervention and prevention programs are being implemented

in communities across the USA, particularly in urban areas where they have proved vital, when effectively implemented, in decreasing rates of firearm-related violence and homicides.³⁸ It should be noted that greater research and more detailed evaluations of existing group-violence intervention models are critical in assessing potential challenges and gauging success. By focusing efforts on a concentrated group of perpetrators and victims – engaging community members, offering support, direct services and mentorship to individuals at high risk for engaging in gun violence – several cities have provided alternatives to violence. Most importantly, they have been able to combat and reduce gun violence while simultaneously providing life-altering opportunities for individuals living in high-crime neighborhoods. Unfortunately, despite the success and numerous available models for these programs, lack of funding and lack of political will have prevented sustained and adequate implementation of these initiatives.³⁹

HADIYA PENDLETON



On 29 January 2013, two members of the SUWU faction of the Gangster Disciples drove past Harsh Park, Chicago, a hangout of the rival 4-6 Terror faction. They saw a group of teenagers gathered under a canopy, sheltering from the rain. One of the men, Micheail Ward, left the car and opened fire, killing 15-year-old Hadiya Pendleton and wounding two others. It was a case of mistaken identity; none of the victims were gang members.²² Hadiya Pendleton was an honors student and drum majorette who had just performed at President Barack Obama's inauguration. The killing

made national headlines. Micheail Ward and Kenneth Williams were found guilty of first-degree murder in August 2018.²³

Ward later told police: "Nobody...expected that girl to die, none of that... We didn't even know she was even from King [a local school] cause we're – King kids - cause Kenny used to go to King and they know they ain't supposed to be in that park."²⁴ Ward, then 18, told police he wanted to retaliate for the killing of a friend by a member of the 4-6 Terror faction:²⁵ "They murder my man cold-blooded. Police said [expletive] us in our face... So how we – what we supposed to do about that? And they come through killin' us every day... We ain't got no choice if we out there getting killed every day."²⁶

The USA must work to reduce high levels of gun violence disparately impacting communities of color, particularly in urban communities, by addressing the long-term socio-economic impact of this violence. This can be done by investing in economic opportunity, access to education and health care, examining of policing techniques and training, fostering community-police trust and accountability, mandating sustained and sufficient funding/support for community-involved group violence intervention and reduction initiatives, and by working to enforce

policies aimed at reducing easy access to firearms by individuals likely to misuse them (curbing gun trafficking, straw purchasers, and the sale or transfer of weapons without background checks, etc.). Also, the USA must work to reduce persistently high levels of firearm violence in these communities and its long-term socio-economic impacts by taking measures to ensure public safety, supported by effective, human rights-compliant and accountable law enforcement agencies, reducing people's perceived need to possess firearms for self-defense.

KEY RECOMMENDATIONS:

- » The US Congress should create a commission to investigate, analyze and develop policy recommendations to address the disparate impact of gun violence on communities of color.
 - » The US Congress should pass legislation which supports the implementation and funding of evidence-based violence prevention programs, including the Youth Promise Act.
 - » The US Congress should pass the End Racial Profiling Act.
 - » State and local authorities must implement and provide sufficient and sustained funding to support community-involved, evidence-based group violence intervention and reduction strategies, which have proven effective in decreasing gun violence, in communities where there are persistently high levels of firearms violence.
 - » State and local authorities must invest in areas of economic deprivation, including through creating job programs, attracting and incentivizing businesses to the area, and offering educational, mentorship and job readiness programs.
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THE IMPACT OF FIREARMS ON CHILDREN

KEY STATISTICS:

- In 2016, 1,637 children died from gun violence in the USA.⁵⁵
- From January 2013 through August 2018, there were at least 344 incidents of a firearm being discharged on school grounds in the USA.⁵⁶

Widespread possession of firearms coupled with weak gun violence prevention laws and policies are having a profound impact on those aged 17 and younger throughout the country. According to a recent study, firearm injuries were the third leading cause of death among children in the USA between 2002 and 2014.⁵⁷ The study found that during this time period, on average, nearly 1,300 children were killed by firearms and another 5,790 children were treated for injuries caused by firearms. These numbers have not gone down; in fact in 2016, the last year for which data is available, 1,637 children died from gun-related homicides, unintentional shootings or suicide in the USA.⁵⁸

In 1995, the USA signed the Convention on the Rights of the Child (CRC), a comprehensive international human rights agreement on children's rights. Although the USA is the only country in the world that has signed but not ratified the CRC, the USA still has an obligation to refrain from acts that would defeat the object and purpose of this treaty.⁵⁹ This means that in addition to its obligations under the ICCPR, the USA should recognize the particular situation of children and provide "special safeguards and care" in order to protect children from gun violence, including by preventing access to firearms, and supporting violence interruption and diversion programs.⁶⁰

Guns affect all children and their communities to some degree, but factors such as race, ethnicity and gender impact the type of violence they

experience as well as the rate at which they experience gun violence. Children in suburban and rural areas are more likely to die through unintentional shootings or suicides carried out by firearm.⁶¹ In urban areas, children and youth, particularly young black males, are at higher risk of dying from gun-related homicides.⁶² Children all over the country are also at risk of gun violence in their schools. Since 2013, there have been at least 344 incidents of a firearm being discharged on a school campus in the USA.⁶³

The causes of gun deaths and injuries among children remain multifaceted: high rates of gun ownership, weak gun violence prevention laws and



readily available (often unsupervised) firearms make US children much more vulnerable to death through gun violence than children in other high-income countries. To this end, US states with the highest rates of gun ownership also have the highest rates of gun death, including among children.⁶⁴ Federal law prohibits possession of a handgun by anyone under the age of 18. However, there is no minimum age for the possession of

long guns, such as rifles and shotguns, or long gun ammunition.⁶⁵ Twenty-seven states do not have laws regulating the minimum age at which people are permitted to possess long guns.⁶⁶

Safe storage and Child Access Prevention laws (“CAP laws”), which work to protect children from injuring themselves and others by requiring gun owners to keep guns locked up and unloaded, and ammunition stored in a locked location

TAKIYA HOLMES, 11-YEAR-OLD, CHICAGO, ILLINOIS



On Saturday, 11 February 2017, 11-year-old Takiya Holmes was sitting in a parked van in the Parkway Gardens neighborhood on the South Side of Chicago, with her younger brother, mother and aunt, when a reputed member of the Black Disciples opened fire on three members of a rival gang on the other side of the street.⁴⁰ Her mother Naikeia Williams had just parked the car when she heard gunfire.⁴¹ Once the shooting had stopped, Naikeia Williams went to the back of the car and saw that Takiya had been shot in right side of her head and wasn't moving.⁴² Naikeia Williams believes that the last of three to five bullets came through the back window and hit Takiya, although Takiya did not make a sound.⁴³

Takiya was transported to the the Comer Children's Hospital and was soon after declared brain dead. She died on 14 February 2017.⁴⁴ It is Naikeia's understanding that the bullets were intended for some kids on the corner nearby.⁴⁵ When speaking about her daughter Naikeia Williams said: “She had a heart of gold. Takiya's organs were donated because that is what she would have wanted. She was an angel on earth. It is heartbreaking that her life was taken and they weren't even shooting at us.”⁴⁶

The alleged shooter, who was 19 years old at the time of the shooting, has been charged with the murder of Takiya Holmes and is being held without bond pending his trial.⁴⁷

Naikeia Williams has returned to work but continues to suffer from post-traumatic stress disorder, depression and anxiety.⁴⁸ Her greatest fear, however, is that her son, just three years old at the time of the shooting, will suffer long term effects from the shooting and the violent loss of his sister.⁴⁹ When asked about the violence in Chicago, Naikeia Williams responded: “The violence is ridiculous. More women and kids get killed here than anything. It didn't used to be like that. Women and kids were safe.”⁵⁰

15-YEAR-OLD BOY, CHICAGO, ILLINOIS

"They should be more careful with who they shoot at. It's not fair. He was innocent. He didn't do nothing bad and it's not fair that they could just take his life like that... I don't know how people have the heart to kill people just like that."

- Victim's sister

According to media reports, a 15-year-old boy was delivering newspapers to earn money for a birthday present for his sister.⁵¹ On the morning of Sunday, 17 December 2017, he and his mother's boyfriend were attacked. A white van rear-ended their vehicle, flashed its lights, and then a man hanging out of the passenger window opened fire on the car.⁵² One of the bullets struck the boy in the head. He was driven to a nearby gas station, where he was pronounced dead.⁵³ Police believe the shooting may have been a case of mistaken identity and potentially a retaliatory shooting that went wrong.⁵⁴

separate from the firearm, are necessary.⁶⁷ Studies have found that CAP laws, which impose criminal liability to ensure that owners are held accountable for the security of their weapons, are effective in reducing child and youth suicides and unintentional deaths caused by firearms.⁶⁸ Despite evidence that CAP laws reduce the number of unintentional or self-inflicted gunshot deaths among children, 23 US states have failed to enact any such laws.⁶⁹

However, there are other issues to consider when discussing the causes of firearm violence affecting children and firearm violence perpetrated by children. Mistrust of law enforcement, the lack of economic opportunity, inequality, poverty and low

wages, the presence of group violence, criminal activity and a lack of security in neighborhoods where firearms are prevalent, easy access to illegal guns, the presence of inter-community violence and a lack of access to education, are significant factors in urban communities and specifically in intentional firearm violence involving children. Street outreach and youth violence prevention programs are essential in supporting the physical and mental health and well-being of young people affected by gun violence. Many such programs have proved effective in reducing gun violence, yet they continue to grapple with unsustainable or inadequate funding and limited capacity.⁷⁰

KEY RECOMMENDATIONS:

- » The US Congress should pass legislation requiring the safe and secure storage of all guns. All licensed gun dealers and private dealers should be required to provide secure gun storage or safety devices upon the sale of all guns, not just handguns.
 - » The US Congress should pass legislation imposing a minimum age of 18 on possession and purchase from licensed dealers or private sellers of long guns, including rifles and shotguns.
 - » State legislatures should pass stringent and comprehensive Child Access Prevention laws that mandate all individuals to store all firearms unloaded under the protection of a gun lock or safety device.
-



Seven thousand pairs of shoes, representing the children killed by gun violence since the mass shooting at Sandy Hook Elementary School in 2012, are spread out on the lawn on the east side of the U.S. Capitol on 13 March 2018 in Washington, DC. Organized by the online activist group Avaaz, the shoes are intended to urge Congress to pass gun-reform legislation. (Photo by Chip Somodevilla/Getty Images)

DOMESTIC VIOLENCE AND FIREARMS

KEY STATISTICS:

- More than half of all women murdered in the USA are killed by current or former intimate partners and most intimate partner homicides are committed with guns.⁷⁸
- Women living with a gun in the home were nearly three to five times more likely to be murdered than those with no gun in the home.⁷⁹
- According to an analysis of FBI data on women killed by armed intimate partners from 2008 to 2012, in states where background checks are required for *all* handgun sales, 46% fewer women were shot to death by an intimate partner.⁸⁰
- Some 4.5 million American women alive today have been threatened by an abuser with a firearm; one million of those have been shot and injured or shot at without injury.⁸¹ A survey conducted by the National Domestic Violence Hotline found that 67% of respondents whose abusers possessed firearms believed their abusers were capable of killing them.⁸²

The USA has not ratified any treaties that specifically address domestic violence or violence against women. In 1980, the USA signed the Convention on the Elimination on all Forms of Discrimination Against Women (CEDAW). Although the USA has not ratified CEDAW, the USA still has an obligation to refrain from acts that would defeat the object and purpose of this treaty.⁸³ The Committee on the Elimination of Discrimination against Women, which monitors implementation of the rights enshrined in the Convention, has recognized gender-based violence against women as a form of discrimination.

The USA is a party to the ICCPR, which guarantees the rights to life and security of the

person. It has a due diligence duty to protect the right to life and security of person and to prevent, investigate, and punish any act that would undermine those rights, whether committed by its own agents or by private persons. The UN Human Rights Council has recognized that the right to life and security of the person has been significantly undermined by firearms misuse, and that inter-partner violence accounts for a significant number of such attacks. In a 2006 report, *Prevention of Human Rights Violations Committed with Small Arms and Light Weapons*, it noted that: “the State has particularly acute obligations when it comes to protecting the rights of vulnerable groups, including victims of domestic violence, who are most at risk from misuse of a gun in the home. The presence of a gun in the home can easily turn domestic violence into domestic homicide.”⁸⁴

Existing studies on the relationships between firearms and female homicides related to intimate partner violence incidents are limited. Studies on this issue are urgently needed. However, from data that does exist, the relationship between access to firearms and intimate partner homicides is quite clear; the risk increases dramatically when there is a firearm in the home.⁸⁵ More than half of all women murdered in the USA are killed by current or former intimate partners, and most intimate partner homicides are committed with guns.⁸⁶ Two separate studies on the risks of firearms in the home found that females living with a gun in the home were nearly three to five times more likely to be murdered than females with no gun in the home.⁸⁷ This is why a key to reducing domestic violence homicides in the USA is reducing an abuser’s access to firearms.

Federal law provides some basic protection. In 1994, Congress included a provision in the Violence Against Women Act, prohibiting certain persons subject to final domestic violence protective orders from possessing firearms and ammunition. In 1996, Congress passed the “Lautenberg Amendment”, prohibiting certain

KATE RANTA



On 2 November 2012, Thomas Maffei shot his way into the apartment in Coral Springs, Florida, where his estranged wife, Kate Ranta, lived with their four-year-old son. Kate Ranta was shot twice and injured. Her 68-year old father was shot at point-blank range, causing permanent damage to his arm.

Kate Ranta told Amnesty International that Thomas Maffei then walked over to their son and knelt down beside him, still pointing his gun at her, while her son pleaded, “Don’t do it Daddy. Don’t shoot Mommy.”⁷¹

She said that her husband had become abusive several years earlier and she had been granted a temporary restraining order requiring her husband to surrender his six guns and ammunition in January 2011.⁷² However, when the officers seized the guns, they warned her that her husband could go out the next day and buy another gun legally since neither federal law nor Florida law prohibit sales of firearms solely on the basis of a Temporary Protection

Order and the order from the judge only applied to weapons and ammunition currently in Thomas Maffei’s possession.⁷³

Kate Ranta withdrew the protection order during a short-lived reconciliation attempt and the guns were returned.⁷⁴ Although she made several subsequent attempts to obtain restraining orders, these were not successful. In any case, neither federal law nor Florida state requires the removal of weapons after a temporary restraining order.

She understood from her attorney that denial was due to insufficient evidence.⁷⁵ Meanwhile, her husband’s behavior became increasingly erratic: he broke into her home, vandalized her car, cyber-stalked her and hired a private investigator to locate and video her. Only after Ranta had been shot did a judge finally grant a permanent protection order in her case.⁷⁶ In April 2017, a jury sentenced Thomas Maffei to 60 years in prison for the attempted murders of Kate Ranta and her father.⁷⁷

The current federal framework



does not provide any procedure or mechanism for the removal or surrender of firearms

when a permanent restraining/protective order is issued.

35 states and Washington, D.C. prohibit firearm possession by persons subject to a domestic violence related restraining order



But only 27 of those states and Washington, D.C. also explicitly require or authorize relinquishment of firearms.

persons convicted of the misdemeanor crime of domestic violence or subject to a final domestic violence protection order from possessing firearms and ammunition.⁸⁸ Between 1998 and 2014, these laws resulted in more than 160,000 denied purchases of firearms by those convicted of domestic violence, or under a protection or restraining order.⁸⁹ Individuals convicted of felony stalking or other acts that rise to the level of felony offenses are prohibited from purchasing or owning firearms under the Gun Control Act of 1968.⁹⁰

Unfortunately, these federal laws include loopholes and blatant omissions. For example, current or

former dating partners with whom a person did not cohabit or have a child are excluded from this provision (commonly referred to as the “boyfriend loophole”).⁹¹ Stalkers are not covered, unless their behavior rises to the level of a felony offense.⁹² A temporary protection order does not prevent abusers from buying or keeping guns. Moreover, inadequate recording and tracking of individuals who are prohibited from purchasing firearms means that they are able to obtain firearms from licensed gun dealers, and abusers can lawfully avoid background checks by purchasing weapons at a gun show or from a private dealer.⁹³

Some state governments have worked to close these loopholes. However, the protections offered are often inconsistent and arbitrary. According to an analysis of FBI data on women killed by armed intimate partners from 2008 to 2012, in states where background checks are required for all handgun sales, 46% fewer women were shot to death by an intimate partner.⁹⁴ And yet, only 19 states and Washington, D.C. require background checks for all sales of handguns, including private sales.⁹⁵

Even where protections and firearm-related safeguards do exist to protect those who are being abused by an intimate partner, they are often not enforced or even enforceable. In fact, federal law does not provide any procedure/mechanism for the removal or surrender of firearms when a permanent restraining order is issued. Similarly, 35 states and Washington, D.C. prohibit firearm possession by persons subject to a domestic violence-related restraining order, but only 27 of those states and Washington, D.C. also explicitly require or authorize relinquishment of firearms.⁹⁶

KEY RECOMMENDATIONS:

- » The US Congress should amend the Violent Crime Control and Law Enforcement Act of 1994 to include: dating partners in the definition of “intimate partner”; *ex parte*/temporary protective orders as the type of court issued orders that prohibit offenders from possessing firearms; and misdemeanor crime of stalking as an offense that prohibits offenders from possessing firearms.
 - » State legislatures should pass and implement laws prohibiting all those convicted of misdemeanor domestic violence and those subject to protection or restraining orders, including emergency, temporary (*ex parte*) and final orders, from possessing guns.
 - » State legislatures should pass and implement laws establishing a clear process for the immediate surrender by and removal of firearms from prohibited abusers.
-

ACCESS TO FIREARMS FOR INDIVIDUALS WHO MAY PRESENT A RISK OF HARM TO THEMSELVES OR OTHERS

KEY STATISTICS:

- In 2016, 22,938 people in the USA died from suicide by firearm – more than 62 a day.⁹⁸
- A 2015 study has found that less than 5% of the 120,000 firearm-related killings in the USA between 2001 and 2010 were carried out by people who had been diagnosed with mental illness.⁹⁹

In 2016, 22,938 people in the USA died from suicide by firearm – more than 62 a day.¹⁰⁰ It is critical to examine access to firearms by those individuals who may present a recognizable risk of harm to themselves or others. Problematic correlations are often drawn between gun violence and mental health in public debates, wrongly implying that persons with psychosocial disabilities and those with mental health conditions are automatically prone to violence. These correlations and assertions ignore the range of possible mental health diagnoses and how mental health conditions might manifest differently for different individuals,

depending on their particular circumstances. Furthermore, such assertions are unsupported by facts. In an article published in 2015, researchers analyzed statistics from the National Center for Health Statistics, which tracks gun homicides, and found that less than 5% of the 120,000 firearm-related killings in the USA between 2001 and 2010 were carried out by people who had been diagnosed with mental illness.¹⁰¹

A better framework for evaluating access to firearms is to take into account the broad range of factors that might contribute to an individual being at recognizable risk of self-harm or harming others. These include, for example, emotional issues, patterns of substance abuse, mental health

In 2016,
22,938 people
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JANET DELANA

In 2012, Janet was living in Missouri with her husband and her 38-year-old daughter. Her daughter had a psychosocial disability and was diagnosed with several mental health conditions. However, Janet told Amnesty International that her daughter's access to adequate health care was limited, because of the cost of care. For example, she did not have health insurance and her prescription medicines were often too expensive to afford. One morning in 2012, Janet noticed that her daughter seemed particularly anxious, "I always knew when she was sick, because she would not bathe or put on make-up. So then on Wednesday morning, I woke up and I went to say goodbye and I saw her and I knew something was off", she told Amnesty International. Later, when she was at work,

she received a message from her daughter saying, "Dad is dead". She rushed home to find that her daughter had purchased a gun that morning and shot her husband. Regulations in Missouri allowed Janet's daughter to purchase a gun without a license, without any mandatory waiting periods, and without being stopped by a background check. Janet has spoken out on several occasions about the need for stronger gun regulation and for improved access to quality mental health care, which she strongly believes would have prevented what happened to her daughter and her husband. "Every time I see a shooting on the news I think, I mean I wonder, if it was someone like [my daughter] and if their family went through what we went through," she told Amnesty International.⁹⁷

conditions and other circumstances which may be temporary or prolonged, but which impact an individual's likelihood of misusing a firearm. It is crucial to ensure that people who need mental health care are able to access necessary treatment and services. Authorities in the USA should take steps to improve the availability and accessibility of quality mental health care in compliance with human rights, including confidentiality, autonomy, and informed consent, and ensure that health workers are able to discuss all factors impacting their patients' health, well-being and safety, including the possession, use and storage of firearms where relevant.

In addition, the regulatory framework governing the sale and use of firearms should account

for circumstances where particular factors may increase the risk of harm or the misuse of firearms amongst people with certain mental health conditions, in a manner consistent with international human rights law. States should implement procedures that facilitate the evidence-based temporary suspension of firearm licenses, permits and certificates, and the temporary removal of firearms from possession, for example through Extreme Risk Protection Orders (ERPOs), for individuals who are at heightened risk of harm to self or others. States should also institute adequate waiting periods for firearms and ammunition purchases.

KEY RECOMMENDATIONS:

- » States should consider implementing measures that reduce access to firearms for individuals who may present a risk of harm to themselves or others, including instituting adequate waiting periods for all firearms and ammunition purchases.
 - » Authorities in the US should take steps to ensure that health workers are able to discuss all factors impacting their patients' health, well-being and safety, including the possession, use and storage of firearms where relevant.
 - » States should consider adopting procedures such as ERPOs which provide for the temporary removal of access to firearms for individuals who may present a risk of harm to themselves or others. Such procedures should be implemented in a manner consistent with international human rights protections.
-

FIREARMS AND TRIBAL NATIONS

KEY STATISTICS:

- In 2014, more than a third of the Native Americans who took their own lives used a firearm.¹⁰²
- In 2014, the Center on Juvenile and Criminal Justice found that between 1999 and 2011 Native Americans made up less than 1% of the US population, but accounted for almost 2% of all police killings.¹⁰³

Tribal governments, as sovereign nations, regulate and restrict the right to bear arms on tribal land.¹⁰⁴ It is not clear how many Native American tribes have included in their tribal code a “right to bear” arms. However, the Navajo Nation, which is the biggest tribe in the USA in terms of land mass and population, provides a right to bears arms via its tribal code as follows: “The right of the people to keep and bear arms for peaceful purposes, and in a manner which does not breach or threaten the peace or unlawfully damage or destroy or otherwise infringe upon the property rights of others, shall not be infringed.”¹⁰⁵ Most tribal governments with

published codes or laws have enacted some form of regulations relating to the use, possession, or ownership of firearms.¹⁰⁶ Some have laws which restrict the types of weapons allowed on tribal land.¹⁰⁷ Others regulate the sale or transfer of firearms, and some require background checks.¹⁰⁸ Tribal governments have enacted laws relating to firearms in the context of hunting and fishing¹⁰⁹ and regulate the presence of firearms on or around schools and in tribal casinos.¹¹⁰ However, the most prevalent regulations on firearms appear to be those related to concealed carry,¹¹¹ some bar all concealed carry of guns on tribal land.¹¹² Some tribal governments have enacted laws concerning firearms used in a domestic violence situation.¹¹³ For example, under the White Mountain Apache Criminal Code, an officer “may remove any weapons or firearms that are in plain view or discovered during the domestic violence related investigation.”¹¹⁴

However, these laws are not consistent or comprehensive, leaving significant groups of Native Americans insufficiently protected from firearm violence. Also concerning is the fact that

currently, tribal governments and tribal police are not required to use or provide information about background checks to the National Instant Criminal Background Check System (NICS). As Judge Richard Blake, President of the Board of

Directors of the National American Indian Court Judges Association explained, the “lack of entry of tribal protection orders in state and federal databases is a national crisis.”¹¹⁵

KEY RECOMMENDATIONS:

- » Tribal governments could consider reviewing and revising their tribal codes and laws to ensure that they comply with the obligation to protect and promote human rights, including the right to life. This would include, at a minimum, comprehensive background checks for every gun sale or transfer; training, licensing and registration requirements for the purchase, possession and open and concealed carry of firearms; the establishment of mechanisms with human rights safeguards to remove firearms from those at demonstrable risk of hurting themselves or others; and banning semi-automatic assault rifles, semi-automatic shotguns, semi-automatic submachine guns, large-capacity magazines, bump stocks and other dangerous devices.
- » Tribal governments should work with the federal government to provide timely and accurate information to the NICS system, and in parallel, the federal government should provide assistance and funding to facilitate this process.

3. GUNSHOT SURVIVORS

Gun violence is often characterized by those who have died from firearm-related injuries, but far more people are shot and survive, and for many, the cost of survival is high. According to Center for Disease Control estimates, about 116,000 people were shot and injured by firearms in 2016.¹¹⁷ This means that some 300 people a day were shot and survived – at least long enough to get to the hospital.¹¹⁸ For many gunshot survivors, the mental, physical, emotional, familial, and financial consequences of their injuries shape their lives, irrevocably.

Some 30 years ago, the handgun of choice for most assaults was a .22 or .25 caliber.¹²⁰ Handguns have become more deadly, with 9mm and .40 caliber handguns now the most commonly used in

criminal assaults – they are larger, faster, and can be equipped with extended magazines, known as “extendos”, which can triple the normal capacity of 9-18 shots.¹²¹ The greatest damage is caused by high velocity weapons, like the AR-15.¹²² The bullet is relatively small, but travelling at such velocity that it can pulverize even the thick bones of the upper leg, let alone softer organs and tissue. “Imagine a cavity the size of your fist where everything that should have been there no longer is. How do you fix that?” asked one trauma surgeon.¹²³ A direct hit to a major organ is invariably fatal, and the “cavitation” effect, which causes a cone of destruction around the path of the bullet, can itself cause severe injuries. So even if the bullet doesn’t hit them directly, the force of the shot can shred

JAMIE WILLIFORD



Jamie Williford, April 2018

Jamie Williford, then age 16, was shot in the back, with a handgun, through a car's rear window. She heard shots and the sound of the glass breaking, then felt a blow to her back that sucked the wind completely out of her and left her gasping for breath on the floor of the car. She was hit twice more and police later recovered 19 shell casings at the scene. The driver, who had also been hit three times, managed to get them to a nearby hospital. She remembers very little of what happened after they pulled her, screaming in pain, out of the car. She woke up in a hospital bed, unable to move her arms or legs, and remains paralysed from the waist down.¹¹⁶

tissue, burst arteries or break bones, and bullet and bone fragments can create secondary “missiles” which cause additional damage.

Not all damage to muscles, nerves, bones and organs can be fully repaired, resulting in long-term complications and consequences, including: paralysis, weakness, loss of use, liver and kidney issues, chronic unremitting pain, and the ever-present risk of infection. Also, many victims of gun fire go on to develop full blown post-traumatic stress disorder (PTSD), and hospital studies have found that being shot is more likely to cause acute psychological distress than any other form of traumatic injury or illness. Even relatively minor injuries can be life changing, and some patients enter a downward spiral as soon as they leave the hospital.

The financial cost is also an overwhelming burden. Researchers at Johns Hopkins University determined that hospital costs for those who were treated and admitted to the hospital averaged \$95,887 per incident, rising to \$179,565 for patients who were discharged to additional care, such as rehabilitation.¹²⁴ For those who suffer the most severe injuries, including head trauma or

spinal cord injury, individual costs can easily exceed \$1 million for initial hospitalization.¹²⁵ Although the figure is staggering, it covers only initial hospitalization, and so significantly understates the overall medical cost of treating gunshot injuries. Many gunshot victims need extensive outpatient rehabilitation and suffer long-term health consequences and complications that require repeat hospital readmission and ongoing medical care. Mental health costs – immediate and ongoing – are likewise not factored into these calculations, but are

“Imagine a cavity the size of your fist where everything that should have been there no longer is. How do you fix that?” asked one trauma surgeon.

About

116,000 people
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This could be an underestimate, as injuries are not always recorded accurately, if at all.

On average, some

300 people
are shot every day and survive

– at least long enough
to get to the hospital.

likely to be massive, and very difficult to quantify.

In the Universal Declaration of Human Rights, proclaimed by the UN General Assembly in 1948, member states including the USA pledged to achieve “the observance of human rights and fundamental freedoms.” Included among those rights are health and medical care. Although it is not constitutionally protected, the USA does have international obligations regarding the right to health under the ICCPR, ICERD, and ICESCR.¹¹⁹ In 2016, the UN High Commissioner for Human Rights, when evaluating human rights and the regulation of civilian acquisition, possession and use of firearms, noted that: “Alongside preventive measures, states must provide victims of firearms violence with effective measures of protection and reparation, including access to adequate health care to ensure that they have the best possible chances of survival and rehabilitation.”

KEY RECOMMENDATIONS:

- » US federal and state authorities must ensure that survivors of gun-related violence have access to affordable and quality health care, which includes necessary, long-term health interventions, rehabilitation services, mental health care, and long-term pain management.
 - » US federal and state authorities must ensure that health-related costs, including payments for medicines and health services, do not act as a deterrent for survivors of gun-related violence to access necessary care, and do not cause undue or catastrophic financial burdens to gunshot survivors and their families.
-

4. FAILURE TO PREVENT: INADEQUATE GUN LAWS AND POLICY

The USA has failed to implement a comprehensive, uniform and coordinated system of gun safety laws and regulations particularly in light of the large number of firearms in circulation, which perpetuates unrelenting and potentially avoidable violence, leaving individuals susceptible to injury and death from firearms, in violation of the USA's due diligence obligations under international human rights law.


BACKGROUND CHECKS

Background checks prior to firearm purchases provide a critical safeguard to ensure that guns do not end up in the hands of those likely to misuse them. Under federal law, specifically the Brady Act of 1993,¹²⁶ all federal firearms licensees (FFLs) must conduct comprehensive background checks prior to the sale of a gun. FFLs can use the National Instant Criminal Background Check System (NICS), through the FBI, to search three separate national databases to check on potential purchasers' mental health and criminal histories and any relevant civil orders.¹²⁷ Since 1998, when the NICS system became operational, the FBI has processed more than 257 million online background checks¹²⁸ and, as a result, almost 3 million people have been stopped from obtaining a firearm through an FFL.¹²⁹

There are four main ways an individual purchasing a firearm may circumvent a legally required background check: (1) by arranging a purchase through a private seller rather than an FFL; (2) if the background check takes more than three working days; (3) if they have a firearm permit from a state where such a permit overrides the federal requirement to pass a background check; or (4) by presenting false or forged identification documents which are not required


to be verified at the point of sale.¹³⁰ Purchasers may also avoid background checks in numerous other ways, including by using a straw purchaser (someone who buys a gun for someone else), purchasing from a "dirty dealer" (dealers who intentionally violate or fail to comply with the law)¹³¹ or by purchasing firearm parts separately and building a "ghost gun" (self-manufactured firearm without a serial number).

States differ significantly in the ways they address these gaps, but 31 states still do not require background checks on firearm sales between private parties.¹³² As a result, studies have shown that 22% of all firearm acquisitions are conducted



Federal law does not currently require universal comprehensive background checks

with each and every transfer or purchase of a firearm in the USA.



As a result, studies have shown that

22% of all firearm acquisitions are conducted without any background check.

without any background check.¹³³ While data is relatively limited, one study found that all states with universal handgun background checks experienced rises in the number of homicides between 2009 and 2016, yet the overall average for those states decreased in terms of homicides caused by firearm. These states also had lower levels of gun violence across the board than states that deferred to the federal standard, with 47% fewer women killed in firearm-related violence by an intimate partner and 53% fewer police officers killed on duty.¹³⁴

There is broad public support for universal background checks on all firearm sales.¹³⁵ Up to 97% of all Americans¹³⁶ and up to 85% of all gun owners surveyed¹³⁷ have supported universal background checks. Support for universal background checks also extends to organizations representing public health researchers,¹³⁸ mental health professionals,¹³⁹ doctors,¹⁴⁰ pediatricians,¹⁴¹ law enforcement,¹⁴² and educators.¹⁴³ Despite evidence that these background checks are effective in reducing firearm violence, the USA has yet to modify requirements on background checks and address the dangerous gaps in security and screening for those attempting to acquire guns.

KEY RECOMMENDATIONS:

- » The US Congress should enact legislation requiring background checks on all firearm purchases and transfers, prior to carrying out any sale or other transfer. These background checks should be conducted indicating the absence of known risk factors for misuse. Risk factors for consideration should include, at a minimum:
 - › prior criminal record, particularly for violent offences;
 - › being under indictment for a felony offence;
 - › history of gender-based, sexual or domestic violence;
 - › medical conditions including history of drug/alcohol abuse or mental health issues which might lead to the harm of self or others. Each application should be reviewed on a case-by-case basis by competent authorities drawing on all available relevant evidence.
- » The US Congress should require that all private sellers of firearms perform background checks through Federally Licensed Firearms Dealers (FFLs), so that a record of sale is made, and the background check is conducted by an independent and licensed dealer.

FIREARM TRAINING, LICENSING AND REGISTRATION

The USA has not adopted a nationwide comprehensive system for training, licensing (used interchangeably with “permitting”), or registering individuals who purchase, possess or carry firearms. A common feature of the licensing process in most countries around the world is a requirement to have a credible justification for owning a weapon, effectively introducing need-based ownership criteria. The USA has failed to take all measures necessary to prevent and protect against firearms being owned or accessed by individuals who do not have a credible justification for their ownership, possession or use. Federal law does not require the training, licensing, or registration of individuals who possess or use a firearm. Indeed, federal law specifically prohibits the establishment of “any system for the registration of firearms, firearm owners, or firearm transactions or dispositions.”¹⁴⁵ Therefore, any training, licensing, and registration obligations are regulated by states individually.

For example, private individuals may purchase, possess or carry a firearm without any training or licensing requirement in 12 states across the USA. Only six states (California, Connecticut, Hawaii, Illinois, Massachusetts, New Jersey) and Washington, D.C. require a license or permit to purchase all types of firearm and only two states require registration of all firearms, while eight states explicitly prohibit firearm registration within their borders. Shockingly, only six states (California, Connecticut, Hawaii, Massachusetts, and Maryland and Rhode Island but only for handguns) and Washington, D.C. mandate some form of firearm training prior to purchasing a firearm.¹⁴⁶ Available data indicates that where registration laws have been combined with licensing and training of firearm owners, it is more difficult for criminals and individuals at risk of misusing a firearm to access one.¹⁴⁷

However, because the standards in place at the state level differ widely, even if certain states manage to enact fairly robust and strict training, licensing, and registration obligations before allowing an individual to have access to a firearm, lax laws in other states undermine the impact of

“In order to ensure the protection of human rights by preventing small arms violence by private actors, Governments shall incorporate into their national laws licensing requirements to prevent possession of arms by persons who are at risk of misusing them... Before issuing a license, Governments shall require training in proper use of small arms, and shall take into consideration, at a minimum, the following factors: age, mental fitness, requested purpose, prior criminal record, and prior acts of domestic violence. Governments shall require periodic renewal of licenses.”

Prevention of human rights violations committed with small arms and light weapons, Final report submitted by Barbara Frey, Special Rapporteur, 8 August 2006, para. 10¹⁴⁴

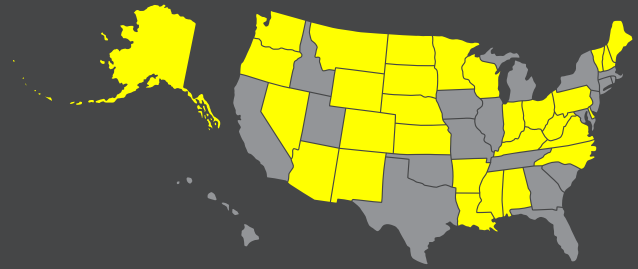


Federal law specifically prohibits the establishment of “any system for the registration of firearms, firearm owners, or firearm transactions or dispositions”

these laws. By failing to create a federal system through which individuals who possess or carry firearms may be trained, licensed and registered, firearms are ending up in the hands of those who are at risk of misusing them, and the USA is failing to fulfill its due diligence obligations under international human rights law.

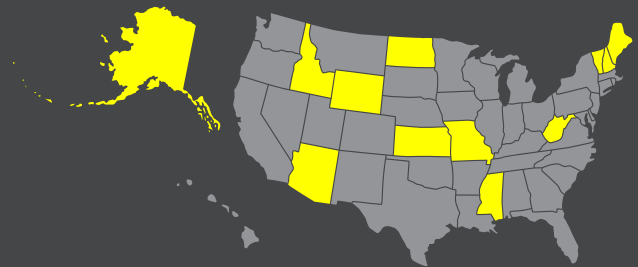
KEY RECOMMENDATIONS:

- » The US Congress should enact legislation mandating that firearms may only be obtained for purchase or transfer with a valid firearms license.
 - » The US Congress should enact legislation requiring the U.S Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) to register all firearms in a central national gun registry, which is digitized and searchable, and should ensure appropriate funding through the legislation to support the ATF’s ability to implement these systems. At a minimum, national registration should include:
 - › the manufacturer
 - › model/caliber
 - › serial number
 - › country of manufacture (importer) and type of firearm
 - › the source of the weapon
 - › the name of the licensed holder of the firearm,
 - › any sale, transfer or other change of ownership, including loss or theft.
-



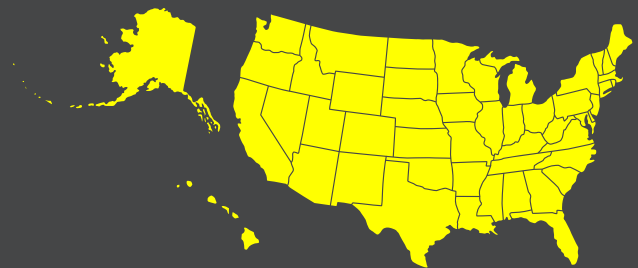
30 states

allow the open carrying of a handgun in public without any license or permit



12 states

allow individuals to carry concealed weapons in public without any license or permit



All 50 states and Washington, D.C.

allow for some form of concealed carrying of firearms in public



REGULATION OF THE CARRYING OF FIREARMS IN PUBLIC

Individuals can lawfully carry concealed firearms in public in every state and can lawfully and openly carry firearms in public in most states. “Open carry” refers to the practice of carrying a gun, loaded or not, in plain sight in public locations. “Concealed carry” refers to the practice of carrying a concealed, or hidden, gun, loaded or not, in public spaces. Most states regulate concealed and open carry by requiring a license or permit, but in “permitless carry” states, one can openly carry or concealed carry any legal firearm in public without any license or permit.

There is no nationwide uniformity in laws governing the carrying of firearms in public and in some states there are no laws at all: 12 states allow individuals to carry concealed weapons in public without any license or permit¹⁴⁸ and 30 states allow the open carrying of a handgun in public without any license or permit.¹⁴⁹ Forty-five states currently allow open

carry of firearms in public, in some form. In only seven states are you required to provide a “credible justification” or demonstrated need to carry a concealed firearm. All 50 states and Washington, D.C. allow for some form of concealed carry of firearms in public. Worryingly, in some states the permit systems are ineffective, resulting in permits being issued to individuals prohibited from possessing firearms, including people convicted of felonies, with outstanding criminal warrants, with domestic violence injunctions and others at risk of misusing a firearm.¹⁵⁰

Of further concern are recent efforts to enact federal legislation which would override existing state laws where safeguards and processes are in place to curtail misuse. These proposed federally-mandated concealed carry reciprocity laws would, in effect, mean that gun owners could do whatever they are allowed to do in their own state in any state in the country, including residents of permitless carry states. There are concerns that this type of universal reciprocity policy would increase incentives for residents of any state to seek permits from states with less restrictive laws to circumvent more stringent concealed carry permitting laws in their own state. Nationwide, law enforcement groups have vehemently opposed concealed carry reciprocity.¹⁵¹

There is also a current trend towards allowing a greater presence of guns on college and university campuses. There were no college/university campus carry laws prior to 2010; as of 2018, 12 states mandate public universities to allow guns on campus.¹⁵² Another 21 states¹⁵³ leave the decision of whether or not to allow concealed carry firearms on campus to individual colleges and universities. Given the increased risks to security of person resulting from allowing firearms on college and university campuses, and weighing concerns regarding the implied threat of violence and its impact on academic discourse and the likelihood that individuals on college campuses may be more prone to risky behavior, all states should ban the carrying of firearms on college and university campuses, in



order to ensure a secure environment and afford comprehensive protection to all members of the academic community. Higher education leaders nationwide have spoken out against campus carry. In 2014, the policy was opposed by 95% of US college presidents¹⁵⁴ as well as by the American Association of State Colleges and Universities.¹⁵⁵

Federal and state governments must take extra precautions in open carry, concealed carry, or

campus carry states to ensure that armed private citizens carrying firearms in public do not pose a threat to the safety of others. The failure to ensure a consistent and reliable nationwide system of regulating open and concealed carry of firearms restricts the right to freedom of movement and threatens the right to life and the right to security of person, thereby violating international human rights law.

KEY RECOMMENDATIONS:

- » The US Congress should enact legislation prohibiting the carrying of firearms in public, whether open or concealed, unless there is a credible justification for doing so.
 - » The US Congress should reject legislation authorizing Federally Mandated Concealed Carry Reciprocity.
 - » All state legislatures should ban the carrying of firearms on college and university campuses.
-

REPORTING OF LOST AND STOLEN FIREARMS

Stolen guns fuel the underground illicit gun market, allowing prohibited purchasers and others to obtain guns and use them to carry out violent crimes. They not only facilitate human rights

violations, but also hamper the ability to hold those responsible to account; a stolen firearm is difficult to trace, preventing law enforcement from promptly identifying potential suspects and so impeding their investigation. Often, stolen guns are not recovered and therefore remain on the illegal market,

RAYSHAWN HARRIS, AGE 13 SOUTH STOCKTON, CA

On the morning of 23 February 2015, Rayshawn Harris was shot dead outside his home in South Stockton, California.¹⁵⁶ According to the San Joaquin County District Attorney, the semi-automatic pistol used to kill him was legally registered to Stockton Mayor Anthony Silva.¹⁵⁷ It had reportedly been stolen from Anthony Silva's home during a burglary which was reported on 22 March 2015, 27 days after the boy's death.¹⁵⁸ Police responding to a domestic disturbance call in Stockton on 9 June 2016 located the stolen Beretta.¹⁵⁹ It was taken as evidence and preliminary tests determined that the Beretta was used in the killing of the child as well as another incident that occurred on 15 January 2015. Rayshawn Harris's murder remains unsolved.¹⁶⁰

In November 2016, California enacted a new law requiring gun owners to report firearms as lost or stolen within five days of the time they knew, or should have known, that the firearm was lost or stolen. The requirement became effective in July 2017.¹⁶¹

sometimes reappearing at the scene of a violent crime or in the possession of a prohibited purchaser.

There is no precise data for the number of firearms lost or stolen in the USA, however, according to the FBI, an estimated 1.4 million firearms were stolen from private individuals between 2005 and 2010,¹⁶² and approximately 31,500 firearms were stolen from gun stores between 2012 and 2016.¹⁶³ In a study published in 2017, researchers from Harvard and Northwestern Universities estimated that 380,000 guns are stolen from private individuals each year.¹⁶⁴ These numbers are substantial and yet neither includes the thousands upon thousands of firearms lost or stolen each year that are not reported.¹⁶⁵

Despite the scale of the problem, federal law does not require unlicensed dealers and individual gun owners to report lost and stolen firearms. Thirty-nine states have no law requiring gun owners to report lost or stolen firearms to law enforcement and only four states require gun owners to secure their weapons to prevent potential theft or loss of the firearms.¹⁶⁶ According to a 2010 study by Everytown for Gun Safety, states failing to implement reporting requirements for lost or stolen guns exported 2.5 times more firearms used in crime than states requiring gun owners to alert the authorities when firearms in their possession are missing or stolen.¹⁶⁷

Thirty-nine states have no law requiring gun owners to report lost or stolen firearms to law enforcement and only four states require gun owners to secure their weapons to prevent potential theft or loss of the firearms.

Lost and stolen firearms are one of the most common channels through which firearm trafficking occurs.¹⁶⁸ Once stolen, firearm traffickers may erase serial numbers, purchase 'ghost guns' without serial numbers,¹⁶⁹ or steal pre-serialized firearms from manufacturers¹⁷⁰ in an attempt to thwart law enforcement efforts to trace guns.

Currently, there is no federal statute criminalizing gun trafficking.¹⁷¹ Only one-third of US states have laws which penalize those who purchase firearms with intent to traffic them and because there are so many gaps in federal and state laws, firearms can be moved illegally from states with inadequate laws into states with stronger gun laws.¹⁷² Reporting, investigation and tracking of lost or stolen firearms, the criminalization of gun trafficking, and proper security of firearms by dealers, sellers and owners are all critical in recovering lost and stolen firearms, and in preventing firearms from entering the illegal market and ending up in the hands of individuals likely to misuse them.

Reporting of lost or stolen firearms by private individuals and unlicensed dealers is not mandatory under federal law.

Consequently, there is no precise data for the number of firearms lost or stolen in the USA.

KEY RECOMMENDATIONS:

- » The US Congress should enact legislation requiring all lost and stolen firearms to be immediately reported to local law enforcement officials.
 - » The US Congress should enact legislation that prohibits the trafficking of firearms.
-

SEMI-AUTOMATIC ASSAULT RIFLES AND SHOTGUNS, LARGE CAPACITY MAGAZINES, BUMP STOCKS, TRIGGER/GAT CRANKS AND OTHER DANGEROUS DEVICES

Shooters using semi-automatic assault rifles with large-capacity magazines can kill many people in a matter of minutes and pose a significant threat to public safety. Accessories such as bump stocks, which transform semi-automatic weapons so that they mimic the firing of a fully automatic weapon,¹⁷⁶ trigger or gat cranks, which accelerate the firing speed of a semi-automatic weapon, and other accessories enabling rapid fire also increase the lethality of firearms enormously.

Although most mass shootings are carried out with conventional firearms, assault rifles have been used in a series of high-profile public mass shootings over recent years. In a review of 56 mass shootings between 2009 and 2015, it was found that in

mass shootings where assault weapons or large capacity ammunition magazines were used, more than 13 people were shot compared to five for other incidents, and on average around eight people died, compared to five fatalities for other incidents.¹⁷⁷ Assault rifles are particularly lethal as rounds fired typically achieve a velocity of over 3,000 feet per second, inflicting catastrophic wounds when compared to handguns that fire rounds closer to 1,000 feet per second.¹⁷⁸ Medical care providers have explained that unlike wounds caused by bullets from a handgun, high velocity bullets cause damage that extends beyond the bullets' path, causing more damage and increasing the lethality.¹⁷⁹

Yet, there is no federal law regulating the domestic use, possession or transfer of semi-automatic assault rifles, semi-automatic shotguns, semi-automatic submachine guns, large capacity magazines, or other dangerous accessories. And while a handful of states and cities regulate such weapons, ammunition and

ROUTE 91 HARVEST MUSIC FESTIVAL, LAS VEGAS, NEVADA



Stephen Paddock opened fire on Route 91 Harvest Music Festival concertgoers on 1 October 2017, killing 58 people and injuring 700 more. He was armed with 23 firearms. It was the worst mass shooting in modern US history.¹⁷³ Among his arsenal were at least 13 semi-automatic AR-15 rifles, most of which were outfitted with bump stocks (which effectively mimic automatic fire) and held large-capacity

magazines equipped with 25 to 100 rounds of ammunition.¹⁷⁴ Due to the strength and volume of fire with which he was equipped, Stephen Paddock was able to endanger the lives of the over 20,000 individuals attending the concert from 1,200 feet away. US federal law does not ban or regulate semi-automatic assault rifles, large-capacity magazines or accessories like bump stocks.

Nevada law does not require a permit to purchase rifles, handguns or shotguns. It does not require registration of firearms, licensing of owners or a permit to carry rifles and shotguns. Nevada does not ban semi-automatic firearms or regulate magazine capacity and it places no limit on the number of firearms that may be purchased at one time.¹⁷⁵

accessories, they remain in the minority. As of June 2018, only seven states¹⁸⁰ and Washington, D.C. had laws barring or prohibiting possession or transfer of firearms included in the definition of assault weapons. Two states, Minnesota and Virginia, had enacted regulations governing assault weapons. Currently, only eight states¹⁸¹ and Washington, D.C. have enacted laws banning either the sale and/or possession of new or old large-capacity magazines and only ten states¹⁸² have banned bump stocks. The banning of these weapons and accessories, which carry such a clear intensification of the threat to human rights, including the right to life and security of the person, is essential if the USA is to honor its obligations under international human rights law.

KEY RECOMMENDATION:

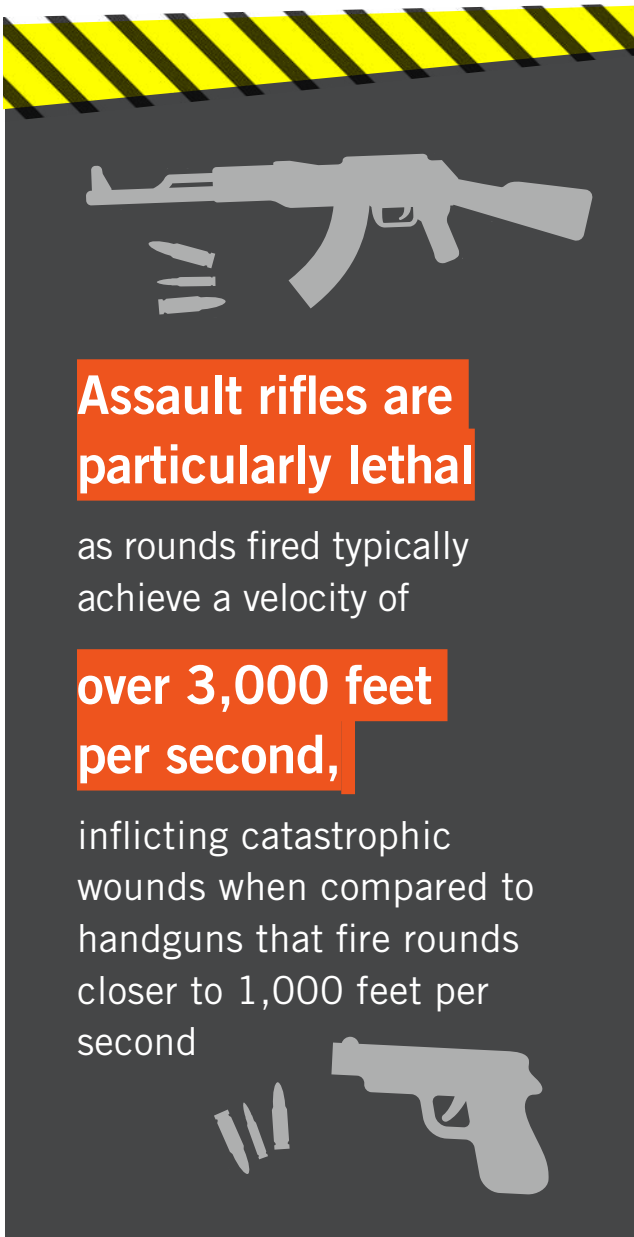
- » The US Congress should pass legislation banning the sale, transfer, and possession of semi-automatic assault rifles, semi-automatic shotguns, semi-automatic submachineguns, large capacity magazines, bump stocks, trigger or gat cranks, and other dangerous devices.
-

STAND YOUR GROUND LAWS

Stand Your Ground laws (also known as “shoot first” laws) permit individuals to use force, including lethal force, to defend themselves without any obligation to retreat, so long as they are in a place they have a right to be and are not engaged in illegal activity. These laws have proliferated in recent years and currently 35 states have enacted some version of Stand Your Ground laws.¹⁸³

It is a fundamental rule of international human rights law that no one may be arbitrarily deprived of his or her life. Rather, there is a general duty to avoid the use of force where non-violent means of self-protection are reasonably available.¹⁸⁴ Furthermore, the use of lethal force is lawful only if it is “strictly unavoidable” in order to meet an “imminent threat of death or serious injury” in self-defense or defense of others.¹⁸⁵ Stand Your Ground laws explicitly violate these standards because they violate the principles of necessity and proportionality when using deadly force in self-defense.

While everyone has the right to self-defense, evidence suggests that passing Stand Your Ground laws has led to increases in justifiable homicide, homicide and firearm homicide. A 2016 study published in the *Journal of the American Medical Association* found that when compared to the period 1999-2005, before the Stand Your Ground law was enacted in Florida,



The graphic features a dark grey background with a yellow and black diagonal hazard stripe at the top. In the upper left, there is a grey silhouette of an assault rifle with three bullets below it. In the lower right, there is a grey silhouette of a handgun with three bullets below it. The text is arranged in a vertical column, with key statistics highlighted in orange boxes.

Assault rifles are particularly lethal

as rounds fired typically achieve a velocity of

over 3,000 feet per second,

inflicting catastrophic wounds when compared to handguns that fire rounds closer to 1,000 feet per second

35 states

have enacted some
version of Stand Your
Ground laws



during the period 2006-2016, after the law was passed, there was a 24.4% increase in homicides overall and a 32% increase in firearm-related

homicides specifically.¹⁸⁶ In a follow-up study by the same researchers, published in 2017, there was a 75% increase in justified homicides (or the lawful use of lethal force) in Florida during the same time periods.¹⁸⁷

Data indicates that Stand Your Ground laws may violate not only the right to life but also the right to be free from discrimination. For instance, a study of criminal justice data from 23 states with Stand Your Ground laws, which looked at all cases of homicide, found that white homicide defendants with black victims were more likely to have their homicides ruled justified than black defendants whose victims were white.¹⁸⁸

Numerous international human rights bodies have expressed concern about the proliferation of Stand Your Ground laws in the USA and their disparate impact on people of color.¹⁸⁹ These laws themselves, and their inconsistent and racially uneven application, inherently violate international human rights law.

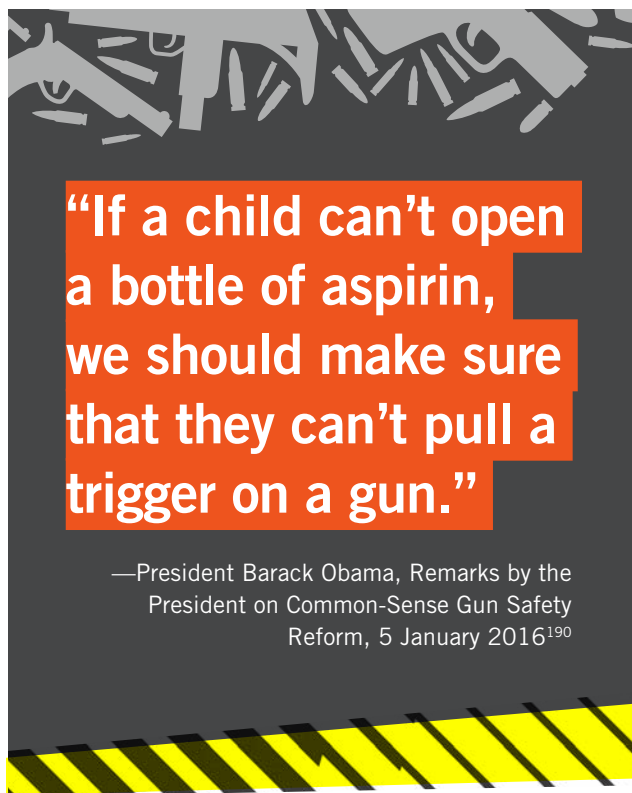
KEY RECOMMENDATION:

» All states should repeal Stand Your Ground Laws.

FAILURE TO INVEST IN GUN SAFETY TECHNOLOGY

There are a range of potential gun safety mechanisms available to secure firearms, including locks. However, gun safety technology takes it a step further by incorporating technology to prevent their use by unauthorized users and/or to make firearms traceable. Smart guns use a variety of technologies – proximity sensors, biometrics, magnets, radio-frequency identification (RFID) and/or microchips – to prevent the use of firearms by unauthorized users and/or by making firearms traceable.

While smart gun technology is unlikely to be the solution to root issues of widespread gun violence, it has the potential to materially reduce the number of victims of gun violence caused by both accidental shootings and stolen firearms.¹⁹¹ Gun safety technology has evolved rapidly in recent years and entered many of the mainstream debates about stemming gun violence.¹⁹² A report by the US Departments of Justice, Homeland Security and Defense found that the “technology holds great promise.”¹⁹³ Unfortunately, significant political obstacles have limited research and development of these technologies and subsequently have obstructed consumers’ ability to access gun safety technology. Currently, there is no significant federal or state funding for research and development of gun safety technology, and products such as “smart guns” are not available to consumers in the USA.



KEY RECOMMENDATION:

- » The US Congress should enact legislation to fund research and development of all potential mechanisms of firearms safety. All approaches need to be analyzed for evidence-based policy making aimed at reducing firearms violence.
-

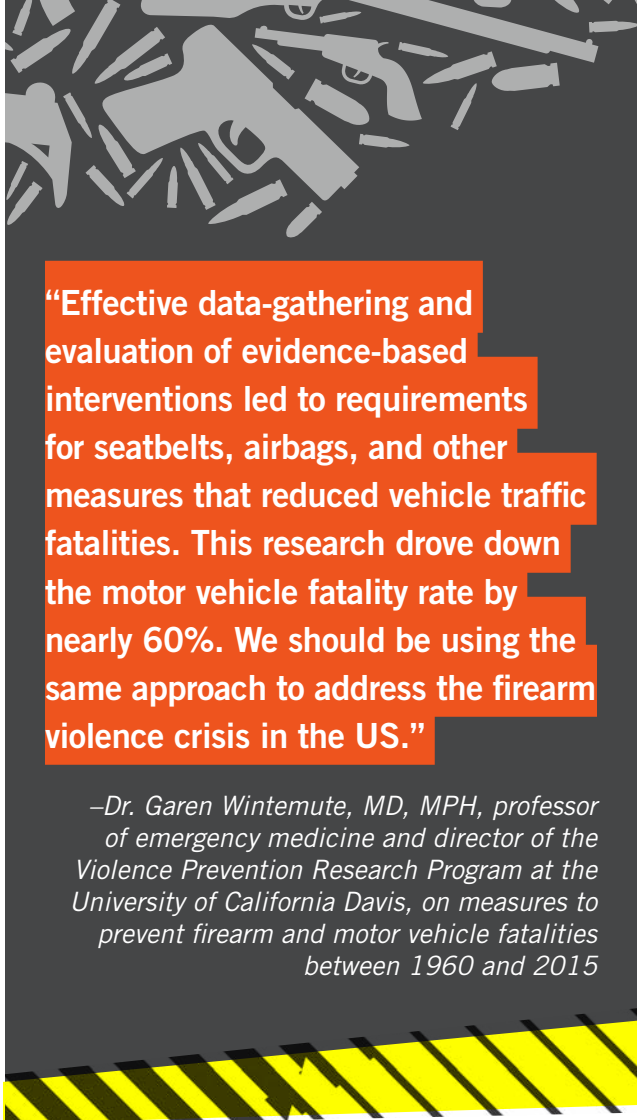
FAILURE TO INVEST IN RESEARCH

“Effective data-gathering and evaluation of evidence-based interventions led to requirements for seatbelts, airbags, and other measures that reduced vehicle traffic fatalities. This research drove down the motor vehicle fatality rate by nearly 60%. We should be using the same approach to address the firearm violence crisis in the US.”

Dr. Garen Wintemute, MD, MPH, professor of emergency medicine and director of the Violence Prevention Research Program at the University of California Davis, on measures to prevent firearm and motor vehicle fatalities between 1960 and 2015¹⁹⁴

For more than 20 years, the USA has restricted federal funding for firearms research through publicly funded entities like the Centers for Disease Control and Prevention (CDC) and, more recently, the National Institute of Health.¹⁹⁵ Public health experts recently noted that of the top 30 leading causes of death in the USA, gun violence was the least researched, based on the number of publications, and the second least-funded.¹⁹⁶

Over the past three decades, progress has been made in reducing other causes of death, resulting in significant improvements – for example when compared to the statistics from 1982, there were 37% less drownings and 44% less fire-related deaths in 2016.¹⁹⁷ In contrast, during the same time period, the number of gun-related deaths in the USA did not decrease and actually went up; in 1982 there were 32,957 firearm deaths and in 2016, the most recent year for which data is available, there were 38,658 deaths, an increase of over 17%.¹⁹⁸ Despite recent language in a 2018 federal appropriations law, clarifying that the CDC may research gun violence prevention, the absence of dedicated and adequate funding to conduct the research renders the language meaningless.



“Effective data-gathering and evaluation of evidence-based interventions led to requirements for seatbelts, airbags, and other measures that reduced vehicle traffic fatalities. This research drove down the motor vehicle fatality rate by nearly 60%. We should be using the same approach to address the firearm violence crisis in the US.”

–Dr. Garen Wintemute, MD, MPH, professor of emergency medicine and director of the Violence Prevention Research Program at the University of California Davis, on measures to prevent firearm and motor vehicle fatalities between 1960 and 2015

The US Congress has also taken steps to restrict access to data on firearms. Legislation introduced in 2009 (known as the “Tiahrt Amendments”) specifically prohibits the ATF from releasing any information from its firearms databases to anyone other than law enforcement or prosecutors.¹⁹⁹ The ATF is, therefore, prohibited from releasing any data to scientists, academics and private individuals regarding gun sales and ownership. The Tiahrt Amendments effectively removed from the public record information from a government database that traces guns recovered in crimes back to the dealers. It also restricts the ATF from storing electronically, data related to gun ownership or sales, leaving government workers with the daunting and nearly impossible task of sifting through volumes of paper records and

microfilm to locate information.²⁰⁰ Further, the Tiahrt Amendments require the FBI to destroy all approved gun purchaser records within 24 hours.²⁰¹ This legislation is a major obstacle to meaningful comprehensive research on issues such as straw purchasers, trafficked and stolen guns and the impact of preventative gun-related policies. The impact of these restrictions on criminal investigations involving firearms has been catastrophic.

Only with valid and up-to-date research and data can policymakers make informed decisions as to what kind of policies have the potential to be effective in curbing the negative impact of firearms in the USA. Moreover, health care providers,

educators, parents, law enforcement officials, scientists, and advocates all need guidance on how to deal not only with the existing problem of firearm-related injuries and fatalities, but also how to prevent future firearm incidents. Unfortunately, the USA has stymied the efforts of the research community to provide such research and data.

KEY RECOMMENDATIONS:

- » The US Congress should acknowledge that firearm violence is a public health crisis, repeal the Dickey Amendment, and enact legislation allocating adequate funding to conduct evidence-based research on the causes and effects of gun violence, and to research and develop viable strategies for gun violence prevention to inform policy making aimed at reducing firearms deaths and injuries.
- » The US Congress should enact legislation to repeal The Tiahrt Amendments, which prohibit the ATF from releasing identifying information regarding firearm ownership, possession and transfer, for purposes of conducting further firearm research on gun violence prevention.



Although over

100 pieces of federal legislation regarding gun violence have been introduced

since the Sandy Hook school shooting, which took the lives of 20 children and six adults in 2012, the USA has

failed to pass any meaningful federal law regulating firearms.

IN THE LINE OF FIRE: HUMAN RIGHTS AND THE U.S. GUN VIOLENCE CRISIS – FULL LIST OF RECOMMENDATIONS

RECOMMENDATIONS FAILURE TO PROTECT: THE GUN VIOLENCE CRISIS IN THE USA

URBAN GUN VIOLENCE

Federal:

- The US Congress should create a commission to investigate, analyze and develop policy recommendations to address the disparate impact of gun violence on communities of color.
- The US Congress should pass legislation which supports the implementation and funding of evidence-based violence prevention programs, including the Youth Promise Act.
- The US Congress should pass the End Racial Profiling Act.

State:

- State and local authorities must implement and provide sufficient and sustained funding to support community-involved, evidence-based group violence intervention and reduction strategies that have proven effective in decreasing gun violence in communities where there are persistently high levels of firearm violence.
- State and local authorities must invest in areas of economic deprivation, including through creating job programs, attracting and incentivizing businesses to the area, and offering educational, mentorship and job readiness programs.
- States and local law enforcement agencies and authorities should promptly investigate all firearm-related deaths and hold those found responsible accountable.
- State and local authorities should support the reintegration of formerly incarcerated individuals to reduce recidivism, including for crimes linked to gun violence, by allocating funding for job readiness, job placement and mental health support services and by removing barriers to employment.

- States must ensure that those affected by gun violence are offered opportunities for treatment of trauma, and social, emotional and psychological counseling through victim support offices, direct service organizations, schools and hospitals.
- State and local authorities should take immediate action to halt human rights violations by police officers. They should make clear that abuses including racial profiling and unlawful use of lethal force by police officers will not be tolerated, that officers will be held accountable for their actions and that those responsible for abuses will be brought to justice. International human rights standards should be fully incorporated into police codes of conduct and training.

CHILDREN

Federal:

- The US Congress should pass legislation requiring the safe and secure storage of all guns. All licensed gun dealers and private dealers should be required to provide secure gun storage or safety devices upon the sale of all guns, not just handguns.
- The US Congress should pass legislation imposing minimum age of 18 on possession and purchase from licensed dealers or private sellers of long guns, including rifles and shotguns.
- The US Congress should amend the Gun-Free School Zones Act to close the loophole for concealed carry permits and should not allow weapons to be on school property, including in cars and vehicles.
- The US Congress should provide funding to state, local and tribal authorities to ensure that mental health care services are made available for children and families exposed to gun violence and trauma.
- The federal government should launch, and sufficiently fund, a public education and awareness campaign around firearm safety and child deaths due to suicide and unintentional shootings.

State:

- State legislatures should pass stringent and comprehensive Child Access Prevention Laws that mandate all individuals to store all firearms unloaded under the protection of a gun lock or safety device.
- State legislatures should pass legislation imposing a minimum age of 18 on possession and purchase from licensed dealers or private sellers of long guns, including rifles and shotguns.
- State legislatures should prohibit guns in K-12 schools and no exceptions should be granted to individuals who have a concealed carry permit or a firearm stored in their vehicle.
- State and local authorities and agencies should encourage health professionals to offer health and safety education to parents with firearms in the home.

DOMESTIC VIOLENCE

Federal:

- The US Congress should amend the Violent Crime Control and Law Enforcement Act of 1994 (18 USC 921 (a)(32)) to revise the definition of “intimate partner” to include dating partners.
- The US Congress should amend the Violent Crime Control and Law Enforcement Act of 1994 (18 USC 922(g)(8)) to include *ex parte*/temporary protective orders as the type of court issued orders that prohibit offenders from possessing firearms.
- The US Congress should amend the Violent Crime Control and Law Enforcement Act of 1994 (18 USC 922(g)) to include the misdemeanor crime of stalking as an offense that prohibits offenders from possessing firearms.

State:

- State legislatures should pass and implement laws prohibiting all those convicted of misdemeanor domestic violence and those subject to protection or restraining orders, including emergency, temporary (*ex parte*) and final orders, from possessing guns.

- State legislatures should pass and implement laws establishing a clear process for the immediate surrender by and removal of firearms from prohibited abusers.
- States and local authorities should provide adequate resources to ensure all local protective order and conviction records are submitted to state databases and that records in state databases are submitted to the federal NICS background check database.

ACCESS TO FIREARMS FOR INDIVIDUALS WHO MAY PRESENT A RISK OF HARM TO THEMSELVES OR OTHERS

- States should consider implementing measures that reduce access to firearms for individuals who may present a risk of harm to themselves or others, including instituting adequate waiting periods for all firearms and ammunition purchases.
- Authorities in the US should take steps to ensure that health workers are able to discuss all factors impacting their patients' health, well-being and safety, including the possession, use and storage of fire-arms where relevant.
- States should consider adopting procedures such as ERPOs which provide for the temporary removal of access to firearms for individuals who may present a risk of harm to themselves or others. Such procedures should be implemented in a manner consistent with international human rights protections.

TRIBAL NATIONS

- Tribal governments could consider reviewing and revising their tribal codes and laws to ensure that they comply with the obligation to protect and promote human rights, including the right to life and security of person. This would include, at a minimum, comprehensive background checks for every gun sale or transfer, training, licensing and registration requirements for the purchase, possession and open and concealed carry of firearms, the establishment of mechanisms with human rights safeguards to remove firearms from those at demonstrable risk of hurting themselves

or others and banning semi-automatic assault rifles, semi-automatic shotguns, semi-automatic submachine guns, large-capacity magazines, bump stocks and other dangerous devices.

- Tribal governments could consider working with the federal government to provide timely and accurate information to the NICS system, and in parallel, the federal government should provide assistance and funding to facilitate this process.
- The federal government should provide sufficient funding to tribal nations to address the impact of firearm violence.

RECOMMENDATIONS GUNSHOT SURVIVORS

AMNESTY INTERNATIONAL CALLS ON US FEDERAL AND STATE AUTHORITIES TO:

- Ensure that survivors of gun-related violence have access to affordable and quality health care, which includes necessary, long-term health interventions, rehabilitation services, mental health care and long-term pain management.
- Ensure that health-related costs, including payments for medicines and health services, do not act as a deterrent for survivors of gun-related violence to access necessary care and do not cause undue or catastrophic financial burdens for gunshot survivors and their families.
- Ensure that gunshot survivors are fully informed about all health care and support benefits they are eligible for, depending on their specific health needs, and have the assistance they require – ideally through a dedicated case manager – to access, obtain and manage those benefits.
- Build an evidence-based approach to gun violence prevention. Restore robust funding and training into all public health aspects of gun violence prevention (including through the National Institutes of Health and the Centers for Disease Control and Prevention); gather comprehensive national data that tracks gun-related deaths and injuries, evaluates safety interventions and assesses the impact of measures to reduce the incidence of gun violence over time.

- Ensure that services are available to support independent living for those disabled by gunshot injuries, according to individual needs, including personal assistance, provision of necessary medical equipment and supplies and support with adapting homes and workplaces for wheelchair access and the use of other necessary medical equipment.

RECOMMENDATIONS FAILURE TO PREVENT: INADEQUATE LAW AND POLICY

FAILURE TO PREVENT

Federal:

- The US Congress should enact legislation requiring background checks on all firearm purchases and transfers prior to carrying out any sale or other transfer. These background checks should be conducted indicating the absence of known risk factors for misuse. Risk factors for consideration should include, at a minimum:
 - › a prior criminal record, particularly for violent offences;
 - › being under indictment for a felony offence;
 - › a history of gender-based, sexual or domestic violence;
 - › medical conditions including a history of drug/ alcohol abuse or mental health issues which might lead to the harm of self or others. Each application should be reviewed on a case-by-case basis by competent authorities drawing on all available relevant evidence.
- The US Congress should require that all private sellers of firearms perform background checks through Federally Licensed Firearms Dealers (FFLs), so that a record of sale is made, and that the background check is conducted by an independent and licensed dealer.
- The US Congress should abolish the current three-day waiting period for performing background checks on all firearms sold by FFLs so that relevant agencies have the ability to track down records and adequately respond to requests. Background checks must be completed before any sale or transfer takes place.

- The US Congress should ensure that federal, state and local agencies are reporting records accurately, completely, and as soon as possible to the FBI for inclusion in the National Instant Criminal Background Check System (NICS). The US Congress should enact legislation allocating adequate funding and technical support to facilitate improvements in state systems for records reporting (for example, by creating systematic and comprehensive methods for automated entry of eligible records) and to penalize federal agencies that do not report records.
- The US Congress should enact legislation requiring identification documents of the purchaser or transferee of a firearm to be verified prior to the sale or other transfer, through cross-checks, by linking licensed FFLs with state motor vehicle databases.
- The US Congress should enact legislation allocating funding to provide sufficient resources to the FBI to conduct background checks and to the US Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) to retrieve any firearms that have been received by prohibited persons due to default sales (pending the abolition of the three-day waiting period), or for any other reasons.

State:

- In the absence of federal law mandating background checks on all firearm purchases and transfers, all state legislatures must enact legislation requiring background checks prior to carrying out any sale or other transfer of a firearm. These background checks should be conducted indicating the absence of known risk factors for misuse. Risk factors for consideration should include, at a minimum:
 - › a prior criminal record, particularly for violent offences;
 - › being under indictment for a felony offence;
 - › a history of gender-based, sexual or domestic violence;
 - › medical conditions including a history of drug/ alcohol abuse or mental health issues which might lead to the harm of self or others. Each application should be reviewed on a case-by-case basis by competent authorities drawing on all available relevant evidence.

- All state legislatures should enact legislation requiring state and local entities to report if an individual has been adjudicated as presenting a heightened risk of harm to themselves or others, criminal records, domestic violence orders and other information pertinent to the fitness of an individual to carry or possess a firearm, as promptly as possible (for example, by creating systematic and comprehensive methods for automated entry of eligible records) to the FBI for inclusion in the NICS and, where appropriate, to state and local databases, so that effective background checks can be performed.
- In the absence of federal law mandating verification of valid identity documents prior to the sale or transfer of all firearms, all state legislatures should enact legislation requiring identification documents of the purchaser or transferee of a firearm to be verified prior to the sale or other transfer, through cross-checks, by linking FFLs with state motor vehicle databases.

TRAINING, LICENSING AND REGISTRATION

Federal:

- The US Congress should enact legislation mandating that firearms may only be obtained for purchase or transfer with a valid firearms license.
- The US Congress should enact legislation requiring the U.S Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) to register all firearms in a central national gun registry, which is digitized and searchable, and should ensure appropriate funding through the legislation to support the ATF's ability to implement these systems. At a minimum, national registration should include:
 - › the manufacturer
 - › model/caliber
 - › serial number
 - › country of manufacture (importer) and type of firearm
 - › the source of the weapon
 - › the name of the licensed holder of the firearm,

- › any sale, transfer or other change of ownership, including loss or theft.
- The US Congress should enact legislation limiting the number and types of firearms that can be possessed by individuals, in keeping with the principles of necessity and credible justification.

State:

- All state legislatures should enact legislation requiring that an individual obtain a license prior to the purchase of a firearm.
- A state firearm licenses should not be authorized unless the following minimum conditions are met:
 - › credible justification prior to purchase;
 - › in general, a minimum age of 21; and
 - › a background check has been conducted indicating the absence of known risk factors for misuse. Risk factors for consideration should include, at a minimum:
 - › a prior criminal record, particularly for violent offences;
 - › being under indictment for a felony offence;
 - › a history of gender-based, sexual or domestic violence;
 - › medical conditions including a history of drug/alcohol abuse or mental health issues which might lead to the harm of self or others. Each application should be reviewed on a case-by-case basis by competent authorities drawing on all available relevant evidence.
- All state firearm licenses should be time-limited and compliance with license conditions should be vetted prior to expiry/renewal in order to assist law enforcement officials in identifying unauthorized individuals or those who have become prohibited purchasers. In the event of non-compliance with license conditions, systems should be in place whereby firearms licenses are revoked by local law enforcement officials and the firearm immediately removed.

- All state legislatures should enact legislation requiring firearms training and testing prior to receiving a license to purchase a firearm; applicants must demonstrate competence in use of the firearm, as well as in firearms law, safety, storage, and first aid. States should require additional training and testing prior to issuing a license to carry a firearm. This training should include live-fire training, effective judgment training, verbal resolution and don't shoot/shoot scenarios.
- All states legislatures should enact legislation requiring firearm dealers to track and register any sale or transfer of ownership of firearms and should require firearm dealers to contribute records of all firearm sales and transfers for inclusion in the federal register in accordance with established international guidelines.

REGULATING THE CARRYING OF FIREARMS IN PUBLIC

Federal:

- The US Congress should enact legislation prohibiting the carrying of firearms in public, whether open or concealed, unless there is a credible justification for doing so.
- The US Congress should reject legislation authorizing Federally Mandated Concealed Carry Reciprocity.

State:

- All state legislatures should enact legislation prohibiting the carrying of firearms in public, whether open or concealed, unless there is a credible justification for doing so.
- All state legislatures should enact legislation requiring an individual to obtain a permit if they wish to carry any firearm in public. All permits issued should be recorded in the federal registry.
- All state legislatures should ban the carrying of firearms on college and university campuses.

REPORTING OF LOST OR STOLEN FIREARMS

Federal

- The US Congress should enact legislation requiring all lost and stolen firearms to be immediately reported to local law enforcement officials.
- The US Congress should enact legislation that prohibits the trafficking of firearms.
- The US Congress should enact legislation requiring Federally Licensed Firearm Dealers (FFLs) to lock and store weapons on their premises and to adopt adequate safety measures and precautions to decrease the likelihood of inventory being lost or stolen. The ATF should be authorized to enforce these requirements and be provided with adequate funding to do so.
- The US Congress should amend the Firearm Owners Protection Act of 1986, making annual audits of all FFLs a requirement.

State:

- In the absence of federal law, all state legislatures should enact legislation requiring all unlicensed firearm dealers and gun owners to immediately report lost or stolen firearms to local law enforcement officials.
- In the absence of federal legislation, all state legislatures should enact legislation prohibiting the trafficking of firearms.
- All state legislatures should enact legislation prohibiting the purchase or acquisition of a firearm with the intent to transfer possession to another individual without undergoing a background check and/or the solicitation of an individual to acquire possession of a firearm by proxy to circumvent a required background check.
- In the absence of federal legislation, all state legislatures should enact legislation requiring firearms dealers to lock and store weapons on their premises and to adopt adequate safety measures and precautions to decrease the likelihood of inventory being lost or stolen.
- All state legislatures should enact legislation requiring that firearm owners keep firearms locked and unloaded and safely stored in lock boxes or

firearm safes, out of plain sight, with ammunition stored separately from the firearm, when in their home or vehicle.

SEMI-AUTOMATIC ASSAULT RIFLES AND SHOTGUNS, LARGE-CAPACITY MAGAZINES, BUMP STOCKS, TRIGGER CRANKS AND OTHER DANGEROUS DEVICES

Federal:

- The US Congress should pass legislation banning the sale, transfer, and possession of semi-automatic assault rifles, semi-automatic shotguns, semi-automatic submachine guns, large-capacity magazines, bump stocks, trigger cranks and other dangerous devices.
- The US Congress should enact legislation banning the purchase, assembly or transfer of “ghost guns,” which are self-assembled firearms without serial numbers and 3D-printed guns, both of which are essentially untraceable.
- The US Congress should repeal the Protection of Lawful Commerce in Arms Act (PLCAA).

State:

- In the absence of federal law, all state legislatures should enact legislation banning the sale, transfer and possession of semi-automatic assault rifles, semi-automatic shotguns, semi-automatic submachine guns, large-capacity magazines, bump stocks, trigger cranks and other dangerous devices.
- All state legislatures should repeal laws shielding firearm manufacturers and dealers from liability.

STAND YOUR GROUND LAWS

- All state legislatures should repeal Stand Your Ground laws.

SMART GUNS AND GUN SAFETY TECHNOLOGY

- The US Congress should enact legislation to fund research and development of all potential mechanisms of firearms safety. All approaches need to be analyzed for evidence-based policy making aimed at reducing firearms violence.

INVESTMENT IN RESEARCH TO IDENTIFY STRATEGIES TO REDUCE GUN VIOLENCE

- The US Congress should acknowledge that firearm violence is a public health crisis, repeal the Dickey Amendment and enact legislation allocating adequate funding to conduct evidence-based research on the causes and effects of gun violence, and to research and develop viable strategies for gun violence prevention to inform policy making aimed at reducing firearms deaths and injuries.
- The US Congress should enact legislation to repeal the Tiahrt Amendments which prohibit the ATF from releasing identifying information regarding firearm ownership, possession and transfer for the purposes of conducting further firearm research on gun violence prevention.

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