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Universal Background Checks: Introduction

Resolved: The United States should require universal background checks for all gun sales and transfer of ownership

Although our community did not know this at the time, we could not have picked a timelier debate topic in light of the mass shooting in Las Vegas at the beginning of October. Gun control questions are always subject to heated debate, but public dialogue on the problem of gun violence in America and competing policy responses has reached something of a fevered pitch over the past couple of weeks. Debaters will thus be able to weigh in on one of the most important issues of the day while drawing upon a recent and vigorously contested literature base. The effectiveness of universalizing background checks will almost certainly sustain a month’s worth of highly informative and competitive debates.

Background checks are one of a number of “gun control measures” in place designed to ensure that dangerous persons are denied access to firearms. Although a good number of current gun transactions are subject to such checks, a high (but contested) volume of gun transactions fall outside of existing background check requirements. Many advocates for stricter gun regulations maintain that most, if not all, gun transactions should be subjected to universal background checks (UBCs), while other critics claim that background checks are largely ineffective at curbing gun violence.

Gun violence in the United States is an issue of significant concern:

Gun-related deaths in America wildly outpace our peer nations. More than 32,000 people per year are killed by guns in the United States—at least. The total number’s incomplete because some gun-related deaths are left out of CDC statistics, Adrienne LaFrance wrote at The Atlantic earlier this year. That’s partly because of privacy concerns, the mystery over some police-related shooting data … and the political consequences of taking on the gun lobby, LaFrance points out. Notably, the CDC has avoided some research into gun-related injury, and the Washington Post suggests that “fear and funding shortfalls” are to blame. (Researchers have repeatedly called on the CDC to better study firearm-related injuries and deaths, Todd Frankel writes at the Post, given concerns within the scientific community “that gun violence as a public health problem was being ignored.”) However, some independent groups like the United Nations Office on Drugs and Crime have compiled statistics on gun-related deaths. And the United States doesn’t fare well: Compared to all of our peer nations (including the three countries highlighted below), we’re much more likely to die by gun. 2. More people now die by guns than by cars For decades, the most dangerous piece of machinery was an automobile. But now, it’s a gun. That’s according to LaFrance’s article and a Center for American Progress report from 2014 that looked specifically at the mounting burden of gun deaths among young Americans. [Dan Diamond, “More Young Americans Now Die from Guns than Cars,” FORBES, 8—26—15, www.forbes.com/sites/dandiamond/2015/08/26/americas-gun-violence-problem-in-three-charts/, accessed 10-4-17]

Very few analysts contest the idea that our country has a problem with gun violence. However, there is a sharp divergence on how we should address the issue.

Under current law, firearms purchased from a federally licensed gun dealer require that the dealer run a background check on the buyer. Somewhere between 60 percent and 80 percent of all firearms transfers occur through these licensed dealers, who must verify that the purchaser is not disqualified from purchasing a firearm by federal law. States are allowed to impose more rigorous standards than those permitted by federal law, and many states do so:

Anytime someone buys a gun from a federally licensed gun dealer, the dealer is required to run a check on the buyer by submitting the name to the federal database. That database consists of criminal records and mental health records as provided by federal and state courts and agencies. Convicted felons, people convicted of violent domestic crimes, and those determined by the courts to be dangerously mentally ill are prohibited from federal law from buying firearms, Nichols said. Also, states have added their own categories of who is prohibited from buying a gun, Nichols said. For example, California prohibits gun ownership for people convicted of any kind of violent crime, drug offenses, alcohol abuse and juvenile offenses while underage, Nichols said. Vermont is the only state without such laws, Nichols said. [Mark Martinez, journalist, “‘Universal Background Check:’ What Does It Mean?” CNN, 1—28—13, www.cnn.com/2013/01/14/us/universal-background-checks/index.html, accessed 10-1-17]

Background checks rely on the National Instant Background Check System (NICS), a nationally administered database:

The FBI has maintained the National Crime Information Center (NCIC) since 1967. Among other things, law enforcement uses NCIC to learn crucial information about a person or property they encounter. For example, when a police officer stops a vehicle, he or she may check NCIC to determine whether the occupant of the vehicle is currently wanted for a crime or if the vehicle has been stolen. In addition to these types of records, NCIC contains domestic violence protective orders, fugitive records, missing person reports, and many other records. A NICS check includes a search of NCIC records because some records in the database, such as fugitive and...
domestic violence protective orders, result in firearms prohibitions. During a background check, the NICS system accesses NCIC to determine whether there is a match with a prohibiting record. [Law Center to Prevent Gun Violence, FOR THE RECORD: NICS AND PUBLIC SAFETY, Americans for Responsible Solutions, 12—16, p. 9]

Advocates claim that the NICS is a vital tool in combating gun violence:

The National Instant Criminal Background Check System, known as NICS, is one of the most important tools we have in the fight against gun violence. This powerful, necessary set of databases helps stop more than 100,000 prohibited purchasers from buying guns from licensed dealers every year. Unfortunately, far too many others slip through the cracks due to missing or incomplete background check records, often with deadly consequences. [Law Center to Prevent Gun Violence, FOR THE RECORD: NICS AND PUBLIC SAFETY, Americans for Responsible Solutions, 12—16, p. 2]

Most pro cases will likely argue that NICS-driven background checks should be used for more gun purchases, and that records deficiencies in the NICS should be addressed.

The Law Center to Prevent Gun Violence, a prominent advocacy group that supports universal background checks, provides a more detailed explanation of both how the background check process works and the NICS’s role within that process:

A Firearms Transaction Record, more commonly referred to as ATF Form 4473, is the first step in the background check process. A transfer generally includes sale, gift, lease, loan, or disposal of a firearm. Form 4473 records the transferee’s name, address, and identifying information such as height, weight, and date of birth. The transferee must show a valid government-issued photo ID and the dealer must record the type of ID, its identification number, and its expiration date on the form. As long as the transferee has adequately completed Form 4473, has not indicated on the form that he or she is a prohibited purchaser, has produced a valid ID, and the dealer has no reasonable cause to believe that the transferee is prohibited from possessing a firearm, the next step is for the dealer to contact the FBI’s NICS Operation Center. Licensed gun dealers can contact the NICS Operation Center by phone or via the E-Check System, the online access point for background checks. In a “point of contact” state, a state agency accesses NICS on behalf of the dealer. The dealer provides the Operation Center with the customer’s name and descriptive information as reported on Form 4473. In turn, the dealer must record the date of contact with NICS, the transaction number provided by NICS, and the response on Form 4473. Dealers must keep these forms for at least 20 years for completed transactions and for at least five years for incomplete transactions—dealers may discard the records after these time periods have passed. It’s important to note that Form 4473 records are not centralized and are instead kept at the individual locations of the over 60,000 federally licensed dealers all across the United States. A gun lobby–backed appropriations rider dating to 1997 prohibits the Bureau of Alcohol, Tobacco, Firearms, and Explosives ( ATF ), the federal agency responsible for enforcing most federal gun laws, from consolidating, digitizing, or centralizing these records, making it incredibly difficult to trace the history of guns used in crimes. These onerous rules are part of a larger gun lobby effort to hamstring ATF efforts to regulate for public safety. Once the dealer has provided the descriptive information, the system determines whether the purchaser matches any records in the databases that make up NICS. If no matches are found, the dealer is instructed to proceed with the transfer. Federal law requires the FBI to destroy the record of the NICS search within 24 hours when a transferee passes a NICS check, another example of the gun lobby’s efforts to heavily influence oversight of the gun industry. If a match, also known as a “hit,” is found, a NICS examiner may conduct a more thorough search of the records. After an investigation, the examiner will instruct the dealer to take one of three actions: • An instruction to proceed means there was no disqualifying record in any of the three databases that comprise NICS. • An instruction to deny means there was a match with a record indicating the transferee is prohibited under federal or state law. • An instruction to delay signifies that there was a match, but more research is needed to determine if the match is accurate and/or if the record indicates a firearm prohibition. Following a delay, if there is no final response from the NICS examiner after three business days, federal law allows the dealer to transfer the firearm to the customer at his or her discretion. Some states have enacted laws allowing more time for an investigation in the event of a delay. Delaware is the most recent state to enact such legislation—in 2016, the state extended the time period to complete a background check to 25 days. [Law Center to Prevent Gun Violence, FOR THE RECORD: NICS AND PUBLIC SAFETY, Americans for Responsible Solutions, 12—16, p. 12-14]

Background checks thus typically take a relatively short period of time, but in some cases, can take several days to resolve. Two major criticisms of background checks are that they infringe upon a citizen’s right to quickly arm themselves and that “false positives” from NICS may prevent innocent persons from obtaining a firearm at all.

The crux of this month’s topic is that not all firearms sales are subject to background checks. A recent law review article outlines the differences between “primary” and “secondary” firearms markets:

The acquisition of firearms is divided into two markets: primary and secondary. The Gun Control Act and the Brady Act regulate the primary market: retail transfers of firearms between FFLs and individual buyers. The secondary market involves transactions of unlicensed sellers that are not subject to regulatory oversight. Primary and secondary markets intersect in special venues. Gun shows are an example of a venue that provides for a large number of secondary market sales by non-licensed dealers; they occur over a two-day period where vendors, licensed dealers, promoters, and collectors come together to engage in firearm transactions. The most significant
policy consideration arising from the existence of gun shows is whether the gun show problem is driven by felons and juveniles from illegally acquiring firearms at these shows without being subject to a background check. An emerging secondary market for firearms is the online gun marketplace where ninety-four percent of the advertisements on Armslist were posted by private parties. [Ann Daniels, J.D. Candidate, John Marshall Law School, “The Online Gun Marketplace and the Dangerous Loophole in the National Instant Background Check System,” JOHN MARSHALL JOURNAL OF INFORMATION TECHNOLOGY AND PRIVACY LAW v. 30, Summer 2014, p. 757+]

Under current law, background checks are by no means universal. Private sales between individuals are not covered under federal law and are not subjected to background check requirements in most states (the so-called “private sales loophole”). These sales are becoming increasingly prominent as major firearms marketplaces facilitate a growing number of private party transactions. Additionally, many vendors at gun shows, which number in the thousands annually, fall outside of federal background check mandates (the so-called “gun show loophole”).

Pro cases will almost certainly revolve around the foundational claim that universal background checks will help decrease the number of gun-related deaths and injuries in the U.S. Teams should establish the scope of the problem, noting that firearms kill tens of thousands of people every year. Although news coverage tends to focus on catastrophic events, such as the mass shootings in Sandy Hook and Las Vegas, far too many of our fellow citizens are also killed and injured in via accident, ‘everyday’ homicides, and suicide. By restricting access to firearms, supporters contend, UBCs make it harder to people to take the lives of either themselves or others. Gun control advocates argue that it is currently far too easy for dangerous persons to obtain firearms at gun shows, online, or through other ‘private’ transactions, and that universalizing background check requirements will address major weaknesses in the cornerstone of the nation’s firearms regulatory regime. There is very strong evidence supporting each component of this argument. The literature (and this book) also contains a very robust defense of universal background checks in light of Second Amendment-centered objections.

Perhaps the most useful con argument is that easy access to firearms is important for self-defense, which both protects the security of individuals and is a foundational (or essential) liberty. Along with arguments favoring the right to bear arms as a cornerstone of a citizenry’s capacity to lead an “insurrection against tyranny”, self-defense justifications undergird major justifications for the importance of the Second Amendment, which is arguably infringed upon by onerous background check requirements. Many critics of universal background check proposals claim that such a system can only be meaningfully implemented if all firearms are registered in a centralized database, which in turn provides too much information (and power) to an untrustworthy government. Even if a con side cannot win that such a registry could be used to confiscate weapons from law-abiding citizens, the very existence of such a registry may deter persons from exercising their constitutional freedoms. Con teams should also contest the “availability hypothesis”, which undergirds many of the strongest pro arguments. Most public health advocates contend that the greatest facilitator of gun violence (particularly accidents and suicides) is the ready availability of firearms. There is strong evidence arguing that there is little verifiable research to support a link between gun availability and violence. Some researchers argue that the relationship between levels of violence and firearms actually goes in the opposite direction, with readily accessible firearms acting as a potent deterrent. Universal background checks are also unlikely to keep determined individuals from obtaining firearms from illicit sources, meaning that such requirements will only place an unnecessary burden on law-abiding citizens while doing little to check unlawful gun use. The con section also includes evidence answering the vast majority of justifications for universal background checks.

Best of luck!
Status Quo: State Laws

1. Many states currently exceed federal background check requirements


Currently 18 U.S. states go beyond federal law and require a background check for all handgun sales, whether from a licensed dealer or unlicensed seller. These laws fit into two main groups (see Figure 1). Ten states require prospective buyers to first obtain a license or permit prior to initiating a purchase, whether at a gun store or show or elsewhere, and a background check is required to obtain the permit. The permit must be periodically renewed, with the duration varying from state to state. Some permit-to-purchase states also give the license issuer the authority to deny permits to people who may pose a threat to public safety, even if they do not fit into a specified category. For example, in New Jersey authorities may deny a permit to one who is not “of good character and good repute in the community in which he lives….”

2. Eighteen states currently require background checks for private sales

Andrew Jay McClurg, Professor, Law, University of Memphis, “In Search of the Golden Mean in the Gun Debate,” HOWARD LAW JOURNAL v. 58, Spring 2015, p. 791-792.

The federal government’s failure to act has left the matter up to the states. As of 2014, six states (California, Colorado, Connecticut, Delaware, New York, and Rhode Island) and the District of Columbia require background checks for all gun sales. Two states (Maryland and Pennsylvania) require background checks for all handgun purchases. Two states (Illinois and Oregon) impose background checks for sales at gun shows. Four states (Hawaii, Illinois, Massachusetts, and New Jersey) require that a person purchasing any type of firearm have a gun permit, which requires a background check to obtain, and four other states (Iowa, Michigan, Nebraska, and North Carolina) have a similar permitting requirement applicable to handguns only. Thus, a total of eighteen states require background checks for all or some private sales.
1. **Universal background checks are absolutely necessary to curb gun violence—will help prevent illegal trafficking, close the oft-exploited private sales loophole, and deter straw-buyers**


Why is a Universal Background Check Law Essential? 1) It will play a critical role in stopping illegal gun trafficking. In a typical year there are roughly 500,000 crimes committed with firearms. In about 145,000 of these crimes, a firearm is recovered by police and successfully traced for investigative purposes. In 9 out of 10 gun crimes in which there was a trace, the person using the gun in the crime was not the person who originally bought it. In 1 out of 3 gun crimes, the crime was committed in one state but the gun was originally bought in another. (It is illegal to purchase guns out-of-state.)

The typical age of a person arrested for a crime with a firearm is 19. (The legal age to purchase a handgun is 21.) Taken together, these facts point to a massive web of gun trafficking that ferries guns from the legal market to the shadow black market. And it indicates that much of that black market is supplied through person-to-person sales that are practically unfettered under federal law. A universal background check law would make the sale of a firearm from an unlicensed individual to a criminal illegal and prosecutable. This alone would have a huge impact on “gun trafficking”—which is a term of art but not currently an actual federal crime. It would help dry up the shadow market by requiring background checks for those who seek to stockpile firearms (perhaps purchased through gun shows, the internet, newspaper want ads, and elsewhere) for the purposes of selling to criminals and minors. 2) Felons and gun runners have figured out how to exploit the unregulated private market. When the Brady Act was first signed into law, background checks snagged a lot of illegal buyers. In its first four years, 2.4% of those who submitted to a background check were denied. In the most recent four years for which data is available, the denial rate was down to 1.53%. This is true despite the fact that the background check system itself is much better today than it was 15 years ago. There are, among others, far more records on felony convictions, mental health disqualifications, and illegal immigration status in the NICS database than there were when the denial rate was much higher. But this decrease in denials is driven by self-selection. Prohibited buyers now know they will be tripped up by a background check, so they use proxies (straw buyers who purchase guns for them) and the private sales market (gun shows, gun traffickers, and other venues) to obtain firearms. A quarter of sellers at gun shows are not federal licensees and (in most states) do not have to perform a single background check no matter how many guns they sell, according to a past DOJ study. Many advertise that fact on their table next to their inventory, with signs saying things like “no questions asked”. As long as these private sales remain virtually unregulated, prohibited buyers can avoid the checks required at federally licensed dealers, and the illicit market can conveniently flourish. 3) Straw buyers have little to fear from the law. As George Costanza said, “it’s not a lie if you believe it’s true.” Under current law, it is illegal for a private individual to sell to felons, minors, and other prohibited buyers—but ONLY if it can be proven that the seller knew the buyer was a member of a prohibited class. That standard is so high that a person is only slightly more likely to be prosecuted under this statute than they are to be attacked by an alligator. This free pass to sell to anyone using the defense that “I didn’t know he was an ex-con” is the lubricant that makes the shadow market in crime guns flow. A simple background check requirement would eliminate the high bar of “knowing” and would make all sales occur under the same set of rules, instead of creating a speedy self-checkout line for those who want to avoid a background check.

2. **Expanding background checks is the biggest thing we can do to decrease gun violence**

Neera Tanden, President, CAP, Winnie Stachelberg, Executive Vice President for External Affairs, CAP, Arkadi Gerney, Senior Fellow, CAP, and Danielle Baussan, Associate Director, Government Affairs, CAP, “Preventing Gun Violence in Our Nation,” Center for American Progress, 1—14—13, p. 2.

The administration should submit legislation to Congress mandating criminal background checks for all gun sales consistent with the Fix Gun Checks Act of 2011 (S. 436), with certain narrow exceptions, including for transfers within families. Such a law would essentially end no background-check gun sales. Of all the major legislation being widely discussed in the wake of the Newtown tragedy, none could do more to prevent gun violence than passage of the Fix Gun Checks Act. The bill would provide stronger incentives for state and federal agencies to submit all the necessary records about individuals who are barred from owning handguns into the National Instant Criminal Background Check System, and would require a background check on every gun sale. These checks will ensure that guns stay out of the hands of criminals, the mentally ill, and other dangerous people who are prohibited from gun ownership by law.
3. Gun purchase restrictions decrease homicide rates—several mechanisms


One mechanism by which background checks may affect homicide rates is through their effect on interstate gun trafficking. An analysis of ATF data showed that states that do not require background checks for all handgun sales via a permit-to-purchase law are three times more likely to “export” crime guns (i.e., be the source state of guns later recovered and traced by the police) than states that do. Gun purchase laws also affect rates of violence beyond homicides. Most deaths by gunfire in the U.S. are suicides. Research found a 15.4% reduction in firearm suicide rate associated with Connecticut’s enactment of a permit-to-purchase law, and a 16.1% increase in firearm suicide rate following Missouri’s repeal. Background Check Laws and Behavior Change. The crucial contribution that background checks make to public safety and health plays out across the country as people prohibited from purchasing firearms, who would have failed background checks at licensed gun dealers, are nevertheless able to buy firearms from unlicensed sellers and then perpetrate crimes. Colorado’s recent enactment of a state background check requirement provides a case study of how legislative change can affect population behavior in ways that help safeguard public health. Colorado has required background checks for sales by unlicensed sellers at gun shows since 2000 (gun sellers elsewhere could voluntarily request their buyer undergo a background check but were not required to do so). In 2013, the state’s legislators passed HB 1229, extending the background check requirement to all unlicensed sellers, with some exceptions including gifts to immediate family members and some types of temporary transfers. The Colorado Bureau of Investigation (CBI) conducts background checks of would-be gun buyers in the state. Would-be gun buyers who are denied may appeal the finding, and CBI resolves these cases within 30 days. On a monthly basis, CBI publishes the number of gun sales by licensed gun dealers and by unlicensed sellers that were approved or denied. CBI has also intermittently issued data separating sales from unlicensed sellers that occurred at gun shows from those that did not, and to reflect denials that were appealed and ultimately reversed. These data show that the expansion of the state’s background check system has made it more difficult for some high-risk people to acquire guns. In the first two years after passage of HB 1229, CBI conducted 29,634 background checks for unlicensed sales of firearms. Over that period, 393 sales from unlicensed sellers were denied and upheld, including to people convicted of assault or sexual assault, people under restraining orders, and people prohibited due to mental illness or mental impairment. The number of checks conducted for unlicensed sales has increased since the law’s passage. The data also demonstrate the specific changes wrought in gun seller behavior. At the time of passage of the law, even during a period of record-high gun sales, CBI conducted few checks for sales by unlicensed sellers outside of gun shows. But since enactment, the number has steadily increased, and by June 2015, background checks conducted for unlicensed transfers at sites other than gun shows outnumbered those at gun shows seven to one (Figure 2). This suggests unlicensed sellers increasingly require background checks of their buyers before completing their sales.

4. We should universalize background checks—can build support for gun law reform


One of the primary objectives of policymaking with respect to guns in America should be to make the background check system as comprehensive, thorough, and effective as possible. That system is the cornerstone of efforts to keep guns out of the wrong hands. Since the passage of the Brady law in 1993, the government has blocked more than 1.6 million attempted purchases of guns by convicted felons and others legally prohibited from having firearms. Unfortunately, the background check system’s coverage is limited in ways that significantly impair its effective-ness. Federal laws require a person to undergo a background check only if purchasing a gun from a licensed firearm dealer. If the seller is not a licensed dealer, no background check is required, whether that seller is a neighbor, a stranger on the street, or someone selling a gun through a classified ad placed in a newspaper or posted on a website. This limit on the reach of the background check system makes acquisition of guns too easy for convicted felons and others who should not have access to firearms. A few states, such as California, have gone beyond what federal law demands and made background checks a universal requirement for all gun acquisitions, regardless of the seller’s identity. That approach should be incorporated into federal law so that it applies nationwide. A recent survey found that over eighty percent of Americans favor such a move, with the support being equally strong among conservatives and liberals, among McCain voters and Obama voters, and among those who own guns and those who do not.
5. Background checks are warranted even if they are not perfect


The National Rifle Association and its cohorts would love for Nevada voters to see molehills as mountains. True to their extremist nature, the leading opponents of a November ballot question to require universal background checks on gun purchases would have voters believe that the measure is full of diabolically restrictive provisions that make it a full-on assault on the Second Amendment. It’s not. Take, for instance, one of the provisions that the NRA is rampaging about: a restriction on temporary transfers of firearms—a formal term basically defined as a gun owner allowing someone else to use the weapon. The measure would limit when such transfers could occur without a background check. The NRA has seized on that provision to suggest that passing the measure would lead to making Nevada’s gun laws even more restrictive than those of our liberal neighbor to the west. That’s ridiculous. Yes, the transfer provision is a restriction—there’s no getting around that—but it’s also loaded with exceptions. Among them, guns can be transferred to a broad range of immediate family members, including grandparents, spouses, nieces and nephews, as well as for self-defense and activities such as hunting and shooting competitions. There are plenty of ways in which a firearm can be given to someone else without having to go through a background check. But treating any attempt at reasonable gun control as lighting the Constitution on fire is common for the gun lobby. The NRA has steamrolled meaningful attempts at getting our arms around the nation’s rampant gun problem by bullying leaders who would dare get in its way. It portrays anyone who suggests gun control measures as being hell-bent on seizing people’s guns and punishing responsible owners of firearms. But in reality, the background check measure is a step in the right direction. It would close a loophole that allows guns sales to happen online and at gun shows without background checks. In other words, it would extend requirements already in place for licensed gun dealers, who must conduct background checks on buyers before making a sale. The point is to keep guns out of the hands of people who shouldn’t have them. And background checks work. Between 2011 and 2014, more than 5,400 prospective sales involving licensed dealers were blocked in Nevada. Fugitives, felons, domestic abusers and the dangerously mentally ill were denied purchases thanks to those checks. Nationwide, more than 2.4 million sales have been blocked. Will background checks alone solve gun violence? No. The country is saturated with guns—the general consensus is that there are at least 300 million—so criminals will find ways to get them. Plus, plenty of gun violence has been committed with weapons purchased by people who have cleared background checks. But that doesn’t mean we should throw up our hands and quit trying to make it more difficult for those who shouldn’t have guns to get them, which is why the ballot measure should be supported. It’s also why the opponents should be ignored. That includes Nevada Attorney General Adam Laxalt, who said in a statement that the question would cost Nevada residents “time, money and freedom.” Let’s point out something very important here: The statement was issued by the NRA. It’s also well worth mentioning that Clark County District Attorney Steve Wolfson is in favor of the measure. And with regard to most Nevada sheriffs coming out against the question, remember: 1) The measure has drawn support from the Nevada Association of Public Safety Officers, a statewide union that represents about 1,500 police officers, prison guards and probation officers; and 2) Clark County Sheriff Joe Lombardo isn’t among those sheriffs who are in opposition. He’s staying neutral. As the election approaches, the shouting of the “from my cold, dead hands” crowd will grow louder. Let them rave. With their history of fear-mongering, misinforming and blustering, they’ve proven they’re not worth listening to.

6. Even a small effect will save a ton of lives


2. It wouldn’t do much. LaPierre cites data suggesting that among state inmates imprisoned for crimes committed with handguns, only 1.7 percent bought their weapons at gun shows. Assume that’s accurate. In the last five years on record, firearms—overwhelmingly handguns—have killed 46,313 homicide victims in this country. If we had prevented 1.7 percent of those homicides, that’s 787 lives. Is that not worth the hassle?
UBC Desirable: Australia Proves

1. The best studies of Australia’s policies show that gun control decreases gun violence


But this isn’t the only research into Australia’s laws. As my colleagues Dylan Matthews and Zack Beauchamp noted, other studies found positive impacts of the law. A review of the evidence by Harvard’s David Hemenway and Mary Vriniotis, for one, concluded that Australia’s law “seems to have been incredibly successful in terms of lives saved.” A 2010 study by Andrew Leigh of Australian National University and Christine Neill of Wilfrid Laurier University also found that buying back 3,500 guns per 100,000 people correlated with up to a 50 percent drop in firearm homicides and a 74 percent drop in gun suicides. The drop in homicides wasn’t statistically significant, largely because the country’s gun homicide rate is so low that it’s hard to tease out even sharp drops with a lot of certainty. But the drop in suicides was statistically significant. Most tellingly, Leigh and Neill’s study found that “the largest falls in firearm deaths occurred in states where more firearms were bought back.” Hemenway and Vriniotis reached similar conclusions in their review: “First, the drop in firearm deaths was largest among the type of firearms most affected by the buyback. Second, firearm deaths in states with higher buyback rates per capita fell proportionately more than in states with lower buyback rates.” By homing in on individual states and types of guns, these studies provide a more rigorous and robust look at Australia’s law than a study like the 2016 analysis that Libresco cited, which broadly looked at nationwide data. And they conclude that the buyback program, along with other changes brought on by the 1996 law, reduced gun deaths. But most importantly, this goes along with the rest of the evidence—including the extensive review published in Epidemiologic Reviews. When you put it all together, it’s hard to come to any conclusion other than gun control does, at least to some extent, reduce gun deaths.

2. The U.S. should follow Australia’s example and universalize background checks


Regardless of whether or not the United States implements a ban on assault weapons and introduces a buyback program, the United States should close the gun show loophole and require background checks for all gun sale purchases, as Australia has done. Although not flawless, NICS “has prevented more than two million convicted felons and other prohibited purchasers from buying guns.” The law also provides a deterrent to prohibited purchasers who “are less likely to try to buy guns when they know comprehensive background check requirements are in place.” The United States should also look into extending the waiting period from three days to at least twenty-eight days, like Australia. This can allow for a more thorough background check and a cooling-off period. Even though there are not any legal restrictions to implementing universal background checks, initiatives to pass a law on the issue have not been successful. In April of 2013, a few months after the shooting at Sandy Hook Elementary School, a bipartisan proposal from Senators Joe Manchin, Democrat of West Virginia, and Pat Toomey, Republican of Pennsylvania, was rejected in a fifty-four to forty-six vote. This legislation would have expanded background checks to cover all firearms sales at gun shows and online.
3. The U.S. can and should follow Australia and impose stricter gun controls as a response to mass shootings


What is clear from the glaring statistics and media coverage of multiple mass shootings occurring at elevating rates in the United States is that the gun control issue needs to be tackled and new legislation implemented. Members of federal and state legislators need to start a conversation on gun control and work collaboratively to establish policies that effectuate change. The murder of innocent American citizens at the hands of those with firearms is an issue of national importance and should be a bipartisan one. America's culture and climate of gun ownership needs to be analyzed and reevaluated in order to spare the United States from another mass shooting tragedy. Australia was able to implement sweeping legislative reform regarding gun control only twelve days after another mass shooting tragedy. As discussed in this Article, the United States can effectively implement most of the Australian gun control legislation and should work towards making that a priority. Take a moment to reflect on the following statement from former Australian Prime Minister John Howard, the conservative leader behind the Australian reform. Former Prime Minister Howard made the statement after visiting the United States in the wake of the Aurora, Colorado, shooting. In the Aurora shooting, a gunman dressed in tactical clothing entered a movie theater, where he set off tear gas grenades and shot into the audience with multiple firearms. Twelve people were killed and around seventy others were injured. The Prime Minister said: There is more to this than merely the lobbying strength of the National Rifle Association and the proximity of the November presidential election. It is hard to believe that their reaction would have been any different if the murders in Aurora had taken place immediately after the election of either Obama or Romney. So deeply embedded is the gun culture of the [United States] that millions of law-abiding Americans truly believe that it is safer to own a gun, based on the chilling logic that because there are so many guns in circulation, one's own weapon is needed for self-protection. To put it another way, the situation is so far gone there can be no turning back. In this statement, the former Prime Minister believes that America's gun culture and attitude towards gun ownership is blinding the United States from being able to effectuate change. Instead of conceding to the belief that the United States will never be able to implement stricter gun control laws, the United States should set an example for the world and truly become "the land of the free" in reference to freedom from gun violence and fear.
UBC Desirable: Current Successes Prove

- **Existing background checks have already stopped over 2M dangerous transfers**


In his call for congressional action on gun regulation after the Sandy Hook Elementary School shooting, President Obama proposed legislation requiring background checks through the National Instant Criminal Background Check System (NICS) for all gun purchases. Currently, federal law requires background checks only for purchases from federal firearms licensees. Though often referred to as the “gun show loophole,” the loophole is much bigger than that. It includes any purchase from a non-licensed gun seller whether at a gun show, over the Internet, or in a parking lot. Instant background checks can determine whether prospective purchasers are prohibited from buying or owning a firearm under federal law because they are, for example, convicted felons, persons subject to domestic violence protective orders, or persons who have been adjudicated mentally ill or involuntarily committed. Although the NICS is imperfect due to a lack of reporting by states (reporting is voluntary) in some of the prohibited categories, 700,000 persons have been denied gun purchases because of background checks in the past decade. A Justice Department report estimated that between 1994 (when background checks went into effect) and 2010, background checks prevented more than 2.1 million prohibited purchasers from obtaining guns from licensed dealers.
1. **We need to act to strengthen the NICS database**

Neera Tanden, President, CAP, Winnie Stachelberg, Executive Vice President for External Affairs, CAP, Arkadi Gerney, Senior Fellow, CAP, and Danielle Baussan, Associate Director, Government Affairs, CAP, “Preventing Gun Violence in Our Nation,” Center for American Progress, 1—14—13, p. 2-3.

Requiring that all gun sales be predicated on a criminal background check is an effective means of keeping guns out of the hands of dangerous individuals—but only if the background check system itself functions properly. Since the Brady Handgun Violence Prevention Act was passed in 1993 to mandate all licensed gun dealers perform background checks,11 the FBI has conducted more than 150 million background checks in connection with gun sales, blocking gun transfers in more than 1.7 million instances. But for the system to work better, states must provide the federal government with the names of all the individuals who are prohibited from owning firearms for inclusion in the nationwide database. Though this seems like a common-sense action, states have been slow to provide these records, particularly regarding individuals barred from owning guns due to mental illness. Ten states have failed to provide any mental health records to the National Instant Criminal Background Check System, and 18 others have submitted fewer than 100 records since the creation of the system in 1999. Without states’ cooperation in submitting these records to the database, individuals who are dangerously mentally ill and pose a substantial threat to the community—such as Jared Lee Loughner, who killed six people and wounded 13 others, including former Rep. Gabrielle Giffords (D-AZ), in a 2011 spree killing in Tucson, Arizona; and Seung-Hui Cho, who killed 32 people and wounded 17 others in a 2007 spree killing at Virginia Tech—will continue to be able to obtain guns. Federal agencies and states should be strongly encouraged to share information about disqualified individuals and penalized for failing to provide these crucial records for inclusion in the database. The effort to get records into the National Instant Criminal Background Check System can be strengthened in four important ways: • Toughening penalties on states that do not provide records to the database • Requiring federal agencies to affirm that they have provided required records to the database • Clarifying the definition of “mentally ill” to ensure that individuals with a serious mental illness are prohibited from purchasing guns • Requiring background checks for all gun sales • The Fix Gun Checks Act of 2011 provides for exactly these fixes—and requires a background check on every gun transfer.

2. **We can and should expand and improve the NCIS—it can substantially cut the incidence of gun violence**

Law Center to Prevent Gun Violence, FOR THE RECORD: NICS AND PUBLIC SAFETY, Americans for Responsible Solutions, 12—16, p. 6-7.

Keeping guns out of the hands of dangerous individuals such as convicted felons, domestic abusers, and the violently mentally ill is one of the most effective methods of preventing deadly shootings. It is imperative that we strengthen our existing background checks system and close the loopholes that allow anyone to purchase guns in private sales—including online and at gun shows—without undergoing a background check. By doing so, we will keep these deadly weapons from falling into the wrong hands, preventing shootings before they happen and saving lives from this devastating epidemic. Fortunately, we already have a tool to help us dramatically reduce the number of guns sold to dangerous members of our society. A set of databases maintained by the FBI, the National Instant Criminal Background Check System (NICS), is a crucial component in the fight against gun violence. NICS was created to implement the 1993 Brady Handgun Violence Prevention Act, which requires background checks for firearms transfers that go through federally licensed dealers. Since the Brady Act took effect, background checks have stopped 2.8 million felons, abusers, and other dangerous people from obtaining a gun from a federally licensed dealer. Every year, NICS stops over 100,000 prohibited people from buying guns from federally licensed dealers. But far too many others are slipping through the cracks due to missing or incomplete background check records, often with deadly consequences. The FBI provides its own records of those who commit federal crimes, but the only way NICS receives records of state-level convictions, mental health adjudications, and other records—which vastly outnumber their federal counterparts—is through voluntary submissions. As one would expect, some states do a far better job than others sharing this potentially lifesaving information.

3. **Gaps in the background check system enable gun violence**

The Commonsense Gun Laws Partnership, COMMONSENSE SOLUTIONS: STATE LAWS TO EXPAND BACKGROUND CHECKS FOR UNLICENSED GUN SALES, Americans for Responsible Solution and the Law Center to Prevent Gun Violence, 2014, p. 3.

Gun violence takes an unacceptable toll on individuals and communities throughout the United States. While most American gun owners take their responsibilities seriously, the constant news reports about shootings demonstrate that dangerous people can access guns too easily. These dangerous people often obtain guns through a gap in our nation’s gun laws—the loophole for unlicensed sales—which enables many gun sellers to avoid conducting background checks.
4. **Strong records are critical to the effectiveness of background checks**

Law Center to Prevent Gun Violence, FOR THE RECORD: NICS AND PUBLIC SAFETY, Americans for Responsible Solutions, 12—16, p. 15.

The records in NICS are essential to making background checks strong and reliable. Data shows that NICS effectively prevents guns from falling into the hands of felons, domestic abusers, and other dangerous people thousands of times each year. Overall, since NICS was launched in 1998, the FBI has used it to deny 1,380,896 prohibited people (not including those denied in point of contact states). Most denials are due to felony or misdemeanor convictions. For example, to date 745,648 felons and misdemeanants (in non-point of contact states) have been denied after a NICS check. Unfortunately, data also shows that the records in NICS are incomplete, since states submit their records on a voluntary basis. The FBI estimates that, on average, about 3,000 people pass a NICS background check each year despite being prohibited under state or federal law from purchasing a gun. The actual number may be even higher. It is crucial that states improve the submission of records to NICS to maximize the effectiveness of background check laws, ensuring that felons and other dangerous people do not have easy access to deadly weapons.

5. **The current NICS system fails—three reasons**


In theory, NICS serves as a comprehensive list of these prohibited persons. In practice, however, using the database to restrict access has three flaws: (1) the list does not include all dangerous categories (e.g., members of terrorist organizations are not included); (2) many individuals who meet the requirements for inclusion are never listed; and (3) even those who are a prohibited individual can avoid a database check when making a second-hand purchase. The first flaw is that NICS does not include all dangerous groups of individuals. Moreover, it is impossible to identify all dangerous categorizations a person may fit into before an individual performs a dangerous act since it is extremely hard to forecast dangerousness without a previously committed dangerous act. Second, many individuals who meet the threshold for a NICS listing are never added to the database, since it relies on states to voluntarily report the names of individuals who fall into one of the prohibited categories. Unfortunately for this context, Congress cannot compel states to contribute to a federal regulatory system. Although states have financial incentives to submit names (and one such proposed law would create penalties by withholding funding from those that do not report), reporting is widely variable. Some states over-report (i.e., report more individuals than are intended for inclusion in NICS), and others under-report or do not report at all. As a result, subjecting to firearms restrictions is arbitrary, if not grossly imperfect. Third, prohibited persons can bypass a background check altogether or use counterfeit identification to pass. In fact, because only federally licensed dealers have to conduct background checks, even those listed in NICS can purchase weapons from secondhand (i.e., private and unlicensed) sellers. This is referred to as the “gun show loophole” in the law because gun shows are the most common forum for the unregulated sale of weapons. For example, the four guns used in the Columbine school shooting - where thirteen people were murdered - were all purchased via an unregulated forum. Even more common than purchasing a firearm in an unregulated forum is the informal transfer of arms among family members or friends, which was the most common way a firearm used in a crime was obtained among a pool of surveyed inmates and the way the Newtown shooter accessed his arsenal of deadly weapons.
UBC Desirable: Deterrence

1. Background checks work—deterrent effects


From the time when the gun control measures of the Brady Act were enacted on March 1, 1994, through the end of 2008, the federal government processed more than 97 million applications for gun transfers or permits, the Justice Department says. Almost 1.8 million applications were denied, the agency said. On this matter, both sides are in agreement. Said Keene: "Background checks are generally a good thing." Added Nichols: "Background checks have a huge deterrent effect. People who are ineligible to buy a gun are unlikely to try if they know they are going to be subjected to a background check."

2. Universal background checks work—they will deter sales to criminals


OK, so we’ve never really tried to make background checks truly universal. Why should we believe that will work? When criminals get guns, they get them from friends, family, or from an underground market source. Without universal background check requirements, there is little deterrent to selling guns to criminals or gun traffickers. State laws mandating universal background checks deter the diversion of guns to criminals. The most comprehensive screening and background check processes, where potential gun purchasers apply in person for permits to purchase handguns, are associated with lower homicide and suicide rates.

3. Expanding background checks will decrease shady behavior by dealers—stronger deterrent effect


Isn’t it already illegal for a gun trafficker to buy guns at a gun show and then sell them out of the trunk of his car in, say, Chicago or New York or many other major cities? If so, why do we need to expand background checks? It is illegal for a gun trafficker to purchase guns from a private seller in a state that does not regulate such sales and sell them in another state. However, because private gun sellers have no obligation to assure that purchasers have passed a background check or to maintain records of the sale of their firearms, it would be incredibly hard to prosecute that trafficker for a gun later used in a crime, because there’s no evidence he transferred the gun to the criminal. So the trafficker can break existing law with something close to impunity. Expanding background checks would force the trafficker to prove he’d performed the check or be prosecuted — a much stronger disincentive to lawbreaking.
UBC Desirable: Empirically / Examples

1. Empirical data overwhelmingly proves that expanded background checks will reduce gun violence


When properly utilized, the background check system that already exists works well. There is ample evidence that requiring a background check before any sale of a gun reduces crime and saves lives. Based on an analysis conducted by Everytown for Gun Safety, in states that require background checks on all handgun sales: • 38% fewer women are shot and killed by their intimate partners, • 49% fewer people commit suicide with a gun, • There are 17% fewer aggravated assaults with guns, • 39% fewer police officers are killed with handguns, and • 64% fewer guns are trafficked to be used in out-of-state crimes. A study using crime gun trace data from 53 U.S. cities for the years 2000–2002 also found that laws regulating unlicensed handgun sales are strongly associated with fewer trafficked guns. What happens when a background check is not conducted? In 2007, Missouri repealed its requirement that handgun purchasers obtain a permit after a background check. Since that repeal: • The share of crime guns recovered in Missouri that were originally purchased in-state has grown by 25%; • A key indicator of crime gun trafficking – the share of crime guns that were recovered within two years of their original sale – has doubled; and • Gun murders in the state have risen nearly 25%. The data is overwhelming. States must enact this commonsense law. Americans should not have to wait any longer to prevent dangerous people from accessing guns.

2. Background checks work—the decline in gun violence when the current law was implemented provides proof

Brady Center to Prevent Gun Violence, NO CHECK. NO GUN. WHY BRADY BACKGROUND CHECKS HSULD BE REQUIRED FOR ALL GUN SALES, 4—09, p. 7.

Once our nation began requiring background checks by dealers, making it harder for criminals to acquire guns, we saw an immediate decline in societal gun violence. In the seven years preceding passage of the Brady Law, the number and rate of violent crimes in the United States committed with firearms increased every year. Beginning in 1994, the year the Brady Law took effect, those trends were reversed. For the next seven years, the rate of violent crime committed with firearms declined every year. During the same period, the number of gun murders dropped 40%. Since then, the total number and rate of violent firearm crimes, including gun homicides, has remained fairly steady and shown no signs of returning to pre-Brady levels. The Brady Law no doubt contributed to this dramatic decline in gun crime.

3. There are many examples of crime that could have been stopped


In April 2011, John Karnis posted a classified ad in a newspaper offering to sell two semiautomatic handguns. Thirty-year-old John Schick responded. Four months before, Mr. Schick had attempted to buy a gun at a gun store in Portland, Oregon, but failed the background check. Federal law prohibited Mr. Schick from possessing guns because he had been committed to a mental institution in Oregon in January 2010. Mr. Karnis did not run a background check on Mr. Schick, however. New Mexico law didn’t require him to do so, so Mr. Karnis sold Mr. Schick the handguns in the parking lot of an Albuquerque strip mall. On March 8, 2012, Mr. Schick used the guns he had bought from Mr. Karnis when he started shooting inside Western Psychiatric Institute and Clinic in Pittsburgh, Pennsylvania. Family members of a 25-year-old therapist named Michael Schaab said they had been talking to him on the phone when the connection suddenly got cut off. He was killed in the shooting, and five other people were injured, before police shot and killed Mr. Schick. Schaab’s fiancée, whom he had proposed to a few weeks before (on Valentine’s Day), was a nurse at a nearby hospital and was coincidentally in the trauma unit when the shooting victims arrived. Schaab’s mother, Mary, said her only other child, Nancy Schaab, had been slain at age 26 during a domestic dispute in October 2010. The shooting that took Michael Schaab’s life, like so many other shootings in America, was preventable. In an interview after the shooting, Mr. Karnis indicated that he intended to comply with the law when he made the sale to Mr. Schick. If a background check had been required, Mr. Karnis may very well have not sold the guns to Mr. Schick, and the shooting may not have occurred.
UBC Desirable: Exemptions—General

1. Current background checks are ineffective and counter-arguments are wrong—they should be universal

Brady Center to Prevent Gun Violence, NO CHECK. NO GUN. WHY BRADY BACKGROUND CHECKS SHOULD BE REQUIRED FOR ALL GUN SALES, 4—09, p. 6.

Fortunately, this is a problem that can be solved. So far, eighteen states and the District of Columbia have taken steps to close the “gun show loophole,” with several requiring background checks on all gun sales. Such universal background checks have worked for almost two decades in our most-populous state, California. Since 1991, every gun sale in California must first be run through the state’s background check system. Unlicensed sellers at gun shows or elsewhere need only take their guns to a licensed dealer to run the check and complete the sale. While the gun lobby argues against a thorough system of background checks, those arguments are unsupported. The gun lobby claims that requiring background checks would lead to additional costs and inconveniences, and could shut down the gun show industry. But the minimal cost and time of background checks is far less than the potential cost of enabling criminals to have easy access to guns. Moreover, gun shows flourish in California, where every sale is checked first, as well as in other states that have closed this loophole. Brady background checks clearly work. So far, they have blocked well over 1.6 million prohibited purchasers – felons, the dangerously mentally ill, domestic violence abusers, and others – from buying guns from licensed gun dealers. Many more prohibited buyers have undoubtedly been discouraged from attempting to buy a gun to avoid having their record revealed in a background check. Background checks have unquestionably saved lives. In the seven years prior to the Brady Law’s enactment, the number and rate of violent firearm crimes increased every year, while in the seven years after the law took effect, the number and rate of violent firearm crimes declined precipitously. Background checks are simple and quick. Checks merely require a phone call to the FBI or the state police, and in the vast majority of cases they take mere minutes. Background checks do not block law-abiding purchasers from buying guns. They only keep criminals or those already prohibited from buying guns from acquiring them. The public, including gun owners, overwhelmingly support requiring background checks on all gun sales, as do many law enforcement groups and elected officials. No check. No gun. The solution is as simple as that.

2. The forty percent of sales that occur on the private market are largely unregulated

Brady Center to Prevent Gun Violence, NO CHECK. NO GUN. WHY BRADY BACKGROUND CHECKS SHOULD BE REQUIRED FOR ALL GUN SALES, 4—09, p. 5.

However, the Brady background check system has a major gap. Because it requires background checks only for gun sales by licensed dealers, criminals can obtain guns with no questions asked from unlicensed sellers, as they are allowed to sell guns without conducting a check in most states. About 40% of gun sales are made without a background check to see if the purchaser is a criminal or otherwise prohibited from buying guns. In effect, we have two gun markets: A regulated one, where buyers are checked to see if they can legally buy guns, and an unregulated one, where they are not.

3. The loophole is exploited by criminals

Brady Center to Prevent Gun Violence, NO CHECK. NO GUN. WHY BRADY BACKGROUND CHECKS SHOULD BE REQUIRED FOR ALL GUN SALES, 4—09, p. 5-6.

Why do we allow this unregulated system of no-check gun sales to flourish in this country? By requiring background checks on only about 60% of gun sales, with the rest almost completely unregulated, we make it too easy for dangerous people to obtain dangerous weapons. This leads to senseless gun violence harming tens of thousands of people, year after year. Imagine if we applied this same irrational policy to the sale of controlled drugs, where prescriptions were required for purchasing drugs from pharmacies, but drugs also could be legally sold by “unlicensed sellers” without a prescription, no questions asked. Or if airports only screened 60% of airline passengers and allowed anyone who wanted to pass through unscreened. Such loopholes would not be tolerated. Indeed, when gaps in those systems have been identified, the government has taken swift steps to close them. The no-check loophole only helps criminals and other prohibited purchasers, and those who supply them with guns. We are long overdue for instituting the rational policy of requiring a background check before any gun is sold. Not surprisingly, the no-check loophole has been exploited as a major supply source for criminals who want guns. Criminals purchase guns directly from private no-check sellers at gun shows and elsewhere with no questions asked. Also, gun traffickers buy quantities of guns to resell to criminals at gun shows or on the streets, without any check required. Moreover, the no-check loophole has encouraged some dealers to drop their licenses and sell guns without checks, or to conspire with unlicensed sellers to move more guns. No-check gun sales occur by the hundreds of thousands at gun shows held everyday all across America. No-check sales also occur through classified ads, sales arranged through the internet, and elsewhere. As explained in this report, no check sales have armed countless criminals, including the Columbine High School killers, the neo-Nazi spree killer of Ricky Byrdsong and others in Illinois and Indiana, the Los Angeles Jewish Community Center shooter, killers of police officers, and the notorious Mexican drug cartels. Terrorist organizations, including Hezbollah, have attempted to exploit the no check loophole to amass their arsenals.
UBC Desirable: Exemptions—General [cont’d]

4. Most handguns are currently obtained outside of the current background check system

Ashley Mata, J.D. Candidate, California Western School of Law, “Kevlar(R) for the Innocent: Why Modeling Gun Regulation After Great Britain, Australia, and Switzerland Will Reduce the Rate of Mass Shootings in America,” CALIFORNIA WESTERN INTERNATIONAL LAW JOURNAL v. 45, Fall 2014, p. 196-197.

The Gun Control Act of 1968 prohibits the sale and acquisition of firearms to certain classes of individuals, including convicted felons, fugitives from justice, illegal aliens, and dishonorably discharged military servicemen. Additionally, it prohibits illicit drug users, the mentally incompetent, and people with domestic violence convictions or restraining orders from purchasing or acquiring firearms. The Brady Handgun Violence Prevention Act of 1993 ("Brady Act"), a temporary five-year act, required FFLs to conduct a criminal background check before transferring a firearm to a buyer. The original act imposed a five-day waiting period for law enforcement to perform the background check. These background provisions became permanent on November 30, 1998, but the five-day waiting period was re-placed with the National Instant Criminal Background Check System ("NICS"), a national database that identifies prohibited purchasers of firearms. FFLs now contact NICS to determine whether the buyer is eligible to purchase firearms. However, states are not required to subscribe to the NICS and may implement their own system. Further, the background check requirement only applies to FFLs and does not cover private dealers. As a result, an estimated forty percent of firearm purchases are made through private sellers. Even worse, only an estimated twelve percent of handguns used in crimes are obtained from an FFL.
Experts agree that universal background checks are the best way to decrease gun violence


The concealed carry legislation is one of many gun measures that policy makers have debated in recent years. Backers of those ideas, whether the emphasis is gun rights or gun control, often say the intent is to make Americans safer. We’ve wondered whether the various ideas politicians talk about would work, and whether the public would support them. In June 2016, we asked Morning Consult, a media and polling firm, to survey two groups: some of the country’s leading experts on gun violence, and a representative sample of the American electorate. Our expert survey asked dozens of social scientists, lawyers and public health officials how effective each of 29 policies would be in reducing firearm homicide deaths, regardless of their political feasibility or cost. Policies deemed both effective and popular appear in the upper-right corner of the matrix. Less popular, less effective measures fall lower down and to the left. The two policies ranked most effective were those requiring all sellers to run background checks on anyone who buys a gun, and bar gun sales to people convicted of violent misdemeanors, including domestic assaults. The experts were more skeptical of other much-debated proposals, including a national gun registry and an assault weapons ban. The idea of requiring states to honor out-of-state concealed weapon permits was ranked low. The academics in our panel — many of the country’s best empirical researchers on gun policy — were far more likely than the general public to support gun control. But nearly all of the policies that experts think could work have widespread support from the general public.
UBC Desirable: Exports / State Patchwork

1. Inconsistent gun laws mean that firearms are ‘exported’ from jurisdictions with weak gun laws

Chelsea Parsons, Vice President of Guns and Crime Policy, CAP and Eugenio Weigend, Senior Policy Analyst, Guns and Crime Policy, CAP and PhD, Tecnologico de Monterrey, AMERICANS UNDER FIRE: AN ANALYSIS OF GUN VIOLENCE IN THE UNITED STATES AND THE LINK TO WEAK GUN LAWS, Center for American Progress, 10—16, p. 25.

Guns do not respect state boundaries; the patchwork of inconsistent gun laws from state to state has contributed to a dynamic in which crime guns often move from states with weak gun laws to states with stronger gun laws. State and local law enforcement can submit all guns recovered in connection with crime to the U.S. Bureau of Alcohol, Tobacco, Firearms and Explosives, or ATF, to determine the first point of sale and the first legal purchaser of that gun. ATF then aggregates information about crime guns recovered in each state in annual trace data reports, which allows for an analysis of the movement of crime guns from state to state. From 2010 to 2015 nearly 30 percent of all crime guns submitted for tracing crossed state lines before being used in connection with a crime. Previous research has demonstrated that states are not equal opportunity exports of crime guns: A 2010 study by Mayors Against Illegal Guns found that just 10 states were responsible for selling nearly half of the crime guns that had crossed state lines. According to ATF data, from 2010 to 2015, West Virginia and Mississippi had rates of crime guns exported to other states that were more than twice the national average. New York, Hawaii, and New Jersey had the lowest rate of crime gun exports with rates lower than three crime guns per every 100,000 people.

2. The patchwork means that guns are ‘imported’ into strong-gun law states

Daniel W. Webster, Center for Gun Policy and Research, Bloomberg School of Public Health, Johns Hopkins University and Garen J. Wintemute, Violence Prevention Research Program, Department of Emergency Medicine, University of California, Davis, “Effects of Policies Designed to Keep Firearms from High-Risk Individuals,” ANNUAL REVIEW OF PUBLIC HEALTH v. 36, 2015, p. 30.

Economists have examined the flow of guns purchased in one state and recovered following their use in crime in another state as a function of the difference in the stringency of gun laws in the source (exporting) state and the destination (importing) state, while controlling for other factors. Using a simple additive index of 10 gun laws identified by Mayors Against Illegal Guns as important to preventing gun trafficking, Knight found that weaker gun laws in source states increased the export of crime guns, and stronger gun laws in destination states increased the import of crime guns. Firearm use in crime, as measured by the percentage of robberies committed with a firearm, increased in states with relatively strong gun laws when nearby states had relatively weak gun laws. Most strongly associated with preventing the export of crime guns were laws requiring gun owners to promptly report lost or stolen firearms to law enforcement, those that provided local discretion to adopt gun laws stronger than those adopted at the state level (much of this effect may be due to Chicago’s longtime ban of handguns), and state statutes specifically prohibiting straw purchases.

3. Guns get exported, but the evidence still proves that strong gun laws are effective

Daniel W. Webster, Center for Gun Policy and Research, Bloomberg School of Public Health, Johns Hopkins University and Garen J. Wintemute, Violence Prevention Research Program, Department of Emergency Medicine, University of California, Davis, “Effects of Policies Designed to Keep Firearms from High-Risk Individuals,” ANNUAL REVIEW OF PUBLIC HEALTH v. 36, 2015, p. 31.

Findings from these studies are generally consistent with economic theories relevant to regulation and market forces. Comprehensive regulations that should promote firearm seller and purchaser accountability—rigorous PTP systems, comprehensive background checks, and mandatory theft and loss reporting—appear to curtail diversions of guns to criminals, but they also lead to criminals importing guns from states with weaker gun laws. States with the strongest gun sales regulations experienced reduced availability of guns for criminal use, despite the influx of guns from other states where regulations were weaker. These findings suggest that the real price of guns for criminals in states with the strongest gun laws is elevated by these states’ gun policies and that criminals’ demand for guns is at least somewhat elastic. This conclusion is consistent with data from an in-depth study of Chicago’s underground gun market prior to the city’s handgun ban being overturned by the US Supreme Court. While thousands of guns are recovered by the Chicago Police Department each year, those guns are recovered from a small fraction of the city’s 2.7 million population, and a survey of adult arrestees found that only 1 in 5 male arrestees—44% of whom reported current or past gang membership—reported ever owning a handgun. Through hundreds of interviews with a broad range of actors in the underground economy in a high-crime Chicago neighborhood, researchers found that trusted suppliers of firearms were in short supply, and gang leaders rationed gun access among their members. There were substantial transaction costs (search time, risk encountered connecting with a supplier or purchaser), and prices paid for typically low-quality handguns were twice as high as would be found in advertisements for private sales in states with weaker gun laws than those in Illinois.
UBC Desirable: Gun Owner / NRA Support

1. Gun owners and NRA members support universal background checks


However, even though the NRA pushed for an agenda that would not require universal background checks, numerous “[g]un owners . . . believe . . . the NRA is out of touch with them on [the] issues.” According to a survey: .83[%] of gun owners nationally support criminal background checks on all sales of firearms, while only 14[%] of gun owners oppose them; . there is strong bipartisan agreement on the issue, with 90[%] of Democrat and 81[%] of Republican gun owners in support of background checks; . . . 72[%] of NRA members support [universal background checks]; . . . 79[%] of gun owners nationally want to see their politicians take action on this issue and require more gun sellers to conduct criminal background checks before they sell guns, while only 19[%] do not want to see their elected leaders act on this issue. These statistics demonstrate that politicians need to start listening to what their constituents actually want when it comes to particular firearm regulations, such as background checks. Transitioning to background checks for all firearm purchases would not be difficult to implement, as the systems to perform the checks are already in place and as background checks are required at licensed dealers. Therefore, the United States should follow in Australia’s footsteps and implement universal background checks.

2. Even gun owners and NRA members support expanded background checks

Neera Tanden, President, CAP, Winnie Stachelberg, Executive Vice President for External Affairs, CAP, Arkadi Gerney, Senior Fellow, CAP, and Danielle Baussan, Associate Director, Government Affairs, CAP, “Preventing Gun Violence in Our Nation,” Center for American Progress, 1—14—13, p. 2.

Requiring background checks for all gun sales is a noncontroversial proposal that gun owners themselves overwhelmingly support. Indeed, a July 2012 poll by Republican pollster Frank Luntz shows that 74 percent of members of the gun lobby National Rifle Association and 87 percent of gun owners who are not NRA members supported requiring a criminal background check of every individual seeking to purchase a gun.

3. LaPierre used to advocate for universal background checks


They were for it before they were against it. In 1999, Wayne LaPierre of the National Rifle Association testified before Congress urging an instant background check for all private gun sales. In 2013, the same Wayne LaPierre representing the same NRA argued the opposite. Mr. LaPierre is now raising the specter of a national gun registry if universal background checks became law. In particular, the NRA argues that the Obama Administration could simply convert such checks into a registry through executive action. In this memo, we make the practical, legal, and political case for why this won’t and can’t happen.

4. The NRA used to support universal background checks


Fourteen years ago, Wayne LaPierre, the executive vice president of the National Rifle Association, told Congress the NRA supported “mandatory instant criminal background checks for every sale at every gun show.” Now, despite several recent mass shootings, the NRA opposes such background checks, not just at gun shows, but for any seller other than a federally licensed firearms dealer. Why does the NRA, which claims to represent only “law-abiding” Americans, oppose such a requirement? In the last two weeks, LaPierre and NRA President David Keene have offered multiple excuses. Here’s the list.
1. **The gun show loophole is significant—there are thousands of shows and billions in sales**

   Brady Center to Prevent Gun Violence, NO CHECK. NO GUN. WHY BRADY BACKGROUND CHECKS HSOULD BE REQUIRED FOR ALL GUN SALES, 4—09, p. 11-12.

   As valuable as Brady background checks are in blocking gun sales to criminals, their value is limited by a loophole that allows no-check gun sales in the vast majority of states. Because federal law and most states do not require unlicensed sellers to submit prospective purchasers to criminal background checks before selling them guns, criminals and other prohibited purchasers who are barred from buying guns can buy them from unlicensed sellers, no questions asked. There are many venues where no-check gun sales take place. About 40% of gun sales are made without a background check. Guns are sold out of car trunks, from people’s homes, by using the internet or classified ads, and at other meeting places. But the biggest venues for no-check sales are gun shows. There is no exact count of the number of gun shows held in America each year, but the most reliable accounts place the number at more than 5,000. Gun shows occur in every state and most draw an average of 2,500-5,000 people per show. Combining these estimates suggests there could be anywhere from 12.5 to 25 million attendees at gun shows annually. Indeed, promoters tout gun shows as a multi-billion dollar industry. How many guns are sold at these shows? There is no precise count because no records are required. But a study by the Roanoke Times in Virginia found that 25% of the 10,456 gun transactions in the Roanoke Valley in 2004 were made at nine weekend gun shows. The average show had just over 290 recorded sales, with the busiest having more than 500, or 37 an hour. If these ratios held for gun shows across the country, it would suggest that more than 1.45 million recorded sales are made at gun shows each year. Critically, however, these counts and estimates include only the sales by licensed dealers for which background checks were required. Sales by unlicensed sellers at these shows go uncounted, and unchecked. ATF has estimated that between 25% and 50% of gun vendors at gun shows are unlicensed. But researchers who attended 28 gun shows in California, Arizona, Nevada, Texas, and Florida found that 70% of gun vendors were unlicensed. Moreover, although licensed vendors had more guns for sale than unlicensed ones, “private party sales appeared about equal in number to sales involving licensed retailers” in the states where these sales are allowed. This suggests that the number of unlicensed sales just at gun shows could be staggering. Even the National Rifle Association has admitted that “hundreds of thousands” of firearms are sold each year by unlicensed sellers at gun shows. In whose hands do these “hundreds of thousands” of guns end up? The unrecorded nature of these sales makes it impossible to pinpoint all gun show sales, but we know gun shows are a major supply source for criminals.

2. **Gun shows are a major source of criminal firearms—ATF data prove**

   Brady Center to Prevent Gun Violence, NO CHECK. NO GUN. WHY BRADY BACKGROUND CHECKS HSOULD BE REQUIRED FOR ALL GUN SALES, 4—09, p. 12-13.

   ATF’s major reports on the sources of guns trafficked to criminals or juveniles come to the same conclusion: No-check sales at gun shows are a major source for supplying dangerous people with guns. Indeed, these studies find that “cases involving gun shows and flea markets accounted for 30.7% of all trafficked guns in the U.S.” One ATF report, Gun Shows: Brady Checks and Crime Gun Traces, discusses several hundred criminal investigations of firearms trafficking at gun shows. A second ATF report, Following the Gun: Enforcing Federal Laws Against Firearms Traffickers, analyzes 1,530 criminal investigations of firearms trafficking at gun shows and elsewhere. Together, the reports paint a picture of rampant gun trafficking by unlicensed sellers, most of it connected to gun shows. Overall, ATF identified gun shows as a “major trafficking channel.” Among all trafficking sources, gun shows ranked second, behind corrupt licensed dealers, in the number of trafficked guns per investigation, with more than 130 guns per case, and second in the overall number of illegally diverted firearms, with approximately 26,000 guns. According to ATF: “A … review of ATF gun show investigations shows that prohibited persons, such as convicted felons and juveniles, do personally buy firearms at gun shows and gun shows are sources of firearms that are trafficked to such prohibited persons.” Unlicensed sellers linked to gun shows were involved in 170 of the investigations in ATF’s Gun Shows report. They trafficked 15,551 guns overall. In the larger number of investigations detailed by ATF in Following the Gun, unlicensed sellers were involved in 314 criminal trafficking investigations. This made unlicensed sellers the second most prominent source of illegal trafficking. They were linked to 22,508 trafficked guns – more than 25% of the total – and an average of 75 guns per investigation. Most of these criminal enterprises involved unlicensed traffickers selling at gun shows. ATF also found that when an unlicensed seller is able to conspire with a corrupt licensed dealer, the number of guns trafficked to prohibited buyers increased dramatically compared to when unlicensed sellers acted alone. Unlicensed sellers acting alone trafficked about 47 guns per investigation. But when paired with a corrupt licensed dealer, the number rocketed upwards to 576 guns per investigation. Similarly, the average trafficking scheme at gun shows and flea markets, without licensed dealer involvement, trafficked 88 guns, but with dealer involvement jumped to 316 guns. This type of illegal activity is clearly fostered by the disparate treatment between unlicensed sellers allowed to sell guns without background checks and the requirement that licensed dealers run checks on all gun sales. By conspiring with an unlicensed seller, a dealer can attempt to tap the huge market for no-check gun sales, but make it very difficult for ATF to discover the illegal scheme, because on the surface, everything appears legal. This is one of the reasons that many dealers complain about unlicensed sales at gun shows and elsewhere.
3. Background check requirements can effectively prevent criminals from buying firearms at gun shows

The most comprehensive approach to ensuring that sales are only made to eligible purchasers is through a requirement for a background check prior to any firearm transfer. Eleven states have this requirement for all guns, and six other states do the same only for handguns. Four of the ten states that require background checks for all gun transfers (Connecticut, Colorado, Illinois, and New York) also have laws expressly requiring background checks at gun shows. These laws were already on the books before these states adopted their broader background check laws. In contrast, Oregon continues to require a background check when a firearm is sold by an unlicensed seller at a gun show only. This approach leaves open the possibility that unlicensed gun sellers will use other methods of connecting with potential purchasers, such as through online advertisements, rather than gun shows. Consequently, the best approach is to require a background check whenever a gun is sold or transferred, with limited exceptions as described at the end of this report. Twelve states specifically impose other kinds of regulations on gun shows, with California having the most comprehensive regulation of gun shows. These regulations include security, record-keeping, and signage requirements, and can help encourage compliance with background checks requirements and other gun laws. State background check requirements can effectively prevent dangerous individuals from buying guns at gun shows. According to a 2010 report by Mayors Against Illegal Guns, states that do not require background checks for all handgun sales at gun shows are the sources of crime guns recovered in other states at more than two and a half times the rate of states that do require background checks for all handgun sales. None of the ten states that are most frequently the sources of crime guns, when population is taken into account, require background checks at gun shows. A 2007 study compared gun shows in states that do not require background checks on unlicensed gun sales, such as Arizona, Nevada, Texas, and Florida, with gun shows in California, which does require background checks for unlicensed sales. The study found that California’s regulatory policies were associated with a lower incidence of anonymous, undocumented gun sales at gun shows. Background check requirements can be enforced at gun shows with ease and the cooperation of all those involved. For example, the New York Attorney General’s Office conducted an investigation that revealed that gun show attendees were regularly violating the state’s background check law. This investigation resulted in the gun show operators formally agreeing to comply with the above requirements, and: • Require that all guns brought into the gun show by unlicensed sellers are tagged so that, upon exiting, the operator can determine if the guns were sold and a background check was performed. • Inform all gun show staff of the requirements of posting signs and conducting background checks. • Limit the number of access doors at the show so that sellers and buyers have to enter and exit through an area where the background check procedures can be monitored. • Use reasonable means to prevent illegal gun sales outside of the building, including the parking lot. • Alert local law enforcement that a show will be held in their area, and request periodic patrols in the parking lots to deter illegal sales. • Call local law enforcement if illegal sales are observed or suspected. States can continue to allow gun shows to flourish without providing criminals and other prohibited people an opportunity to obtain guns illegally. A background check requirement will help accomplish this goal and save lives.
1. **Gun shows are a major source of weapons used in crimes**

   Dr. Garen J. Wintemute, Department of Emergency Medicine, University of California, Davis, Anthony A. Braga, School of Criminal Justice, Rutgers University, Newark and David M. Kennedy, Program in Criminal Justice, Kennedy School of Government, Harvard University and the Center for Crime Prevention and Control, John Jay College of Criminal Justice, CUNY, “Private-Party Gun Sales, Regulation, and Public Safety,” NEW ENGLAND JOURNAL OF MEDICINE v. 363 n. 6, 8—5—10, pp. 508-511.  

   These two parallel systems of gun commerce are most readily seen in operation at gun shows, where they operate literally side by side. Large gun shows function as the big-box retailers of gun commerce: hundreds of vendors, both licensed retailers and private parties, display thousands of guns and compete for the business of thousands of potential buyers. It is very likely that most gun sales at gun shows are legal. Nonetheless, these shows have repeatedly been identified as important sources of guns used in crimes. One ATF investigation of gun-show trafficking involved 10,000 guns that became available for criminal use; another involved 7000. In this respect, gun shows may be seen as criminogenic pumps, bringing large numbers of buyers seeking guns for criminal purposes together with retailers or private sellers who will ask no questions.

2. **The problem is significant—there are a huge number of gun shows**


   Gun shows are an iconic part of American culture, and an extremely popular marketplace for guns. Usually held on the weekends, gun shows provide an opportunity for gun enthusiasts to gather and view a wide variety of firearms and firearm accessories for sale from a variety of sources. A 2007 report by the Office of the Inspector General of the U.S. Department of Justice reveals the number of gun shows in the U.S. each year ranges from 2,000 to 5,200. At some gun shows, over 1,000 guns can be sold over the course of one weekend.

3. **Criminals exploit the gun show loophole**


   Most gun shows are operated and attended by law-abiding persons who legally purchase or transfer guns. The problem is that criminals exploit gun shows by taking advantage of the fact that, in most states, no background check is required when a gun is sold by someone who is not licensed as a dealer. These criminals use gun shows as an opportunity to find people willing to sell a gun without a background check. Because they provide a convenient venue for unlicensed sellers to conduct business, gun shows have become a key source of crime guns and guns acquired by persons who are prohibited from purchasing or possessing firearms. A 1999 ATF study found that 25 to 50% of gun show vendors are unlicensed. These unlicensed sellers frequently rent table space at gun shows and carry or post “Private Sale” signs, signaling that their guns may be purchased without a background check, paperwork, or record-keeping. A 2009 undercover investigation by the City of New York at gun shows in Nevada, Ohio, and Tennessee “observed many unlicensed sellers doing brisk business at gun shows.” The investigators tested whether licensed and unlicensed sellers would conduct what appeared to be illegal transactions, and found: • When investigators claimed that they “probably” could not pass background checks, 19 of 30 unlicensed sellers (63%) were still willing to complete the firearm sale; and • When investigators approached licensed dealers and appeared to conduct straw purchases on behalf of prohibited people, 16 of 17 dealers (94%) were willing to complete these transactions.

   In a subsequent investigation conducted at a Phoenix gun show, an investigator successfully purchased guns from two unlicensed sellers despite informing both of them that he “probably couldn’t pass” a background check. Federal law defines “gun show” as a “function sponsored by any national, State, or local organization, devoted to the collection, competitive use, or other sporting use of firearms, or an organization or association that sponsors functions devoted to the collection competitive use, or other sporting use of the firearms community.” In 1986, Congress passed the so-called Firearm Owners’ Protection Act (“FOPA”), which expressly permitted dealers to conduct business at a gun show. FOPA is also the federal law that weakly defined the “engaged in the business” threshold that determines whether a firearms seller must be federally licensed, increasing the overall number of unlicensed sellers. Federally licensed firearms dealers may sell guns at gun shows that are located in the same state as the dealer’s place of business. Licensed dealers must conduct background checks on all attempted purchasers and maintain sales records of any transactions, whether made at gun shows or elsewhere. Unlicensed sellers may also sell guns and conduct business at gun shows. However, they are not subject to the same regulations as licensed dealers, and are therefore not required to conduct background checks on purchases or maintain sales records.
4. **Gun shows enable evasion of current background check requirements**

Ashley Mata, J.D. Candidate, California Western School of Law, “Kevlar(R) for the Innocent: Why Modeling Gun Regulation After Great Britain, Australia, and Switzerland Will Reduce the Rate of Mass Shootings in America,” CALIFORNIA WESTERN INTERNATIONAL LAW JOURNAL v. 45, Fall 2014, p. 197-198.

Approximately 5,200 gun shows are held in the United States every year. These gun shows, coupled with other events where guns are for sale, make up a large portion of the nation's firearms market. At these events, firearms are often transferred to anonymous buyers without background checks. Since these firearms are not registered and buyers may often purchase firearms anonymously at gun shows, prohibited persons can easily acquire them. Similarly, a straw purchase occurs when a person wants to acquire a firearm but is unable to pass a background check, or does not want their name associated with the firearm. A third party is therefore enlisted to purchase the firearm for them. In January 2013, the Gun Show Background Check Act was introduced to the United States Congress. The act acknowledged more than 1,600,000 illegal buyers have been denied guns since the enactment of the Brady Act in 1993. The act would have required all gun show sales be made through FFLs. The FFLs would keep record of the transaction and perform a background check through NICS before releasing the firearm to the purchaser. But, the act was opposed by the NRA and in April 2013, it failed to pass the Senate.
UBC Desirable: Gun Violence—Topshelf

1. We have a serious gun violence problem—the U.S. needs stronger background checks

Bottom line: A significant loophole in federal law enables dangerous people who are legally prohibited from buying or possessing guns—including felons, fugitives, and domestic abusers—to evade the law and buy guns from unlicensed sellers without a background check and with no questions asked. The United States has a significant gun violence problem: • There are more than 30,000 gun deaths per year in the United States, and roughly 33 people are murdered with guns every day. • In 2012 alone, 11,622 people were murdered with a gun in the United States—more than double the number of U.S. soldiers killed in combat during the wars in Iraq and Afghanistan combined. Strong gun laws—including universal background checks—effectively reduce gun violence: • Background checks effectively prevent prohibited people from buying guns. Since November 1998, roughly 2.4 million gun sales to prohibited purchasers have been prevented because of background checks. • States that require background checks for all handgun sales have lower levels of gun violence compared with states that do not require background checks: – 46 percent fewer women are shot and killed by their intimate partners. – 48 percent fewer law enforcement officers are shot and killed with handguns. – 48 percent fewer gun suicides are committed. • After Missouri repealed a law in 2007 that required background checks for all handgun sales, the state’s murder rate went up by 14 percent, and the firearm homicide rate increased by 25 percent. • The 10 states with the weakest gun laws collectively have an aggregate level of gun violence that is more than twice as high as the 10 states with the strongest gun laws.

2. Gun violence in the last fifty years has killed more Americans than who died in all wars during the 20th century combined

Between 1960 and 2004, approximately 500,000 Americans were murdered with guns—more Americans than were killed in all of the wars in the twentieth century combined. From 1991 to 2000, an average of 40 Americans were murdered with guns each day. In fact, guns are involved in two thirds of all homicides. While overall national homicide rates appear to have leveled off since 2000, substantial increases in firearm homicide rates among young black and white men have been detected in recent years (31% and 12%, respectively, between 1999 and 2005), especially in large metropolitan areas. A substantial body of research points to an increased risk of being murdered with a gun in neighborhoods and homes where guns are more prevalent. Arthur L. Kellermann and colleagues compared homes in three metropolitan counties in which a homicide had occurred with matched control homes where no homicide had occurred. After controlling for other known risk factors for violence, homes with guns were 2.7 times more likely to have been the site of a homicide than homes without guns. As with suicide, national case-control studies confirm an increased homicide risk associated with guns in the home, though the magnitude of the enhanced risk is smaller than with Kellermann’s regional analysis. Taken together, these results are significant because of the strong link they reveal between the availability of firearms and the risk of being killed with a firearm, even after accounting for other demographic and behavioral factors. Living in a state with high rates of gun ownership increases the risk of firearm-related homicide as well. One study that examined the relationship between rates of household gun ownership and homicide in all 50 states determined that persons in states with a high prevalence of guns were substantially more likely to die in a homicide than people in states with a low prevalence of guns. These results were driven by substantially higher gun-related homicides, although non-gun homicides were also elevated. For all age groups, persons living in states with a high prevalence of guns were 2.9 times more likely to die in a homicide as compared to persons in states with a low prevalence of guns, 4.2 times more likely to die in a gun-related homicide, and only 1.6 times more likely to die in a non-gun related homicide.
3. **Firearm-related deaths are a major public health problem—high death tolls and enormous societal cost**

Dr. Steven E. Weinberger et al., American College of Physicians, “Firearm-Related Injury and Death in the United States: A Call to Action from 8 Health Professional Organizations and the American Bar Association,” ANNALS OF INTERNAL MEDICINE v. 162 n. 7, 4—7—15, p. 513.

In the United States, firearm-related deaths and injuries are a major public health problem that requires diligent and persistent attention. Each year, more than 32,000 persons die as a result of firearm-related violence, suicides, and accidents in the United States; this rate is by far the highest among industrialized countries (13, 14). Firearms are the second-leading cause of death due to injury after motor vehicle crashes for adults and adolescents (15). What's more, the number of nonfatal firearm injuries is more than double the number of deaths (16). Although much attention has been given to the mass shootings that have occurred in the United States in recent years, the 88 deaths per day due to firearm-related homicides, suicides, and unintentional deaths are equally concerning (17). Approximately 300 million guns are owned by U.S. civilians, ranking the United States first among 178 countries in terms of the number of privately owned guns (18–20). Although some persons suggest that firearms provide protection, substantial evidence indicates that firearms increase the likelihood of homicide or, even more commonly, suicide. Access in the home and general access to firearms have also been shown to increase risk for suicide among adolescents and adults (21). This violence comes at a substantial price to our nation, with a total societal cost of $174 billion in 2010 (22).
1. **U.S. gun violence rates are very high—gun access plays a role**

   Daniel W. Webster, Center for Gun Policy and Research, Bloomberg School of Public Health, Johns Hopkins University and Garen J. Wintemute, Violence Prevention Research Program, Department of Emergency Medicine, University of California, Davis, “Effects of Policies Designed to Keep Firearms from High-Risk Individuals,” ANNUAL REVIEW OF PUBLIC HEALTH v. 36, 2015, p. 22. The United States has an unusually high homicide rate for a high-income country—nearly six times higher than average. This discrepancy is observed only for homicides committed by firearms, for which the rate in the United States is nearly 20 times higher than the average of other high-income countries. Yet the United States is about average in its rate of nonfatal violent crime and aggressive behavior that do not involve firearms. This disparity suggests that the availability of firearms in the United States, which is far greater than that in other high-income nations, plays an important role in the unusually high US homicide rate. Perhaps even more importantly, the United States stands out in terms of its relatively low standards for legal gun ownership and the weakness of its laws designed to prevent proscribed individuals from accessing firearms.

2. **Higher numbers of firearms are very strongly linked with higher levels of gun violence**

   German Lopez, journalist, “The Research Is Clear: Gun Control Saves Lives,” VOX, 10—4—17, www.vox.com/policy-and-politics/2017/10/4/16418754/gun-control-washington-post, accessed 10-5-17. Going back to the Washington Post op-ed, Libresco argues that her research proved her initial bias — that gun control works — wrong. But there have been much more thorough statistical analyses than what Libresco published at FiveThirtyEight or wrote about in the Washington Post. They all point to one fact: Gun control does work to save lives. Last year, researchers from around the country reviewed more than 130 studies from 10 countries on gun control for Epidemiologic Reviews. This is, for now, the most current, extensive review of the research on the effects of gun control. The findings were clear: “The simultaneous implementation of laws targeting multiple firearms restrictions is associated with reductions in firearm deaths.” The study did not look at one specific intervention, but rather a variety of kinds of gun control, from licensing measures to buyback programs. Time and time again, they found the same line of evidence: Reducing access to guns was followed by a drop in deaths related to guns. And while non-gun homicides also decreased, the drop wasn’t as quick as the one seen in gun-related homicides — indicating that access to guns was a potential causal factor. Based on the other research, this actually isn’t a very surprising finding. Regularly updated reviews of the evidence compiled by the Harvard School of Public Health’s Injury Control Research Center have consistently found that when controlling for variables such as socioeconomic factors and other crime, places with more guns have more gun deaths. “Within the United States, a wide array of empirical evidence indicates that more guns in a community leads to more homicide,” David Hemenway, the Injury Control Research Center’s director, wrote in Private Guns, Public Health. For example, this chart, from a 2007 study by Harvard researchers, shows a correlation between statewide firearm homicide victimization rates and household gun ownership after controlling for robbery rates:

   ![Correlation Chart](chart-omitted)

   A more recent study from 2013, led by a Boston University School of Public Health researcher, reached similar conclusions: After controlling for multiple variables, the study found that a 1 percent increase in gun ownership correlated with a roughly 0.9 percent rise in the firearm homicide rate at the state level. This holds up around the world. As Zack Beauchamp explained for Vox, a breakthrough analysis in 1999 by UC Berkeley’s Franklin Zimring and Gordon Hawkins found that the US does not, contrary to the old conventional wisdom, have more crime in general than other Western industrial nations. Instead, the US appears to have more lethal violence — and that’s driven in large part by the prevalence of guns. “A series of specific comparisons of the death rates from property crime and assault in New York City and London show how enormous differences in death risk can be explained even while general patterns are similar,” Zimring and Hawkins wrote. “A preference for crimes of personal force and the willingness and ability to use guns in robbery make similar levels of property crime 54 times as deadly in New York City as in London.” So America’s easy access to guns seems to lead to more gun violence and death.
UBC Desirable: Gun Violence—General

1. We currently face a gun violence epidemic

Law Center to Prevent Gun Violence, FOR THE RECORD: NICS AND PUBLIC SAFETY, Americans for Responsible Solutions, 12—16, p. 6.

More than 114,000 Americans are shot every year, 33,000 of them fatally. Over one million people have been victims of gun violence in the United States in the past decade. American rates of injury and death from gun violence dwarf other industrialized nations, and for 20 years the gun lobby has run roughshod over Congress, using campaign contributions and attack ads to bully our leaders into pushing through legislation that threatens public safety while simultaneously granting unprecedented immunity to firearms manufacturers. All this while the vast majority of Americans—over 92%—agree that smart gun laws like universal background checks must be enacted to reduce the crushing toll gun violence exacts on our communities.

2. The U.S. has a horrible gun violence problem


The United States has a terrible gun violence problem. On an average day in 2014, over 300 Americans were shot and more than 90 died (table 1). The number of American civilian gun deaths in the twenty-first century (2000-2015) is greater than the sum of all US combat deaths in World War I plus World War II plus the conflicts in Korea and Vietnam. The deaths from firearms represent only the tips of the icebergs; many more people are non-fatally injured from firearms than are killed. These injuries are often severe, resulting in lifelong disability from spinal cord injuries, traumatic brain injuries, and other disabling morbidities. [table omitted] While the total death count is a very accurate figure from a census of all deaths recorded on death certificates, the figure for nonfatal firearm injuries is only an estimate, typically from a sample of hospital emergency departments. The Centers for Disease Control and Prevention (CDC) estimates that there were over 814,000 nonfatal firearm injuries in 2014. Guns are used in crimes some 1,300 times per day (Bureau of Justice Statistics 2013). This is an undercount since it misses many gun intimidations including gun use to intimidate intimate partners (Hemenway and Azrael 2000; Hemenway, Miller, and Azrael 2000; Rothman et al. 2005).

3. There are a tremendous number of firearms—including assault weapons—in the United States


In order to understand the gun control issue in the United States, it helps to understand the current statistics regarding gun ownership and homicides by firearms. According to a 2007 survey, the United States has about 35-50% of the world's civilian-owned guns, despite holding 5% of the world's population. According to a 2016 study, completed by Harvard University and Northeastern University, "there are about 265 million guns" in the United States "for only 242 million adults," which results in more than one gun for every adult. However, the study estimates that there are fifty-five million gun owners in the United States that have on average three guns, with "3% of the adult population . . . hav[ing] anywhere between eight and 140 guns each." Further, "[a] November 2012 Congressional Research Service report found that, as of 2009, there were approximately . . . 110 million rifles and 86 million shotguns" owned by American citizens in the United States. The author found that "data [is] not available on the number of 'assault weapons' in private possession or available for sale, but one study estimated that 1.5 million assault weapons were privately owned in 1994." These findings indicate that the United States is saturated with guns and an alarming amount of assault weapons.


**UBC Desirable: Gun Violence—Homicide Rate**

- **Over 33,000 people every year are killed with guns in the U.S.**

  Chelsea Parsons, Vice President of Guns and Crime Policy, CAP and Eugenio Weigend, Senior Policy Analyst, Guns and Crime Policy, CAP and PhD, Tecnologico de Monterrey, AMERICANS UNDER FIRE: AN ANALYSIS OF GUN VIOLENCE IN THE UNITED STATES AND THE LINK TO WEAK GUN LAWS, Center for American Progress, 10—16, p. 7. The overall scope of gun violence in America is truly staggering. In 2014, more than 33,000 people were killed with guns in the United States, amounting to 92 people killed with guns every day. The Centers for Disease Control and Prevention, or CDC, separates gun-related deaths into three broad categories based on the intent of the shooter: intentional violence-related, accidental, and suicide. There is also a small category for gun deaths for which the intent of the shooter cannot be determined. Aggregating these categories gives a total picture of overall gun deaths in the state. As illustrated in table 2, the rate of overall gun deaths from 2005 to 2014 vary widely across the states and were particularly high in Louisiana, Alaska, Mississippi, Alabama, and Wyoming. These states presented rates higher than 16 gun deaths per every 100,000 residents. In contrast, Hawaii, Massachusetts, Rhode Island, New York, Connecticut, and New Jersey presented rates lower than six gun deaths per every 100,000 residents.
UBC Desirable: Gun Violence—International Comparisons

1. The U.S. has a tremendously high firearm homicide rate by international standards


"The United States also has the highest homicide-by-firearm rate among the world's most developed nations.” A 2016 study, published by the American Journal of Medicine, found that "Americans are [ten] times more likely to be killed by guns than [other] people in . . .

developed countries.” Erin Grinshteyn, the author of the study and a professor at the University of Nevada-Reno School of Community Health Science, stated: "Overall, our results show that the United States, which has the most firearms per capita in the world, suffers disproportionately from firearm com-pared with other high-income countries. These results are consistent with the hypothesis that our firearms are killing us rather than protecting us.” Further, according to the Wall Street Journal, between 1966 and 2012 the United States had “five times as many [mass shootings] as the next highest country--the Philippines.” When gun homicide rates in the United States are compared to those in some of the most violent nations in the world, the findings are astonishing. The Atlantic Online found that American cities have rates of gun homicides comparable to some of the most violent nations in the world. Using data provided by the Center for Disease Control and Prevention and the United Nations Office on Drugs and Crime, a study compared the rate of gun murders in American cities to nations around the world. According to the study: . If it were a country, New Orleans, with a rate [of] 62.1 gun murders per 100,000 people, would rank second in the world; . Detroit's gun homicide rate, 35.9, is just a bit less than El Salvador, 39.9; . Baltimore's rate, 29.7, is not too far off that of Guatemala, 34.8; . gun murder in Newark, 25.4, and Miami, 23.7, is comparable to Colombia, 27.1; . Washington, D.C., 19, has a higher rate of gun homicide than Brazil, 18.1; . Atlanta's rate, 17.2, is about the same as South Africa, 17; . Cleveland, 17.4, has a higher rate than the Dominican Republic, 16.3; . gun murder in Buffalo, 16.5, is similar to Panama, 16.2; . Houston's rate, 12.9, is slightly higher than Ecuador's, 12.7; . gun homicide in Chicago, 11.6, is similar to Guyana, 11.5; . Phoenix's rate, 10.6, is slightly higher than Mexico, 10; . Los Angeles, 9.2, is comparable to the Philippines, 8.9; . Boston's rate, 6.2, is higher than Nicaragua, 5.9; . New York, where gun murders have declined to just four per 100,000, is still higher than Argentina, 3; . even the cities with the lowest homicide rates by American standards, like San Jose and Austin, com-pare to Albania and Cambodia respectively. These statistics are alarming, as the countries being compared to the various United States cities are designated as some of the most violent countries in the world. For example, El Salvador, which has comparable gun homicides as Detroit, Michigan, has been recently coined the “murder capital of the world.” Most of the countries listed appear on the U.S. Department of State's travel warnings website, which urges American citizens to avoid visiting the areas or to take serious precautions if traveling to one of these countries is necessary. As the above statistics indicate, the United States has a high level of gun saturation and a startling number of guns that are categorized as assault weapons. As will be demonstrated in the next section, semi-automatic and assault style weapons are commonly used during mass shootings because of their ability to effectuate the greatest amount of damage in a fraction of the time that a handgun would. These statistics make it clear that there is a problem pertaining to gun violence in the United States, and new legislation needs to be implemented to prevent further mass shootings and deaths by firearms.

2. Gun homicide rates are very high—30 people every day, and the U.S. rate is much higher than that in other countries

Chelsea Parsons, Vice President of Guns and Crime Policy, CAP and Eugenio Weigend, Senior Policy Analyst, Guns and Crime Policy, CAP and PhD, Tecnologico de Monterrey, AMERICANS UNDER FIRE: AN ANALYSIS OF GUN VIOLENCE IN THE UNITED STATES AND THE LINK TO WEAK GUN LAWS, Center for American Progress, 10—16, p. 11.

More than 30 people are murdered with a gun every day in the United States, which amounts to a person being murdered with a gun every 48 minutes. Moreover, according to information from the CDC, close to 69 percent of all homicides from 2005 to 2014 were committed with a gun, placing firearms as the number one tool for homicides. The United States is an outlier among peer nations when it comes to gun murders: The U.S. gun murder rate is 25 times higher than the average rate of other high-income countries. Gun homicides have a disproportionate impact on communities of color in the United States. While African Americans make up 14 percent of the national population, they account for 56 percent of gun homicides. This discrepancy is even more acute in a number of states. For example, while African Americans make up 15 percent of the population in Michigan and New Jersey, they represent 80 percent and 75 percent of gun homicide victims in those states, respectively. The Hispanic population in some states also experiences disproportionate rates of gun violence. For example while Hispanics represent 29 percent and 12 percent of the state population in Arizona and Rhode Island, they account for 49 percent and 39 percent of gun homicide victims in those states, respectively. Among states, the disparity in terms of rates of gun homicides is significant. The average of the five states with the highest rates—7.14 per every 100,000 population—is 10 times higher than the average of the five states with the lowest rates, 0.72 per every 100,000 population. Louisiana’s gun homicide rate alone is more than two times higher than the national average rate and 29 percent higher than Mississippi’s rate, the state that ranks second. In contrast, five states presented rates lower than one gun homicide per every 100,000 people.
3. Gun homicide deaths remain very high—twenty-times higher than in other countries


How big a problem is gun violence really? Isn’t it going down? In the United States, firearms are used in about 31,000 deaths per year. About 11,000 of those deaths are due to homicides. Firearm homicide rates are about half as high now as they were in the early 1990s when homicide rates peaked in the U.S. But nearly all of that decrease occurred in the late 1990s. We’ve made relatively little progress since then and our firearm homicide rate is nearly 20 times as high as that of the average high-income country.

4. Gun violence is far more prevalent in the U.S. than in other countries


To understand this issue, there’s one thing you need to know: America stands alone when it comes to guns. Not only does the US have more guns than any other country in the world, it also has far more gun deaths than any other developed nation. The US has nearly six times the gun homicide rate of Canada, more than seven times that of Sweden, and nearly 16 times that of Germany, according to the Guardian. (These gun deaths are a big reason America has a much higher overall homicide rate, which includes non-gun deaths, than other developed nations.) The US also has by far the highest number of guns in the world. Estimated in 2007, the number of civilian-owned firearms in the US was 88.8 guns per 100 people, meaning there was almost one privately owned gun per American and more than one per American adult. The world's second-ranked country was Yemen, a quasi-failed state torn by civil war, where there were 54.8 guns per 100 people. In short, America has the most gun deaths in the developed world, and the most guns period. What’s more, the research indicates these two issues are very much related.
UBC Desirable: Gun Violence—Mass Shootings

1. We can address shootings like that in Las Vegas—universal background checks are an important part of the solution


After the horrific shooting in Las Vegas, the impulse of politicians is to lower flags, offer moments of silence, and lead somber tributes. But what we need most of all isn’t mourning, but action to lower the toll of guns in America. We needn’t simply acquiesce in this kind of slaughter. When Australia suffered a mass shooting in 1996, the country united behind tougher laws on firearms. The result is that the gun homicide rate was almost halved, and the gun suicide rate dropped by half, according to The Journal of Public Health Policy. America’s gun homicide rate is now about 20 times Australia’s. Skeptics will say that there are no magic wands, and they’re right. But it is unconscionable for politicians to continue to empower killers at this scale. Since 1970, more Americans have died from guns (including suicides, murders and accidents) than the sum total of all the Americans who died in all the wars in American history, back to the American Revolution. Every day, some 92 Americans die from guns, and American kids are 14 times as likely to die from guns as children in other developed countries, according to David Hemenway of Harvard. We’re not helpless. Here are modest steps we could take that would, collectively, make a difference: 1. Impose universal background checks before buying a gun. More than four out of five Americans support this measure, to prevent criminals or terrorists from obtaining guns. Harvard research suggests that because of loopholes, 22 percent of guns are acquired without a background check. 2. Ban bump stocks, which allow semiautomatic rifles to fire more like automatics. In Las Vegas, a single gunman was able to shoot hundreds of people because he had converted guns to bump-stock firing. 3. Impose an age limit of 21 on gun purchases. This is already the law for handgun purchases in many states, and it mirrors the law on buying alcohol. 4. Enforce a ban on possession of guns by anyone subject to a domestic violence protection order. This is a moment when people are upset and prone to violence. 5. Limit gun purchases by any one person to no more than, say, two a month, and tighten rules on straw purchasers who buy for criminals. Make serial numbers harder to remove. 6. Adopt microstamping of cartridges so that they can be traced to the gun that fired them, which is useful for solving gun crimes. 7. Invest in “smart gun” purchases by police departments or the U.S. military, to promote their use. Such guns incorporate technology to restrict their operation, such as not firing without a PIN, a fingerprint or a device in proximity, like a special bracelet, so that children cannot misuse them and they are less vulnerable to theft. 8. Require safe storage, to reduce theft, suicide and accidents by children. 9. Invest in research to see what interventions will be more effective in reducing gun deaths, so we can base our policies on robust evidence. These are all modest steps that shouldn’t be controversial, and I can’t claim that they would have an overwhelming effect. But public health experts think it’s plausible that well-crafted safety measures could over time reduce gun deaths by one-third — or more than 10,000 a year. It might be that nothing could have prevented the slaughter in Las Vegas, but mass shootings are anomalies: Most gun deaths occur in ones or twos, usually with handguns (which kill far more people than assault rifles), and suicides outnumber murders. And we can chip away at gun violence as a whole. When Connecticut tightened handgun laws, gun homicides there fell by 40 percent. Conversely, Missouri loosened handgun laws, and firearm homicides there rose by 25 percent. In every other sphere of life, we use safety regulations to try — however imperfectly — to reduce death and injury. For example, the Occupational Safety and Health Administration has seven pages of rules about ladders, which kill 300 people a year. Yet the federal government doesn’t make a serious effort to reduce gun deaths, with a toll more than 100 times as high. Gun advocates invariably respond: Cars kill as many people as firearms, but we don’t ban cars. No, but automobiles are an excellent example of intelligent regulation that makes lethal products safer. By my calculations, we’ve reduced the auto fatality rate per 100 million miles driven by more than 95 percent since 1921. This was accomplished through seatbelts, airbags, padded dashboards, better bumpers, lighted roads, highway guardrails, graduated licenses for young people, crackdowns on drunken driving, and so on. We haven’t eliminated auto deaths, but we have reduced the toll — and we should do the same with guns. The gun lobby says that this isn’t a time for politics. But if we can’t learn lessons from tragedies, we’re doomed to repeat them. Massive gun violence is a particularly American horror and is completely unnecessary. So let’s mourn. But even more important, let’s act.
2. Gaping holes in the current background check system enable mass shootings

Danielle Kurtzleben, journalist, “Research Suggests Gun Background Checks Work, But They're Not Everything,” NPR, 1—9—16, www.npr.org/2016/01/09/462252799/research-suggests-gun-background-checks-work-but-theyre-not-everything, accessed 10-2-17. While some scholarly evidence suggests that background checks reduce crime, seeing evidence in recent mass shootings is tougher. As the New York Times found in a December investigation, the guns used in many recent high-profile shootings were purchased legally by people who passed background checks. Importantly, though, to the extent that background-check laws on the books might have prevented mass shootings, it’s impossible to compile similar lists of incidents that would have occurred, were it not for those laws. One other thing recent shootings say is that the current background-check system has some gaping holes in it. For example, FBI Director James Comey said in July 2015 that Dylann Roof, who is accused of killing nine at a South Carolina church last year, should not have passed a background check. Because information about his admission to a narcotics charge never reached an FBI examiner handling his check, as the Washington Post reported, Roof was able to buy his gun. In addition, some states are doing a poor job of submitting mental health records to NICS, as Politico's Kevin Cirilli writes, allowing some sick people to obtain guns. Cirilli points to Virginia Tech shooter Seung-Hui Cho, who had a history of mental illness before he killed 32 people in 2007. As it stands, around 1.6 percent of 148 million background checks (that is, more than 2 million) between 1994 and 2012 were denied, according to federal statistics.

3. Background checks are a necessary part of how we should act to decrease the number of mass shootings

Ashley Mata, J.D. Candidate, California Western School of Law, “Kevlar(R) for the Innocent: Why Modeling Gun Regulation After Great Britain, Australia, and Switzerland Will Reduce the Rate of Mass Shootings in America,” CALIFORNIA WESTERN INTERNATIONAL LAW JOURNAL v. 45, Fall 2014, p. 211-212. Mass shootings may unfortunately always be a part of America's reality. While these tragedies cannot be eliminated completely, it is possible to reduce their frequency. From 2007 through 2013, 146 mass shootings occurred in the United States, killing more than 900 individuals. The United States should follow England and Australia's examples and implement firearm regulations to restrict access to dangerous weapons. Additionally, this country should require testing similar to those implemented in Switzerland, to ensure purchasers have adequate knowledge of firearm safety and to deter purchasers who intend to conduct mass shootings. Such implementations could have spared some of the 900 who lost their lives in mass shootings. While these provisions may not eliminate mass shootings entirely, the United States has an obligation to take any action available to prevent the frequency of mass murder.

4. Mass shootings are a large and growing problem

Denise Cartolano, Attorney Advisor, Executive Office for Immigration Review, U.S. department of Justice, “Check ‘Mate’: Australia’s Gun Law Reform Presents the United States with the Challenge to Safeguard their Citizens from Mass Shootings,” NOVA LAW REVIEW v. 41, Winter 2017, p. 142-143. Mass shootings--defined by the Federal Bureau of Investigation ("FBI") as "the slaying of four or more people"--have begun to occur at record numbers and with devastating results in the United States. Americans are saturated with the stories and images of those who suddenly lost their lives at the hands of a person equipped with a powerful weapon. As guns become more technologically advanced and capable of expelling a large number of rounds in an instant, the devastation and number of those killed or harmed increases. American citizens typically respond to the news of mass shootings that occur on American soil by either disavowing guns and urging the government to remove them from the public's use or feeling the need to acquire more guns in order to protect them-selves and their families. Regardless of the response to the horrific news of a mass shooting, what is clear to all American citizens is that mass shootings are a modern day reality and a serious issue that needs to be resolved or mitigated.
UBC Desirable: Gun Violence—Regulatory Gaps

1. The U.S. has far weaker gun laws than most other countries


The United States, an outlier compared to other developed countries, has many more firearms per capita, particularly handguns, and much weaker gun control laws (Gun Policy.org [http://www.gunpolicy.org/firearms/]; Masters 2016) Almost all other developed countries have national gun license systems and gun storage and gun training requirements. The United States lacks the former, and the latter are not requirements in most states (Hemenway 2006; Gun Policy.org; Masters 2016). While the United States has average rates of nonlethal crime and violence (Hemenway 2006; van Dijk, van Kesteren, and Smit 2007), it has far higher rates of gun violence (Richardson and Hemenway 2011; Grinshetyn and Hemenway 2016). Table 2 provides data on violent deaths of 5-14-year-olds in 2010 that illustrate how far from average the United States is relative to other developed countries. (table omitted) I pick this age group, basically kindergarteners through eighth graders, because it is hard to blame the victim when the victim is a child. A child in the United States has a far greater chance of dying a violent death compared to children in other developed countries. The risk of an American child becoming a gun homicide victim is not 50 percent higher, or two times higher, or five times higher. It is over 18 times higher. Indeed, of all the children murdered with guns from the two dozen high-income OECD countries, approximately 90 percent are American children.

2. The U.S. has an enormous gun violence problem and we do not adequately regulate them


The United States has the world’s strongest standing armed forces, hardly feared today as threatening domestic tyranny, and is an industrial continental power. And the NRA often cites that there are over 300 million people living in the United States and about that many rifles, shotguns, and handguns in private hands. Many of these firearms are semiautomatic weapons with magazines that can hold 30 rounds or more and are capable of firing as fast as a shooter can squeeze off rounds. This proliferation of firearms is due to the way the Second Amendment right has been understood. This right has clearly come with a cost. Yet our political system has always been slow to produce agreement on federal laws to reduce that cost. In recent years, political polarization has made it seemingly impossible to pass gun-control legislation. For decades, the NRA and other gun-rights groups have convinced their members and legislators that it is unconstitutional to control increasingly deadly weapons—weapons that the founding fathers could have never imagined. These groups see all gun-control proposals as stealth attempts to eliminate the Second Amendment and seize privately owned guns. For the past decade, gun violence has taken about 30,000 American lives a year. About two-thirds of those deaths are suicides; most of the rest are homicides or accidents. By far, most of these deaths involve handguns and not so-called assault rifles that look like fully automatic military weapons (but actually pack no more firepower than many hunting rifles). There are millions of actual assault rifles in circulation despite the Federal Assault Weapons Ban. From 1994 to 2004 this legislation banned new sales of assault rifles but grandfathered those that were already in private hands. Such rifles have been used in discouragingly frequent mass shootings, but by no means in all of them.
UBC Desirable: Gun Violence—Societal Costs

1. **Gun violence costs the U.S. $100B annually**

Winnie Stachelberg, Executive Vice President for External Affairs, CAP. Arkadi Gerney, Senior Fellow, CAP, and Robyn Thomas, Executive Director, Law Center to Prevent Violence, “Constitutionality of Proposed Firearms Legislation,” Center for American Progress, 2—12—13, p. 3-4.

There is no question that gun violence in the United States is a serious national problem. As the Court noted in Heller, “We are aware of the problem of handgun violence in this country.” In addition to devastating mass shootings such as those in Newtown, Connecticut, and Aurora, Colorado, approximately 1 million Americans have been wounded or killed by gunfire in the last decade. In 2010 alone firearms were used in an estimated 11,000 murders, 128,000 robberies, and 138,000 aggravated assaults. Social scientists have calculated that the lifetime medical costs for gunshot injuries in the United States in one year alone is $2.3 billion, of which $1.1 billion was paid by taxpayers. When lost earnings, pain, disability, and the costs of lost life are included, the aggregate economic cost of gun violence to American society approaches $100 billion annually.

2. **Gun violence imposes $100B in annual societal costs**


9. Gun violence poses a significant cost to society. Once all the direct and indirect medical, legal, and societal costs are added together, the annual cost of gun violence in America amounts to roughly $100 billion. According to studies done at the University of Chicago, every crime-related gunshot wound imposes costs on society to the order of $1 million. Businesses are more likely to close early in higher-crime neighborhoods, and high crime rates deter further business investment. Because communities of color tend to account for many of these high-crime areas, the community suffers double jeopardy: Not only are these communities losing their youth to gun violence, but their local economies are being devastated.

3. **Gun involvement increases the social costs of crime**


Gun involvement greatly enhances the social costs of violent crime by enhancing the lethality of interpersonal violence: gun assaults are over thirteen times more lethal than criminal attacks involving knives, and much more lethal still compared to attacks in which no weapon is used at all. One indication of the relative lethality of guns compared to other weapons commonly used in violent crime is their overrepresentation in homicides (68% nationwide), compared to robberies (41%) or aggravated assaults (21%). There is considerable evidence that the heightened “case fatality rate” for gun attacks is partly due to the ease of killing with a gun (compared to a knife or club), rather than to difference in the assailant's intent.

4. **Reducing gun involvement would decrease the overall social costs of crime**


The greater availability of guns in America provides one possible explanation for a striking pattern. Overall U.S. rates of violent crime are similar to those of other developed nations. Yet U.S. homicide rates are many times the median rate among thirty-six industrialized nations. This difference suggests that reducing gun involvement in criminal violence would greatly reduce the social costs of the problem, even if the overall volume of interpersonal violence were unchanged. In short, guns do not necessarily cause violence, but their use in violence increases the likelihood of death.
1. The impact on young people is simply staggering

Chelsea Parsons and Anne Johnson, staff, YOUNG GUNS: HOW GUN VIOLENCE IS DEVASTATING THE MILLENNIAL GENERATION, Center for American Progress, 2—14, p. 8-11.

A person’s risk of being shot in the United States is greatest between the ages of 17 and 29. In addition to gun homicides, a large number of young people are victims of nonfatal gun assaults. In 2010, 5,494 individuals in this age range were murdered with a gun, and another 33,519 young people in this category were intentionally shot but survived their injuries. But looking at the number of gun deaths in the United States only tells part of the story. While the raw number of young people killed by guns is staggering, the impact of gun violence on society is drawn into even sharper relief when considered in terms of years of life lost by gun deaths. This measure considers not just the overall number of deaths attributed to various causes—such as disease, car accidents, and gun violence—but also takes into account the relative age of individuals who died as a result of these causes to provide another measure of the impact on society of each cause of death. Many diseases cause more deaths each year than gun violence, which could lead one to conclude that the more urgent public health need is to address those causes. But when these causes of death, such as heart disease, cancer, and Alzheimer’s disease, are measured in terms of years of potential life lost, their impact on society is reduced compared to gun deaths. The reason for this is simple: Gun violence disproportionately affects young people, who are stricken down decades before individuals who die from other causes. In contrast, life-threatening diseases tend to cause death in individuals who are much older and therefore result in fewer years of potential life lost. Public health researchers have a measure of calculating this pernicious impact of diseases and other causes of death that disproportionately affect the young: years of potential life lost, or YPLL. More than 1 million years of potential life are lost due to gun deaths each year. These are years of life that young people killed by guns would have achieved educational milestones, entered the workforce, had families, and contributed to the social, economic, and cultural advancement of society in untold ways—all erased by gunfire. Young people are not only affected by gun violence as victims, young people commit violent gun crimes in high numbers. The easy access youths have to guns across the country creates the opportunity for otherwise nonfatal confrontations between young people to become fatal. This means that incidents that would have ended as simple fistfights or a trip to the hospital end instead with a trip to the morgue. When a young person pulls the trigger, two lives are often changed forever: the victim and the perpetrator. While we rarely devote sustained thought or attention to the impact of gun violence on the individuals who perpetrate these crimes, it is worth considering the effect that involvement in such crimes has on the young people who perpetrate them and on society as a whole. Young people commit gun offenses in high numbers. In 2012, 75,049 young people between the ages of 10 and 29 were arrested for weapons offenses, such as illegally carrying or possessing a firearm. This group made up 65 percent of all arrests for weapons offenses that year. In 2011, 4,998 individuals between the ages of 12 and 24 were arrested for homicides, and 3,490 of those murders, or 70 percent, involved guns. Little can compare to the suffering of the family of a gun homicide victim. But it is worth considering the effect of this on the perpetrator, as well as the victim, as we all bear the costs of both ends of the equation when it comes to fatal gunfire. A 20 year-old convicted of a gun murder is likely to be sentenced to a long term of incarceration, often life in prison in most federal and state courts—and perhaps appropriately so. But the cost of this imprisonment is staggering: incarcerating a 20 year old for life will cost taxpayers roughly $2 million. And this accounts only for the actual costs of incarceration and does not include other costs to society, such as lost productivity and tax revenue, had the 20 year old avoided a life in prison. Even nonfatal gun crimes devastatingly affect victims and perpetrators alike. As an initial matter, many juveniles who commit such crimes are treated as adults and prosecuted in the adult criminal justice system. In every state, a person over the age of 17 will be prosecuted as an adult, and in 10 states that age is lowered to 15 or 16. In many states, individuals charged with the most serious offenses, such as murder and attempted murder, will be prosecuted as adults regardless of their age. Once a person is convicted of a serious crime, their life is affected in numerous and often permanent ways. For those convicted of the most serious crimes, young people face long periods of incarceration in adult correctional facilities. Serving such sentences has a lasting negative impact, even if the offender is eventually released. Young offenders will often be housed in adult prisons, where they are commingled with adult offenders and face a heightened risk of assault and suicide. Many facilities do not offer adequate educational and rehabilitation programs for young offenders, and the facilities are often located far from the offenders’ families, making it difficult to maintain a connection to family and friends. The effects of felony conviction on young people that fall short of long-term incarceration are no less devastating. In many states, individuals convicted of felonies are denied the opportunity to participate in some of the basic functions of citizenship, such as the right to vote and jury service. A felony conviction is also a frequent barrier to employment, housing, public assistance, and student loans. This generation of young Americans is losing far too many of its members to gun violence, both as victims and as perpetrators. The young people who are convicted of serious felony offenses and receive long terms of incarceration as the result of bad decisions that are exacerbated by easy access to guns represent a significant loss to society. Just as the years of potential life lost because of gun death is a drain on society, so is the potential extinguished or dimmed by involvement in the criminal justice system.
UBC Desirable: Gun Violence—Youth [cont’d]

2. Gun violence is a major problem among young people

Chelsea Parsons and Anne Johnson, staff, YOUNG GUNS: HOW GUN VIOLENCE IS DEVASTATING THE MILLENNIAL GENERATION, Center for American Progress, 2—14, p. 2.

Even though violent crime has steadily declined in recent years—overall violent crime declined 19 percent between 2003 and 2012, and the murder rate declined 17 percent during that period2—rates of gun violence remain unacceptably high. On average, 33,000 Americans are killed with guns each year, and the burden of this violence falls disproportionately on young people: 54 percent of people murdered with guns in 2010 were under the age of 30. Young people are also disproportionately the perpetrators of gun violence, as weak gun laws offer easy access to guns in many parts of the country. Far too often, a gun not only takes the life of one young American but also contributes to ruining the life of another young person who pulls the trigger. And while guns play a role in so many deaths of America’s youth, very few public health research dollars are spent to understand the causes of this epidemic and develop policy solutions to address it. In the wake of the tragedy at Sandy Hook Elementary School in December 2012, the issue of gun violence has received renewed attention in this country, and many voices are now calling for solutions to this public health crisis.

3. Young people are disproportionately likely to be killed by a gun

Chelsea Parsons and Anne Johnson, staff, YOUNG GUNS: HOW GUN VIOLENCE IS DEVASTATING THE MILLENNIAL GENERATION, Center for American Progress, 2—14, p. 3-5.

Every year, about 2.5 million Americans die from all causes, and not surprisingly, very few of them—less than 3 percent—are under the age of 25. But when you consider gun deaths, a different pattern emerges: 21 percent of individuals killed by guns in 2010 were under the age of 25—totaling more than 6,500 deaths. In 2010, the second most frequent cause of death for people between the ages of 15 and 24 was homicide, and 83 percent of those homicides were committed with a gun. The third highest cause of death for this age group in 2010 was suicide, and again, guns played a large role, accounting for a plurality—45 percent—of those deaths. In total, guns were the cause of death for 6,201 young people ages 15 to 24 during 2010. This stands in sharp contrast to the risk of gun violence that older individuals face. In 2010, homicide was the 5th leading cause of death for individuals between the ages of 35 and 44; guns accounted for 68 percent of those deaths. Homicide was not even in the top 10 causes of death for individuals ages 45 to 54. When taken together, these gun homicides, suicides, and accidents accounted for more deaths among young people ages 15 and 24 than any other cause of death except motor vehicle accidents. Indeed, gun deaths are not far behind motor vehicle accident deaths: 6,201 young people between the ages of 15 and 24 were killed by guns in 2010, while 7,024 people in this age group were killed in motor vehicle traffic accidents. If current trends continue, gun deaths among this age group are projected to outnumber car accident deaths next year for the first time since 1994.

4. Both rural and urban kids are threatened by gun violence


Myth 1: Gun deaths and injuries are mostly an urban problem. The Truth: While the majority of teen gun homicides occur in large urban areas, rural and urban children and teens are equally likely to die from gun injuries. Rural children and teens are more likely to be victims of suicide or accidental shootings; urban children and teens are more likely to be homicide victims.
5. Gun violence is decimating our youth

Next month, April 16th, marks the fifth anniversary of the Virginia Tech massacre in which 32 students and faculty were killed by a gun, 25 others were injured, and many more were traumatized. Each year since then has seen shootings with multiple victims—young children, teenagers, young adults, a Member of Congress, a federal judge and many more. Days, weeks, months and years go by and little or nothing—except fleeting headlines, tears, trauma and talk—is done to protect children. * A total of 5,740 children and teens died in 2008 and 2009, the two years after the Virginia Tech shooting, according to the most recent data from the federal Centers for Disease Control and Prevention. This is the equivalent of one child or teen being killed by a gun every three hours, or eight each day over those two years, or 229 public school classrooms with 25 students each. * Gun homicide continued as the leading cause of death among Black teens 15 to 19. White teens the same age were more likely to die from motor vehicle accidents, followed by gun homicide in 2008 and gun suicide in 2009. * Black males 15 to 19 were eight times as likely as White males the same age and two-and-a-half-times as likely as their Hispanic peers to be gun homicide victims in 2009. * Non-fatal gun injuries and the physical and emotional trauma that follows afflicted 34,387 children and teens over two years, 20,596 in 2008 and 13,791 in 2009. * Taking a 30-year snapshot when child gun death and injury data collection began, 116,385 children and teens were killed by firearms between 1979 and 2009—enough to fill 4,655 public school classrooms of 25 students each. Since 1979, America has lost nearly three times as many children and teens to gunfire as the number of U.S. military personnel killed in action during the Vietnam War, and over 23 times the number of U.S. military personnel killed in action in Iraq and Afghanistan (5,013). Where is our anti-war movement here at home? Why does a nation with the largest military budget in the world refuse to protect its children from relentless gun violence and terrorism at home? No external enemy ever killed thousands of children in their neighborhoods, streets and schools year in and year out. By any standards of human and moral decency, children in America are under assault, and by international standards, America remains an unparalleled world leader in gun deaths of children and teens—a distinction we shamefully and immorally choose! The most recent analysis of data from 23 high-income countries reported that 87 percent of children under age 15 killed by guns in these nations lived in the United States. And the U.S. gun homicide rate for teens and young adults 15 to 24 was 42.7 times higher than the combined gun homicide rate for that same age group in the other countries.

6. Gun violence has killed tens of thousands of children

116,385 children and teens in America have died from gun violence in the 30 years since 1979. * The number of children and teens killed by guns since 1979 would fill 4,655 public school classrooms of 25 students each or Boston’s Fenway Park three times over. * Since 1979, America has lost nearly three times as many children and teens to gunfire as the number of U.S. military deaths during the Vietnam War and over 23 times the number of U.S. military deaths in Iraq and Afghanistan. * Of the 116,385 children killed by guns since 1979, 59 percent were White and 38 percent were Black. * The majority of gun deaths among children since 1979 have been homicides (57 percent) while nearly one-third have been suicides (31 percent). * The number of Black children and teens killed by gunfire in the 30 years since 1979 is nearly 13 times greater than the number of recorded lynchings of Black people of all ages in America in the 86 years between 1882 and 1968.

7. African American children are particularly targeted by gun violence

Black youth are at greater risk of gun homicide compared to their White and Hispanic peers. The leading cause of death among Black youth ages 15 to 19 in 2009 was gun homicide. Among White teens this age, the leading cause of death was motor vehicle accidents followed by gun suicide and then gun homicide. Black males ages 15-19 were eight times as likely as White males of the same age and two-and-a-half times as likely as their Hispanic peers to be killed in a gun homicide in 2009.
8. **Gun violence against children remains a serious problem**


In 2008, 2,947 children and teens died from guns in the United States and 2,793 died in 2009 for a total of 5,740—one child or teen every three hours, eight every day, 55 every week for two years. * The 5,740 children and teens killed by guns in 2008 and 2009: * Would fill more than 229 public school classrooms of 25 students each; * Was greater than the number of U.S. military personnel killed in action in Iraq and Afghanistan (5,013). * The number of preschoolers killed by guns in 2008 (88) and in 2009 (85) was nearly double the number of law enforcement officers killed in the line of duty in 2008 (41) and 2009 (48). * Black children and teens accounted for 45 percent of all child and teen gun deaths in 2008 and 2009 but were only 15 percent of the total child population. * Black males 15-19 were eight times as likely as White males of the same age and two-and-a-half times as likely as their Hispanic peers to be killed in a gun homicide in 2009. * The leading cause of death among Black teens ages 15 to 19 in 2008 and 2009 was gun homicide. For White teens 15 to 19 it was motor vehicle accidents followed by gun homicide in 2008 and gun suicide in 2009. * The most recent analysis of data from 23 industrialized nations shows that 87 percent of the children under age 15 killed by guns in these nations lived in the United States. The gun homicide rate in the United States for teens and young adults ages 15 to 24 was 42.7 times higher than the combined rate for the other nations. * Of the 116,385 children and teens killed by a gun since 1979, when gun data by age were first collected, 44,038 were Black—nearly 13 times more than the number of recorded lynchings of Black people of all ages in the 86 years from 1882 to 1968. Even so, more White than Black children and teens have died from gun violence.

9. **Gun injuries remain a serious problem among children**


Six times as many children and teens—34,387—suffered nonfatal gun injuries as gun deaths in 2008 and 2009. This is equal to one child or teen every 31 minutes, 47 every day, and 331 children and teens every week. * The 34,387 children and teens injured by guns in 2008 and 2009: * Would fill more than 1,375 public school classrooms of 25 students each; * Was more than the number of U.S. military personnel wounded in action in Iraq (32,223) and more than double the number wounded in action in Afghanistan (15,438). * The rate of gun injuries was 10 times higher among Black children and teens than it was among White children and teens. In 2009, the gun injury rate was 51.1 per 100,000 for Black children and teens; for White children and teens it was 5.0 per 100,000. * Boys are far more likely to be injured in gun assaults or accidents than girls; girls are far more likely to be injured in gun suicide attempts than boys.
UBC Desirable: Health Organizations / Mayors Support

1. Major national health professional organizations support universal background checks

Dr. Steven E. Weinberger et al., American College of Physicians, “Firearm-Related Injury and Death in the United States: A Call to Action from 8 Health Professional Organizations and the American Bar Association,” ANNALS OF INTERNAL MEDICINE v. 162 n. 7, 4—7—15, p. 513.

Deaths and injuries related to firearms constitute a major public health problem in the United States. In response to firearm violence and other firearm-related injuries and deaths, an interdisciplinary, interprofessional group of leaders of 8 national health professional organizations and the American Bar Association, representing the official policy positions of their organizations, advocate a series of measures aimed at reducing the health and public health consequences of firearms. The specific recommendations include universal background checks of gun purchasers, elimination of physician “gag laws,” restricting the manufacture and sale of military-style assault weapons and large-capacity magazines for civilian use, and research to support strategies for reducing firearm-related injuries and deaths. The health professional organizations also advocate for improved access to mental health services and avoidance of stigmatization of persons with mental and substance use disorders through blanket reporting laws. The American Bar Association, acting through its Standing Committee on Gun Violence, confirms that none of these recommendations conflict with the Second Amendment or previous rulings of the U.S. Supreme Court.

2. Major health organizations support universal background checks

Dr. Steven E. Weinberger et al., American College of Physicians, “Firearm-Related Injury and Death in the United States: A Call to Action from 8 Health Professional Organizations and the American Bar Association,” ANNALS OF INTERNAL MEDICINE v. 162 n. 7, 4—7—15, p. 514.

Our organizations strongly support requiring criminal background checks for all firearm purchases, including sales by gun dealers, sales at gun shows, and private sales between individuals. Although current laws require background checks at gun stores, purchases at gun shows do not require such checks. This loophole must be closed. In 2010, of the 14 million persons who submitted to a background check to purchase or transfer possession of a firearm, 153,000 were prohibited purchasers and were blocked from making a purchase (23). Background checks clearly help to keep firearms out of the hands of persons at risk for using them to harm themselves or others. However, 40% of firearm transfers take place through means other than a licensed dealer; as a result, an estimated 6.6 million firearms are sold annually with no background checks (24). The only way to ensure that all prohibited purchasers are prevented from acquiring firearms is to make background checks a universal requirement for all gun purchases or transfers of ownership.

3. Many mayors support universal background checks


Expanded background checks now enjoy the support of mayors in some of the largest cities in America. The idea has been embraced by gun violence survivor Gabrielle Giffords, a self-described gun owner. It's also being considered for possible legislation by a White House task force led by Vice President Joe Biden. The task force is expected to include universal background checks as part of its recommended legislation. "This may be the single most important gun violence prevention measure that the government could adopt,” said Lindsay Nichols, an attorney with the Law Center to Prevent Gun Violence. "This loophole means that dangerous criminals and dangerously mentally ill individuals have a most unfettered access to firearms."
Congress should adopt universal background checks—this will help address the internet loophole


A universal background check amendment must be adopted to expand the current background check system to include the occasional and private sales of firearms by non-licensed dealers. In 2013, the 113th Congress introduced The Fix Gun Checks Act. The bill, eventually rejected by the Senate, proposed to ban a list of specific semi-automatic weapons and magazines that hold than more than ten rounds. The most significant proposal was amending the Brady Act and expanding the current NICS background check system to encompass universal back-ground checks. This Comment will adopt the language of the universal background check amendment from The Fix Gun Checks Act. In summary, the Gun Control Act, as it stands today, only prohibits those individuals who are in the business of selling firearms or licensed individuals to sell to individuals who are legally barred from firearm possession. The current definition of "Dealer" in 18 U.S.C. § 921(a)(11) is: (A) any person engaged in the business of selling firearms at wholesale or retail, (B) any person engaged in the business of repairing firearms or of making or fitting special barrels, stocks, or trigger mechanisms to firearms, or (C) any person who is a pawnbroker. The term "licensed dealer" means any dealer who is licensed under the provisions of this chapter. One sale is not ordinarily enough to constitute "engaging in the business of firearms" under the meaning of 18 U.S.C. § 922. In addition, "dealing" means a regular course of conduct carried out over a period of time. 5 The expansion of the definition will close in on the secondary market for firearms that was left unregulated by the current state of the law. Congress explicitly intended Subtitle B of The Fix Gun Checks Act to extend the Brady Law background check procedures to all sales and transfers of firearms. It sought to amend Section 922 of title 18 and states the following: (t)(1) Beginning on the date that is 180 days after the date of enactment of the Fix Gun Checks Act of 2013, it shall be unlawful for any person who is not licensed under this chapter to transfer a firearm to any other person who is not licensed under this chapter, unless a licensed importer, licensed manufacturer, or licensed dealer has first taken possession of the firearm for the purpose of complying with subsection (s). Upon taking possession of the firearm, the licensee shall comply with all requirements of this chapter as if the licensee were transferring the firearm from the licensee's inventory to the unlicensed transferee. The inclusion of the universal background check language from The Fix Gun Checks Act into the proposed amendments for the online gun marketplace will not only affect transactions through the online gun marketplace, but will also have an effect on other secondary markets such as gun shows. While private sales at gun shows account for a small proportion of private gun sales, they have been found vulnerable to abuses. For example, in 2009, New York City sent undercover private investigators to a gun show in an attempt to buy guns from private sellers. The NYPD reported that nineteen of the thirty sellers they approached agreed to sell them guns even after they were told that the buyers "probably couldn't pass a background check.” A universal background check system has previously, and still will, come under criticism by gun control opponents. The overhaul of the NICS system will take a concerted effort between the ATF, FBI, and Congress. Congress should re-introduce a bill that contains the same language of The Fix Gun Checks Act with regard to background checks. This is pertinent to ensure the safety and the lives of the American public, which is a compelling government concern.
UBC Desirable: Internet Sales—Background Checks Needed

1. Background checks can be used to regulated internet sales

States can effectively prevent dangerous individuals from purchasing guns online through a requirement for a background check prior to any firearm transfer. As noted above, eleven states have this requirement for all firearms, and six other states do the same only for handguns. Background check requirements do not shut down Internet gun sales. Even in a state that has enacted a background checks requirement for private gun sales, a private person who wishes sell his or her gun can still use the Internet to find a buyer. He or she must only arrange to meet the buyer at one of the 55,000 licensed gun dealers in order to conduct a background check and complete the sale. Nonetheless, these laws have a significant effect on online gun sales. A report published by Third Way in conjunction with Americans for Responsible Solutions in September 2013 found that online sales of firearms by private parties are far more prevalent in states that do not require a background check than among states that do. The report was based on a survey of every for-sale listing on Armslist.com on a single day, which amounted to 90,000 for-sale listings. The report found that on a per capita basis, there were nearly twice as many online gun ads in states that don’t require background checks compared to states that do. The report also analyzed listings seeking to buy a gun specifically from an unlicensed “private” seller - a clear indication that the buyer wishes to avoid a background check. The report found that the per capita average number of these ads is 240% higher in states that don’t require background checks on those sales compared to states that do. This statistic demonstrates the difference a background check requirement can have on online gun sales.

2. Congress should act to address internet sales

Public safety is a compelling government interest, which is served by the current federal legislation on firearms. However, from 1968 to 2014, the United States and the challenges it faces have drastically evolved in all facets. Mass shootings at Columbine, Virginia Tech, Newtown, and the Naval Yard have drawn American attention to gun violence and inflamed the debate between gun control advocates and opponents. This Comment pro-poses amendments to adopt new measures to meet the legislative intent of Congress while addressing emerging issues that impair policy goals. Technological advances, the ease of online transactions, and the prevalence of gun violence should prompt Congress to re-examine the current federal legislation in order to take a proactive step to address an emerging dangerous problem.

3. We need to amend the Gun Control Act to address internet sales

The Gun Control Act is outdated. A great deal has changed from 1968 until present-day 2014. The current law must be amended to address the demands of a technologically evolving society and reflect the new wave of uncertain-ties arising from the prevalence of gun violence in the United States. Practical and common sense reform, bridging the sentiments of the polarized country, is necessary to modernize the current legislation in the twenty-first century. The federal government has a compelling interest in protecting public safety and the lives of its citizens. That interest is balanced against the rights enumerated in the Bill of Rights, particularly the Second Amendment. The immediate need for gun reform is fueled by the dangerous loopholes present in the current legislation that create avenues for statutory prohibited persons to acquire guns lawfully by skirting background checks through the online gun market-place.
1. Internet sales are largely unregulated


In October 2012, Zina Daniel obtained a restraining order against her estranged husband, Radcliffe Haughton, after he slashed her tires and threatened to kill her. Because of the restraining order, Haughton was prohibited from purchasing or possessing guns under federal law and would have failed the background check that licensed gun dealers are required to conduct. Later that month, he purchased a Glock .40 caliber semiautomatic handgun from an unlicensed seller he found on Armslist.com – a popular website where tens of thousands of guns are listed for sale. The seller did not conduct a background check. The next day, Haughton arrived at the salon where Daniel worked, shot and killed her and two other women and injured four others before killing himself. Dangerous persons like Haughton often turn to online, unlicensed sellers to circumvent the law and obtain guns. In most states, these online sellers are currently not violating any laws by failing to conduct a background check on a purchaser. As described above, federal law only requires licensed dealers, and not unlicensed sellers, to conduct background checks on purchasers. Because of the lack of a background check requirement for unlicensed sales, criminals and other individuals who are prohibited from possessing guns can nonetheless obtain them. The online marketplace facilitates these transactions. In the past, an unlicensed person who wanted to find a buyer for a gun would probably put the word out by contacting family and friends or posting a classified ad in a newspaper. He might also go to a gun show, if one happened to occur in a location near him, and look for a buyer there. Because of the Internet, an unlicensed person no longer needs to wait for a gun show or for word to spread to sell his or her gun. The advent of the Internet multiplies the audience for advertisements offering to sell a gun, thereby increasing the likelihood that the person will sell the gun to someone with whom he has no interpersonal connection. Today, a person seeking to sell a gun need only post a listing on one of thousands of websites, and wait for a response. Similarly, an ineligible individual who wants to buy a gun must no longer ask people he knows or go to a gun show. He only has to turn on his computer, go to a website, and look for listings by unlicensed sellers who are not required to conduct background checks. In fact, after agreeing to a simple disclaimer, buyers on Armslist.com can limit their searches to listings by “private,” unlicensed parties in their city or state. These listings often provide a phone number, enabling the parties to easily arrange a meeting for the exchange of cash and guns. Our current national system of gun regulation imposes virtually no limitations on these transactions. In fact, it allows these transactions to take place almost anonymously. This system of regulation has not been updated to reflect the existence of the Internet, and the only significant federal law that applies to private gun sales limits sales across state lines. The number of websites that facilitate gun sales is staggering: • As long ago as the year 2000, the U.S. Department of Justice estimated that there were about 80 online firearm auction sites, and 4,000 other sites where firearms were sold. • A three-month investigation by the New York Times in 2013 determined that more than 20,000 ads were being posted on Armslist.com every week. • As of December 2011, there were about 12,000 separate guns-for-sale listings on Armslist.com. By October 2014, that number had ballooned to over 80,000 listings. Some of these listings involve licensed dealers who comply with the law and conduct a background check for every gun sale. Others involve unlicensed parties trying to sell guns usually without background checks: • Three out of four listings of guns-for-sale on Armslist.com in October 2014 were posted by unlicensed, “private” sellers. This amounts to over 60,000 listings by unlicensed sellers. To see how many listings there are in your state, see Armslist.com Power Search, at http://www.armslist.com/classifieds/powsearch. • In fall 2013, 29% of ads by unlicensed sellers on Armslist.com – nearly one in three – were posted by high-volume unlicensed sellers who posted five or more ads over an eight-week period. • According to an undercover investigation conducted by the City of New York in 2011: o 62% of unlicensed online firearm sellers (77 of 125) agreed to sell a firearm to a buyer who said that he or she probably could not pass a background check. o 54% of the online unlicensed sellers were willing to sell to someone who admitted he was legally prohibited from possessing a gun. Certain websites also allow potential gun buyers to post ‘want-to-buy’ ads. In October 2014, there were over 5,000 want-to-buy ads on Armslist. These ads allow people who have a particular kind of gun to sell to look through listings for buyers interested in that kind of gun. Unfortunately, many of these online buyers are ineligible to possess guns. An analysis of these ads conducted by Mayors Against Illegal Guns (now Everytown for Gun Safety) found that: • At least one in 30 want-to-buy ads (3.3%) had been posted by someone who had previously been convicted of a crime that disqualified him from legally having guns. In contrast, fewer than one in 100 people who attempt buy guns from licensed gun dealers (<1%) fail the background check for this reason. • People posting want-to-buy ads included a 25-year-old male in Columbus, Ohio who had been named as a defendant in 15 felony or misdemeanor cases between 2007 and 2013, including pending charges for aggravated robbery and drug possession. He also pled guilty to possession of crack cocaine in 2010, a felony that prohibited him from buying guns. (The investigation by Mayors Against Illegal Guns revealed several similar individuals.) • Criminals know that they can avoid background checks by using websites like Armslist.com. The share of potential gun buyers who are ineligible due to their criminal history is four times higher on Armslist.com than at gun dealerships. • Given the rate at which unlicensed sellers list guns for sale on Armslist.com, and the rate at which prohibited people seek them, gun sales through Armslist.com may put 25,000 guns in the hands of criminals each year.
2. **Online sales allow people who would otherwise be prohibited from obtaining guns to do so**

Jon S. Vernick, Professor and Do-Director, Johns Hopkins Center for Gun Policy and Research, Johns Hopkins Bloomberg School of Public Health, Ted Alcorn, Director of Innovation, Everytown for Gun Safety and Joshua Horwitz, Executive Director, Educational Fund to Stop Gun Violence, “Background Checks for All Gun Buyers and Gun Violence Restraining Orders: State Efforts to Keep Guns from High-Risk Persons,” JOURNAL OF LAW, MEDICINE & ETHICS v. 45 s. 1, 2017, pp. 98-102, p. 98.

Just as commerce in many consumer goods has moved online, there is now a thriving trade in firearms conducted on thousands of websites, much of it between unlicensed sellers. In a series of investigations of online gun markets, including Armslist.com, one of the largest online gun markets with over half a million unique gun ads listed by unlicensed sellers each year, Everytown for Gun Safety showed that between four and ten percent of would-be online buyers are prohibited by federal or state law from possessing firearms due to prior felony or domestic violence convictions or active domestic violence restraining orders, but were shopping for guns anyway. That share is four to fifteen times higher than the share of prohibited buyers blocked by the background check system at licensed dealers in the states examined.

3. **Online purchases currently skirt federal background check requirements**


The emergence of the online gun marketplace has created a new set of questions and problems for the outdated Gun Control Act. The transactions available on Armslist present three issues for the current federal legislation on fire-arms: (1) individuals who are prevented from attaining firearms under 18 U.S.C. § 922(g) are legally able to acquire them from an online gun marketplace; (2) private and occasional sellers of firearms are not required to conduct the Brady Act NICS background checks for buyers; and (3) individuals who are buying firearms from private sellers from the online gun marketplaces are not stopped from presenting false identification and deception in connection with the purchase. In effect, Armslist and similar online gun marketplaces create an unregulated avenue for illegal activity. Although Armslist classifies itself as an ISP, inferring no liability for the actions of users on its website, it is providing access for individuals to transact with products that are inherently dangerous. Online gun marketplaces should not be able to hide behind their legal disclaimers but should take steps to ensure that blatantly illegal acts are not being committed through their network. The reality of these issues is demonstrated through the cases of Smirnov, Haughton, and Roman-Martinez. Individuals around the country, even outside the United States, are discovering the easy and accessible nature of the online gun marketplace whether it is for lawful or unlawful purchases.

4. **People are easily able to use false credentials to make purchases of firearms online**


Third, the online gun marketplace magnifies the opportunity for individuals to use deception and present false identification to acquire firearms. Although private sellers of firearms are not subject to federal regulation when it comes to the proper ATF Form 4473 and NICS background checks, non-licensed persons are prohibited from knowingly transferring a firearm to a felon or other prohibited person, knowingly transferring a firearm to a person who re-sides in another state, and acquiring firearms from out-of-state dealers. The initial anonymity of the online gun marketplaces may make it impossible for the seller to know or have reason to know that the individual seeking their firearm is a prohibited individual. Yet, the transaction is not complete until the seller and the potential buyer meet in person. The seller and the buyer set the terms of the exchange. This leaves two dangerous possibilities: the buyer has an incentive to use false identification in acquisition of the firearm or the private seller fails to request proper identification. There is no enforcement of this other than the private individual's choice to comply with federal and state law at the time of the transfer.
5. People are able to use the internet to obtain firearms without background checks—multiple examples prove


"Smith & Wesson .40-caliber pistol for $ 400." Benedict Ladera, a private gun seller and Seattle resident, posted a similar advertisement on www.armslist.com (Armslist). Across the border in Canada, Demytry Smirnov visited the gun classifieds website, agreed to the disclaimer, and viewed Ladera's post. Smirnov contacted Ladera ex-pressing his interest over the advertised pistol and traveled to Seattle to complete the transaction. After the ex-change, Smirnov drove to Chicago, Illinois where he met Jitka Veselý, a woman whom he had met online years earlier. He shot and killed Veselý in a museum parking lot with the gun he had purchased through Armslist. The administrator of Veselý's estate and the Brady Center to Prevent Gun Violence brought a wrongful death suit against Armslist, LLC in the United States District Court for the Northern District of Illinois in 2013. Radcliffe Haughton, a Wisconsin resident, responded to a similar advertisement from a private seller on Armslist and arranged to meet the seller in a McDonald's parking lot in 2012. The private seller provided two prerequisites for the transaction: first, Haughton's driver's license to ensure that he was a Wisconsin resident and second, Haughton's legal ability to possess firearms. Haughton produced his driver's license and verbally assured the seller that he was legally able to possess firearms. The seller handed over the pistol and the transaction was complete. Little did the seller know that Haughton had a restraining order entered against him by his wife, Zina Haughton, two days prior to the transaction. Haughton's wife requested the restraining order after he had threatened to throw acid in her face and burn her and her family with gas. After the transaction, Haughton killed his wife and two other women at her place of employment with the same pistol purchased off Armslist.

"Got $ 250 cash for a good handgun something reliable. Text #####-####.“ Over in Colorado, Omar Roman-Martinez sought a firearm and posted a 9-millimeter handgun for sale on Armslist in 2013. Roman-Martinez possesses two felony convictions for burglary and motor vehicle theft along with a misdemeanor domestic violence conviction. He ultimately decided not to buy a weapon, but claimed that the gun he was selling did not belong to him. The cases of Smirnov, Haughton, and Roman-Martinez are three examples currently in the news showcasing the easy and informal nature of acquiring a firearm online through a classified website, such as Armslist. Under the Gun Control Act, the current federal legislation on firearms in the United States, these three men are barred from purchasing and possessing a firearm because each man falls into one of the prohibited categories of individuals identified in the Act. First, Smirnov is a Canadian resident, not a United States citizen in order to lawfully possess a firearm in the United States. Second, Haughton had a restraining order entered against him by his wife, Zina Haughton, two days prior to the transaction. Haughton's wife requested the restraining order after he had threatened to throw acid in her face and burn her and her family with gas. After the transaction, Haughton killed his wife and two other women at her place of employment with the same pistol purchased off Armslist.

The Online Gun Marketplace and the Dangerous Loophole in the National Instant Background Check System


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UBC Desirable: Key to Gun Control

1. Effective gun control depends on universalizing background checks


A growing number of states have responded to this problem by making background checks a universal requirement for purchases of firearms, including purchases from people who are not licensed dealers. In some states, this has been done by requiring anyone who acquires a handgun to have a permit or license before doing so, and a background check is part of the process for obtaining that permit or license. For example, since 1968, Illinois has required anyone acquiring or possessing a firearm to have a Firearm Owners’ Identification Card, a measure enacted in order to give law enforcement an opportunity to investigate and grant approval before someone receives a firearm. Other states simply require the background check to be conducted at the point of transfer of the firearm. For example, the nation’s largest state, California, has required background checks for all sales of firearms since 1991, including transfers made by individuals not in the business of selling guns. The process essentially involves using a licensed gun dealer as an intermediary between the owner of the gun and the person seeking to buy it. The owner takes the gun to a licensed dealer, and the dealer runs a background check on the prospective purchaser. If the purchaser passes the background check, the purchaser gets the gun. If not, the dealer returns the gun to the owner. Putting a strong and comprehensive system of background checks into place throughout the country should be the primary focus of gun control efforts. As divisive as gun issues may be, keeping guns out of the wrong hands is a goal on which Americans can agree, as is illustrated by polls showing that even large majorities of gun owners and NRA members favor background checks for all firearm sales. Background checks do not impair the interests of law-abiding, responsible people who choose to have guns.

2. Background checks are the central pillar of our gun control regime


Background checks are the central pillar of gun laws in the United States. Federal laws disqualify some people from having guns, such as convicted felons, fugitives, drug addicts, illegal aliens, people with misdemeanor convictions for domestic violence or subject to domestic violence restraining orders, and people who have been committed to a mental institution or determined through court adjudication to have serious mental impairments. Background checks are the crucial mechanism that underlies those prohibitions and makes them meaningful. Only about one per-cent of background checks result in a denial, but with millions of background checks being done every year, the number of firearm transactions that are stopped by the background check system is substantial. The key is what happens to the people who fail a background check, as well as those who know they will fail and who therefore do not attempt to buy guns in ways that will involve a background check. Does the background check system stop these people from obtaining guns, or are they able to circumvent the system by obtaining guns in other ways? The background check system at least provides some hope for keeping guns out of the hands of people prohibited from having them.
1. We need universal background checks—will help check the tide of gun violence


Many Americans in the United States lawfully and responsibly own guns for recreation, collection, and self-protection. Gun ownership is part of our national heritage and is constitutionally protected by the Second Amendment. Laws that keep guns in the hands of law-abiding, responsible citizens enhance this tradition of responsible gun ownership. Unfortunately, a glaring loophole in our nation’s gun laws allows people who don’t respect our laws to easily acquire guns and use them to threaten the safety of the American public. The resulting gun violence is taking an enormous toll on our country. Over 100,000 people are victims of a gunshot wound every year. More than 30,000 of these victims lose their lives, and for every person who dies, two others are injured. These tragedies occur in large part because dangerous people can easily acquire guns from unlicensed sellers. Federal law does not require a license for the sale of a firearm. Unlike licensed gun dealers, unlicensed “private” sellers are not required to conduct background checks on gun purchasers. This loophole allows thousands of dangerous people to acquire guns every year, despite being legally ineligible to possess them. Gun offenders overwhelmingly obtain their guns through unlicensed sales. A survey of state prison inmates in 13 states who were convicted of gun offenses found that only 13.4% obtained the gun from a gun store or pawnshop, where background checks are required. Nearly all (96.1%) of those inmates who were ineligible to possess a gun at the time of the crime obtained the firearm through an unlicensed seller. There is a simple solution to this problem. Unlicensed sellers can use the same system that licensed dealers already use to conduct background checks on gun purchasers. Americans overwhelmingly support laws requiring unlicensed sellers to do so. As described below, a growing number of states have adopted this approach, saving American lives, and making these states demonstrably safer places to live.

2. Robust and universal background checks can help protect all of us against gun violence

Law Center to Prevent Gun Violence, FOR THE RECORD: NICS AND PUBLIC SAFETY, Americans for Responsible Solutions, 12—16, p. 26–27.

The daily presence of gun violence leaves each of us at risk. Fortunately, the gun violence crisis is not a problem without effective, practical solutions. NICS is a powerful tool in the fight to curb the widespread, preventable episodes of violent crime across the country. Research shows time and again that the background check system can and does stop the flow of guns to dangerous people—but it must be strengthened, utilized, and properly maintained. State lawmakers can take the simple step of requiring that all relevant records be sent to NICS—this background check system is key to enforcing the laws on the books and keeping deadly weapons out of the wrong hands. Background checks have already prevented more than 2.8 million felons, abusers, and other dangerous people from purchasing guns, yet an unacceptable number of prohibited purchasers slip through cracks in the NICS system every single day, endangering our families and communities. Too many lives are lost—more than 33,000 every year—for us to stand by and allow people to take advantage of gaps in our background check system. All states should require background checks every time a gun is transferred—at stores, gun shows, online, and in private sales. It is far too easy for convicted criminals, domestic abusers, and the dangerously mentally ill to unlawfully obtain guns, and too few lawmakers are willing to stand up to the gun lobby by enacting and enforcing smart gun laws like these. Universal background checks are a simple, popular way for lawmakers to prioritize community safety—and over 92% of Americans want laws like this on the books. One of the most effective ways legislators can protect their constituents is reporting records in order to foster a robust and thorough background check system. We need states with poor reporting histories to follow the examples of the states that have dramatically improved the way they send records to NICS in recent years, like Arizona and Virginia, and we need more lawmakers to stand up to the gun lobby to enact and enforce smart gun laws like these. Each time our nation is forced to face the news of another devastating shooting, thoughts and prayers are too often the meager substitute for real, decisive action against these pernicious, increasingly frequent occurrences. More than 114,000 Americans are shot every year in incidences of street violence, domestic abuse, suicide, mass shootings, and more. It is our national collective duty to demand meaningful action from our lawmakers if we want to change the status quo and enact responsible, commonsense gun laws. The costs and consequences are far too great if we don't act now. Americans should not be forced to endure this deadly epidemic any longer, and, luckily, we have the tools to reduce the devastating toll the gun violence epidemic has on our nation. Now is the time to enact these essential, necessary laws our country so desperately needs—pieces of legislation that a vast majority of Americans support. It is only through steady improvements to our gun laws, background check systems, and the use of tools like NICS, that we will save lives.
3. Universal background checks are needed to keep guns out of the hands of criminals


Our 2015 national survey of gun owners found that 40 percent of all gun transfers occur without a formal background check. That is comparable to the figure obtained in an older study (Cook and Ludwig 1997). Extending criminal background checks to all transactions should help reduce the transfer of firearms to clearly illegal individuals. Ten states containing about one-third of the US population, including California, New York, and Pennsylvania, already require background checks at the point of firearm transfer; universal background checks are clearly feasible. It makes sense for some transfers to be exempt. California exempts transfers between spouses and vertical immediate family members (e.g., from a grandparent) and temporary transfers such as infrequent and short-term loans between friends (Wintemute 2013b). While it is always illegal for a prohibited person to obtain a firearm, it is illegal to transfer a firearm to a prohibited person only if the seller knows or has reasonable cause to believe the purchaser is prohibited. Most private sellers appear to do little to determine whether the purchaser is a prohibited person. Many private sellers seem willing to sell even if they have reasonable cause to believe they are selling to a criminal. Private investigators performed “integrity tests” on 30 private sellers at gun shows in Nevada, Tennessee, and Ohio. Even though the purchasers stated that “he probably could not pass a background check,” 63 percent of sellers completed the sales (City of New York 2009). Recall that 60 percent of inmates in state prisons for gun offenses could have passed an NICS check the moment before their most recent arrest. Yet 80 percent obtained their firearms from private parties (Vittes, Vernick, and Webster 2013). Universal background checks should thus reduce the likelihood not only of prohibited persons but also of other high-risk people obtaining firearms. In addition, universal background checks make it more likely that law enforcement will be able to identify the most recent purchase of a firearm rather than just the first purchase. States with weaker gun regulations are net exporters of crime guns (Webster, Vernick, and Bulzacchelli 2009). Criminal possession of guns is higher in states near to other states with weak laws (Knight 2013). Regulation of private sales is significantly associated with lower net exports (Webster et al. 2013).

4. We need universal background checks


Federal law requires that anyone purchasing a firearm from a federally licensed firearm dealer pass a background check. The NICS is designed to prevent prohibited persons from obtaining a firearm. The 10 categories of prohibited persons include people convicted of a felony or a domestic violence misdemeanor, illegal aliens, people adjudicated to be mentally ill, dishonorably discharged military veterans, or unlawful users of any controlled substance. Most other advanced countries have stronger criteria. For example, to legally obtain a firearm in Canada, the individual needs a license, a criminal background check, proof of a legitimate purpose, a training certificate, and two personal references who will support the application. The spouse is notified, and there is a 28-day waiting period. Vittes, Webster, and Vernick (2013) make a strong case that the prohibited list of acquirers and owners should be expanded to include alcohol abusers, people convicted of serious juvenile offenses, and youths under age 21. There is ample evidence that these groups are at high risk for violent and criminal behavior. There is no direct evidence that prohibiting these specific groups from gun ownership has an effect, but there is evidence that restricting access to guns by domestic violence abusers has reduced intimate-partner homicides (Vigdor and Mercy 2006). With respect to the fourth category, people with violent misdemeanor convictions, there is strong evidence both that the group is at high risk for subsequent violent crime and that denial works. California added this group to its prohibited category in 1991. Because California collects individual-level data on firearm transactions, researchers could compare the subsequent criminal behaviors of individuals with violent misdemeanor convictions who were denied gun licenses under the new policy with individuals with violent misdemeanor convictions who had legally obtained fire-arms the year before. A 3-year follow-up found that those who had been able to purchase a firearm were significantly more likely to be arrested for a firearm-related or violent offense (Wintemute et al. 1998, 2001; Wintemute 2013a).
5. **Stronger background checks are an effective way to address the growing problem with gun violence**

Brady Center to Prevent Gun Violence, NO CHECK. NO GUN. WHY BRADY BACKGROUND CHECKS HSOULD BE REQUIRED FOR ALL GUN SALES, 4—09, p. 30.

For more than 40 years, criminals, juveniles, fugitives, the dangerously mentally ill, and other categories of persons have been prohibited from buying or possessing guns. There is a national consensus that criminals and other dangerous people should not be able to obtain guns. The best way to stop them is to not allow guns to be sold without first running a Brady background check to determine if the purchaser is prohibited from buying a gun. Since 1994, the Brady background check system has stopped more than 1.6 million dangerous people from acquiring guns from licensed gun dealers. But because it is limited to licensed gun dealers, the law has a gaping loophole that enables felons, spousal abusers, the dangerously mentally ill, and other prohibited purchasers to obtain a steady pipeline of guns, which leads inevitably to more violent crime. In 33 states, a private seller at a gun show or elsewhere is allowed to sell guns without a background check, no questions asked. We have seen some of the victims of gun show sales and other no check sales in this report: Philadelphia police sergeant Stephen Liczbinski, Northwestern basketball coach Ricky Byrdsong and ten others shot by a neo-Nazi spree killer in Illinois and Indiana, high school student Daniel Mauser and 35 others killed or injured at Columbine High School in Colorado, and victims of the Jewish Community Center shooter in Los Angeles. These are just a few of the victims that have paid dearly for this gap in the law. Over 80% of Americans, including gun owners, support requiring background checks for all gun sales. Law enforcement has called for closing this loophole, as have political leaders from both parties. There is no reason to continue allowing a system that arms dangerous criminals, and costs countless lives. The NRA has recognized that background checks do not affect law-abiding gun purchasers, and has said they are not “gun control.” Background checks enable lawful purchasers to promptly obtain guns, adding only a few minutes to gun sales. This is less time than it usually takes to be screened before boarding an airplane. Yet, more than fifteen years after the Brady Law passed Congress, and ten years after the Columbine massacre was committed with guns acquired by teenagers through no-check sales at a gun show, we still haven’t closed this loophole. It is time to stop allowing a system that enables criminals and other dangerous persons to buy guns without a background check, no questions asked. Eighteen states have managed to require background checks on at least some private sales, and California has required them on all gun sales for almost 20 years. These states enable law-abiding citizens to buy guns, and even host gun shows as often as states that allow no-check sales. No check, no gun. We need to extend Brady background checks to all gun sales at gun shows and elsewhere.

6. **The weaknesses in federal law contribute to criminal use of firearms**


Current federal law suffers from a key weakness—it does not require background checks for all gun sales: • Under current federal law, only federally licensed gun dealers, or FFLs, are required to conduct a background check for all gun sales. People who maintain that they only occasionally sell guns are not required to obtain a license or to conduct background checks. • One study found that 68.8 percent of prison inmates who used guns in crimes obtained their guns through transactions that did not require a background check. • Many of these private sales occur at gun shows or online: – A 2013 Mayors Against Illegal Guns investigation of individuals seeking to buy guns on the website Armlist.com found that 1 in 30 prospective buyers on the site were legally prohibited from buying or possessing guns. – A 2009 investigation of gun shows in Nevada, Ohio, and Tennessee found that 63 percent of private sellers were willing to sell guns to someone who indicated that they would be unlikely to pass a background check.
7. Background checks work—we need to universalize them to decrease gun violence


The Newtown tragedy should have been a wake-up call to those in Congress who oppose even the most innocuous measures to keep guns from dangerous people. The case for action could not be any clearer. Background checks work. The existing federal gun background check system has prevented almost two million criminals and dangerous individuals from buying guns. These checks take minutes to complete and they can make the difference between life and death. Comprehensive background checks will also help law enforcement spot gun traffickers. Under the current system of unregulated private sales, law enforcement is limited in its ability to identify the chain of custody of a firearm before it ends up being used to take a life. Legislation pending in Congress would simply expand this background check system to private sales that take place with no paperwork and no questions asked. Our current system is akin to two lines at the airport: In one, you must undergo security checks and in the other you may simply sail through. Congress should know that nationally, 92 percent of Americans support universal background checks. Even the National Rifle Association (NRA) was for background checks before it decided it was against them. Why would the NRA leadership be against background checks? Fewer gun sales. In New York, we recently passed the NY SAFE Act, giving our state the most comprehensive gun laws in the country. But gun violence is a national problem that requires a national solution. We cannot stop illegal guns from being trafficked into our communities without Congress. In 2011, 76 percent of the crime guns used in New York State to kill, rob, rape and harm our citizens came from states with much weaker gun laws. In addition to the human tragedy and loss, we as taxpayers pay a huge toll in medical costs, police time, and prison costs due to the illegal guns that arrive on our streets because of weak gun laws in other states. Congress should carry out the will of the people—not the will of the gun industry or the NRA. Over 3,300 people in the U.S. have been killed with guns since Newtown. Congress has a responsibility to face facts and pass background check legislation now.
UBC Desirable: Police Support

- Police chiefs and the public support expanded background checks


The police bosses are on the president’s side. Their job would be much easier if fewer guns were in circulation and if all buyers of guns were to undergo checks of their background, especially their criminal and mental-health history. The proliferation of guns is one of the reasons for the substantial rise in violent crime in many American cities this year, they say. Current rules on background checks apply only to licensed gun dealers but up to 40% of gun sales take place at gun fairs or over the internet, which do not require such checks. The American public is overwhelmingly on the president’s side too. According to a poll published in August by the Pew Research Centre, 85% of those surveyed are in favour of expanded background checks for gun owners. Almost 80% support laws to prevent people with a mental illness from buying a gun and 70% back the creation of a federal database to track all gun sales. So why is there still no federal law on background checks?
UBC Desirable: Private Sales Exemption—Topshelf

1. The federal background checks system works now, but is undermined by several loopholes


Under federal law, certain categories of dangerous individuals, such as convicted felons, convicted domestic abusers and some dangerously mentally ill people are prohibited from purchasing or possessing firearms. A person cannot legally sell a gun to someone he or she knows or has “reasonable cause to believe” falls within one of these categories. Federal law requires licensed dealers to conduct a background check on all gun purchasers to ensure that they don’t sell guns to these people. This background check involves a search through the National Instant Criminal Background Check System (“NICS”), a system of databases maintained by the FBI. State and local courts and law enforcement agencies voluntarily submit information about prohibited gun purchasers to these databases. When a person attempts to purchase a gun from a licensed dealer, the dealer must run a check through NICS and determine whether the potential buyer is prohibited from purchasing firearms. If the information in the NICS system indicates that the person cannot legally possess a gun, the dealer must deny the sale. Since the background check system was created: • Over 196 million background checks have been conducted, and • Over two million firearms sales to prohibited purchasers have been denied. Despite the success of the background check system, federal law still allows gun sales and transfers by unlicensed sellers to occur without these background checks. Federal law provides that persons “engaged in the business” of dealing in firearms must be licensed. However, a person is not “engaged in the business” within the meaning of the law if he or she only “makes occasional sales, exchanges, or purchases of firearms for the enhancement of a personal collection or for a hobby, or who sells all or part of his personal collection of firearms.” Unlicensed sellers often claim they only make occasional sales as a hobby or are selling their personal collection of firearms, and are therefore not required to conduct background checks on purchasers. These unlicensed sales take place at gun shows, over the internet, through classified ads, and by word of mouth with shocking frequency. A 1997 report for the National Institute of Justice estimated that about 40% of gun transfers occur through unlicensed sellers without a background check. That would mean that an estimated 6.6 million guns are sold each year without a background check. According to the U.S. Department of Justice, because federal law and the laws in most states do not yet require background checks for unlicensed sales, “individuals prohibited by law from possessing guns can easily obtain them from private sellers and do so without any federal records of the transactions.” “The private-party gun market,” one study observed, “has long been recognized as a leading source of guns used in crimes.” Unlicensed sales are also linked to gun trafficking: • The Bureau of Alcohol, Tobacco, Firearms & Explosives (ATF) found that during one 29-month period, unlicensed sellers were involved in about one-fifth of illegal trafficking investigations nationwide and associated with nearly 23,000 trafficked guns. • A 2009 GAO report found that “secondary firearms — firearms resold following the first retail purchase from a federal firearms licensee (FFL), or ‘used guns’ — are commonly trafficked to Mexico.” • Another report observed that the lack of background check and other requirements for private gun transfers “continue to make it much easier for prohibited persons to purchase firearms and much harder for U.S. authorities to successfully trace how a firearm illegally reached Mexico.” In a 2007 report, the International Association of Chiefs of Police (IACP) stated that, because individuals who fail a background check can easily access firearms from unlicensed sellers, “...guns are far too easily acquired by prohibited possessors, and too often end up being used in gun crime and gun violence.” The IACP concluded that “Congress, as well as state, local and tribal governments, should enact laws requiring that all gun sales and transfers proceed through” a federally licensed dealer, who conducts a background check.

2. Background checks are the backbone of an effective gun control system—we need to close the private sales loophole


The background check is the linchpin of our nation’s gun laws. In 1968, after the King and Kennedy assassinations, Congress passed the first major gun law. It prohibited felons, those adjudicated mentally ill, those dishonorably discharged, fugitives from the law, and certain other groups from purchasing or possessing firearms. It required all gun stores to be federally licensed and determined that anyone in the business of selling firearms must get a federal license as well. It banned the mailing of firearms and stipulated that people had to buy guns in the state where they lived. But before 1993, the main requirement of the law—the provision that prohibited certain people from buying or owning guns—was left to the honor system. No background check was deemed necessary to determine the legality of any buyer. It was the Brady Law that made it so all sales from licensed gun dealers required a background check. But in a compromise, it left private sales—that is, person-to-person sales—unregulated. Bipartisan legislation will shortly be introduced to require that most private sales be conducted through a federally licensed firearms dealer and that buyers submit to a background check. This memo explains why a universal background check law is an essential and effective policy change, explains why it is not inconvenient for gun owners, and rates the quality of the National Instant Check System (NICS).
3. **The private sales loophole drives guns into the hands of criminals—very strong evidence proves**

Daniel W. Webster, Center for Gun Policy and Research, Bloomberg School of Public Health, Johns Hopkins University and Garen J. Wintemute, Violence Prevention Research Program, Department of Emergency Medicine, University of California, Davis, “Effects of Policies Designed to Keep Firearms from High-Risk Individuals,” ANNUAL REVIEW OF PUBLIC HEALTH v. 36, 2015, p. 27. Considerable evidence has demonstrated that criminals and firearm traffickers regularly exploit weaknesses in federal firearm laws. A 43-state survey of licensed retailers selling at least 50 firearms annually estimated that these retailers experienced 33,800 attempted surrogate (straw) purchases, and 37,000 attempted undocumented purchases, per year. The most commonly discussed weakness is the Brady Act’s exemption of background checks and record keeping for firearm transfers by private gun owners. This omission hinders the ability of law enforcement to hold a gun owner accountable if he or she transfers a firearm to someone who is prohibited from owning guns. Nearly 8 out of 10 gun crime offenders participating in a national survey of state prison inmates conducted in 2004 reported that they obtained their guns from a friend, family member, or the underground gun market. Firearm transactions between strangers without background checks or record keeping can be observed directly at gun shows in states that do not close the Brady Act loophole for private gun sales (52). Some unlicensed vendors at these events sell a substantial number of firearms such that it appears to be more of a livelihood than a hobby. It is important to emphasize that gun shows make up a small portion of the secondary gun market. In fact, the importance of the private-seller exemption to the Brady Law in providing criminals and gun traffickers relatively low-risk access to firearms and customers is best exemplified by the enormous growth in Internet sites established to facilitate firearm sales. The number of guns for sale by a private seller on the popular website Armslist.com (http://www.armslist.com) grew more than sixfold (from 12,294 to 83,204) over a 20-month period from December 2011 to August 2013. New York City officials contracted with an investigative firm to call 125 private sellers of firearms identified on ten websites to see if they would sell their firearms when the caller said that he/she “probably couldn’t pass a background check.” Sixty-two percent verbally agreed to sell the firearm anyway. Certainly, actual criminals are using the Internet and lax or absent regulation of sales by private sellers to obtain their guns.
**UBC Desirable: Private Sales Exemption—Background Checks Needed**

1. **Closing the ‘gun show loophole’ is not enough—we need to restrict private sales**

   Dr. Garen J. Wintemute, Department of Emergency Medicine, University of California, Davis, Anthony A. Braga, School of Criminal Justice, Rutgers University, Newark and David M. Kennedy, Program in Criminal Justice, Kennedy School of Government, Harvard University and the Center for Crime Prevention and Control, John Jay College of Criminal Justice, CUNY, “Private-Party Gun Sales, Regulation, and Public Safety,” NEW ENGLAND JOURNAL OF MEDICINE v. 363 n. 6, 8—5—10, pp. 508-511.

   Concerns about private-party gun sales and the importance of gun shows as a source of guns used in crimes have led to repeated calls for closing the “gun show loophole” — by which advocates usually mean requiring that private-party sales at gun shows be routed through a licensed retailer who will do a background check and keep a record of the purchase. President Barack Obama endorsed such a measure during his 2008 presidential campaign, as did President George W. Bush in 2000 and 2004. Legislation to close the loophole has been introduced in both the Senate and the House of Representatives, but no hearings have been scheduled. In fact, there is no gun-show loophole as such. Federal law is silent on the issue of gun shows and permits private-party gun sales to occur anywhere. As a result, such a limited measure might well have no detectable effect on the rates of firearm-related violent crime. Gun shows account for a small percentage of all gun sales in the United States — between 4 and 9%, according to the best estimates available. Similarly, they account for just 3 to 8% of all private-party gun sales. Legislation to close the gun-show loophole would not affect the great majority of private-party sales, and motivated illicit buyers could simply find private sellers elsewhere. (In addition, closing the alleged loophole would not necessarily reduce, by more than a small amount, the importance of gun shows as a source of guns used in crimes. Most sales at gun shows — more than 80%, according to unpublished data — are made by licensed retailers, not private parties, and data from gun-trafficking investigations indicate that two thirds of the guns used in crimes that have been linked to gun shows were sold by licensed retailers.) A more effective approach would be to subject all private-party gun sales to the screening and record-keeping requirements that apply to sales by licensed retailers. Six states do so already, and nine others regulate all sales of handguns.

2. **Screening of private party sales works**

   Dr. Garen J. Wintemute, Department of Emergency Medicine, University of California, Davis, Anthony A. Braga, School of Criminal Justice, Rutgers University, Newark and David M. Kennedy, Program in Criminal Justice, Kennedy School of Government, Harvard University and the Center for Crime Prevention and Control, John Jay College of Criminal Justice, CUNY, “Private-Party Gun Sales, Regulation, and Public Safety,” NEW ENGLAND JOURNAL OF MEDICINE v. 363 n. 6, 8—5—10, pp. 508-511.

   Screening works. In 2008, under the terms of the federal Brady Handgun Violence Prevention Act, federal and state agencies conducted 9,900,711 checks initiated by licensed retailers and denied 147,080 purchases (1.5%). Long-term observational studies in California show that denial, in turn, is associated with a roughly 25% decrease in the risk that the would-be purchaser will later commit a crime involving guns or violence. Unfortunately, the effect of such regulations when they are implemented at the state level, as they usually are, is blunted by the lack of similar requirements in other states. Similarly, perhaps the principal reason for the well-documented failure of the Brady Act to lower rates of firearm-related homicide is that its requirements do not apply to private-party gun sales. Regulating all private-party sales, by contrast, would have measurable benefits. Private-party gun sales might become more expensive if certifications and background checks were required; in California, retailers may charge a processing fee of up to $25. They would also become less convenient, but airport security screening offers a useful example here: we might know that security screening is an unnecessary intrusion as applied to us, but we have no such certainty that it is unnecessary as applied to those who are standing in line with us, and few people would endorse a proposal to leave the decision about whether to be screened to the individual passenger. Drawbacks with respect to expense and inconvenience notwithstanding, 83% of self-reported gun owners and 87% of the general population endorsed regulation for all private-party gun sales in a 2008 poll that was conducted for the advocacy organization Mayors Against Illegal Guns. Gun owners gave stronger support to this all-inclusive approach than to a gun-show-only proposal in a 2009 poll conducted for the same organization. Either proposal would face tough sledding on Capitol Hill. It would therefore seem preferable to move forward with the version that is most likely to reduce the rates of firearm-related violence.
1. **Background checks are currently not required for private transactions**

Mark Martinez, journalist, “‘Universal Background Check:’ What Does It Mean?” CNN, 1—28—13, www.cnn.com/2013/01/14/us/universal-background-checks/index.html, accessed 10-1-17. The "universal background checks" now being pushed by some gun control supporters is code for closing federal loopholes on such checks at gun shows and other private sales. U.S. law requires background checks for all people who try to buy firearms from federally licensed dealers. But federal law does not require background checks for "private transactions," like sales at gun shows. Many states have their own statutes requiring such checks for private sales.

2. **Private purchases are currently not subject to federal background check requirements**

Jon S. Vernick, Professor and Do-Director, Johns Hopkins Center for Gun Policy and Research, Johns Hopkins Bloomberg School of Public Health, Ted Alcorn, Director of Innovation, Everytown for Gun Safety and Joshua Horwitz, Executive Director, Educational Fund to Stop Gun Violence, “Background Checks for All Gun Buyers and Gun Violence Restraining Orders: State Efforts to Keep Guns from High-Risk Persons,” JOURNAL OF LAW, MEDICINE & ETHICS v. 45 s. 1, 2017, pp. 98-102, p. 98. Under federal law, anyone who buys a gun from a licensed firearm dealer must undergo an instant criminal background check. The check is designed to determine if the prospective buyer fits any criteria that prohibit purchase or possession of firearms, including a prior felony conviction, certain domestic violence misdemeanors, unlawful use of controlled substances, or, inter alia, commitment to a mental institution. However, federal law does not require a background check when a gun is purchased from someone who is not a licensed gun dealer. People prohibited from purchasing firearms may not legally acquire guns under any circumstances, but when no check is required to verify their status, there is nothing to enforce the prohibition.

3. **Private sales have an incentive to gather only a minimum of information**

Chris Kirkham, journalist, “Private Gun Sale Loophole Creates Invisible Firearms Market, Prompts Calls for Reform,” HUFFINGTON POST, 12—21—12, www.huffingtonpost.com/2012/12/21/private-gun-sales-sandy-hook_n_2347420.html, accessed 10-1-17. Experts argue that the laws create incentives for buyers and sellers in private transactions to find out as little as possible about one another. “Everybody understands how the game is played: the seller never asks any questions,” said Dr. Garen Wintemute, who has researched the gun market as director of the Violence Prevention Research Program at the University of California-Davis Health System. “At a gun show the sign on the table says ‘private sale,’ and everybody knows exactly what that means. It means no waiting period, no background check, no questions asked, cash and a handshake, and you’re gone.” In a state such as California, where background checks and registration transfers are required on all private transactions, advocates say the law holds the seller accountable. If a gun was recovered at a crime scene and traced back to the seller, instead of the criminal, the seller could be held liable for an illegal gun sale. But in states where there are lenient laws for private gun sales, critics argue that authorities have very little leverage. “We’ve essentially legalized that type of activity,” said Ladd Everitt, a spokesman for the Coalition to Stop Gun Violence. “The only way you would be able to convict the seller is if you can prove that he knew the buyer was a convicted felon.”

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**UBC Desirable: Private Sales Exemption—General**

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UBC Desirable: Private Sales Exemption—Increases Gun Violence

1. Research proves that the private sales loophole increases gun violence


Is there any proof that guns used in violent crimes fell into the hands of the people who committed those crimes because of the private seller loophole? Yes. My research has shown that failure to require background checks for firearms sales by private gun owners is associated with significantly higher levels of guns diverted to criminals both in-state and out of state. See the research cited above on state universal background check laws, diversion to the illegal market, and trafficking.

2. The private sales loophole enables risky arms sales


Omitting private sales from the background check requirement creates a huge, illogical gap that undermines the entire check system. Advanced education is not required for an illegal purchaser to reason through the problem as follows: "If I try to purchase a gun from a licensed firearms dealer, I may be denied the gun and will also have committed a documented federal crime. If I purchase a gun from a private seller, I can avoid these problems. I believe I will opt for the latter course of action." We do not know what percentage of gun sales are unregulated private sales. As mentioned, President Obama and others cite the statistic that 40% of gun sales are private sales, but that figure is based on an old, quite limited study. Consistent with the call above, we need more research of the issue. In the meantime, we do know that many illegal purchasers avoid licensed dealers and also that many unscrupulous sellers are quite willing to sell guns to those whom they know or reasonably should know are illegal purchasers. In 2009, the City of New York conducted undercover integrity tests at seven gun shows in Ohio, Tennessee, and Nevada. The tests were designed to identify private sellers willing to sell guns to prospective purchasers who indicated they would not be able to pass a background check. The investigators followed the following script from a training document: Stage 1: "Are you a licensed guy?" If the seller denies having a license, the Undercover will proceed to Stage 2. Stage 2: "So no background check, right? If the seller answers in the negative, the Undercover will proceed to Stage 3. Stage 3: "That's good because I probably couldn't pass one." Stage 4: Consummate the cash purchase of a handgun or assault weapon. Sixty-three percent of the private sellers - 19 out of 30 - failed the integrity test, selling twenty semiautomatic hand-guns and one assault rifle to investigators who told them they could not pass a background check. A similar study of online gun sales arrived at nearly identical findings. Sixty-two percent - 77 out of 125 - of private online sellers agreed to sell guns to buyers who failed a similar integrity test; that is, they sold guns to people who told them they probably could not pass a background check. Craigslist was found to have the highest failure rate at 82%. Although Craigslist policies bar firearms sales, the New York investigators found 1792 gun ads on Craigslist during a forty-five day period.
1. **There are currently no restrictions on private gun sales—they account for roughly 40% of all transactions**

Dr. Garen J. Wintemute, Department of Emergency Medicine, University of California, Davis, Anthony A. Braga, School of Criminal Justice, Rutgers University, Newark and David M. Kennedy, Program in Criminal Justice, Kennedy School of Government, Harvard University and the Center for Crime Prevention and Control, John Jay College of Criminal Justice, CUNY, “Private-Party Gun Sales, Regulation, and Public Safety,” NEW ENGLAND JOURNAL OF MEDICINE v. 363 n. 6, 8—5—10, pp. 508-511.

However, under federal law you can also legally buy as many guns as you want from a private party, and none of those procedural safeguards will apply. Private-party gun sales can be completely anonymous and undocumented. Private sellers are not required to see identification or keep records, and they cannot initiate background checks. A brief negotiation over price, an exchange of cash, gun, and a handshake, and your purchase is complete. These conditions exist because Congress drew on its constitutional authority to regulate interstate commerce in drafting the Gun Control Act of 1968, the law under which modern gun commerce operates. Those “engaged in the business” of selling guns were required to obtain federal licenses, but private parties who sold guns infrequently were not. Today, private parties can buy and sell many guns a year while claiming not to be engaged in the business. Perhaps 40% of all gun sales nationwide — roughly 6.6 million transactions in 2008 — are made by private parties. Moreover, private parties can sell handguns to anyone 18 years of age or older; licensed retailers cannot sell handguns to anyone under 21 years of age.

2. **Forty percent of all firearms are purchased without a background check**


Forty percent of all firearms purchased in the United States are sold without background checks because the guns aren’t purchased from a federally licensed firearms dealer, Nichols said. Rather, those weapons are bought at gun shows, on street corners, over the Internet or from friends or neighbors, Nichols said. These are the so-called loopholes in the current federal background check system.

3. **Six million guns are sold every year in private transactions—this makes it very hard to keep guns away from dangerous persons**

Neera Tanden, President, CAP, Winnie Stachelberg, Executive Vice President for External Affairs, CAP, Arkadi Gerney, Senior Fellow, CAP, and Danielle Baussan, Associate Director, Government Affairs, CAP, “Preventing Gun Violence in Our Nation,” Center for American Progress, 1—14—13, p. 1-2.

Almost all Americans agree that certain dangerous individuals—such as violent criminals, the mentally ill, drug abusers, and perpetrators of domestic violence—should not be permitted to own firearms. Under current federal law, such people are in fact barred from possessing a firearm. The only way to determine whether an individual is prohibited from purchasing a firearm under state or federal law is to conduct an instant background check. The nation’s licensed federal firearms dealers routinely conduct such checks, but under current federal law, gun transfers by people other than licensed federal firearms dealers are exempted from background checks. These so-called “private sellers”—people who maintain that they are not “engaged in the business” of selling guns—are not required to perform checks. An estimated 40 percent of the gun transfers that occur each year in the United States —more than 6 million gun transfers—originate from private sellers. Such private sellers often congregate at gun shows or sell guns online. This creates an easy opportunity for dangerous individuals who are ineligible to possess guns under federal law—felons, persons adjudicated mentally ill, and other prohibited people—to bypass a background check and obtain a weapon with no questions asked.
1. **The public strongly supports universal background checks**


While Americans remain sharply divided in their overall view of the tension between gun control and gun rights, individual proposals are widely favored. The most popular measures in our survey — policies like universal background checks and keeping guns from convicted stalkers — were supported by more than 85 percent of registered voters. Even the least popular idea, a law that would limit gun sales to people who had to demonstrate a “genuine need” for the weapon, was favored by nearly 50 percent. “We think of guns being an incredibly controversial topic, but what your polling shows and ours has shown is there’s a whole lot of gun policies that really aren’t controversial,” said Daniel Webster, a professor and director of the Johns Hopkins center for gun policy and research.

2. **Strong public majorities support background checks**


The 2013 background check bill, however, failed 54-46 in the Senate. The failure reveals the disconnect between Congress and the public regarding the desire to move forward and find reasonable common ground in the area of firearms policy and regulation. Several polls showed that large majorities endorse universal background checks. After Sandy Hook, a Gallup poll showed broad bipartisan support for universal background checks, with 97% of Democrats and 92% of Republicans supporting the measure. After the background check bill failed in the Senate several months later, the numbers had dropped, but 65% of those polled said the measure should have been passed, while only 29% agreed with the Senate outcome.

3. **There is strong, broad public support for limiting access to guns**

Daniel W. Webster, Center for Gun Policy and Research, Bloomberg School of Public Health, Johns Hopkins University and Garen J. Wintemute, Violence Prevention Research Program, Department of Emergency Medicine, University of California, Davis, “Effects of Policies Designed to Keep Firearms from High-Risk Individuals,” ANNUAL REVIEW OF PUBLIC HEALTH v. 36, 2015, p. 22.

Many topics concerning guns in American society are contentious. These include whether widespread gun ownership serves on balance as a protection against violent crime or contributes to more violence, whether certain types of guns should be banned, and whether we should restrict legal gun owners from carrying guns—concealed or openly—in public. Yet, there is widespread support for policies designed to prevent high-risk individuals (e.g., felons, persons who are subject to a restraining order for domestic violence, individuals with serious mental illnesses) from having firearms. This support exists among gun owners and non-owners alike and across the spectrum of political party identification.

4. **The public overwhelmingly supports expanded background checks**


Research consistently shows that Americans overwhelmingly support expanding background check requirements for gun sales. There are several straightforward ways that states can do this. In fact, 19 states have already enacted laws expanding the background check requirement to at least some unlicensed sales.
UBC Desirable: State Laws Prove—Topshelf

1. Background checks decrease gun violence—state-level data overwhelmingly proves


On October 21, 2012, Radcliffe Haughton killed three women, including his wife, Zina Haughton, and wounded four others at a Wisconsin day spa before turning his gun on himself. He purchased the handgun used in the shooting without a background check from a private seller he met through the website Armslist.com. Two days earlier, Haughton had become the subject of a domestic violence restraining order that prohibited him from purchasing or possessing firearms. With the restraining order in place, he could not have purchased the weapon from a licensed dealer. Such dealers are required by law to conduct background checks on gun buyers. It is patently clear that background checks save lives. Background checks conducted by federally licensed firearms dealers (FFLs) have prevented more than two million prohibited purchasers—convicted felons, wife beaters, and other dangerous individuals—from buying guns. Additionally, studies show that in the 14 states that currently require background checks for handgun sales, there are 49 percent fewer gun suicides, 38 percent fewer women are shot to death by an intimate partner and the firearms trafficking rate is 48 percent lower.

2. States with background checks have fewer school shootings


The researchers analyzed school shooting incidents from 2013 through 2015 based on newspaper and broadcast media accounts. Their definition was very broad, including any incident in which a firearm was discharged inside a building or on the grounds of a school, college or university, regardless of whether anyone was hurt. The 154 school shootings they identified included 35 incidents in 2013, 55 incidents in 2014 and 64 incidents in 2015. Those translate to a rate of 1.1 shooting per 10 million people in 2013 and 2 shootings per 10 million people in 2015. Of these, 45 incidents resulted in dead victims aside from the shooter, and 109 incidents resulted in non-fatal injuries among victims. Just over half (55%) occurred in K-12 schools, and two out of three were intentional shootings. Nearly all the perpetrators (99.3%) were boys. Next the researchers investigated four factors that represent different policy areas: funding spent on mental health and on K-12 education in each state, the presence of firearm background checks and how much of the state was urban.

School shootings were about half as likely in states with firearm background checks, but only 14 states* in 2013 had some form of background check for buying firearms outside of a federally licensed firearms dealer, who are already federally required to run background checks. In five of these states, the background checks were only required for handgun purchases but not for long guns or assault weapons. Requiring background checks to buy ammunition was linked to an even lower likelihood of school shootings: states with those laws were 89% less likely to have a school shooting.
1. **We can easily expand background checks by utilizing the current system—state-level actions prove that it works**


The simplest, most effective approach to expanding the background check requirement involves utilizing the system that already exists. There are now over 55,000 licensed gun dealers throughout the country, each one set up to conduct background checks. Unlicensed individuals can easily go to a gun dealer’s place of business and the dealer can conduct a background check on the seller’s behalf. Gun stores – licensed gun dealers – are a common feature in many American communities.– 98.4% of Americans live within 10 miles of a licensed gun dealer. Licensed gun dealers conduct background checks on gun purchasers over 10 million times each year. This network of gun dealers constitutes an established system for conducting background checks. States do not need to create a new system; all that a state needs to do is require unlicensed sellers to use this same system. California and Rhode Island have used this approach for over two decades. Four more states (Colorado, Connecticut, Delaware and New York) adopted this approach in 2013, and one more state (Washington) in 2014. Maryland and Pennsylvania use this approach for handguns, but not yet for long guns. Simple, straightforward language like the language discussed at the end of this report can be used to adopt this commonsense approach. In fact, in January of 2013, the Bureau of Alcohol, Tobacco, Firearms & Explosives issued a guidance document setting forth a streamlined procedure for gun dealers to use to conduct background checks on behalf of unlicensed sellers of firearms. This procedure eliminates excess paperwork. It also frees the parties from the complicated procedure that had been previously required for returning a gun to an unlicensed seller if a potential buyer fails a background check. Under this document, a dealer may choose not to accept a gun into its inventory, but still conduct a background check on a potential buyer.

2. **States with weak gun laws have much higher levels of violence than states with strong gun laws**

Chelsea Parsons, Vice President of Guns and Crime Policy, CAP and Eugenio Weigend, Senior Policy Analyst, Guns and Crime Policy, CAP and PhD, Tecnologico de Monterrey, AMERICANS UNDER FIRE: AN ANALYSIS OF GUN VIOLENCE IN THE UNITED STATES AND THE LINK TO WEAK GUN LAWS, Center for American Progress, 10—16, p. 28-31.

Comparing the Gun Violence Index score for each state with the Law Center’s scorecard, the authors found that there is a significant correlation between the strength of a state’s gun laws and the levels of gun violence in the state: The 10 states with the weakest gun laws collectively have an aggregate level of gun violence that is 3.2 times higher than the average of the 10 states with the strongest gun laws. Additionally, in each individual category of gun violence analyzed, the 10 states with the weakest gun laws have collectively higher levels of gun violence than the 10 states with the strongest gun laws and collectively present higher rates in comparison to national average rates. These disparities are particularly clear on fatal gun-related accidents, gun suicides, rates of crime guns exported to other states, rates of law enforcement officers feloniously killed with a gun and overall gun deaths. On the other hand, the 10 states with the strongest gun laws present average rates that are lower than the national average rates across all 10 indicators. Of the 10 states with the weakest gun laws, nine are among the top-25 states with the highest levels of gun violence in the country. In contrast, of the 10 states with the strongest gun laws, all are among the 25 states with the lowest levels of gun violence in the country, including the six states with the overall lowest levels of gun violence in our index. Finally, by plotting the Gun Violence Index score for each state and the strength each state’s gun laws, the authors find a clear correlation between these two variables. With a correlation coefficient of 0.71, this link is statistically significant and visually apparent as shown on Figure 2. This means that states with stronger gun laws tend to have lower levels of gun violence and, vice versa, states with weaker gun laws tend to have higher levels of gun violence.

3. **Universal background checks significantly lower rates of gun violence—state-level research proves**

Law Center to Prevent Gun Violence, FOR THE RECORD: NICS AND PUBLIC SAFETY, Americans for Responsible Solutions, 12—16, p. 6.

Meanwhile, a growing body of research has linked commonsense gun safety laws, in particular universal background checks, with significantly lower rates of gun injury and death. For example, since Missouri repealed its handgun background check requirement in 2007, the share of crime guns in Missouri that were originally purchased in-state has grown by 23% and the crime-gun murder rate in the state has risen 25%. Conversely, in California, lawmakers have enacted the strongest gun laws in the country during the last two decades. During that time, the state’s gun death rate dropped by nearly 60%. Simply put, smart gun laws work.
UBC Desirable: State Laws Prove—California

- **California proves that universalizing background checks works**

  Brady Center to Prevent Gun Violence, NO CHECK. NO GUN. WHY BRADY BACKGROUND CHECKS HSOULD BE REQUIRED FOR ALL GUN SALES, 4—09, p. 24-25.

  We don’t have to go far to see how effective a no-check, no-gun system can be. Since 1991, California has required every purchaser of a firearm to undergo a background check. A private seller of a firearm must take the gun to a federally licensed dealer to sell it. For a small fee, the dealer calls law enforcement to complete the background check and keeps a record of the sale so that law enforcement can trace the weapon if it is recovered in connection with a criminal investigation. If the sale is at a gun show, the same rules apply. An unlicensed seller must take the gun to a licensed dealer to complete the check and keep the paperwork before a gun can change hands after the mandatory ten-day waiting period for all firearm transactions. In our most populous state, this simple system has worked for almost two decades. A recent observational study of 28 gun shows across several states, led by Dr. Garen J. Wintemute, head of the Violence Prevention Research Program at the University of California, Davis, demonstrated that the California model exhibited several benefits over states where no-check sales were allowed at gun shows. The study found that 6.6 times fewer straw purchases were made at gun shows in California than in the four other studied states – Arizona, Nevada, Texas, and Florida – where checks are not required. No private party sales between attendees were observed in California. Elsewhere, such sales were about equal to sales by licensed dealers, increasing the risk that a prohibited person will acquire a gun. Moreover, 24 definite and 3 probable straw purchases were observed in states without universal background checks, while only one “straw purchase” and another probable one was observed in California. The researchers observed several transactions where a buyer negotiated a transaction only to break it off after learning the seller was a licensed dealer running a check. Their overall conclusion: “These findings suggest a basis for action by policy makers to regulate gun shows and prohibit undocumented private party gun sales.” California’s system is not complicated or difficult to implement, and it provides several benefits. First, federally licensed dealers are already set up to run background checks, so there is no additional system that needs to be put in place to run private sale checks. Second, the federally licensed dealer is required to keep the firearm transaction record. This is critically important to law enforcement if the gun is ever stolen or used in a crime. Law enforcement investigating a crime needs to know who purchased the gun and when, and can only learn this if records are kept in the normal course of business. Crime gun trace data indicating the sales history of a specific firearm has also been immensely valuable to law enforcement efforts to crack down on gun trafficking. Third, California requires checks on all gun sales, and, unlike some states, has no exemption for persons with concealed carry licenses who get free passes while their licenses are in effect. This prevents licensees from buying guns if they commit crimes before their license is expired or revoked, as often happens. . A uniform law modeled after California’s system would benefit law enforcement and the public immensely.
UBC Desirable: State Laws Prove—Missouri

1. Missouri proves that restrictions decrease gun violence


   States with laws requiring background checks of all buyers are unevenly distributed throughout the U.S., with a greater density of these laws in the northeast and western states. That geographic distribution became even more skewed in 2007 when Missouri repealed its longstanding permit-to-purchase law. An evaluation of Missouri’s repeal showed that it was associated with a 25% increase in annual firearm homicides, or an additional 68 homicides per year through 2010. These changes occurred at the same time that the national firearm homicide rate declined 5.5% and the rate in the eight states bordering Missouri fell 2.2%. Missouri’s repeal was not, however, associated with any change in homicides committed with other weapons (or no weapon). This is important because if such a change had been observed, one might suspect that some other factor, other than the repeal, was affecting homicide rates. Connecticut is one of the newest states to enact a permit-to-purchase law, in 1995. An evaluation using somewhat different methods than the Missouri study indicated that enactment of Connecticut’s law was associated with a 40% reduction in the firearm homicide rate through 2005, with no effect on non-firearm homicides.

2. Closing the private seller loophole will decrease gun violence—Missouri proves


   Is there any proof that closing the private seller loophole would reduce gun violence? Missouri’s repeal of its permit-to-purchase licensing and private handgun sale background checks law in August 2007 provides an example. Immediately following the repeal of this law, the share of guns recovered by Missouri police agencies that had an unusually short time interval between retail sale and crime — which is indicative of trafficking — more than doubled. The share of crime guns that had originally been sold by Missouri gun dealers rose sharply. There is also evidence that repeal of this law increased gun violence. Data from the U.S. Centers for Disease Control and Prevention show that when the mean from first three years of data following the repeal of the law are compared with the mean from the prior nine years, the rate of homicides with guns increased 25 percent in Missouri while nationally there was a 10 percent decline.
UBC Desirable: Studies Prove

1. Strong gun laws decrease gun violence—a growing body of research proves

Chelsea Parsons, Vice President of Guns and Crime Policy, CAP and Eugenio Weigend, Senior Policy Analyst, Guns and Crime Policy, CAP and PhD, Tecnologico de Monterrey, AMERICANS UNDER FIRE: AN ANALYSIS OF GUN VIOLENCE IN THE UNITED STATES AND THE LINK TO WEAK GUN LAWS, Center for American Progress, 10—16, p. 1-2.

Despite the many factors that may contribute to rates of gun violence in a particular community, there is a robust and growing body of research that demonstrates an undeniable correlation between certain strong gun laws and lower rates of gun violence. A 2013 study by a group of public health researchers examined the relationship between the overall strength of a state’s gun laws and rates of gun deaths in the state and found that states with stronger gun laws had lower rates of gun deaths than states with weaker gun laws. A 2011 study that analyzed state-level data drew similar conclusions: Firearm-related deaths were significantly lower in states that had enacted laws to ban assault weapons, require trigger locks, and mandate safe storage of guns. Two studies led by Daniel Webster at the Johns Hopkins Bloomberg School of Public Health demonstrated the impact of state laws requiring a permit—and background check—before an individual can purchase a handgun. When Connecticut implemented this requirement, gun-related homicides in the state fell 40 percent; when Missouri eliminated this requirement, gun homicides increased 26 percent. And research conducted by Everytown for Gun Safety, a nonprofit gun violence prevention advocacy group, found that states that require universal background checks for all handgun sales have significantly lower rates of intimate partner gun homicides of women, law enforcement officers killed by handguns, and gun-related suicides.

2. Background checks curb gun violence—two studies prove


Two recent studies provide evidence that background checks can significantly curb gun violence. In one, researchers found that a 1995 Connecticut law requiring gun buyers to get permits (which themselves required background checks) was associated with a 40 percent decline in gun homicides and a 15 percent drop in suicides. Similarly, when researchers studied Missouri's 2007 repeal of its permit-to-purchase law, they found an associated increase in gun homicides by 23 percent, as well as a 16-percent increase in suicides.

3. Meta-analysis shows that background effects work


Still, other academic research points to the laws' effectiveness as well. In a 2015 analysis of studies published over the course of 15 years, Webster and co-author Garen Wintemute found that expanding background checks could "have protective effects against lethal violence," and that permit-to-purchase laws in particular help curb murders and suicides. They also found that background checks help keep guns out of the hands of criminals, but that it's less certain whether that in turn leads to less violence.

4. Gun restrictions limit criminal activity—multiple studies prove

Center for American Progress, “Myth vs. Fact: Debunking the Gun Lobby’s Favorite Talking Points,” 10—5—17, p. 3.

Myth: Gun laws do not work because criminals do not follow the law Fact: Gun laws are effective at reducing gun violence The fact that some individuals will undoubtedly violate any given law is not a reason to eliminate such laws altogether. Strong gun laws—such as those requiring background checks for all gun sales; prohibiting certain dangerous people from buying or possessing guns; and limiting access to highly dangerous weapons of war—are effective at helping keep guns out of the wrong hands in order to prevent gun violence and save lives. • A 2016 CAP study found that the 10 states with the weakest gun laws have an aggregate level of gun violence that is more than three times higher than the 10 states with the strongest gun laws. • Research by Everytown for Gun Safety found that states that require background checks for all handgun sales have significantly lower rates of intimate partner gun homicides of women; law enforcement officers killed with handguns; and gun-related suicides. • Two studies by the John Hopkins Bloomberg School of Public Health demonstrated the impact of permit-to-purchase laws that include a background check requirement. When Connecticut implemented this law, gun homicides in the state fell 40 percent. When Missouri repealed a similar law, gun homicides in that state rose 25 percent.
5. Studies confirm that background checks decrease gun crime

Brady Center to Prevent Gun Violence, NO CHECK. NO GUN. WHY BRADY BACKGROUND CHECKS HSOUlD BE REQUIRED FOR ALL GUN SALES, 4—09, p. 10.

Background checks implemented through state permit-to-purchase and gun registration systems have also proven effective in preventing criminal access to guns. States using a permit-to-purchase system require buyers to undergo a thorough background check by local law enforcement to obtain the permit before they can purchase a gun. Researchers at Johns Hopkins University found that these systems make it more difficult for criminals to acquire guns, forcing criminals to obtain their guns in states with more lax laws. Using data from twenty-five communities, the study found that criminals in states that required gun buyers to first obtain a permit-to-purchase tended to obtain their crime guns from other states without those requirements. If gun registration was also required, this ratio was even more pronounced. The cities with the lowest proportion of homegrown crime guns – Boston, Jersey City and New York – were in the states with the toughest permits-to-purchase and registration laws, requiring fingerprinting of purchase applicants and longer waiting periods, as well as giving police greater discretion to deny licenses to buy guns. The Johns Hopkins researchers found “that comprehensive gun sales regulations that include permit-to-purchase licensing and registration can affect the availability of guns to criminals.” In addition, a study by the Medical College of Wisconsin documented that those background checks conducted at the local level are associated with lower firearm suicide rates and lower homicide rates because, with access to local records, they block more prohibited buyers. Checks performed by local agencies were associated with a 27% lower firearm suicide rate and a 22% lower homicide rate. These studies confirm that background checks reduce criminals’ access to guns. The problem, as discussed in Part Two, is that it is still far too easy for dangerous people to evade the Brady Law by buying guns from no-check sellers at gun shows or elsewhere.

6. The Center for American Progress study proves that stronger gun laws decrease gun violence

Chelsea Parsons, Vice President of Guns and Crime Policy, CAP and Eugenio Weigend, Senior Policy Analyst, Guns and Crime Policy, CAP and PhD, Tecnologico de Monterrey, AMERICANS UNDER FIRE: AN ANALYSIS OF GUN VIOLENCE IN THE UNITED STATES AND THE LINK TO WEAK GUN LAWS, Center for American Progress, 10—16, p. 2-3.

In 2013, the Center for American Progress conducted a study to assess the correlation between the relative strength or weakness of a state’s gun laws, as measured by the Law Center to Prevent Gun Violence, and rates of gun violence in the state across 10 categories of gun violence or gun-related crimes. Consistent with the research cited above, the CAP study found a strong correlation between strong gun laws and lower rates of gun violence. In the 3.5 years since that study, a number of things have changed that warrant revisiting that research. Many states have acted to strengthen their gun laws: Since the mass shooting at Sandy Hook Elementary School, eight states have enacted laws to require universal background checks—bringing the total number of states that have enacted such laws to 18—and 20 states have strengthened their laws to help keep guns out of the hands of domestic abusers. Unfortunately, other states have taken the opposite approach, loosening laws regarding where guns may be carried and weakening or eliminating concealed carry permit requirements. In addition, improvements made in the collection of data relating to gun violence now allow more precise tracking of events such as mass shootings and fatal shootings by law enforcement officers. In this report, the authors revisit CAP’s 2013 analysis with a revised methodology, some new categories of gun violence, and updated state grades from the Law Center to Prevent Gun Violence. The report provides a state ranking across 10 key indicators of gun violence, then uses these rankings to calculate an overall Gun Violence Index score for each state. Using this score, the authors assessed the correlation between the rate of overall gun violence in the state and the relative strength or weakness of each state’s gun laws. Once again, CAP finds a strong and significant link between weak gun laws and high rates of gun violence. The 10 states with the weakest gun laws collectively have an aggregate level of gun violence that is 3.2 times higher than the 10 states with the strongest gun laws. And while this correlation does not prove a causal relationship between stronger gun laws and fewer gun deaths, the link between stronger gun laws and lower rates of gun violence cannot be ignored. As the gun debate continues to churn, policymakers at all levels of government must take action to close dangerous loopholes and enact strong gun laws to protect all of the nation’s communities from this national disgrace.
**UBC Desirable: Suicide—Topshelf**

1. **Gun access contributes significantly to our suicide problems—five reasons**


   Suicide prevention experts at Harvard’s TH Chan School of Public Health have outlined five factors that help explain why some suicide methods drive higher suicide rates in any given society: 1. Inherent deadliness. Some ingested substances are more poisonous than others. A gunshot to the head is inherently more likely to result in death than most pills or knife wounds. 2. Ease of use. Some people, especially minors, lack the technical or medical knowledge necessary to use many methods to lethal effect. 3. Accessibility. The brief nature of many suicidal crises means that a gun in the closet poses a much greater risk to a suicidal person than a high bridge 20 minutes away. 4. Ability to be stopped or interrupted mid-attempt. Methods that can be stopped or reversed offer a crucial window of opportunity for a change of heart or for another person to intervene. 5. Acceptability. Some widely available, highly lethal suicide methods are not commonly used. Fire, for example, is easily obtained, but very few people choose this extremely painful method of suicide. These five factors all help explain why guns are a particularly dangerous and lethal method of suicide. Firearms are inherently very deadly. They are relatively easy to use, requiring little technical or medical knowledge, even by minors. They are readily accessible in many homes and can be purchased almost immediately in most states. Firearm-related suicide attempts are generally irreversible. Finally, because gun suicides may be seen as relatively quick or painless, they may be more “acceptable” than other methods.

2. **Suicide is preventable—a key to limiting the toll is to restrict access to guns**


   For these suicide prevention efforts to succeed though, we have to thoroughly address and refute the myth that suicide is inevitable. If a new disease claimed 44,000 American lives per year, the nation would be gripped with outrage and panic. Our communities would demand immediate solutions and our leaders would scramble to put forward a comprehensive national response. But the most persistent, damaging misconception about suicide is that people who attempt it have reached a deliberate point of no return—that they are determined to die by any means and despite anyone’s efforts. The truth contradicts the inevitability myth: the vast majority of people who attempt suicide without a gun survive the attempt or act to save their own life before it’s too late. And the vast majority of those survivors go on to live out their lives without ever attempting suicide again. Up to 16 million Americans are alive today because they survived a suicide attempt, and these survivors’ stories are ones of hope and resilience. Despite their struggles, they were not inevitably lost. But very few people can speak of surviving a self-inflicted gunshot. Most people attempt suicide impulsively during acute periods of mental crisis, and they typically use whatever suicide method is most quickly available. People are at least 40 times more likely to die if they attempt suicide with a gun instead of the two most common methods—overdosing on drugs or medication and self-cutting with sharp instruments. This explains why gunshots account for 5% of life-threatening suicide attempts in the United States but over 50% of suicide deaths. This is also why states with immediate, unrestricted access to guns suffer a hugely disproportionate share of our nation’s suicides. Any meaningful effort to reduce suicides in America must reflect these facts. A variety of risk factors—including mental health conditions and trauma, addiction and isolation, bullying and abuse—drive some people to attempt suicide. But easy access to guns is often the determining factor in whether a person at risk survives. Yet access to guns, the leading cause of suicide death, is almost entirely unregulated in much of the country. In a powerful essay published in Vogue last year, a grieving mother who lost her severely depressed daughter to suicide wrote, “One of the most difficult things for me to grasp was that my daughter’s medications were better regulated than the guns and bullets she used to end her life.” The director of the American Association of Suicidology has called suicide “the invisible kid sister” in gun policy debates. That must change. If we believe human life is worth protecting, we share a collective duty to turn our silence and misconceptions about suicide into empathy and action. Gun policy reforms must be part of a comprehensive response to suicide in America.
3. Universal background checks will help decrease the suicide rate

Law Center to Prevent Gun Violence, CONFRONTING THE INEVITABILITY MYTH: HOW DATA-DRIVEN GUN POLICIES CAN SAVE LIVES FROM SUICIDE, Americans for Responsible Solutions Foundation, 2017, p. 43-44.
There is a strong link between mental illness and suicide risk. Most suicide attempts are relatively impulsive, one-time responses to acute stressors like an argument, personal tragedy, or loss, but suicides rarely occur out of the blue. Underlying mental health conditions make people much more likely to experience suicidal impulses and to react to acute crises by attempting suicide. Ninety percent of people who attempt suicide are grappling with impairing mental health conditions like major depression, PTSD, schizophrenia, or alcohol dependence, at the time of their attempt. Federal law prohibits some people with the most severe histories of mental health impairments and suicidality from accessing firearms, including people who have been involuntarily committed to a psychiatric hospital for their own safety. However, this law is only as effective as the background check laws and systems used to implement it. That’s why it’s so critical that policymakers close the dangerous background check loophole that allows people to acquire guns from unlicensed sellers without any background check in most states. Lawmakers should also act to ensure that states and federal agencies promptly and comprehensively share pertinent records with state and federal background check systems to ensure background checks work effectively.
UBC Desirable: Suicide—Gun Access Key

1. Gun access almost guarantees that a suicide attempt will be fatal


Guns are lethal. The case-fatality rate for gun suicides is close to 90 percent. By contrast, the case-fatality rate for attempts with poison and cutting, the most common methods, is under 3 percent (Miller, Azrael, and Hemenway 2004). Many suicides are impulsive and the urge is fleeting (Rimkeviciene, O’Gorman, and DeLeo 2015). Over 90 percent of serious suicide attempters who do not die that time do not kill themselves later (Owens, Horrocks, and House 2002). It is therefore not surprising that suicide experts overwhelmingly agree that gun accessibility is a risk factor for suicide. For example, the 2012 National Strategy for Suicide Prevention from the National Action Alliance for Suicide Prevention and the US Surgeon General concluded that "firearm access is a risk factor for suicide in the United States.” My monthly surveys of gun researchers found that 84 percent agree that a gun in the home increases the risk for suicide; only 8 percent disagree (Hemenway 2015; see also http://cdn1.sph.harvard.edu/wp-content/uploads/sites/1264/2014/05/Expert-Survey-1-Results.pdf).

2. Suicides are due to firearm availability—research shows that other means are not pursued with as much frequency or lethality.


In an attempt to minimize the importance of firearm-related suicide, some may argue (incorrectly) that if a firearm is not available, a suicidal person will invariably choose an equally lethal method. This is simply not so. Firearms are among the most lethal methods of suicide. In one study, more than 90 percent of all suicide attempts with a firearm, if serious enough to require at least hospital treatment, resulted in death. This compares with, for example, a 34 percent fatality rate for suicide attempts by jumping and just two percent for poisoning by drugs. Other studies have confirmed the very high lethality of firearm-related suicide attempts compared with many other common methods. Because firearms are so lethal, where there are fewer firearms there are fewer completed suicides.

3. The easy availability of guns strongly correlates with greater gun deaths, including suicides


Every gun-related death is a unique tragedy, but taken together, the approximately 30,000 lives lost each year in the United States to firearms represent a public health phenomenon that has attracted serious study. Research reveals that where firearms are more common, so, too, are deaths from suicide, homicide, and firearm-related accidents. A suicide risk is greater in homes with guns and in communities with a higher prevalence of guns. Suicide is a critically important public health problem, one that state and local governments might reasonably choose to address through legislation. See Washington v. Glucksberg, 521 U.S. 702, 728 (1997) (states have an “unqualified interest in the preservation of human life”). The majority of the 33,300 suicides in the United States in 2006 were committed with a firearm; in other words, more suicides were committed with a firearm than by all other methods of suicide combined. Most firearm-related suicides occur in the home. In particular, numerous studies have demonstrated that occupants of homes with guns are at a substantially increased risk of suicide compared with occupants of homes without guns. The number of studies demonstrating the relationship between firearm ownership and suicide, together with their variety in approach and consistency in results, is compelling. Many of these studies use a “case-control” design. In case-control studies, the cases represent suicide victims (or the homes where a suicide has occurred)—regardless of the method of suicide. The controls are individuals (or households) that did not experience a suicide, generally matched in some way to be an appropriate comparison with the cases. This is the same general methodology that helped to establish an increased risk of lung cancer among cigarette smokers. Case-control studies show that the risk of suicide is greater in homes with guns. According to one such study, firearms were 2.7 times more likely to have been present in the homes of adolescent suicide victims as compared to psychiatric inpatients who had attempted or considered suicide, even after adjusting for other risk factors. A later study employing a larger sample of cases and controls found that adolescent suicide victims remained more than twice as likely as either suicide attempters or non-suicidal psychiatric patients to have had a gun in their home. And in another well-known analysis, homes in which a suicide had occurred were found to be 4.8 times more likely to contain a firearm than matched neighborhood control homes that had not experienced a suicide, even after accounting for other risk factors for suicide.
4. Unrestricted access to guns facilitates fatal suicide attempts

Law Center to Prevent Gun Violence, CONFRONTING THE INEVITABILITY MYTH: HOW DATA-DRIVEN GUN POLICIES CAN SAVE LIVES FROM SUICIDE, Americans for Responsible Solutions Foundation, 2017, p. i. 

Suicide affects a large and growing number of American families. But these tragedies are preventable. Most people who attempt suicide without a gun survive in both the short and long term—90% of survivors do not die by suicide. But those who reach for a gun rarely have a second chance. The Difference a Gun Makes. Though most people who attempt suicide are struggling with mental illness, suicide attempts are usually impulsive responses to acute crisis. People who reach for guns in these moments of crisis are unlikely to survive. Guns are used in only 5% of suicide attempts, but because guns are uniquely lethal, they are responsible for over 50% of suicide deaths. This is why states with immediate, unrestricted access to guns have much higher suicide rates. And it’s why gun safety reform must be part of a comprehensive policy response.

5. The gun lobby is wrong—and overwhelming consensus proves that gun access contributes to our problem with suicide


These gun lobby talking points seek to deny what is unequivocally true: guns play a significant role in exacerbating Americans’ suicide risk. Last year, Vox fact-checkers reported that “every single case control study done in the United States has found [that] the presence of a firearm in the home is a strong risk factor for suicide.” They cited 24 separate studies as well as a 2014 meta-analysis of 16 studies, published in the Annals of Internal Medicine, that found a gun in the home “tripled the overall risk of suicide.” The scientific consensus is clear: • A 2014 study published in the American Journal of Preventive Medicine noted that “all US case-control studies that have examined the issue have found that the risk of suicide is two- to fivefold higher in gun-owning homes for all household members... The higher suicide risk is driven by a higher risk of firearm suicide, with no difference in non-gun suicides.” • A 2011 paper published in the American Journal of Lifestyle Medicine analyzed 15 case-control studies and found that “all [of the studies] find that firearms in the home are associated with substantially and significantly higher rates of suicide... Having any gun in the home is a risk factor for suicide for everyone in the home—the gun owner, the gun owner’s spouse, and the gun owner’s children.” • A 2004 study published in the American Journal of Epidemiology, which analyzed CDC data from a large national sample of recent death records, found that recently deceased males were over 10 times more likely to have died by suicide if they had lived in a home with a gun and that overall, recently deceased Americans were six times more likely to have died by suicide if they had lived in a home with a gun. • A 2003 study published in the Journal of Injury Prevention found that people who died by suicide were nearly seven times as likely as the general population to have purchased a handgun within the previous two years. The nation’s leading medical and public health organizations have also forcefully rejected the gun lobby’s irresponsible and inaccurate claims about firearms and suicide: • The American Association of Suicidology has made clear that easy access to firearms is “a contributory risk factor for suicides and suicidal behaviors.” • The American Academy of Pediatrics has repeatedly affirmed that “adolescent suicide risk is strongly associated with firearm availability.” • The American Bar Association, American Medical Association, American Psychiatric Association, American Academy of Family Physicians, American Academy of Pediatrics, American College of Surgeons, American Congress of Obstetricians and Gynecologists, American College of Emergency Physicians, and the American Public Health Association have all signed a joint declaration that acknowledges the scientific consensus that “substantial evidence indicates that firearms increase the likelihood of suicide.” • Finally, the US Surgeon General’s National Strategy for Suicide Prevention affirmed that “firearm access is a risk factor for suicide in the United States ... [even though] individuals who own firearms are not more likely than others to have a mental disorder or have attempted suicide. Rather, the risk of a suicide death is higher among this population because individuals who attempt suicide by using firearms are more likely to die in their attempts.” Recently, the National Shooting Sports Foundation (NSSF), which represents thousands of gun dealers and manufacturers, commendably acknowledged the undeniable link between firearm access and suicide risk. Last year, the NSSF announced a partnership with the American Foundation for Suicide Prevention (AFSP) to distribute educational materials about reducing suicide risk through social media networks and at gun shops in select states.
6. **Suicide attempts are usually impulsive in nature—decreasing gun access can help cut the suicide rate**


An all-too-common myth about suicide is that people who attempt it have reached a deliberate point of no return—that they are determined to die despite anyone’s best efforts. This assumption is false and toxic. It frustrates effective prevention efforts and justifies apathy and inaction in the face of widespread, preventable loss. Suicide attempts are typically impulsive, desperate responses to immediate stressors like an argument, the loss of a job or relationship, or the death of a loved one. Though underlying risk factors, such as depression, anxiety, trauma, or substance abuse make a person much more likely to experience suicidal thoughts and impulses, people often only experience those thoughts and impulses during brief and acute crisis periods. During these crisis periods, people typically act on suicidal impulses quickly and with little planning. • A leading study of patients who survived nearly lethal suicide attempts found that 24% had attempted suicide within five minutes of deciding to do so, 48% attempted suicide within 20 minutes of deciding to do so, and 71% attempted suicide within one hour. • Another study of suicide survivors similarly found that 40% had harmed themselves within five minutes of deciding to attempt suicide, 48% did so within 10 minutes, and a majority attempted within just 30 minutes. • A majority of survivors described their attempt as an impulsive response to an interpersonal conflict, with most reporting they had attempted suicide within 24 hours of a serious argument. • Though over 9 million Americans experience “serious thoughts of suicide” each year, one study found that 30% experienced those suicidal thoughts for less than one hour. Though suicide attempts are typically impulsive, they rarely occur out of the blue. Most people who attempt suicide are grappling with an impairing mental illness like major depression or PTSD and exhibit or communicate significant warning signs of suicide risk prior to their attempt. But contrary to popular myth, suicidal impulses are almost never permanent desires. In fact, the majority of people who start a suicide attempt act to reverse the attempt (by making themselves throw up pills, for instance) or seek help before it’s too late. Studies show that 70% of people who survive a suicide attempt live out their lives without ever attempting suicide again. Understanding that suicide attempts are usually one-time, crisis-driven responses to overwhelming pain is the first step toward crafting an effective policy response. Temporarily reducing at-risk people’s access to the most lethal means of suicide substantially increases their odds of survival in both the short and long term.

7. **Research categorically proves that gun access is strongly linked to suicide rates**


The difference gun access makes in suicide is deadly and undeniable. The data categorically shows that gun access plays the most significant and deadly role in states’ overall rates of suicide. Compared to other variables, including the 50 states’ racial, gender, and rural demographics, and their varying rates of mental illness, substance abuse, and suicidality, gun access is the most correlated with suicide death. This does not suggest that people grappling with mental illness, depression, addiction, or suicidal thoughts are less likely to attempt or die by suicide. There is very strong evidence that each of these factors dramatically increases an individual person’s risk of attempting suicide. However, the vast majority of people living with these risk factors do not attempt suicide and the majority of those who do attempt, survive—unless they attempt with firearms. Though some states do have moderately larger numbers of people at risk of suicide because of mental illness, substance abuse, or other factors, these risks play a less significant role in states’ suicide rates than the likelihood that a person in mental crisis will have easy access to a gun. That’s why responsible gun policy reform is a critical component in any effort to save lives from suicide in America.

8. **Gun access increases suicide rates—new research proves**

Augustine Kposowa, Department of Sociology, University of California, Riverside, David Hamilton, and Katy Wang, Department of Statistics, University of California, Riverside, “Impact of Firearm Availability and Gun Regulation on State Suicide Rates,” SUICIDE AND LIFE-THREATENING BEHAVIOR v. 46 n. 6, 12—16, pp. 678-696, p. 678.

Past studies on suicide have investigated the association of firearm ownership and suicide risk in the United States. The aim of the present study was to build on previous work by examining the impact of firearm storage practices and the strictness of firearm regulation on suicide rates at the state level. Data were compiled from primarily three sources. Suicide and firearm ownership information was obtained from the Centers for Disease Control and Prevention. Strictness of handgun regulation was derived from figures available at the Law Center to Prevent Violence, and controls were taken from the US Bureau of the Census. Mixed models were fitted to the data. Household firearm ownership was strongly associated with both suicide by all mechanisms, and firearm suicide. Storage practices had especially elevated consequences on suicide rates. Percent with loaded guns and gun readiness increased suicide rates, and strictness of gun regulation reduced suicide rates. Ready access to firearms can make a difference between life and death. Loaded and unlocked firearms within reach become risk factors for fatal outcomes from suicidal behavior. Future research might want to examine ways of obtaining more recent data on individual firearm ownership. This study proposes several policy recommendations for suicide prevention.
9. **Guns are the most lethal means people use to attempt suicide**


Guns are far more lethal than other methods commonly used in suicide attempts in the US. Most suicide attempts are carried out impulsively using whatever methods are readily accessible. At-risk people who have guns in their home, or who live in states that make guns widely and immediately available to new purchasers, are much more likely to use guns to attempt suicide. Consequently, people in these states are much more likely to die by suicide. This is because guns are uniquely lethal compared to other suicide attempt methods. The human body is remarkably resilient—in fact, more than 90% of US suicide attempts are not fatal. But when people reach for guns in a suicidal crisis, they die 84% of the time. Self-inflicted gunshots are at least 40 times more likely to result in death as the most common suicide attempt methods—medication overdoses and sharp instruments. This explains how self-inflicted gunshots have accounted for 5% of life-threatening suicide attempts but 52% of all suicide deaths since 2000. Preventing suicide attempts is critical to reducing US suicide rates. But every year, over one million Americans attempt to take their own life. The presence of a firearm is very often the determining factor in who survives. This means that gun policy reforms must be part of a comprehensive response to the problem of suicide in America. Over 350,000 individuals attempted suicide with firearms between 2000 and 2015. If just one in ten had attempted suicide with one of the two most common suicide attempt methods (cutting and overdoses) instead of reaching for a firearm, almost 30,000 more people would have survived. The vast majority would have gone on to live out their lives and continue to contribute to our world.

10. **Gun access is the biggest factor in suicide rates—state-level data prove**


Gun access is a much more significant factor in states’ suicide rates than race, gender, or rurality. RACE Racial demographics are only weakly associated with suicide rates. Suicide prevalence is very high among white Americans as a whole, but is actually concentrated among white Americans in certain areas, where suicide risk is primarily driven by other factors—particularly the availability of guns. RURALITY States where a large share of the population lives in rural areas have moderately higher suicide rates but this trend is not strong. Utah and Colorado have some of the country’s smallest rural populations (though they have vast, open land, residents are clustered in cities and suburbs) but these states have some of the nation’s highest rates of suicide. The two most rural states, Vermont and Maine, have suicide rates only moderately above the national average. GENDER States with more men generally have higher suicide rates. But there is little variation among the 50 states with regard to gender balance. The most disproportionately male state, Alaska, is 52% male, while the most disproportionately female state, Delaware, is 52% female. Men are also much less likely to attempt suicide than women, so without understanding why suicide attempts by men are so much more lethal (guns), Delaware might be expected to have to have the highest rate of suicide death. FIREARM ACCESS States’ firearm ownership rates show the strongest correlation with rates of suicide. This indicates that states that are disproportionately white, rural, and male have higher suicide rates in large part because white men in rural areas are much more likely to have ready access to guns.

11. **The lack of gun restrictions contributes to higher suicide rates—cross-country comparisons prove**

Augustine Kposowa, Department of Sociology, University of California, Riverside, David Hamilton, and Katy Wang, Department of Statistics, University of California, Riverside, “Impact of Firearm Availability and Gun Regulation on State Suicide Rates,” SUICIDE AND LIFE-THREATENING BEHAVIOR v. 46 n. 6, 12—16, pp. 678-696, p. 679.

Sweden, Norway, Finland, France, and Canada all have far fewer guns in the hands of private citizens than the United States, which ranks first in the world with an estimated civilian ownership rate of 88.8 firearms for every 100 persons. Yet all rank among the top 15 in the world, with rates of possession ranging from 30.8 in Canada, 31.2 in France, 31.3 in Norway, and 31.6 in Sweden to 45.3 in Finland—well above the OECD median of 12.5. To match its strikingly low firearm suicide rate, the United Kingdom stands out for having approximately half the OECD median number of privately owned guns (Small Arms Survey, 2007). Compared with all but a handful of U.S. states, all of the aforementioned countries impose more restrictions on the purchase and possession of firearms, particularly handguns—none more so than the United Kingdom. In addition to more expansive mental health disqualifications, all require licensing of owners and registration of guns, procedures that inhibit impulsive purchases and have particular relevance to suicide risk (Small Arms Survey, 2011).
12. Higher rates of gun ownership are linked with higher suicide rates

Augustine Kposowa, Department of Sociology, University of California, Riverside, David Hamilton, and Katy Wang, Department of Statistics, University of California, Riverside, “Impact of Firearm Availability and Gun Regulation on State Suicide Rates,” SUICIDE AND LIFE-THREATENING BEHAVIOR v. 46 n. 6, 12—16, pp. 678-696.

The aim of our study was to assess the impact of firearm ownership, firearm storage practices, and strictness of gun regulation on overall suicide and firearm suicide in the United States. In general, findings are consistent with the proposition that household gun ownership and keeping guns in the home that are loaded, and especially loaded guns that are unlocked, are significant contributors to U.S. suicide rates at the state level. After controlling for possible confounders, including one (long-term unemployment) that has quite large effects in most models and two (religious adherents in states and divisional divorce rates) that reach some level of significance in at least one, we have found that all four gun variables are significantly related to suicide mortality, raising risk in all models. Household gun ownership modestly increases both all suicides and gun suicides, somewhat more in the former (0.19) than the latter (0.14) case, the reverse of what might be expected if the absence of guns leads to substitution of means. The increase in all suicide deaths appears to be largely but not completely driven by the increase in firearm fatalities. How guns are stored appears to be even more consequential than that they are present in the home. The increase in firearm suicide mortality almost triples if a gun in the home is kept loaded, going from 0.14 to 0.51, and rises another 50% to 0.76 when the loaded gun is left unlocked. This finding is consistent with the observation that attempted suicide is most often an impulsive act whose outcome very much depends on immediate access to lethal means. The effect of storage practices on the frequency of all suicides is almost exactly parallel, advancing from 0.19 to 0.51 to 0.81, further undercutting the assumption of substitution of means while strengthening the conclusion firearms influence overall suicide rates. Finally, we have found that state gun regulations of the type we have selected for relevance to suicide appear to moderate suicide risk to a small but still significant extent, and that this effect is the same, regardless of means.

13. Half of all suicide deaths occur through the use of a gun

Chelsea Parsons, Vice President of Guns and Crime Policy, CAP and Eugenio Weigend, Senior Policy Analyst, Guns and Crime Policy, CAP and PhD, Tecnologico de Monterrey, AMERICANS UNDER FIRE: AN ANALYSIS OF GUN VIOLENCE IN THE UNITED STATES AND THE LINK TO WEAK GUN LAWS, Center for American Progress, 10—16, p. 9.

The largest category of gun deaths in the United States are gun-related suicides: Roughly two-thirds of all gun deaths in this country are suicides. Access to firearms significantly increases the risk that a suicide attempt will be fatal. While suicide attempts involving methods other than guns have a 5 percent fatality rate, 85 percent of suicide attempts with a firearm are fatal. People complete suicide more often with a gun than with any other method: Of the more than 375,000 people who died by suicide in the U.S. from 2005 to 2014, roughly half used a gun. A person dies by gun-related suicide in the United States approximately every 30 minutes. Table 3 ranks the states based on the rate of gun suicides from 2005 to 2014, which vary widely from state to state. While Alaska, Wyoming, Montana, Idaho, and Nevada presented rates higher than 10 gun suicides per every 100,000 people from 2005 to 2014, 10 states presented rates lower than five gun suicides per every 100,000 people.
**UBC Desirable: Suicide—Restrictions Effective**

1. **Universal background checks will help decrease the possibility that at-risk people will get guns—we need to close the loopholes**

Law Center to Prevent Gun Violence, CONFRONTING THE INEVITABILITY MYTH: HOW DATA-DRIVEN GUN POLICIES CAN SAVE LIVES FROM SUICIDE, Americans for Responsible Solutions Foundation, 2017, p. 44.

Federal law requires people to pass a background check in order to acquire a gun from a licensed gun dealer but not from other sources. In most states, this means that a severely suicidal person who has been ordered by a court to receive mental health treatment would nonetheless be able to acquire guns from a stranger at a yard sale, at a gun show, or through an online classified ad—with no background check and no questions asked. Universal background check laws help to keep at-risk people from acquiring firearms in these circumstances. States that require people to pass a background check to acquire a gun from both gun dealers and other sellers have significantly lower suicide rates. Researchers have found that, per capita, states with universal background checks have 53% fewer gun suicides and 31% fewer suicides overall compared to other states. This correlation was unchanged even after controlling for the effects of poverty, population density, age, education, and race/ethnicity. Numerous other studies have similarly found that background check laws are correlated with lower rates of suicide. This is not simply because these states have more limited rates of gun ownership—universal background checks are a significant factor. Two states that took different approaches to background checks also saw significant effects in their suicide rates. In 1995, Connecticut implemented a law requiring people to pass a background check in order to purchase a handgun from any seller. Researchers from Johns Hopkins found that this law was associated with a 15% reduction in firearm suicide rates in Connecticut. Conversely, in 2007, Missouri eliminated its law requiring background checks for all handgun sales, which the same researchers linked to a 16% increase in gun suicides.

2. **Restricting access can cut the suicide rate**


Policymakers in other countries have shown that even modest policy reforms can substantially reduce a nation’s total suicide rate by better regulating the lethality or availability of the country’s leading method of suicide. Before 1960, inhalation of domestic gas (used for heating and cooking) was the leading suicide method in the United Kingdom. After the UK transitioned to a nontoxic source of natural gas, gas suicides fell to nearly zero. Though suicides by other methods moderately increased—evidence that some suicidal people were substituting other means—the overall suicide rate fell by nearly one-third. A similar result occurred in Sri Lanka, an agricultural nation where widely accessible pesticides were long the leading method of suicide. After Sri Lanka’s government placed restrictions on the availability of the most highly toxic pesticides in the 1990s, overall suicide rates dropped by 50%. Researchers found that people were still attempting suicide at about the same rate—they just weren’t dying as often. In the past decade, the Israeli Defense Forces also observed that suicides among its soldiers occurred disproportionately on weekends and that the vast majority of these suicides—roughly 90%—involved firearms. After military leaders implemented a new policy that required soldiers to leave their service weapons on base during weekend leave, the Israeli military’s overall suicide rates dropped by 40%. The crucial lesson for American policymakers is that nations can substantially reduce their suicide rates by regulating the most lethal means commonly used in their population’s suicide attempts. The US will not bar law-abiding, mentally responsible people from owning and acquiring firearms—no major gun violence prevention or suicide prevention organization advocates for this. But we can craft targeted policy reforms that help to reduce the likelihood that people will access the most uniquely lethal means of suicide during a suicidal crisis.

3. **Even modest efforts to reduce gun access can cut the suicide rate**


Reducing the ease with which at-risk people can pick up a gun in moments of crisis significantly increases their odds of survival in both the short and long term. Statistically speaking, the vast majority of the 350,000 people who used guns to attempt suicide between 2000 and 2015 would have survived if they had attempted suicide without a gun. The vast majority of these survivors would never attempt suicide again. No law can bring these people back to life. But even modest gun policy reforms would help reverse recent deadly trends and save more lives from suicide. Even the National Shooting Sports Foundation, a trade organization representing gun manufacturers and dealers, has finally acknowledged the need to “help educate gun owners and the public on how to keep firearms safely out of reach of those who, during a period of despair, decide to do themselves harm.” But like the rest of the gun lobby, the NSSF has continued to cynically resist any effort to strengthen the dangerously weak gun laws that drive our suicide rates.
4. Gun control matters—it can be part of an effective suicide prevention strategy can help restore hope to people’s lives


Suicide prevention works because the prognosis for most suicidal people is hopeful. When it comes to suicide, stories of hope, resilience, and recovery occur more often than not. Most people who attempt suicide take action to save their own lives before it is too late or otherwise survive. A meta-analysis of 90 published studies on suicide found that 70% of survivors never made another attempt, and more than 90% did not go on to die by suicide. Survivors of suicide and their loved ones have made use of new platforms to share their experiences and work to reverse the false narrative that suicidal people are beyond saving. For example, a nonprofit suicide prevention organization called Project Semicolon was formed in 2013. The project asks anyone who has been affected by suicide to draw or tattoo a semicolon on their wrists as a symbol of hope and a message of awareness. The project’s website explains: “A semicolon is used when an author could’ve ended a sentence but chose not to. You are the author and the sentence is your life… Your story is not over.” Tens of thousands of people have participated. Social media has also helped survivors find a community and provide insight into their experiences. In April 2016, a user on the social-news website Reddit asked suicide survivors to describe the feelings they experienced upon discovering that they had survived their suicide attempts. Within a month, the post garnered 7,500 responses from survivors sharing powerful stories of resilience and hope. Nearly all of them emphasized the possibility and purpose of recovery. These survivors are real-life examples of the power of hope, and their stories emphasize the importance of thoughtful, responsible suicide prevention policy in two ways. First, they show why suicide prevention matters, what is really at stake. Despite common misconceptions and gun lobby spin, suicide deaths are not inevitable. In fact, they are the exception, even for suicidal people who are most at risk. Second, there is a notable silence in these stories of recovery: among these survivors, almost no one could discuss living through a self-inflicted gunshot wound. Those who pulled the trigger of a gun are simply not with us to share stories of second chances and of authoring the next sentence of an unfinished life. That’s why effective gun policy matters on this issue. If we believe human life is worth protecting, and we know suicides are preventable, thoughtful gun safety strategies must be part of a comprehensive response to this public health crisis.

5. Barriers to firearms can decrease suicide rates—regression analysis proves


Access to lethal weapons is an important risk factor for suicide. Our study suggests that general barriers to firearm access created through state regulation can have a significant deterrent effect on male suicide rates in the United States. Permit requirements and bans on sales to minors were the most effective of the regulations analyzed. These findings have important implications for U.S. gun control policy, which remains exceptionally heterogeneous across states. While all states except Wyoming have banned sales of handguns to minors, twelve states still allow the sale of long guns to minors. Furthermore, only twelve states currently require purchase permits for firearms. While gun control remains a controversial issue both at the state and federal level in the U.S., this analysis suggests that there are clear public health benefits to restricting access to firearms through regulation.

6. Statistical analysis shows that stricter gun laws are associated with lower suicide rates

Augustine Kposowa, Department of Sociology, University of California, Riverside, David Hamilton, and Katy Wang, Department of Statistics, University of California, Riverside, “Impact of Firearm Availability and Gun Regulation on State Suicide Rates,” SUICIDE AND LIFE-THREATENING BEHAVIOR v. 46 n. 6, 12—16, pp. 678-696, p. 693.

With respect to the explanatory variables we have modeled, our findings are consistent with the many prior studies that have observed a positive connection between household gun ownership and suicide mortality (Miller et al., 2012; Smith & Kawachi, 2014; Wiebe, 2003). On the additional influence of storage practices on risk, our results support those investigators who have detected an enhancement effect (Brent & Bridge, 2003; Grossman et al., 2005; Miller et al., 2012; Shenassa et al., 2003) against those who find none (Dahlberg, Ikeda & Krekow, 2004). With regard to gun regulation, like Andres and Hempstead (2011) and Fleegler et al. (2013), our models show a significant, if modestly beneficial effect of more comprehensive and stringent state laws. Using a more complex form of analysis that controls for other factors potentially affecting outcomes, our findings confirm what some investigators claim about the efficacy of gun control (Gerney et al., 2013). We include in our measure laws that disqualify persons deemed to be at risk for suicide by virtue of mental illness or substance abuse from purchasing firearms along with more general provisions for waiting periods on all firearm purchases, but unlike Andres and Hempstead, we do not attempt to assess their relative effectiveness.
7. Restricting access to firearms can decrease suicide rates

Katherine Hempstead and Antonio Rodriguez Andres, “Gun Control and Suicide: The Impact of State Firearms Regulations, 1995-2004,” DEVELOPMENT RESEARCH WORKING PAPER SERIES n. 17, Institute for Advanced Development Studies, 12—09, p. 2. There is a considerable body of empirical work that has documented a positive relationship between access to firearms and suicide (Miller and Hemenway, 2008; Miller et al., 2005). In fact, much of the decline in suicide in the United States over the past decades has been linked to the reduced prevalence of firearms (Miller et al., 2005; Miller et al., 2007; Cook and Ludwig, 2006). Although the respective roles of self-selection and availability in explaining the relationship between guns and suicide have not been completely resolved, the implication in either case is that reducing access to firearms should reduce suicide (Duggan, 2003) Restricting access to firearms has been recommended as a suicide prevention strategy by national and international organizations such as the CDC and the WHO. Gun control policies can serve to reduce overall gun availability by creating barriers to firearm ownership. Additionally, firearms policies can also prevent individuals who are at a relatively higher risk of suicide from purchasing firearms.

8. Data from other countries proves that decreasing the prevalence of firearms is linked with lower suicide rates

Katherine Hempstead and Antonio Rodriguez Andres, “Gun Control and Suicide: The Impact of State Firearms Regulations, 1995-2004,” DEVELOPMENT RESEARCH WORKING PAPER SERIES n. 17, Institute for Advanced Development Studies, 12—09, p. 5. Several studies in other countries where regulations restricted general access to firearms have found evidence of an effect on suicide. Cheung and Dewa (2005) examine the relationship between suicide and the implementation of new restrictions on firearms (Bill C-17), using time series data from Canada. They concluded that there was a relationship between means used by young people and the imposition of the restrictions. In the case of New Zealand, Beautrais et al. (2006) find that after the introduction of legislation restricting ownership and access to firearms, firearm suicides significantly decreased, particularly among the young. Ozanne-Smith et al. (2004) conclude that the implementation of a strong reform in New Zealand lowered firearms deaths, particularly suicides. An evaluation of the 1996 National Firearms Agreement (NFA) in Australia documents a decline in firearm suicides after the implementation of the agreement (Klieve et al., 2009). However, these findings may be confounded with an overall decline in gun ownership that preceded the NFA. Additionally, there was some evidence of increased suicides by hanging. In Europe, a study of the E.U. countries as a group and the U.K. in particular has found that changes in firearm legislation have led to fewer firearm suicides (Kapusta et al., 2007; Hawton et al., 1998; Haw et al., 2004). An analysis of firearm legislation reforms enacted in 1997 in Austria also found a statistically strong effect on suicide rates (Wahlbeck and Mäkinen, 2008).

9. Firearms are responsible for over half of suicide deaths—decreasing the availability will cut the number of deaths

Augustine Kposowa, Department of Sociology, University of California, Riverside, David Hamilton, and Katy Wang, Department of Statistics, University of California, Riverside, “Impact of Firearm Availability and Gun Regulation on State Suicide Rates,” SUICIDE AND LIFE-THREATENING BEHAVIOR v. 46 n. 6, 12—16, pp. 678-696. p. 678-679.

Firearms were the cause of nearly 51% of U.S. suicide deaths from 2004 to 2012, never falling below 50% in any year (CDC, 2015a). This is a percentage far higher than in any other advanced industrial nation. Among other English-speaking countries, Canada, where guns accounted for 14.9% of suicides in 2010, is closest to the United States. In the United Kingdom, the number was only 2.5% that year. Sweden (27.3%), Norway (21.9%), and Finland (17.5%), followed by France (17.4%), are the Western European nations where guns are most frequently used for intentional self-harm; elsewhere, the percentage is 10% or less (WHO, 2015). Among all these countries, only France and Sweden have higher overall suicide rates than the United States (OECD, 2015). Given the far greater lethality of firearms compared with all other means of self-harm, these numbers reveal that Americans are undoubtedly less suicidal than other English-speaking or European peoples with similar or even lower suicide mortality; they just choose more effective means. If firearms were less available, fewer people would succeed in killing themselves, even if many would seek substitute ways of trying.
1. **Suicide rates are spiking—it imposes an enormous toll on families, and guns are responsible for most deaths**


   There has been a devastating rise in suicides across the US for nearly two decades, and yet this national public health crisis is still often discussed in whispers. A culture of silence and stigma has kept our country from rising to the occasion to understand and confront this deadly challenge—or even acknowledge it. As a result, many people falsely believe that suicides are rare anomalies, and that we are powerless to prevent them. These beliefs are persistent and understandable, but they are wrong. If we understand what drives this crisis, we can meaningfully address it. And the time to act is now, because in truth, suicide is neither rare nor inevitable. A staggering number of American families have lost a loved one to suicide. Since 2002, over half a million American men, women, and children have taken their own lives. People instinctively fear external threats—like a drunk driver on the road or a violent attacker—but more Americans now die by suicide than in car crashes or murders. Our nation loses nearly three times as many young people aged 10–24 to suicide than to cancer. And US suicide rates are rising by the year. These deaths are also the untold story of gun violence in America. From 2000 to 2015, nearly 300,000 Americans intentionally took their own lives with a gun—many no doubt using a weapon they’d acquired for self-protection. Three in five firearm deaths are now suicides. And half of all suicides result from self-inflicted gunshot wounds. Yet the link between gun access and suicide risk remains dangerously misunderstood, denied, or ignored. These are understandably difficult subjects for many people. But the simple, hopeful truth is that suicide is preventable. By addressing the primary factors that drive suicide risk, including gun access, we can make a lifesaving difference for many. Around the country, policy reforms and prevention programs have worked to stop suicides by reducing at-risk people’s ability to easily and immediately acquire the most lethal means of suicide—guns—during moments of crisis. Spreading these best practices to more places will save more lives.

2. **Suicide is a pervasive problem—gun access contributed to the death toll**


   People who attempt suicide are usually desperate and in crisis, overwhelmed by excruciating mental pain and illness. Ninety percent of people who attempt suicide are grappling with a mental health condition, such as severe depression, post-traumatic stress disorder (PTSD), or schizophrenia. Their anguish and desperate attempts to end their pain are far from romantic or weak—the impulse toward self-harm is a symptom of deeper trauma or illness. People struggling with suicidal urges are not a small, hopeless fringe. According to the US Centers for Disease Control and Prevention (CDC), 1.3 million American adults attempt suicide each year—twice as many as live in our nation’s capital. Researchers estimate that up to 5% of the US population—16 million people alive today—have survived a suicide attempt. Though most suicidal people are suffering from a mental health condition, research shows that their desire for death is usually temporary—an impulsive, desperate reaction to acute crises like the loss of a job or relationship, or the death of a loved one. Most people act on these impulses quickly and with little planning: 71% of people attempt suicide within an hour of deciding to do so and up to 48% attempt within 10 minutes. Most people who attempt suicide survive or abort the attempt before it’s too late and never attempt suicide again. This fact is crucial: it means the prognosis for most suicidal people is hopeful. Most people who struggle with severe suicidal thoughts and urges ultimately cope and survive. But people who attempt suicide with a gun almost never have that chance.

3. **Over one million people attempt suicide every year, and many more have suicidal thoughts**


   Our cultural discomfort around mental illness and suicide tends to conceal the true scope and impact of these problems in American life. Every year millions of people in the US struggle with mental health conditions and with suicidal thoughts and urges that are symptomatic of those conditions. More than a million people act on those suicidal impulses every year by attempting suicide. And though most people survive these attempts, a staggering number do not. Mental Health Conditions Are Much More Common than Popularly Believed. Because mental illness is so rarely disclosed or discussed, it’s common to underestimate the number of people who grapple with mental health conditions over the course of their lives. Though often undiagnosed, nearly half of all Americans experience a mental illness at some point in their lives. According to CDC data, approximately one in five adults in the United States experiences a diagnosable mental illness in a given year—ranging from clinical depression and anxiety to schizophrenia or PTSD. That means more Americans experience mental illness each year than contract the flu. Some people develop chronic or lifelong mental illnesses, while others experience short-term impairments.
4. There are over 1.3M attempted suicides every year


It’s also common to underestimate how many people experience suicidal thoughts or impulses. The CDC estimates that in a single year, more than 9 million Americans experience “serious thoughts of suicide” and more than 1.3 million attempt suicide. Over half a million have to be hospitalized or treated in emergency rooms for life-threatening, intentional self-injuries. Thankfully, most survive. Up to 5% of the US population—16 million people alive today—have survived a suicide attempt. That’s millions more people than live in large states like Illinois or Pennsylvania.

5. More than a half million people have died via suicide since 2000


Suicide deaths affect a staggering number of American families. From 2000 to 2015, over 575,000 Americans ended their own lives. More than half—nearly 300,000 people—died of self-inflicted gunshot wounds. None of these counts include the even larger numbers of men, women, and children for whom a cause of death was undetermined, unreported, or misclassified as an accident. Suicide is now our nation’s leading cause of both injury deaths and firearm fatalities, claiming more lives than motor vehicle crashes, falls, accidental drug overdoses, and murders. Recent surveys found that 40% of Americans knew at least one person who died by suicide and that more than one-third of Americans have been significantly personally impacted by another person’s suicide. 28% of Americans said they personally knew at least one person who took their own life with a gun. Suicide affects all age groups too: from 2000 to 2015, more than 17,000 minors died by suicide before their 18th birthday. Over 9,000 minors intentionally shot themselves over this period, and just under 7,000 died from those gunshot injuries. Suicide is now the third leading cause of death among children aged 10–14, the second leading cause of death among young people aged 15–34, and the fourth leading cause of death overall for all males under 65.

6. Suicide rates are increasingly across the entire country


Suicide rates have been surging across the US in recent years. After falling by 17% between 1985 and 2000, US suicide rates started rising with the new millennium, and increased by 27% between 2000 and 2015, up to the highest levels in at least 35 years. This trend stands in sharp contrast to most other industrialized nations, where suicide rates have steadily declined over the past decade. Since 2000, American suicide rates have spiked among every age group between the ages of 10 and 80 and nearly every racial and gender category. The increase has been sharpest among girls aged 10 to 14, whose suicide rate, while still comparatively low, has more than doubled. Veterans’ suicide rates have risen by more than one-third. Active duty Army soldiers’ suicide rates tripled within just one decade. Suicide rates have also risen in nearly every corner of the nation, increasing in 48 out of 50 states since 2000. Suicide rates jumped by over one third in 23 states—nearly half the country—led by a 68% increase in North Dakota and Wyoming. Along with rising mortality rates from alcohol-related diseases and accidental drug overdoses, rising suicide rates have driven down some demographic groups’ average life expectancy, especially that of middle-aged white Americans, whose suicide death rates jumped by 61% from 2000 to 2015. This decline in life expectancy is an essentially unprecedented development in the history of our nation. As discussed below, those with easy access to guns have been disproportionately affected. This enormous loss of life will continue, and will likely worsen, unless our leaders adopt the responsible public policy solutions we know can reverse these trends and save lives.

7. Suicide rates are high—it is the tenth leading cause of death in the U.S.

Augustine Kposowa, Department of Sociology, University of California, Riverside, David Hamilton, and Katy Wang, Department of Statistics, University of California, Riverside, “Impact of Firearm Availability and Gun Regulation on State Suicide Rates,” SUICIDE AND LIFE-THREATENING BEHAVIOR v. 46 n. 6, 12—16, pp. 678-696, p. 678.

Worldwide, 800,000 people die of intentional self-harm annually (World Health Organization [WHO], 2014, p. 10). The global age-adjusted death rate in 2012 was 11.5 per 100,000 population (WHO, 2014, p. 14). Given variations in reporting across nations, differences in data quality, and persistent cultural sensitivities about the topic, these numbers are most likely underestimates of the true global prevalence of suicide. In the United States in 2012, 40,600 people died by their own hands, and the suicide mortality rate was 12.5 per 100,000 (Centers for Disease Control and Prevention [CDC], 2015a). By 2011, the U.S. rate, rising steadily since 2004, matched the average for all 36 Organization of Economic Cooperation and Development (OECD) nations (OECD, 2013, p. 35) and now slightly exceeds it (CDC, 2015a). From 2005 through 2012, suicide was the tenth leading cause of death among all U.S. residents (CDC, 2015b).
**UBC Desirable: Answers to “Burden Law-Abiding Citizens / Vendors”**

1. **Universal background checks would not inconvenience purchasers—multiple reasons**


   Are Background Checks Convenient? 1) Millions submit to background checks every year. As noted above, nearly 200 million people have gone through a background check to buy a gun. Any licensed gun dealer can perform the check, and there are roughly 60,000 current federal licensees from which to choose. To put that number into perspective, imagine every McDonald’s you’ve ever seen and multiply by five. For every one McDonald’s, there are 5 licensed gun dealers in America. Even in remote areas, people don’t have to travel far. 2) Checks are fast. On average, it takes NICS 7 seconds to answer a call for a background check. 92% of background checks are completed within several minutes. And NICS is open 17 hours a day, every day of the year except Christmas. In the 8% of checks that take longer, it is often because there is an issue that requires extra investigation. For example, a NICS check may uncover a felony arrest, but it might take several hours or days to determine the final disposition of that arrest. If the check cannot be completed in 3 business days, the purchaser may take possession of the gun. 3) Family members would be exempt. Most serious background check proposals exempt sales or transfers between family members from the necessity of conducting a check and allow for exceptions for those who borrow guns to hunt, so long as the gun is transferred while on hunting grounds. 4) NICS can handle it. An oft-mentioned statistic estimates that as many as 40% of firearms sales are conducted without a background check. A universal background check law, it would seem, could add about 7 million checks to the system. But this 40% figure is almost certainly a fiction, as The Washington Post recently documented. To recap, the 40% figure is extremely old (by gun policy standards)—dating back to a 1994 survey of gun owners. And the sample size is so tiny—251 gun owners—that it makes any conclusions dubious. If respondents couldn’t recall how they obtained their firearm, it was counted as a private sale. Finally, respondents were asked if they bought from a federally licensed gun dealer. Thus, they had to be so proficient at understanding the just-passed congressional gun law that they’d have to know that certain sellers are federally licensed to answer correctly. Presuming that the number is far, far lower than 40%, given the reasons outlined above, it is clear that the NICS system can handle it. Currently, NICS experiences huge surges when gun sales spike, including during the holidays, after a major shooting, or after the election of a Democratic president. None of these surges have overwhelmed the system, and neither will adding those for private sales.

2. **Background checks do not impose an onerous burden on purchasers or sellers**


   Other objections are that background checks for private sales would be too burdensome for federal firearms licensees, even though they can and do charge a fee for the service, and that the extra checks would slow down the NICS system. The feasibility of extending background checks to private sales, however, is shown by the many states already requiring them. Opponents also argue that the current instant check system is imperfect due to inadequate reporting of data by the states, and, invoking the slippery slope argument, that requiring universal background checks could lead to national gun registration. Establishing and maintaining a nationwide system for instant background checks on gun purchases that exempts a large percentage of gun buyers does not comport with common sense. It would be akin to having laws that require criminal background checks for some workers at daycare centers, but not others, or requiring driving tests for some classes of drivers, but not others. Indeed, because most illegal purchasers presumably know they cannot purchase a gun from a licensed dealer, the exemption for private sales provides its most direct benefit to the most dangerous gun users.

3. **Background checks do not impose a burden on purchasers**


   Two days ago, on Fox News Sunday, LaPierre complained that under a universal check system, “If I want to sell you a shotgun or something like that … we'll have to go find a dealer or walk into a police station. Who's going to do the check? There's going to be fees. There's going to be paperwork. There's going to be law-abiding people caught up in a bureaucratic nightmare.” Fees? According to online gun forums, the going rate for running a check through the National Instant Criminal Background Check System (known as NICS) at a dealer or public agency ranges from zero to $5 to $15 to $25. Paperwork? The check is electronic. NICS operators resolve more than 90 percent of cases immediately, and if the resolution is delayed more than three days, by law the sale can go through. Last Thursday, at a Christian Science Monitor breakfast, Keene admitted the check “is not much of a burden on people” because it takes less than two minutes, and in the worst outlier cases 10 days. He also conceded that extending it to gun shows “would be relatively easy.”
4. Background checks do not block law-abiding purchases

Brady Center to Prevent Gun Violence, NO CHECK. NO GUN. WHY BRADY BACKGROUND CHECKS HSOULD BE REQUIRED FOR ALL GUN SALES, 4—09, p. 25-26.

While universal background checks would make it harder for criminals to obtain guns, they would not prevent law-abiding purchasers from buying guns, because they can pass the checks. Even the NRA has acknowledged that law-abiding purchasers have nothing to fear from complete and thorough background checks. In 2008, after the horrific tragedy at Virginia Tech, in which a dangerous mentally ill person was able to buy a gun because his disqualifying records were not in the background check system, even the NRA joined with the Brady Campaign to support legislation that would close this gap. The National Instant Check System Improvement Act of 2008 provided new incentives to states to put the records of mentally defective and involuntarily committed persons into the NICS system. At the time, the NRA continually assured its members that this was not a “gun control” bill because it did not prevent law-abiding individuals from buying guns. Indeed, most gun owners welcome checks as an effective and efficient crime-fighting tool. A 2008 poll found that 83% of gun owners approve of background checks for all firearms sales. Gun owners know that background checks are not only effective at preventing criminals from obtaining guns, but they are no hindrance to law-abiding gun purchasers. More than 70% of background checks are completed within 30 seconds and nearly 95% are completed within two hours. Of those that take more time, virtually all are delayed because red flags on the initial search require law enforcement to look up records that are not available at the touch of a button. Checks not approved right away are 20 times more likely to reveal a felony or other disqualifying record. Criminals and gun traffickers should not be able to purchase all the guns they want from unlicensed sellers without going through a background check.

5. Background checks are not an inconvenience—tens of millions of people have completed the process


In 2011, 16,454,952 did it. They went to a licensed firearms dealer to purchase a gun and submitted to a background check. The year before, it was 14,409,616. And since the Brady Law took effect in 1994, 172,093,365 have gone to a federally licensed gun dealer and passed a background check to purchase a firearm. If it’s good enough for nearly 200 million people, why isn’t it good enough for everyone else?

6. Background checks do not impose a burden an legitimate gun purchasers


In addition to making our communities safer, NICS background checks are remarkably quick and burden-free, ensuring the process of legally purchasing of a firearm remains smooth and efficient. In 2015, NICS Call Centers processed background checks in an average of just over two minutes. Calls transferred to NICS examiners for further investigation were handled in less than eight minutes, on average, including wait and processing time. The fastest processing time is through the NICS E-Check System, which averages less than two minutes. The vast majority of background checks are completed in less time than a commercial break.

7. Background checks do not hurt gun show vendors

Brady Center to Prevent Gun Violence, NO CHECK. NO GUN. WHY BRADY BACKGROUND CHECKS HSOULD BE REQUIRED FOR ALL GUN SALES, 4—09, p. 26.

The gun lobby argues that background checks should not be required on all gun sales because they would do away with gun shows. Of course, to suggest that gun shows rely on unrecorded, no-background-check sales to survive is a damning accusation that gun show supporters should be loathe to make. But the argument is also not true. Several studies have shown that gun shows flourish in states that require background checks on sales by unlicensed sellers. According to one report, there were more gun shows in states that had closed the loophole than in states that hadn’t. Moreover, 5 of the top 10 states with the most shows had taken steps to close the loophole: Pennsylvania, California, North Carolina, Illinois, and Michigan. Data in another study suggests that gun shows can be regulated without diminishing attendance or commercial activity. Shows in comparison states were larger than those in California, but California gun shows had more customers per vendor.
1. Whether criminals will try to avoid background checks is irrelevant—they still reduce gun violence


Criminals won’t obey any background check laws. So why would expanding the current law do any good? The logic of this argument is flawed. It could be used to dismiss the utility of virtually any law because criminals will disobey it. The illogical exemption of private gun sales from background checks is the very reason that criminals don’t currently have to obey existing background check laws. State laws prohibiting high-risk groups — perpetrators of domestic violence, violent misdemeanants and the severely mentally ill — from possessing firearms have been shown to reduce violence. One of my studies found that a number of state laws prohibiting individuals under a domestic violence restraining order from owning guns produced an overall 19 percent reduction in intimate partner homicides. Meanwhile, my research has shown that state universal background checks — along with other state laws designed to increase gun seller and purchaser accountability — significantly reduce the number of guns diverted to the illegal market, where the above high risk groups often get their guns. At the same time, the success of these state gun laws in reducing the diversion of guns to criminals is undermined by gaps in federal laws which facilitate interstate gun trafficking from states with the weakest gun laws to those with the strongest gun laws. For example, we found that states without universal background check laws had 30 percent higher levels of exporting across state lines guns that were later recovered from criminals.

2. Expanded background checks will impose a significant barrier to criminal acquisition of firearms—evasion is difficult


Even if we do close the loophole, won’t criminals simply get guns in another way? Quite often not. Certainly some will find ways to get guns even with background checks. But the studies cited above show that state universal background checks, and state laws that prohibit criminals and other high risk groups from purchasing guns, reduce gun availability of guns to high risk groups. This question also implies that criminals can always find a gun, no matter what we do, which is also inconsistent with the facts. Although a gun is an excellent tool to use if you are a robber for increasing compliance of victims, only 29 percent of robberies reported in the National Crime Victimization Survey involved the robber’s use of a firearm. Data from in an in-depth study of the underground gun market in Chicago found that only twenty percent of male arrestees who participated in an anonymous survey reported that they had owned a handgun. Sixty percent of those who did own one reported that it had taken them more than a week to search for and obtain a handgun. Criminals were wary of purchasing firearms from sellers they did not know or trust, often reported difficulty finding a trusted supplier of guns, and faced considerable mark-ups in price from the legal market.

3. Dangerous people will not evade universal background checks


5. Dangerous people will evade the checks. “Homicidal maniacs, criminals, and the insane don’t abide by the law,” LaPierre told the senators. Answering a question about background checks, he said, “The problem with gun laws is, criminals don’t cooperate with them. The mentally ill don’t cooperate with them.” That doesn’t square with what Keene said the next day: “The people who do get deterred, frankly, are the folks who have severe mental problems, if they’re in the system.” (Keene added that people under “a restraining order or a domestic abuse order” also “sometimes try to buy firearms at dealers” and are flagged by the system. Presumably those people would also submit to, and be flagged by, a gun-show check.) LaPierre’s claim also doesn’t square with government data indicating that from 1998 to 2011, the check system blocked 1.7 million gun transactions, mostly for criminal convictions.
4. **Background checks are an important obstacle in preventing criminals from obtaining firearms**

Brady Center to Prevent Gun Violence, NO CHECK. NO GUN. WHY BRADY BACKGROUND CHECKS SHOULD BE REQUIRED FOR ALL GUN SALES, 4—09, p. 7.

Brady background checks work. Since the Brady Law took effect in February 1994, more than 1.6 million prohibited gun buyers have been blocked from buying a gun from licensed gun dealers across America. Those prevented from buying guns have had felony records, domestic violence abuse histories, drug addictions, and mental illnesses that posed threats to others. A large number have been fugitives. Background checks make it more difficult for criminals and other dangerous individuals to acquire firearms. Not only do background checks prevent prohibited buyers from walking away from a licensed dealer with a gun, and discourage some from even attempting a purchase, they block them from buying at a preferred source – a licensed gun dealer – where the largest selection of new firearms that criminals desire is available. The Brady Law is an important obstacle that helps keep dangerous weapons out of the hands of dangerous people.

5. **Background checks make it much harder for criminals to obtain firearms**

Brady Center to Prevent Gun Violence, NO CHECK. NO GUN. WHY BRADY BACKGROUND CHECKS SHOULD BE REQUIRED FOR ALL GUN SALES, 4—09, p. 9.

Studies have confirmed that background checks make it harder for dangerous people to get guns, and prevent criminal activity. One study compared felons who were denied handgun purchases by a background check with persons who had been arrested and not convicted, and thus were able to legally pass a check. It found that those who were blocked by the checks were 20% to 30% less likely to engage in later criminal activity than those who were allowed to purchase a gun. A study analyzing California data found similarly that denying handgun purchases by violent misdemeanants effectively prevented gun-related and violent crime. Another study found that background checks prevented some domestic violence abusers from attempting to buy firearms. Brady background checks also help reduce gun trafficking to criminals. Prior to the Brady Law, 32 states did not require a background check to purchase a handgun from a licensed dealer. Gun traffickers tended to buy guns in these 32 source states and bring them into the 18 states where checks were required. One study, Traffic Stop: How the Brady Act Disrupts Interstate Gun Trafficking, compared the interstate movement of crime guns pre- and post-Brady and found that after the Brady Law, guns were less likely to be trafficked from the source states where background checks were now being conducted. A separate analysis of Chicago crime guns found the same effect – after the Brady Law, traffickers were less likely to bring guns in from states that started conducting checks.
1. Most guns used in crimes are, in fact, purchased

Dr. Garen J. Wintemute, Department of Emergency Medicine, University of California, Davis, Anthony A. Braga, School of Criminal Justice, Rutgers University, Newark and David M. Kennedy, Program in Criminal Justice, Kennedy School of Government, Harvard University and the Center for Crime Prevention and Control, John Jay College of Criminal Justice, CUNY, “Private-Party Gun Sales, Regulation, and Public Safety,” NEW ENGLAND JOURNAL OF MEDICINE v. 363 n. 6, 8—5—10, pp. 508-511.

In 2007, a total of 12,632 people in the United States were murdered with firearms, and it is estimated that another 48,676 were treated in hospitals for gunshot wounds received in assaults. Guns are frequently used to commit crimes in the United States, partly because they are so easy to get. This ease of access, in turn, is partially attributable to the fact that there are two systems of retail gun commerce in this country, one involving licensed gun retailers and the other based on private-party gun sellers, and only the former of these systems is regulated. Some 85% of all guns used in crimes and then recovered by law-enforcement agencies have been sold at least once by private parties.

2. Many criminals obtain firearms via existing loopholes


Unfortunately, federal laws do not require background checks in all instances where a person acquires a firearm. Instead, federal laws require a background check only when a person buys a gun from a licensed firearms dealer. If the seller is not a licensed dealer, a background check is not required. This means that a person who is legally disqualified from having a gun may nevertheless obtain one by finding a seller who is not obligated to do a background check, such as a friend or neighbor, a stranger selling guns on the street, or a person selling guns through a website or newspaper classified ad. Guns shows pose a particular worry, because they are marketplaces bringing together large numbers of gun sellers, many of whom are not licensed gun dealers. A substantial portion of firearm transfers are thus are not covered by the federal background check requirements. For example, a survey of prison inmates who committed crimes with handguns found that only about eleven percent obtained guns from licensed dealers, many of whom were not licensed gun dealers. Far more often, these offenders had obtained guns from "friends or family members" or "from street or black market suppliers," or in other words through sources outside the federal background check regime.

3. Most firearms used in criminal acts are obtained via existing loopholes

Jon S. Vernick, Professor and Do-Director, Johns Hopkins Center for Gun Policy and Research, Johns Hopkins Bloomberg School of Public Health, Ted Alcorn, Director of Innovation, Everytown for Gun Safety and Joshua Horwitz, Executive Director, Educational Fund to Stop Gun Violence, “Background Checks for All Gun Buyers and Gun Violence Restraining Orders: State Efforts to Keep Guns from High-Risk Persons,” JOURNAL OF LAW, MEDICINE & ETHICS v. 45 s. 1, 2017, pp. 98-102, p. 98.

Since 1994, prohibited people have attempted to purchase firearms from licensed dealers nearly three million times but were stopped by background checks. In light of this, common sense suggests that offering these persons an alternative method to buy firearms without background checks will pose an elevated risk to public safety. A variety of data corroborate this. Offenders say so themselves. Surveys of people incarcerated for crimes involving handguns show that more than three-quarters obtained their firearms from a person not required to conduct a background check under federal law — whether with an acquaintance or “street” source.

4. The private-party gun market is the leading source of guns used in crimes

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The private-party gun market, sometimes called the informal gun market, has long been recognized as a leading source of guns used in crimes. Although private-party sales are primarily a convenience for the law-abiding purchaser (since they involve no paperwork, no background check, and no waiting period), such sales are also the principal option when the prospective purchaser is a felon, a domestic-violence offender, or another person prohibited by law from owning a gun. Private-party sales facilitate the diversion of guns from legal commerce into criminals' hands: although it is always illegal for certain classes of people to buy a gun, it is illegal to sell a gun to such people only if the seller knows or has reasonable cause to believe that he or she is doing so. Unscrupulous private sellers may simply avoid asking questions that would lead to such revelations.
5. A recent study proves that the 40% figure is accurate

Brentin Mock, staff, “Mapping How Guns Get Around Despite Background Check Laws,” CITYLAB, 10—22—15, www.citylab.com/equity/2015/10/mapping-how-guns-get-around-despite-background-checks/411946/, accessed 10-5-17. Gun-control advocates often cite that 40 percent of guns have been obtained by people without a background check. That stat is often attacked, however, for being produced from a small sample size of survey respondents (251) and published in an aged report from the early 1990s. The federal Bureau of Alcohol, Tobacco, and Firearms (ATF) doesn’t do the best job of tracking gun figures like this, but Harvard University researchers have. In an interview with The Trace, Harvard Injury Control Research Center director Deborah Azrael confirmed the 40 percent figure in terms of people who’ve acquired guns without a background check. This number is based on her team’s survey of more than 2,000 gun owners for a forthcoming study. Some preliminary data released to The Trace provides context for this new 40 percent stat: Roughly 30 percent: Gun owners who did not purchase their most recent gun, instead obtaining it through a transfer (a gift, an inheritance, a swap between friends). Roughly 70 percent: Gun owners who purchased their most recent gun. Among the gun buyers, about 34 percent did not go through a background check. Among the gun owners who got their firearms through a transfer, roughly two-thirds did not go through a background check. There are only 10 states that require background checks for all gun purchases. *(There is also a federal background check system conducted by the FBI. There are several loopholes, however, that allow many people to bypass the federal check.) In many of the states without these requirements, firearms can be bought at gun shows, online, and through other off-the-radar venues. Sometimes, vendors in these states employ their own background checks, but there are plenty of vendors who don’t. But even in the states where there are checks, this doesn’t account for all of the guns purchased or acquired in some other, private manner.

6. No-check sales provide cover for felons and juveniles to buy guns

Brady Center to Prevent Gun Violence, NO CHECK. NO GUN. WHY BRADY BACKGROUND CHECKS HSHOULD BE REQUIRED FOR ALL GUN SALES, 4—09, p. 14.

No-check gun sales provide excellent cover for felons and juveniles to buy guns. ATF’s Gun Shows report found that felons buying or selling guns were involved in 46% of its gun show investigations. Investigations involving unlicensed sellers found that 25% had at least one prior felony conviction. ATF has also indicated that unlicensed dealers are involved in 14.2% of all investigations involving gun trafficking to youths, much of which occurs at gun shows and flea markets. In more than one-half of the large set of investigations detailed in ATF’s Following the Gun report, trafficked guns were also known to have been involved in additional crimes, including homicides, other violent crimes, and drug offenses. According to ATF, “[t]he gun trafficker … plays a critical role in the chain of violence. Trafficking to felons, juveniles, and other prohibited persons could be reduced if background checks were required on all gun sales. Prohibited buyers would not be able to simply purchase a gun at a gun show or elsewhere, no questions asked. There would be no incentive for licensed dealers to pair up with unlicensed sellers to traffic guns without checks. Nor would there be an incentive for licensed dealers to let their licenses lapse so they could make no-check gun sales. All gun sales would be recorded, creating a paper trail that law enforcement could use to determine whether unlicensed sellers were illegally “engaged in the business” without a license. This same record would also help law enforcement trace guns recovered in crime, providing an important lead that could help catch violent criminals. Critically, when background checks are required, law enforcement – and gun show operators – can easily see when sales are made without a check, and stop illegal sales before a criminal is armed.

7. Criminals also obtain guns from no-check sales outside of gun shows

Brady Center to Prevent Gun Violence, NO CHECK. NO GUN. WHY BRADY BACKGROUND CHECKS HSHOULD BE REQUIRED FOR ALL GUN SALES, 4—09, p. 21-22.

Gun shows are not the only venue where unlicensed sellers unload their firearms. Unlicensed gun sellers also peddle their wares on the streets, in parking lots, and through classified ads, without a check, no questions asked. A few case examples illustrate the problem.

Guns acquired through these no-check sales have led to murders and serious injuries, along with other crimes. As noted earlier, Mark Williams, a convicted felon and spousal abuser, purchased a Tokarev semiautomatic handgun from a private seller advertising in the Sarasota Herald-Tribune, that he used to shoot and kill his estranged wife, Raquel Soliz-Williams. Also, Donald Fiessinger purchased 72 handguns over two years from a single licensed dealership and resold them through newspaper classified ads for up to double the retail price. One of his customers was Benjamin Smith, who used the Bryco pistols he bought from Fiessinger in a multi-day shooting spree in Illinois and Indiana. Smith had previously been turned away from a licensed gun dealer when a background check revealed that he was subject to a domestic violence restraining order. In Louisville, Kentucky, a convicted felon and his accomplice purchased large numbers of guns from dealers that they resold without running checks by placing up to 20 ads per week in a local “Bargain Mart” trade publication. They bought 70 guns from one dealer. Louisville police recovered 11 of these guns from crime scenes after they had been resold without checks.
UBC Desirable: Answers to “Empirically Fail”

1. Claims that gun control measures empirically fail are false—we have never had meaningful controls at the federal level


We’ve tried gun control in this country—and it didn’t work. Right? So what happened? At the federal level, we’ve gone from an honor system for felons to minimal gun control with the Brady Law. The Brady Law created a system of background checks, but it applies only to licensed dealers. If you’re not a licensed dealer and want to sell a gun directly to somebody, then you don’t need to run a background check. Some people call this the "gun show loophole," but it applies to all private sales—including, for example, those that take place over the internet. Criminals and gun traffickers learned long ago how to take advantage of this provision. We have yet to implement truly meaningful gun control at the federal level. In fact, during the past 20 years, Congress has mostly weakened already weak gun laws.

Some states (Connecticut, Hawaii, Massachusetts, New Jersey, New York) have comprehensive gun sales regulations that set stricter rules for who may own a gun, establish more comprehensive background checks, and require permits. These laws reduce the diversion of guns to criminals, and states lacking these safeguards are far more likely to supply criminals with guns, both in the state in which the guns were initially sold as well as in other states.

2. Gun control laws work—empirically decrease levels of violence


Myth 5: Gun laws are not effective in reducing gun violence and only punish law-abiding citizens. The Truth: According to data from the Centers for Disease Control and Prevention’s National Center for Injury Prevention and Control, states with higher rates of gun ownership and weak gun control laws have the highest rates of gun deaths. The opposite was also true: States with strong gun laws and low gun ownership rates had significantly lower rates of gun deaths. While sensible gun laws may impose a small burden on law abiding citizens they also confer a significant benefit in the form of saved lives. Everyone benefits from fewer gun deaths and increased public safety.
UBC Desirable: Answers to “Federal Registry” [cont’d]

1. **Claims that universal background checks risk the backdoor creation of a federal registry are just false**


   That's why more than 90 percent of Americans—and 74 percent of NRA members—support universal background checks. Faced with the reality of that polling data, the NRA has concocted a boogeyman about universal background checks leading to a national registry of gun buyers and then forcible confiscation of privately-held firearms. The problem is this claim is hogwash. New York Senator Chuck Schumer's Fix Gun Checks Act of 2013 would utilize a record-keeping system that's already been in place for 45 years (without any harm to gun buyers). Private sellers would conduct background checks through FFLs, who would then maintain paper records of these sales. The federal government completely purges the information it receives from the dealer to run the background check after just 24 hours and the United States Code expressly prohibits the federal government from maintaining a national registry of gun owners. Moreover, the Supreme Court recently affirmed that there is a constitutional right to have a firearm in the home. The NRA’s conspiracy theory about "confiscation" deserves to be put in the same category as FEMA camps and black helicopters: Pure unadulterated fantasy. In the wake of the horrific tragedy at Newtown, Americans deserve a real debate on universal background checks, and an up-or-down vote on the Senate floor.

2. **Claims that universal background checks will result in a backdoor federal firearms registry are a canard—it would break multiple laws**


   Not only is it not practically possible to create a federal registry of gun owners, it would violate multiple federal laws to do so: Federal law is very clear on the subject of a federal registry. It reads: No such rule or regulation…may require that records…be recorded at or transferred to a facility owned, managed, or controlled by the United States or any State or any political subdivision thereof, nor that any system of registration of firearms, firearms owners, or firearms transactions or dispositions be established. Federal law further states that a gun dealer or collector can never be required to submit their records to the federal government, unless it is during an annual inspection, part of a criminal investigation, for the purposes of tracing a gun used in a crime, or because the dealer is going out of business. Federal regulations mandate that all federal background check records must be destroyed with 24 hours for everyone who passes the check and is allowed to purchase a gun. Thus, it would be not only impractical but also illegal to create any sort of federal firearms registry under both the U.S. Code and the Code of Federal Regulations. A universal background check statute would not supersede, repeal, or in any way limit or roll back these laws, meaning it could not be used to create any such federal registry.

3. **Political pressures foreclose upon the creation of a federal firearms registry**


   Finally, a registry would also be a political nonstarter. Even policymakers on the far left are not calling for a federal registry of gun owners, and if anyone were to do so, the proposal would never even get a vote, much less have a chance of passage. Perhaps that is why registration is not on anyone’s agenda—except opponents of gun safety measures. The President did not propose registration as a policy solution. Senate Judiciary Chairman Patrick Leahy (D-VT) has entertained no hearings on registration. The Democratic House Task Force did not recommend registration. The assault weapons ban bills introduced by Senators Dianne Feinstein (D-CA) and Mark Kirk (R-IL) and Congresswoman Carolyn McCarthy contain no registration. And of course, the bipartisan Senate bill on background checks for private gun sales will contain no whiff of registration. It’s a pretend issue.
4. The current background check system makes it impossible to create a federal firearms registry


The very process and operation of the background check system intentionally makes it impossible for the federal government to use those records to create a registry of gun owners or the guns they purchase. Right now, when a person buys a gun at a federally licensed dealer (where a background check is already required), the first thing the store does is to give the buyer a blank copy of ATF Form 4473. The buyer fills in his name, address, and birthday, and affirms that he is not prohibited from having a gun and is not buying it for someone else. The store clerk takes the form, looks at the buyer’s photo ID, and then either picks up the phone to call the National Instant Check System (NICS) or logs onto their secure website. It takes an average of 7 seconds for someone at NICS to answer the phone, and the gun dealer reads the name and date of birth from the form or types it into the computer. Typically, within a few minutes NICS can search its database to make sure the buyer is not prohibited from owning a gun. If no records are found, the dealer is told he can proceed with the sale. Here’s what happens next: The buyer leaves the store with the firearm. The NICS system destroys all records of running a check on that buyer within 24 hours. On the 4473 form, the dealer marks that the buyer passed the NICS check, writes down the transaction number and the serial number of the gun that was sold, and files it away, where it must be kept in a paper file by law for 20 years. Thus, there is only one official record of the sale, and it resides in the individual gun dealer’s files. Currently, there are approximately 59,000 gun dealers across all 50 states, each of which keeps individual files of the approximately 16 million 4473 forms that are filled out every year. There are only four ways the government can ever even see this record: during a compliance inspection of dealer records, during an ongoing criminal investigation, if your gun is found at a crime scene, or if the gun store goes out of business.

Let’s look at this in a practical context: Once every 12 months, ATF is authorized to inspect a gun dealer’s records to make sure they are in compliance with federal law (though such an audit is rarely performed that regularly—given current funding and staffing levels, it would take ATF 22 years to audit every dealer once).1) Federal agents do not take the records with them unless they show evidence of a crime—they simply ensure the dealer is keeping them as required by law. This is an in-house review. Law enforcement can gain access to a dealer’s records either with a warrant or as part of an ongoing criminal investigation, but the dealer keeps possession of the records, and law enforcement may only inspect and examine (not seize) them, unless they contain material evidence of violation of the law. If the gun is found at a crime scene, the police may trace the gun by calling the manufacturer and reading them the serial number. The manufacturer will tell the police to which wholesaler they sold the gun, and police will then contact that wholesaler to get the name of the gun store to which the gun was sold. If police can trace a gun back to the gun dealer who sold it, the dealer can go into their files and tell the police who purchased the gun. But since 9 out of 10 traced crime guns were wielded by someone other than the original buyer, this information is not always very helpful to police even when they can find it. If the gun store closes within 20 years of a firearm purchase, the dealer will send past 4473 forms to a government warehouse. Currently, the warehouse contains piles and piles of paper records, each page of which has to be individually photographed and uploaded as an image into a computer database. (Think microfiche, for those old enough to remember those days of searching for a needle in a haystack.) Because the database holds only images, it cannot be searched, and the only way to find a record of a specific gun or specific purchaser is to read through every single record, one at a time. It is, by intentional legal design, the most inefficient and diffuse record-keeping system in the government. The universal background check proposals currently before Congress would place the exact same restrictions on private sales, and these sales would mostly be conducted through the very same licensed firearms dealers. Given the way the recordkeeping system works, it would be impossible to create a federal database of gun owners based on background check records. If background checks are made universal, even more 4473 forms will be filled out every year, and they will be kept by each individual seller or by the dealer who helped them access the NICS system. There will still only be one record of a private gun sale, and as long as the gun store stays open or the private seller is alive, the government will never have access to it. Even if the form is eventually sent to the federal warehouse and entered into its 4473 database, the information will still be unsearchable and fail to serve in any way as a registry of gun owners. And the record of the background check itself would still be destroyed within 24 hours. Given the operation of the system, there is simply no practical way to use background checks to create a federal registry of gun owners.
UBC Desirable: Answers to “Guns Already Ubiquitous”

- The ubiquity of guns in the U.S. is not a reason to forego background checks—most of those weapons are inaccessible to criminals


But won’t there still be a whole bunch of guns out there, being sold illegally and falling into the hands of criminals? Yes, some criminals will be able to steal or purchase guns already in circulation. But many of the estimated 300 million guns in civilian hands can’t be easily acquired by criminals. Lots of gun owners lock their guns in safes or have other ways to secure their firearms, practices that can be increased by laws and educational campaigns. And it’s not as easy or risk free for criminals to buy guns in the underground market as is commonly believed. Duke economist Philip Cook has studied Chicago’s underground gun market and said, “there may be a lot of guns, but there is a shortage of trusted sellers.” With greater accountability measures and choking the supply of new guns into the underground market, street prices will rise and fewer dangerous people will have guns. Better regulation of gun sales is only part of the solution. Policies should make it extremely risky for criminals to illegally carry and use guns, and we must expand efforts to diffuse conflicts involving high-risk individuals before they are settled with guns.
- **Gun control may not eliminate all gun deaths, but it can curb the toll**


With that said, it’s probably true that this aspect of the gun control debate is not emphasized enough: Guns are a factor, not the only factor. Other factors include, for example, poverty, urbanization, and alcohol consumption. But when researchers control for other confounding variables, they have found time and time again that America's high levels of gun ownership are a major reason the US is so much worse in terms of gun violence than its developed peers — and stricter access to guns could help. Another issue is that many of the policies researchers have studied seem to have, politically speaking, little to no chance in the US, at least at the federal level. Australia outright banned some types of guns, and set up a registry for all firearms owned in the country, required a permit for all new purchases. And, as if that wasn’t enough, its buyback program was mandatory — meaning you had to turn in your weapons, which is essentially government-mandated confiscation. America can’t even get universal background checks through Congress. These much stricter measures have almost no chance of happening. That hinders the potential effectiveness of US laws: As Dylan Matthews explained, milder versions of gun control do have some evidence behind them in terms of reducing gun deaths, but they’re nowhere as strong as the effects seen with stricter policies. It’s also true, as Libresco said on Twitter, that we could always use more research into gun policy (or, really, any policy issue). But the federal government has stifled gun research for years. Still, the current research is clear: Gun control does cut down on gun deaths. A single data journalist’s look at some of the evidence doesn’t change that fact.
1. Yugoslavia proves that insurrectionism is a disaster—risks massive chaos, violence


Daniel Polsby and Don Kates, in their article, Of Holocausts and Gun Control, correctly remind us that force can and has been abused by dictators, (who of course under the Weberian definition are not legitimate), but they are wrong in believing that the creation of less powerful states or a citizenry armed to the teeth and prepared to use their arms to challenge government decisions they do not like will help to build a more democratic system. As a state-building tool, these ideas have been tried and failed miserably. In support of their argument that the monopoly on force leads to genocide, Polsby and Kates make a number of wild claims, but none more irresponsible than blaming Weber for the civil war in the Balkans. They write, Josip Broz Tito, who ruled that part of the world for thirty five years until his death in 1980, was an enthusiastic practitioner of Max Weber's idea of the state... When old Yugoslavia came unstuck in the late 1980s, its armies and equipment - the most formidable in the region - devolved to the former nation's ethnic constituents. Because the Yugoslavian army had been mostly Serbian, the Serbs inherited enough munitions to face down the United States. By its own terms, this argument undercuts the claim that arming individuals best protects liberty. In a society based on the idea of every-man-for-himself, there is no guarantee that civilians will be equally armed; in fact, inequality in this regard is inevitable, either in the types of armaments or, of course, in the number of partisans aligned with the competing sides. The real problem is that Yugoslavia, which was moving toward democracy, devolved from a federal system to an ethnicity-based system of republics, and the central government lost the monopoly on force. Once that happened, ethnic rivalries were exploited to create a volatile situation that unleashed a brutal civil war and ultimately required massive foreign intervention to re-establish the monopoly of legitimate force and stop the killing. Mary Kaldor, who watched the war in the Balkans first-hand, and is now a professor and director of the Centre for the Study of Global Governance at the London School of Economics and Political Science, observed: What happened in Yugoslavia was the disintegration of the state both at a federal level and, in the case of Croatia and Bosnia-Herzegovina, at a republican level. If we define the state in the Weberian sense as the organization which "successfully upholds the monopoly of legitimate organized violence", then it is possible to trace, first, the collapse of legitimacy and, second, the collapse of the monopoly of organized violence. In other words, Polsby and Kates have it exactly backwards. The monopoly on the legitimate use of force is one requirement of a successful state. It is not the only requirement, but without it, no country can flourish. Threatening that monopoly by arming civilians with enough firepower to counter the government has been tried and has failed, with disastrous results all over the world. One need only look at the conditions in Afghanistan after the collapse of the legitimate government. As one scholar noted, "Afghanistan has been characterized since the beginning of the 1990s as a country in a 'Hobbesian state of nature' which paved the way for the infamous Taliban regime; this country represents one of the cases of a total disintegration of the state and where therefore the monopoly of legitimate violence, that might have existed before, has broken down completely." Political scientists have documented the disastrous results when governments lose their monopoly on force. As Wulf has written, the erosion of states and the failure of domestic politics, leading to endemic state weakness and collapse, are conceived by a great number of social scientists as the central cause for war, armed violence and conflict. State collapses give rise to and sustain conflicts, prolong wars and complicate or prevent peace building. The Democratic Republic of Congo and Somalia are used as the classic examples. The most appropriate measure, according to this analysis, is to rectify these deficits by establishing state authority, particularly the state monopoly of force. Wimmer adds that "the 'failure of the state' is accompanied by the loss of control over and fragmentation of the instruments of physical coercion or a privatization of violence by so-called warlords which leads by necessity to indiscriminate killings of large numbers of the civilian population, the destruction of property and infrastructure... ."
2. Insurrection rights/claims are dangerous—readily abused, threatens majority rule

Josh Horwitz, Executive Director, Educational Fund to Stop Gun Violence and Casey Anderson, attorney, “Taking Gun Rights Seriously: The Insurrectionist Idea and Its Consequences,” ALBANY GOVERNMENT LAW REVIEW v. 1, 2008, p. 502-504. Many commentators have observed that through the Constitution's militia clauses, the founders intended to establish the role of the militia as a force to be used to put down insurrection against the government. It would be a gross perversion of the intent of the Framers to invoke the Second Amendment as a basis for empowering those same militias to wage war against the very institutions they were intended to protect. By decoupling the militia purpose from the Second Amendment and ascribing an individual right to resist tyranny, the D.C. Circuit is wading into dangerous waters. The inescapable conclusion of District of Columbia v. Heller's right to prepare to take up arms against the government is that at some point, preparation can lawfully turn into action at the discretion of individuals accountable to no authority other than their own sense of just cause for the use of violence. The court makes no provision for how to regulate this right to insurrection, nor can it. If the state cannot control how arms are distributed, then the state loses control over how they are used. The D.C. Circuit's opinion in Heller does not explain who decides when the government is in fact tyrannical. This question is too important to simply glide past, because tyranny to some may look like effective government to others. For example, some anti-government activists sincerely believe that the federal income tax amounts to confiscation of private property in a manner not authorized by the Constitution, and others argue that a ban on the civilian ownership of semi-automatic assault weapons by itself amounts to government tyranny, while other citizens believe income taxes and assault weapon bans are entirely reasonable measures in an advanced industrial democracy. If an objectionable law is tyrannical to some, but not to the majority, doesn't the minority have the right to take up arms against the government? That is the kind of thinking that brought us the Civil War. If Lincoln had not forcefully responded by finding the insurrection illegal and spent five years putting down the rebellion by force, our democratic system would not have survived. In effect, the entire Civil War was an effort to prove that the Union was capable of exercising the most fundamental role of any government: maintaining democratic order by exercising a monopoly on the legitimate use of violence. The eminent political scientist Ezra Suleiman has noted that when the government loses its monopoly on force it ceases to be a state and "its form of organization becomes indistinguishable from other types of organization." Similarly, where there is no state capable of enforcing the political and civil rights of its citizens, there can be no democracy. A state must be able to enforce its judicial and administrative decisions: if it is outgunned by individuals or factions, it is not functioning as a democratic state (in fact it is not functioning as a state at all). What is left is a return to a form of pre-governmental society where might makes right and political equality is at best an abstract ideal. The Heller decision is a direct challenge to the government's monopoly on legitimate force.

3. People can peacefully air their grievances—renders insurrectionist arguments profoundly anti-democratic

Josh Horwitz, Executive Director, Educational Fund to Stop Gun Violence and Casey Anderson, attorney, “Taking Gun Rights Seriously: The Insurrectionist Idea and Its Consequences,” ALBANY GOVERNMENT LAW REVIEW v. 1, 2008, p. 507-509. Today in the United States, strong legal protections are in place to safeguard minority rights. Meaningful and non-violent mechanisms are available to resolve grievances and disputes between individuals and the state. Where these tools exist, the resort to private arms in opposition to government decisions is by definition anti-democratic and outside the Constitution. After all, the Constitution is not a suicide pact. It is open to amendment and change, but it does not authorize private citizens to take up arms to overthrow its institutions. This is a principle that all functioning democracies must maintain. The eminent jurist Roscoe Pound found that "a legal right of the citizen to wage war on the government is something that cannot be admitted ... [because it] would defeat the whole Bill of Rights." And longtime gun-debate observer Robert Spitzer, expressing astonishment that David Williams did not understand the need for a state's monopoly on force, wrote: "Not only does this notion sit at the epicenter of the modern nation state, it spans the writings of Hobbes and Locke ... and traces back to Aristotle and even before." Basic international law requires that the state be "the sole executive and legislative authority" in its territory. The origins of our own legal system makes this abundantly clear as well. While the Insurrectionists are fond of quoting Blackstone's fifth auxiliary right as the predecessor of the Second Amendment, researcher John Goldberg explains that under Blackstone's understanding of sovereignty under the English Constitution, it was impossible for a body of law actually to confer on citizens a legal right to revolt, for any such conferral would be a dissolution of government that would render the law no longer a law ... . Any such change would be "at once an entire dissolution of the bands of government; and the people would be reduced to a state of anarchy, with liberty to constitute to themselves a new legislative power. In other words, the decision of an individual or private group to take up arms to challenge the government is always extra-constitutional, and it cannot be justified by reference to the Constitution itself. Moreover, as James Madison made clear in Federalist 46, the founders believed that the residual natural law rights to withdraw support from a government belonged to the states, not to individuals. The American Constitution is an attempt to permanently bond the states and individuals together. Attempts to dissolve that compact, except through valid legal process, must be met with enough force to protect the compact.
4. The state must have a monopoly on the legitimate use of force to be a viable entity


The concept that a monopoly on legitimate use of force is necessary for government to function must sound heretical in a country steeped in stories of our own revolutionary founding, but it is the fundamental organizing principle of any political entity, including a democracy like the United States. Max Weber's famous definition states: "A compulsory political association with continuous organization ... will be called a ‘state’ if and in so far as its administrative staff successfully upholds a claim to the monopoly of the legitimate use of physical force in the enforcement of its order.” Weber also wrote that the state must “possess an administrative and legal order subject to change by legislation” and that “the use of force is regarded as legitimate only so far as it is permitted by the state or prescribed by it.” These additional characteristics identified by Weber are often skipped over by his Insurrectionist critics. Harry Redner explains that: Weber is careful, however, to qualify and nuance this crude realism, for although the expropriation of the means of violence is necessary for the formation of the state, he clearly does not regard it as sufficient. Unlike some contemporary authors ... Weber does not propound a militaristic theory of state formation; this is underlined by his linking the idea of a monopoly of the means of violence with the concept of legitimacy. Herbert Wulf adds: The specific characteristic of the state, according to Weber, is that it can successfully claim the legitimate physical violence in a given territory and that it is the only organization that is lawfully allowed to use force. The importance of legitimacy in exercising the monopoly of force needs to be recognized and can be based on three principles: on the authority of traditional rules, on charismatic authority and on the legality of agreed rules. In the modern state of today the political leadership is accountable for exercising legitimate physical violence and it is based on good governance. Of course, “the use of force is not the sole and not even the normal means for the modern state to "realize its orders"; it is only the ultimate ratio if all other means are not effective. The crucial point for Weber was the fact that the state cannot be defined by its "ends' because there are almost no ends that states did not try to realize in the course of history.” Robert Dahl summarizes: “The state, remember, is a unique association whose government possesses an extraordinary capacity for obtaining compliance with its rules by (among other means) force, coercion, and violence.” We still may not like the sound of the term monopoly of force but it is a crucial concept for defining a functional and healthy political state - and this is just as true of a functional and healthy democracy as a state organized under any other form of government. If the United States were ever to lose or give up its monopoly of force it would cease to be a viable political entity and the protections for individual liberty contained in our constitution would be worth no more than the paper they are printed on.

5. Allowing individuals to make the choice of when they desire to attack and liquidate the government is as bad as the supposed tyranny they revolt against

Joshua Horwitz, Educational Fund to Stop Gun Violence, John E. Schreiber, Counsel of Record and Maya C. Dharwarkar, Amici Curiae brief in “Otis McDonald et al. v. City of Chicago,” Supreme Court Case No. 08-1521, 1-5-10, www.americanbar.org/content/dam/aba/publishing/preview/publiced_preview_briefs_pdfs_09_10_08_1521_RespondentAmCuEducationalFund.authcheckdam.pdf, accessed 10-8-17.

Pre-ratification History Demonstrates That the Right to Bear Arms Does Not Include a Right to Insurrection Insurrectionist amici argue that the thinkers who influenced the Framers, “such as William Blackstone,” believed that “the right to keep and bear arms is essential for the preservation of liberty.” . Insurrectionists’ reliance on Blackstone, however, is misplaced. Blackstone rejected the notion that the people had an inherent right to possess arms for insurrection. It must be owned that Mr. Locke, and other theoretical writers, have held, that “there remains still inherent in the people a supreme power to remove or alter the legislative, when they find the legislative act contrary to the trust reposed in them: for when such trust is abused, it is thereby forfeited, and devolves to those who gave it.” But however just this conclusion may be in theory, we cannot adopt it, nor argue from it. . . . For this devolution of power, to the people at large, includes in it a dissolution of the whole form of government established by that people, reduces all members to their original state of equality, and by annihilating the sovereign power repeals all positive laws whatsoever before enacted. No human laws will therefore suppose a case, which at once must destroy all law, and compel men to build afresh upon a new foundation; nor will they make provision for so desperate an event, as must render all legal provisions ineffectual. So long as the English constitution lasts, we may venture to affirm, that the power of parliament is absolute and without control. Blackstone viewed any “right” that would allow individuals to decide for themselves if and when the exercise of armed force against the government is necessary as tantamount to a license for “anarchy,” which would be as “fatal to civil liberty as tyranny itself.” In fact, Blackstone rejected as “extreme” any view that would “allow[ ] to every individual the right of determining th[e] expedience” of “proclaim[ing] . . . resistance [to the prince] necessary” “and of employing private force to resist even private oppression.” Nor does Blackstone provide any support for the proposition that English common law provided an unqualified personal right to bear arms.
UBC Desirable: Answers to “Insurrection Rights”—General [cont’d]

6. The right to violent insurrection against the government is both wildly dangerous and erroneous—obeying the rule of law is vital to liberty, not the threat of armed force

Joshua Horwitz, Educational Fund to Stop Gun Violence, John E. Schreiber, Counsel of Record and Maya C. Dharwarkar, Amici Curiae brief in “Otis McDonald et al. v. City of Chicago,” Supreme Court Case n. 08-1521, 1—5—10, www.americanbar.org/content/dam/aba/publishing/preview/publiced_preview_briefs_pdfs_09_10_08_1521_RespondentAmCuEducationalFund.authcheckdam.pdf, accessed 10-8-17.

The Second Amendment should not be incorporated. But if it is, this Court should clarify that the Second Amendment protects the right to bear arms only for lawful purposes. Advocates for unfettered access to firearms argue that there exists in the Second Amendment an individual and constitutionally-protected right to keep and bear arms for the insurrectionary purpose of attacking so-called government “tyranny.” In District of Columbia v. Heller, the Court appears to suggest that the Second Amendment protects “the existence of a ‘citizens’ militia’ ” (i.e., one that exists apart from the democratically controlled State militia) “as a safeguard against tyranny.” A.2. This understanding of the Second Amendment’s purpose and scope is historically erroneous, dangerous, and inconsistent with the Court’s other decisions. Contrary to the arguments advanced by insurrectionist amici, the Framers of the Constitution, and the thinkers who most influenced them, rejected the notion that the right to keep and bear arms included an individual right to insurrection. As James Madison declared in response to Shays’ Rebellion in 1787, “[l]iberty may be endangered by the abuses of liberty as well as the abuses of power.” With the need to maintain order and the rule of law at the forefront of their agenda, the Framers sought to increase the power and effectiveness of the State militia. The clear language of the Constitution shows that the militia was intended to serve as the main body that would prevent individual insurrection and revolts. The Constitution, and the structure it created, was designed to create a government that could secure liberty, while at the same time provide for a peaceable mechanism for changing the system of government through the amendment process. As the eminent historian Gordon Wood put it: “Americans had in fact institutionalized and legitimized revolution. Thereafter, they believed, new knowledge about the nature of government could be converted into concrete form without resorting to violence . . . .” For the Framers, it was the “rule of law, not arms, [that] was the primary guarantee of life, liberty, and property.” Accordingly, the text of the Constitution, contemporaneous State constitutional provisions, and case law all provide strong evidence that the Framers intended to strengthen the government as a means to quell, rather than foster, insurrections. Nothing in the history or language of the Second Amendment undermines that fact. This constitutional commitment to quell insurrection was reaffirmed by Lincoln and the Reconstruction Amendments following the South’s attempt to secede from what it deemed government tyranny. In addition to being historically inaccurate, the insurrectionists’ argument that there is an individual right to amass or use arms against the government is incompatible with our existing constitutional order, national sovereignty, universally recognized principles of democracy, and public safety.

7. Endorsing a right of violent insurrection against a government eviscerates the rule of law

Joshua Horwitz, Educational Fund to Stop Gun Violence, John E. Schreiber, Counsel of Record and Maya C. Dharwarkar, Amici Curiae brief in “Otis McDonald et al. v. City of Chicago,” Supreme Court Case n. 08-1521, 1—5—10, www.americanbar.org/content/dam/aba/publishing/preview/publiced_preview_briefs_pdfs_09_10_08_1521_RespondentAmCuEducationalFund.authcheckdam.pdf, accessed 10-8-17.

In Heller, the Court recognized that the Second Amendment forbids the federal government from imposing an across-the-board prohibition on the possession of an operable handgun by a “law-abiding, responsible citizen[ ]” in his home for the limited “purpose of immediate self-defense.” Although the Court extended the right to keep and bear arms to individuals, the Court stressed that this right protects only lawful conduct that properly falls within the confines of the rule of law. See at 2813 (describing “the right protected by the Second Amendment as ‘bearing arms for a lawful purpose ’”) (citing Cruikshank); at 2815- 16 (“[T]he Second Amendment does not protect . . . weapons not typically possessed by law-abiding citizens for lawful purposes.”) (citing U.S. v. Miller, 307 U.S. 174 (1939)) (emphasis added); see also at 2816-17 (“[N]othing in our opinion should be taken to cast doubt on longstanding prohibitions on the possession of firearms . . . .”). Glossing over this limitation, the NRA and insurrectionist amici have latched onto the Court’s statement that “when the able-bodied men of a nation are trained in arms and organized, they are better able to resist tyranny.” at 2801. The NRA goes so far as to suggest that this statement provides the “fundamental link” between the right to bear arms and “individual liberty.” NRA Br. at 31-32 (emphasis added); but see Heller, 128 S. Ct. at 2800-01 (resisting tyranny was merely one of the “many reasons why the militia was thought to be ‘necessary’ ”) The Court should correct this misapprehension before incorporating the Second Amendment because the failure to do so would eviscerate the State’s police power.
8. Recognizing a right to insurrection destroys the entire constitutional order—the Framers believe insurrection was a capital offense

Joshua Horwitz, Educational Fund to Stop Gun Violence, John E. Schreiber, Counsel of Record and Maya C. Dharwarkar, Amici Curiae brief in “Otis McDonald et al. v. City of Chicago,” Supreme Court Case n. 08-1521, 1—5—10, www.americanbar.org/content/dam/aba/publishing/preview/publiced_preview_briefs_pdfs_09_10_08_1521_RespondentAmCuEducatio

A Second Amendment Right to Insurrection Would Create Conflict Among Constitutional Provisions Just as courts should not read one provision of a statute to conflict with another, see Geier v. Am. Honda Motor Co., 529 U.S. 861, 872 (2000), they ought not read the Second Amendment as arming the populace to commit what the Constitution itself deems a capital offense, see Cohens v. Virginia, 19 U.S. 264, 393 (1821) (describing “the duty of the Court” to “construe the constitution as to give effect to both provisions, . . . and not to permit their seeming repugnancy to destroy each other”). “[W]hile the Constitution protects against invasions of individual rights, it is not a suicide pact.” The Second Amendment, article I, section 8 of the Constitution, and contemporaneous State constitutions and militia statutes all provide for the militias to be called forth to preserve the security of the State and to quell insurrections. To read the Second Amendment as providing arms so that militias can quell, while at the same time facilitating, insurrection makes no sense. Nor is it plausible to suggest that the Second Amendment sub silentio protects a right to bear arms to overthrow the government any time some unspecified number of individuals, in their unguided discretion, decide that the government is “tyrannical.” Rather, those individuals are bound by the Constitution to either live within the confines of the rule of law or to garner a supermajority in favor of amendment. See U.S. Const. art. V. Should they choose to follow any other course of action, the Constitution is replete with its own survival mechanisms, including the power of Congress to “call[] forth the Militia to execute the Laws of the Union [and] suppress Insurrections,” U.S. Const. art. I, § 8, cl. 15 (emphasis added), and “in Cases of Rebellion” that threaten the nation’s unity, even to invoke the otherwise invulnerable privilege of habeas corpus. In addition to these powers, early on, Congress augmented the President’s power to quash insurrection with the Calling Forth Act, 1 Stat. 264 (1792) (“in case of insurrection in any state, against the government thereof,” the President may call forth the militia to suppress the insurrection), and strengthened this power following the Whiskey Rebellion, 1 Stat. 424, § 1 (1795). In this regard, the Constitution forms an amendable, yet indestructible, Union of indestructible States. See Texas v. White, 74 U.S. 700, 725 (1868), overruled on other grounds by Morgan v. U.S., 113 U.S. 476 (1885) (citation omitted).

9. Incorporating a right to armed insurrection crushes the principles of free government and also makes it impossible for the government to prohibit vigilante gangs

Joshua Horwitz, Educational Fund to Stop Gun Violence, John E. Schreiber, Counsel of Record and Maya C. Dharwarkar, Amici Curiae brief in “Otis McDonald et al. v. City of Chicago,” Supreme Court Case n. 08-1521, 1—5—10, www.americanbar.org/content/dam/aba/publishing/preview/publiced_preview_briefs_pdfs_09_10_08_1521_RespondentAmCuEducatio

An Incorporated Individual Right to Keep and Bear Arms to Resist Governmental Authority Cannot Be Reconciled with Our Existing Constitutional Order, National Sovereignty, or Our Democratic Form of Government, and Would Also Prevent States From Banning Private Military Organizations Under insurrectionist theory, one of the purposes of the Second Amendment is to preserve the ability of individuals (or, more realistically, groups of individuals) to prepare for armed “resistance” to a tyrannical government. According to this theory, the threatened or actual use of force against the government is legitimate if the government is perceived to be acting in a tyrannical or unjust manner. As stated by one amicus: “‘To many gun owners, firearms [and the threat of their use] represent the last line of defense against official tyranny . . . .’ although actual armed conflicts with the government are rare.” Accordingly, “widespread possession of guns amongst the populace often serves to deter government tyranny without resorting to actual violence.” Inherent in the logic of a right to possess firearms for the purpose of resisting a perceived threat of governmental tyranny is that, at some point, individuals are entitled to take the next step and use violence if the government refuses to yield. The proposition that the Second Amendment includes a right to resort to the threatened or actual use of violence as a method of influencing governmental action has profound, deleterious, and multifaceted implications.
UBC Desirable: Answers to “Insurrection Rights”—Second Amendment Doesn’t Justify

1. Even the most charitable readings of the Second Amendment would limit its applicability to the right of armed insurrection

Joshua Horwitz, Educational Fund to Stop Gun Violence, John E. Schreiber, Counsel of Record and Maya C. Dharwarkar, Amici Curiae brief in “Otis McDonald et al. v. City of Chicago,” Supreme Court Case n. 08-1521, 1—5—10, www.americanbar.org/content/dam/aba/publishing/preview/publiced_preview_briefs_pdfs_09_10_08_1521_RespondentAmCuEducationalFund.authcheckdam.pdf, accessed 10-8-17.

In Heller, the Court held that the District of Columbia’s prohibition on the possession of usable handguns in the home violated the Second Amendment. In so doing, the Court embarked upon the complex endeavor of illuminating the scope of the right to keep and bear arms. While the precise metes and bounds of this right will, no doubt, require fine-tuning in the years to come, there can be little question today that the right is a limited one. “From Blackstone through the 19th-century, cases, commentators and courts routinely explained that the right was not a right to keep and carry any weapon whatsoever in any manner whatsoever and for whatever purpose.” The Court, accordingly, instructed that “we do not read the Second Amendment to protect the right of citizens to carry arms for any sort of confrontation.” Nor can there be any doubt, on the basis of the Constitution’s text and history, that an individual’s right to keep and bear arms does not include any purported right to take up arms against the government. Indeed, it has long been settled that the Second Amendment protects the right to bear arms only “for a lawful purpose.” at 2813 (quoting Cruikshank, at 553); Hamblen v. U.S., No. 09-5025, *5 (6th Cir. Dec. 30, 2009). Notwithstanding this irrefutable precept, insurrectionist amici advocate for a reading of the Second Amendment that protects armed conflict against government officials as a means of defending against so-called “official tyranny.” It is therefore crucial that the Court curb such dangerous advocacy by clarifying that the Second Amendment excludes any such purported right to insurrection.

2. The Framers did not envision protecting a right of armed insurrection, but rather the management of state-supported militias to help control against federal control

Joshua Horwitz, Educational Fund to Stop Gun Violence, John E. Schreiber, Counsel of Record and Maya C. Dharwarkar, Amici Curiae brief in “Otis McDonald et al. v. City of Chicago,” Supreme Court Case n. 08-1521, 1—5—10, www.americanbar.org/content/dam/aba/publishing/preview/publiced_preview_briefs_pdfs_09_10_08_1521_RespondentAmCuEducationalFund.authcheckdam.pdf, accessed 10-8-17.

The Framers’ Constitutional Design Excludes Any Purported Right to Insurrection Against the States Like Blackstone, the Framers similarly rejected the right of individuals or ad hoc groups to insurrection. The debates during the Constitutional Convention and the ratifying State conventions focused instead on concerns that centralized control of the nation’s military posed a threat to the role of State militias. Indeed, “Madison and his colleagues provided for an amendment dealing with the militia because most of the states that proposed amendments wanted some guarantee that Congress would not destroy their militias.” (citation omitted). It was therefore the militia, “united and conducted by governments possessing their affections and confidence,” that was intended to balance the power of an oppressive standing army, even if the constitutional order were to break down. Accordingly, virtually every State enacted legislation to regulate its militia, typically subjugating its control under the governor. See, e.g., Conn. Const. of 1818, art. I, § 18 (“The military shall, in all cases, and at all times, be in strict subordination to the civil power.”); Ark. Const. of 1868, art. 12, § 3 (“The Governor shall be, Commander-in-Chief, and shall have power to call out the militia to execute the laws [and] suppress insurrection . . . .”); see generally, Samuel P. Huntington, Civilian Control and the Constitution, 50 Am. Pol. Sci. Rev. 676, 676-77 (1956). Contemporaneous State constitutions reflect this as well. See infra, Section III.A.4. Contrary to the Framers’ vision that the States were to serve as the guardians against any threat of tyrannical oppression, the Court in Heller referred without citation to a Second Amendment right intended to “assure the existence of a ‘citizens’ militia’ as a safeguard against tyranny.” Heller, 128 S. Ct. at 2802 (emphasis added); at 2801 (“It was understood across the political spectrum [in 1788] that the [Second Amendment] helped to secure the ideal of a citizen militia, which might be necessary to oppose an oppressive military force if the constitutional order broke down.”); see also Heller Oral Arg. Tr. at *7 (Scalia, J.) (“[T]he militia that resisted the British was not State-managed.”); at *69 (referring to “the kind of militia that America had, which was a militia separate from the state, separate from the government, which enabled the revolt against the British”). Insofar as this statement can be read to suggest that an individual right to bear arms for insurrectionary purposes is inherent in the Second Amendment, it is unsupported by the historical record.
3. Advocates of insurrection misunderstand what ‘militia’ means—it refers to lawful, organized militaries at the state level

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First, the revolutionary militia was not in fact composed of individuals who acted “separate from government”: “Colonists who bore arms did not act as isolated individuals, but rather acted collectively for the common defense, and did so within a clear set of legal structures.” Cornell, supra, at 12-13; see also John R. Galvin, The Minute Men: The First Fight: Myths & Realities of the American Revolution (Pergamon-Brasseys Int’l Defense 1989) (“Many of the [Massachusetts] towns required their minute men to train twice a week . . .”); John W. Shy, A People Numerous & Armed: Reflections on the Military Struggle for American Independence 126 (Univ. of Mich. 1990) (“Towns, not individuals, decided to fight.”). Second, the Framers plainly did not envision ad hoc groups of armed individuals beyond State control (i.e., a “citizens’ militia”) as a constitutional check on tyranny; they saw them as unruly mobs that must be quelled. See Cornell, supra, at 14 (“Without legal authority, a group of armed citizens acting on their own was little more than a riotous mob.”). Rather, it was a “well regulated Militia” that they viewed as “necessary to the security of a free State.” Third, and in any event, the “militia” enshrined in the Constitution was intended to be an improvement upon the barely functioning militias that fought in the American Revolution. “Most responsible leaders of the federal government . . . understood that . . . the militia was an unreliable main defense force” and would be ineffective in defending the young country. C. Edward Skeen, Citizen Soldiers in the War of 1812 3-4 (Univ. Press of Kentucky 1999) (quoting George Washington, “[the militiamen] come in, you cannot tell how; go, you cannot tell when, and act, you cannot tell where, consume your provisions, exhaust your stores, and leave you at last in a critical moment.”); James K. Martin, A Respectable Army: The Military Origins of the Republic, 1763-1789 19 (1982) (quoting General James Wolfe, who described the militia as “the dirtiest most contemptible, cowardly dogs you can conceive. There is no depending on them in combat.”); Heller, 128 S. Ct. at 2832 & n.17 (Stevens, J., dissenting). These persistent shortcomings led the Framers to employ federalism as a means of increasing the militia’s effectiveness. The Framers believed that a constitutional government, rather than a right to insurrection, would be the protector of individual liberty. Indeed, it was the 1787 quelling of Shays’ Rebellion, an armed insurrection by farmers seeking tax relief, that prompted George Washington to emerge from retirement to advocate for a stronger federal government. Those opposing Shays believed that, “[i]n a situation in which representative institutions and courts of law were functioning, the rule of law, not arms, was the primary guarantee of life, liberty, and property.” The Framers understood the dangers of insurrectionism from their own experience, just as we do today. The lesson of such uprisings as Shays’ Rebellion was that “the rebellion of a people against a government established by themselves is not justifiable, even in an extreme case, and can only result in dishonor to the state, and calamity and disgrace to those who participate in it.” As James Madison stated, “[l]iberty may be endangered by the abuses of liberty as well as the abuses of power.”

4. Assertions of the right to insurrectionist powers are disturbingly vague and dangerous

Joshua Horwitz, Educational Fund to Stop Gun Violence, John E. Schreiber, Counsel of Record and Maya C. Dharwarkar, Amici Curiae brief in “Ottis McDonald et al. v. City of Chicago,” Supreme Court Case n. 08-1521, 1—5—10, www.americanbar.org/content/dam/aba/publishing/preview/publiced_preview_briefs_pdfs_09_10_08_1521_RespondentAmCuEducationalFund.authcheckdam.pdf, accessed 10-8-17.

Insurrectionists argue that the Second Amendment protects a right to keep and bear arms for the purpose of fighting government tyranny, either individually or in private groups apart from a State militia. See generally, Horwitz, supra. Private ownership of firearms, they argue, is a vital check against government overreaching, even in its most democratically accountable form. Thus, insurrectionists invoke the Second Amendment as a basis to rise up in arms against the very same institutions of government that the Constitution was intended to protect. Not only do insurrectionists insist that firearms are “tools of political dissent [that] should be privately owned and unregistered,” they also are dangerously vague as to what constitutes the “tyranny” justifying armed violence, who is a proper target of such uprisings, and who gets to make such decisions. While our country has long rejected private insurrectionism (see infra, Section III.A), modern day proponents of this idea glorify the murder of law enforcement officers (and, collaterally, innocent bystanders and children) as a constitutionally-protected right in a fight against “tyranny.” The Rocky Mountain Gun Owners, for example, define “defense against tyranny” as the use of deadly force against law enforcement officers exercising a judicial warrant. Another amicus, by contrast, identifies terrorism as a “modern type of tyranny.” In a world in which “tyranny” means many different things to many different people, it is of paramount importance that the Court choose its words carefully when discussing just what is, and what is not, protected by the Second Amendment.
- **The Libresco article is wrong about the effectiveness of gun control measures**


It’s certainly an eye-catching headline: “I used to think gun control was the answer. My research told me otherwise.” And after the Las Vegas mass shooting on Sunday, it went viral: As of Wednesday afternoon, it had thousands of shares on social media, and more than 5,000 comments on the Washington Post page. But despite the article’s headline and author Leah Libresco’s data journalism credentials, the column is surprisingly thin on studies and data. In fact, it cites no specific studies on gun control whatsoever. Here’s what seems to be the most evidence-based claim in the piece: I researched the strictly tightened gun laws in Britain and Australia and concluded that they didn’t prove much about what America’s policy should be. Neither nation experienced drops in mass shootings or other gun-related crime that could be attributed to their buybacks and bans. Mass shootings were too rare in Australia for their absence after the buyback program to be clear evidence of progress. And in both Australia and Britain, the gun restrictions had an ambiguous effect on other gun-related crimes or deaths. That’s … it. The original article at FiveThirtyEight, which Libresco again pointed me to in an email for her main source of data, cites a couple of real studies, but it only cherry-picked the more negative findings in the field. (Even then, one study cited found that Australia’s 1996 gun control law and buyback program was followed by a faster drop in gun deaths than would otherwise be expected; it’s just unclear whether the policy was the main cause.) The rest of the article makes no attempt to raise any other actual empirical research, only citing a few statistics about the demographics of gun deaths. That’s unfortunate, because there actually is a rich and growing body of evidence on guns. It’s not perfect by any means — this is a tough issue to study, for reasons I’ll get into below. But it’s fairly persuasive. In fact, it’s so persuasive that it changed my mind. I was once skeptical of gun control; I doubted it would have any major impact on gun deaths (similar to the views I took on drugs). Then I looked at the actual empirical research and studies. My conclusion: Gun control likely saves lives, even if it won’t and can’t prevent all gun deaths.
UBC Desirable: Answers to “NICS Problems”

- NICS works well, and its performance is constantly improving


How Effective is NICS? NICS is a good system, but not a great one. In some areas, it does an exceptional job. The system is practically certain to snag anyone who has a previous felony conviction. Records of domestic violence and restraining orders have greatly improved over the years. And even mental health records have substantially increased in number in NICS. But still, for every 10,000 people who submit to a background check, only 5 are denied based on mental illness. Much of the blame for the shortcomings of NICS belongs to the states, and some to the design of the original Brady Law. For example, when the Brady Law was passed, the gun lobby was adamant that NICS not in any way be used as a proxy for a national firearms registry. So not only are records of background checks destroyed within 24 hours, but the check itself does not use identifying markers such as Social Security numbers. States are supposed to supply disqualifying records to the federal database, but in some cases they do a horrible job. Pennsylvania, for example, has only one disqualifying mental health record in its database. Oklahoma has two. Virginia recently improved its mental health record contributions, but only after a crazed killer erroneously cleared a background check and purchased several firearms that he used at Virginia Tech. But it’s worth noting that many of the current legislative proposals for a universal background check requirement would actually improve NICS as well, by incentivizing states to update their records or providing them with additional funding to make such updates possible. All in all, NICS performs quickly and well. The system gets better every year, both in efficiency and in effectiveness.
**UBC Desirable: Answers to “People Kill People”**

1. **Lax gun laws are the biggest factor in the U.S.’s high levels of gun violence**


   Why should we believe guns per se are the problem? Isn’t it true that guns don’t kill people—people kill people? Guns are not the sole reason why the U.S. has such unusually high homicide rates, but our lax gun laws may be the most important determinant. Rates of non-lethal violent crime, adolescent fighting, and mental illness in the U.S. are average compared with other high-income countries. Guns don’t kill people by themselves, but guns substantially increase the ability of people to kill others and themselves. Many people own firearms and pose no threat to public safety. But when individuals with a history of violence, substance abuse, or serious mental illness can access firearms due to our weak gun laws, the risk of lethal violence increases greatly.

2. **Guns in the hands of people kill people—the presence of a gun escalates violence**


   Myth 3: Guns don’t kill people, people kill people. The Truth: Anti-gun-control advocates wrongly argue that it is the deadly intent of the people wielding the gun, not the weapons, that results in deadly violence. Yet research demonstrates that the presence of a gun intensifies a violent event and increases the likelihood that someone will die. For example, a groundbreaking and often replicated study of criminal attacks in Chicago by University of California at Berkeley law professor Frank Zimring found that the circumstances of gun and knife assaults were very similar: Incidents typically were unplanned and did not involve a clear intention to kill. Having a gun on hand, however, made it more likely that the incident would end with a fatality. No one would dispute that guns are potentially dangerous. The federal government regulates many products deemed to be potentially dangerous, such as cars. Automobiles are subject to a host of federal health and safety standards to protect drivers and the general public, but no federal safety standards are applied to guns. It is reasonable to require that safety measures be imposed on gun owners, such as passing a background check showing fitness to own a gun, obtaining a license, and registering the gun.

3. **Guns are intrinsically dangerous—justifies universal background checks**


   The dangerous nature of unregulated firearm sales through the secondary market is simply manifested in the nature of firearm possession. Firearm purchases are unlike other regulated products like narcotics. Unlike narcotics, which users need to replace their supply constantly, individuals do not need to replace their guns often. In the criminal context, a single gun could last for years, even for an entire criminal career. Thus, each firearm transaction matters and the loopholes to acquire these firearms cannot be disregarded. Congress must consider amending the current Brady Act to adopt a universal background check that will encompass both federally-licensed sales and private sales of firearms. The re-definition of the background check system will not only provide meaningful solutions for the problems demonstrated by online gun marketplaces but also close in the entire secondary market.
UBC Desirable: Answers to “Prison Surveys”

- Prison surveys do not disprove the significance of the gun show loophole—criminals obtain guns from no-check sources

Brady Center to Prevent Gun Violence, NO CHECK. NO GUN. WHY BRADY BACKGROUND CHECKS HSOULD BE REQUIRED FOR ALL GUN SALES, 4—09, p. 22-23.

The gun lobby tries to minimize the danger posed by the gun show loophole by claiming that only a tiny percentage of criminals acquire their firearms from gun shows. The claim ignores the indisputable facts that several notorious killers, as well as numerous other criminals and traffickers, have obtained their guns from gun shows (as seen in this report), and is dubious at best. The claim is based on two surveys done of state and federal inmates in 1997 and 1991, in which 1.7-1.9% of inmates said they obtained their firearm at a gun show or flea market. The biggest sources that criminals cited were friends or family and street/illegal, with nearly 40% each. Retail dealers were third, with 14.7% in 1991, before the Brady Law took effect, and 8.3% in 1997, after background checks were required nationwide at gun dealers. Even if one accepts these surveys of convicted criminals as credible, they do not disprove ATF’s conclusion that gun shows are a major source of guns for criminals. They cannot rebut the documented facts of people killed because criminals and juveniles were able to purchase firearms without a background check, or of gun show traffickers caught moving hundreds or thousands of guns into prohibited hands. The anecdotal surveys of inmates do not rebut ATF’s Following the Gun report – the most comprehensive report the agency has ever issued on the sources of trafficked guns – which identified gun shows as a “major trafficking channel.”

Among all trafficking sources, gun shows ranked second in the number of trafficked guns per investigation, and second in the overall number of illegally diverted firearms. In addition, unlicensed sellers were identified as the number two source of illegal gun trafficking. This hard data sheds light on the true source of illegal guns in a way that criminal surveys do not. These surveys of criminals also ignore the fact that many criminals obtain guns from traffickers who may have been supplied from gun shows, perhaps unbeknownst to the criminal-purchaser. But surveys only asked criminals to provide the immediate “source” of the gun they used in crime, not where that “source” got the gun. As neither “friends and family” nor “street/illegal” can produce guns themselves, they must acquire guns from other sources, and those sources are often unlicensed sellers at gun shows or elsewhere. As two prominent researchers have pointed out: While an important question is whether prohibited persons personally buy firearms at gun shows, which might be answered by surveys, an equally important one is whether gun shows are sources of firearms that are trafficked to prohibited persons by straw purchasers, street dealers, and the like. However, this question cannot be answered by surveys. Firearms passing into the hands of criminals may be subsequently traded, stolen, and resold. When a criminal acquires a firearm from ‘street’ sources, he or she may not know where it came from; the gun may have been originally stolen through a burglary, straw purchased from a [licensed dealer], or purchased from an unlicensed dealer at a gun show. The interstate trafficking of firearms also suggests that many criminals do not know the ultimate “source” of the firearms they use in crime. For example, ATF has published reports as part of its Youth Crime Gun Interdiction Initiative program indicating that between 38 and 42% of guns recovered from criminals were trafficked from out of state. In one report, ATF provided a mileage estimate for how far crime guns travel, finding that a third of all trafficked crime guns were bought more than 100 miles from where they were recovered. Yet if criminals were asked about the source of their guns, many would likely answer “friends/family” or “street/illegal,” when in fact the gun was trafficked from an unlicensed seller or a licensed one that was willing to sell to a straw buyer. Indeed, it is highly likely that many criminals do not know the original “source” of their guns.
UBC Desirable: Answers to “Race Concerns / Disparate Impacts”

1. African American youth are disproportionately affected

Chelsea Parsons and Anne Johnson, staff, YOUNG GUNS: HOW GUN VIOLENCE IS DEVASTATING THE MILLENNIAL GENERATION, Center for American Progress, 2017, p. 7.

Among young people, the risk of gun violence falls disproportionately on African Americans, particularly black males. While 13 percent of Americans are black, in 2010, 65 percent of gun murder victims between the ages of 15 and 24 were black. Forty-two percent of the total gun deaths of individuals in this age group were of black males. Young black men in this age group are killed by a gun at a rate that is 4.5 times higher than their white counterparts.

2. Gun violence disproportionate harms communities of color


People of color account for the majority of gun-violence victims. There are large racial disparities in homicide rates due to gun violence. The gun-homicide rate for black males is 2.4 times as high as that of Latino males, and it is 15.3 times as high as the rate for non-Hispanic white males. Murder and non-negligent manslaughter victims are most frequently black or Latino, with blacks comprising 67 percent of victims and Latinos comprising 28.1 percent. Blacks make up roughly 13 percent of the U.S. population, but in 2010—the last year for which data is available—they suffered 56 percent of all firearm homicides. 2. Gun violence is one of the leading causes of death for teens of color. Guns cause the deaths of thousands of teens each year. In 2008 and 2009 gun homicide was the leading cause of death among black teens, and the rates of gun-related deaths are highest for black male teens. For black families, the chance of a male child dying from a gunshot wound is 62 percent higher than the chance of him dying in a motor-vehicle crash. In 2010 American Indian male teens had the second-highest rate of gun-related deaths, with 19.3 gun-related deaths per 100,000 teens. Latino male teens followed, with 17.8 per 100,000. In contrast, white male teens had the second-lowest rate, with only 9.4 per 100,000.

3. The gun rights crowd does nothing to protect the interests of Black people

Caroline Light, researcher, Harvard University, “Why the NRA Has Been a Disaster for Black People,” MOTHER JONES, 2017, p. 16.

As I argue in my new book about the history of lethal self-defense, the myth that white women need protection against dark strangers remains lodged in our national psyche, allowing contemporary supporters of gun carry and Stand Your Ground laws to invoke racial fears without ever mentioning race. Indeed, a recent study found that the most vocal supporters of gun rights tended to imagine criminals as black, while envisioning “law-abiding” citizens as white. The fear of a black stranger helps the NRA peddle its Refuse to be a Victim seminars, yet the self-defense laws the group champions were never designed to protect women against violent husbands and boyfriends—even though, according to the Violence Policy Center, nearly two-thirds of the women slain by men in 2013 were intimately involved with their killers. And the nonprofit Correctional Association of New York found that two-thirds of the women imprisoned in 2005 for killing someone close to them were abused by the person they killed. “Most battered women who kill in self-defense end up in prison,” Rita Smith, the executive director of the National Coalition on Domestic Violence, noted in 2013. “There is a well-documented bias against women [in these cases].” The NRA doesn’t disclose its ethnic breakdown, but when Detroit firearms instructor Rick Ector, who is seeking to join the group’s board of directors, attended the group’s 2012 conference in St. Louis, he spotted only 12 other black people in a gathering of more than 70,000. “I may have missed a few but not many,” he wrote on Ammoland. And what to make of the NRA’s silence when black gun owners are harassed or killed for exercising their Second Amendment rights? Within hours of five cops being slain in Dallas, CEO Wayne LaPierre released a statement expressing the “deep anguish all of us feel for the heroic” police officers, but he offered no support for Hughes, the black gun owner misidentified as a cop-killer. In the wake of the back-to-back killings of Sterling and Castile that week, the NRA had no comment. Only amid criticism from its own members, two days after Castile’s death, did America’s most powerful gun rights group concede that “the reports from Minnesota are troubling.” Yes, troubling indeed.
4. Gun violence is concentrated in communities of color


7. Gun violence is concentrated in urban and poor neighborhoods, which tend to be populated predominately by people of color. In 2006 and 2007 the 62 center cities of America’s 50 largest metro areas accounted for only 15 percent of the population but 39 percent of gun-related murders. This ratio is only growing: In 2011 there were record highs of gun violence in cities such as Chicago and Detroit. Plans to combat gun violence must include prevention programs and policies that target urban violence.

5. Gun violence strains the public health system, particularly in communities of color


8. The cost of gun violence is a significant burden on the health care system. Firearm-related injuries generally require hospitalization and significant emergency center resources. In 2005 U.S hospitals charged $108.4 million to care for about 10,000 victims of firearm injuries. This number exceeds the total budget for the Office of Juvenile Justice and Delinquency Prevention by $38 million, pointing to not only a lack of resources for prevention but also to the significant cost to the health care system. It strains the health services available in disadvantaged areas and exacerbates the health disparities that already exist within communities of color.

6. A strong majority of Black people support gun control measures


In a Pew poll taken last year, an overwhelming majority of blacks, 72%, said it was more important to control gun ownership than to protect the right to own guns. Only 20% said that protecting the right to own guns was more important. There’s a good reason why few African-Americans associate guns with “freedom” and “liberty.” The national U.S. homicide rate is 5.3 per 100,000 people. Among blacks, it’s 20.9 per 100,000. That’s four times the national rate and seven times the white rate. In 82% of black-victim homicides in which the fatal weapon can be identified, it’s a gun. And 73% of those gun deaths are inflicted by handguns. Charles Lane has said that, “Firearms pose threats to modern-day urban dwellers—crime, suicide, accidents—that may outweigh any self-defense they provide. Unlike 19th-century rural Americans, we can call on professional police.” Otis McDonald might not agree, but certainly other African-Americans in his community do. Annette Holt, whose 16 year-old son was shot and killed on a Chicago school bus while shielding a fellow student from harm, called the McDonald v. Chicago decision “a slap in the face to all of us who have lost children to gun violence.” Then there is the Chicago City Council, which voted unanimously to approve the city’s strict, post-McDonald gun laws. Robert Farago was blunt in his assessment: “Not to put too fine a point on it, Chicago’s new handgun-licensing laws are inherently racist.” NRA CEO Wayne LaPierre ranted about “defiant city councils” that seek to “nullify” McDonald with regulations that are akin to “the poll tax or the literacy test.” Both men failed to mention that 20 out of the Chicago City Council’s 50 members are African-American. One has to wonder if the tragic irony of the McDonald decision was lost on the Supreme Court’s conservative majority and pro-gun activists. “[The Second Amendment] now is being used to help protect a black Chicago man from local gangbangers,” Clarence Page wrote. Those gangbangers aren’t white terrorists from days gone by. In many cases, they’re black kids with sophisticated weaponry courtesy of a deliberate marketing effort by firearm manufacturers. The Bureau of Justice Statistics has reported that, between 1976 and 2005, 94% of black homicide victims were killed by blacks.

7. There is nothing racist about promoting additional gun control measures


In today’s political climate, not even progressive African-Americans are immune from the “racist” charge, whether it’s Glenn Beck claiming that President Obama has a “deep-seated hatred for white people” or Andrew Breitbart creating an alternate history where the poll tax or the literacy test. Both men failed to mention that 20 out of the Chicago City Council’s 50 members are African-American. One has to wonder if the tragic irony of the McDonald decision was lost on the Supreme Court’s conservative majority and pro-gun activists. “[The Second Amendment] now is being used to help protect a black Chicago man from local gangbangers,” Clarence Page wrote. Those gangbangers aren’t white terrorists from days gone by. In many cases, they’re black kids with sophisticated weaponry courtesy of a deliberate marketing effort by firearm manufacturers. The Bureau of Justice Statistics has reported that, between 1976 and 2005, 94% of black homicide victims were killed by blacks.
UBC Desirable: Answers to “Second Amendment”—Topshelf

1. **We should be very skeptical of slippery slope arguments in the context of constitutional rights**


Another common reasoning fallacy that blocks progress is the slippery slope argument, in which any restriction, no matter how benign or beneficial in itself, is assailed as "the camel's nose is in the tent." Because this argumentation strategy has nothing to do with the reasonableness of the measure under consideration, it is always available. Slippery slope arguments commit fallacies of both hyperbole and causation. In rhetoric textbooks, the fallacy travels un-der labels such as the "unnecessary parade of horribles," "domino fallacy," and "the wicked alternative." It is possible, of course, that one potential consequence of adopting a reasonable restriction on a constitutional right is that it could lead incrementally to another restriction, which may be an unreasonable one. However, employing such a concern to defeat a proposal is valid only if there is an independent likelihood that the next step will in fact be taken. As rhetorician T. Edward Damer explained in discussing slippery slope arguments, "every causal claim requires a separate argument" and failing to furnish evidence to support an argument that one event will cause an independent event or series of events simply exposes the "clumsy thinking of the arguer." Gun-rights advocates have long used, and continue to use, the slippery slope argument to oppose reasonable gun restrictions by stoking fears along the lines of: "Today it will be x, tomorrow it will be gun prohibition and confiscation." Even assuming that such a fear may once have had merit, the Supreme Court's decisions in District of Columbia v. Heller and McDonald v. City of Chicago should put it to rest. Gun bans are unconstitutional. I know well from teaching my law school firearms policy course that many people believe any restriction on guns is overly burdensome and violates the Second Amendment. Such beliefs are unfounded and result from inaccurately viewing the Second Amendment as an absolute right while failing to weigh the extent of the burden against competing communitarian interests and costs. To be clear, the only existing Second Amendment right established by the nation's high court is Heller's recognition of an individual right to maintain an operable firearm in the home for purposes of personal defense, the Second Amendment may be set aside in considering the desirability of the measures.

2. **Background checks simply do not run afoul of the Second Amendment**


Several objections have been lodged against universal background checks, although, notably, they do not include an argument that such checks violate the Second Amendment. Nor could they. Background checks do not deny guns to anyone who is lawfully entitled to possess them. They only work to identify potential buyers for whom it is already illegal to acquire a firearm. Common complaints about universal background checks include that they would not be a perfect solution because most criminals obtain guns through theft or purchase on the illegal secondary market. The argument proves too much, however, because the same argument could be used to support abolishing all back-ground checks. Given the large number of variables involved, one should always be wary of cause and effect claims on both sides of the gun debate, but there is some evidence supporting the effectiveness of universal background checks in reducing gun crime. A study by the Johns Hopkins Center for Gun Policy and Research attributed a 14% rise in Missouri homicide rates to the state's repeal of its universal background check requirement for handgun purchases in 2007. Specifically, the study found that repealing the law was associated with forty-nine to sixty-eight additional murders per year between 2008 and 2012.
UBC Desirable: Answers to “Second Amendment”—Background Checks Permissible

1. Universal background checks do not violate the Second Amendment


The Second Amendment confers an individual right to own firearms, but that right does not extend to terrorists, criminals, or those who are seriously mentally ill. The only time Second Amendment rights are even questioned is when a criminal or a mentally ill person obtains a firearm in violation of the law and commits a heinous crime. Recent polls have found 92% of all Americans and 77% of NRA members support such a law. Nearly 200 million law-abiding gun owners have gone through a background check already. If it’s good enough for these gun owners, it should be good enough for the rest of us. Universal background checks are well within our Second Amendment freedoms: they preserve the right for those who are responsible and deny it to those who would abuse the right for evil purposes. Not every proposed gun law would have a large impact on crime and public safety. Universal background checks would.

2. The proposed restrictions do not violate the Second Amendment

Dr. Steven E. Weinberger et al., American College of Physicians, “Firearm-Related Injury and Death in the United States: A Call to Action from 8 Health Professional Organizations and the American Bar Association,” ANNALS OF INTERNAL MEDICINE v. 162 n. 7, 4—7—15, p. 515.

These recommendations do not come solely from a group of health organizations without expertise in constitutional law but have been developed in collaboration with colleagues from the ABA, which has confirmed that these recommendations are constitutionally sound. For 50 years, the ABA has acknowledged the tragic consequences of firearm-related injury and death in our society and expressed strong support for meaningful reforms to the nation's gun laws, as well as for other measures designed to reduce gun violence that do not fall under Second Amendment scrutiny. Because the courts have repeatedly held that the Second Amendment is consistent with a wide variety of laws to reduce gun-related deaths and injuries in our nation (yet confusion exists among the public about whether the Second Amendment is an obstacle to sensible laws), one mission of the ABA has been to educate its members, as well as the public at large, about the true meaning and application of the Second Amendment. The Supreme Court, in its controlling 2008 decision, District of Columbia v. Heller, concluded that Second Amendment rights are not unlimited with regard to who may possess firearms, what kinds of firearms they may possess, or where they may possess them (29). The Court made clear that the Second Amendment should not be understood as conferring a “right to keep and carry any weapon whatsoever in any manner whatsoever and for whatever purpose”; identified a nonexhaustive list of “presumptively lawful regulatory measures”; and noted that the Second Amendment is consistent with laws banning “dangerous and unusual weapons” not in common use, such as firearms that are most typically used by the military (29).

Further, after Heller, more than 900 court decisions have upheld a wide variety of regulations to reduce gun violence (30), and only a few rulings have struck down certain types of firearm laws (31, 32). No ruling of the Supreme Court (or any other court, for that matter) calls into question any of the specific proposals that we recommend.

3. Universal background checks are clearly constitutional under current precedent

Winnie Stachelberg, Executive Vice President for External Affairs, CAP, Arkadi Gerney, Senior Fellow, CAP, and Robyn Thomas, Executive Director, Law Center to Prevent Violence, “Constitutionality of Proposed Firearms Legislation,” Center for American Progress, 2—12—13, p. 5-6.

The proposed expansions to the existing background check system are also consistent with the Second Amendment. Heller made clear that the individual right to bear arms does not extend to felons or the mentally ill. Such “longstanding prohibitions” have been uniformly upheld in post-Heller cases in the federal courts. Both United States v. Barton and United States v. Smoot upheld the federal ban on possession of a firearm by convicted felons. If Congress may prohibit felons, the mentally ill, and other unfit persons from possessing firearms, it follows that Congress may also take reasonable measures to enforce the prohibition such as background checks at the point of sale. Indeed, Heller specifically observed that firearm sales would continue to be subject to reasonable “conditions and qualifications” enacted by legislators. The Court in Heller assumed that such regulations would exist when it ruled that the District of Columbia was required to permit the plaintiff to own a handgun, “assuming that [he] is not disqualified from the exercise of Second Amendment rights.” Experience with the existing National Instant Criminal Background Check System has demonstrated that background checks can be effective at reducing violent crime without burdening the ability of law-abiding citizens to obtain firearms. The national background check system has proven to be a meaningful check on access to firearms by convicted felons and other “prohibited persons.” Since 1999 the system has blocked prohibited purchasers from buying firearms at federally licensed dealers more than 1.9 million times. The most common reason for denial was a prior felony conviction. In 2009 alone approximately 150,000 applications for a permit to transfer or purchase a firearm were denied as a result of background checks. Here again, the most common reason for denial was a prior felony conviction. Given the efficacy of the system, a court would be unlikely to conclude that expanded background checks during firearm sales would unduly burden the Second Amendment right of law-abiding citizens to obtain firearms.
Universal background checks do not run afoul of the Second Amendment


Proposed legislation with similar elements has been introduced in Congress. These measures as written would not violate the Second Amendment right to bear arms as recently defined in two landmark Supreme Court decisions—District of Columbia v. Heller in 2008, and McDonald v. City of Chicago in 2010. Under Heller and McDonald the Second Amendment protects the right of law-abiding citizens to keep and bear arms for self-defense in the home. The proposed measures would not violate that right, but rather fall squarely within the scope of “presumptively lawful regulatory measures” that Heller identified as constitutionally sound. Furthermore, these proposals would effectively advance the important government objectives of preventing gun violence and protecting law enforcement officers and would not unduly burden law-abiding Americans or impose upon the core right identified in Heller. Below we discuss these three proposals in greater detail. Banning assault weapons and high-capacity magazines. President Obama’s proposal would reinstate a ban on assault weapons, which were the subject of a federal law that was in place from 1994 to 2004, and would limit the sale of ammunition magazines holding more than 10 rounds. A bill tracking the president’s general approach has already been introduced in the Senate by Sen. Dianne Feinstein (D-CA). Both Sen. Feinstein’s bill and the expired law that President Obama proposes to reinstate define an “assault weapon” as a semiautomatic weapon with specified military-like features, such as a folding stock or a grenade launcher, as well as firearms on a list of specifically named weapons. Requiring universal background checks. President Obama proposes to strengthen the currently existing National Instant Criminal Background Check System, or NICS, by requiring every gun buyer to submit to a background check—not just those who purchase firearms from a federally licensed firearms dealer. Approximately 40 percent of all gun sales are made by private sellers often at gun shows or through online transactions. Under current federal law these sales are exempt from the background check requirement. A bill aimed at achieving the president’s goal of universal background checks was introduced in the last Congress by Sen. Charles Schumer (D-NY). Enhancing penalties for gun trafficking. President Obama has also announced support for increased efforts to stem the flow of firearms to criminals, taking aim especially at so-called straw purchasing. Under current law, convicted felons cannot purchase firearms from a federally licensed firearms dealer. Straw purchasing is a technique used to evade this prohibition by using a third party without a criminal record—the “straw buyer”—to purchase weapons from a licensed firearms dealer under false pretenses. The president’s proposal is similar to legislation introduced by Sens. Patrick Leahy (D-VT) and Richard Durbin (D-IL), as well as a separate bill introduced by Sens. Kirsten Gillibrand (D-NY) and Mark Kirk (R-IL). Both proposals would impose criminal penalties on the straw buyer. The Gillibrand and Kirk proposal would also impose penalties on the ultimate firearm recipient.

Restrictions do not violate the Second Amendment


The notion that Obama's actions violate the Second Amendment is also without merit. Emphasizing that the right to keep and bear arms is not absolute, the Supreme Court has cautioned that nothing in its decisions "should be taken to cast doubt on longstanding prohibitions on the possession of firearms by felons and the mentally ill, or laws forbidding the carrying of firearms in sensitive places such as schools and government buildings, or laws imposing conditions and qualifications on the commercial sale of arms.” The Supreme Court has not specified what sort of scrutiny or other test should be applied to laws challenged on Second Amendment grounds, but lower courts have generally applied an intermediate level of scrutiny that is "very deferential to legislative determinations and requires merely some logical and plausible showing of the basis for the law's reasonably expected benefits.” The lower court decisions have suggested that more intense scrutiny would apply only in exceptional cases where a challenged law imposes a severe burden on conduct at the Second Amendment's core.
UBC Desirable: Answers to “Second Amendment”—General

1. Claims that stronger regulations will take guns away from law-abiding citizens are just false


I’ve heard the NRA say that gun control takes guns away from law-abiding citizens, not criminals. Isn’t that true? Aren’t we better off allowing people to defend themselves with a firearm? This is a bogus argument that has worked extremely well for the gun lobby’s fundraising and been instrumental in its success in fending off common-sense gun laws. Requiring a background check of prospective purchasers does not take away guns from law abiding people, nor does close regulation and oversight of gun dealers. The gun lobby says that background checks will lead to registries of gun ownership—and, eventually, the confiscation of weapons. But federal law forbids anything resembling a federal gun registry, we’ve had background check requirements for sales by license dealers since 1994 without registries or gun confiscation, and states that do have their own gun registries have never used them to remove guns from law abiding citizens. Assault weapon bans curtail sales of a particularly dangerous type of firearm, but it is a stretch to say that such bans leave law abiding citizens defenseless when they can keep assault weapons that they own and can buy a multitude of other firearms provided that they pass a background check.

2. The Second Amendment means militias, not an individual gun right


Finally, in United States v. Miller, the leading case on the Second Amendment, the U.S. Supreme Court upheld the National Firearms Act of 1934 as constitutional. The Court rejected the defense’s argument that regulating the transfer of firearms and imposing a transfer tax usurped the police power reserved to the States. In upholding the Act, the Court concluded that the weapon at issue did not have “some reasonable relationship to the preservation or efficiency of a well regulated militia.” In accord with the National Defense Act of 1916, the “militia” has since been supplanted by the National Guard. Thus, it is a fair characterization that the protections contemplated by the Second Amendment are mostly, if not entirely, obsolete. After all, the National Defense Act transformed the militia from an individual state service into a division of the United States Army that could be summoned by the President in a case of war or national emergency.

3. Second Amendment rights are not absolute—are subject to limits


Although the right to bear arms was enumerated in the Bill of Rights, courts have specifically stated that the Constitution is not the source of rights themselves, but merely acts as a safeguard to protect these rights. The right to bear arms actually extends from English common law, which itself did not recognize an absolute right to bear arms. Therefore, it seems reasonable to infer that the Framers intended such a condition to apply to the same right as enumerated in the United States Constitution. In general, if a right is deemed absolute, Congress can make no law limiting that right. However, no liberty within the Bill of Rights has been accorded this protection by the courts. For example, the First Amendment guarantees of freedom of speech and free exercise of religion have been regulated even though they have been deemed our most fundamental rights. Fundamental rights are given the highest position in the hierarchy of values, yet even they must sometimes yield to other considerations. With regard to gun control, courts have refused to accord such a classification to the Second Amendment right to bear arms. Therefore, the Second Amendment does not protect an absolute right to bear arms. Considering the spirit in which the Second Amendment was drafted, coupled with consistent judicial interpretation of the right as neither absolute nor fundamental, the right to bear arms historically has been subject to some degree of regulation.
4. The Second Amendment clearly allows for the regulation of firearms


What is a liberal’s case for the Second Amendment? The Second Amendment protects the right of individual Americans to have and use firearms for self-defense, hunting, and sport. This right existed in common-law England before Jamestown and here, too, ever since John Smith's day. But the Second Amendment has never forbidden commonsense regulation of firearms (i.e., gun control) to protect the right of the public to live in safety. History shows that the National Rifle Association (NRA) is wrong to claim that the Second Amendment recognizes an absolute right. Colonial authorities regulated firearms before independence. And there was even regulation in the 19th century Wild West, as signs like one in Wichita, Kansas, warned visiting cowboys in 1873: "Leave Your Revolvers At Police Headquarters, And Get A Check." Shall not be infringed does not mean shall not be limited in any way. Any dictionary will show that infringed does not mean the same thing as infringed on. Rather, to infringe is to break or, in this context, to deny. So "the right of the people to keep and bear Arms shall not be infringed" means that it cannot be denied to the people in general. The right was always connected with civic duty--thus the preamble about a well-regulated militia. Further, the Second Amendment has always coexisted with various forms of gun registration and gun control. The right can be denied, and has been throughout our history, to lawbreakers and others who simply should not have guns. So although the Second Amendment protects the right to keep and bear arms, a liberal's case for the Second Amendment recognizes that this right is not absolute and therefore is subject to commonsense regulation.
1. Both the Heller and McDonald decisions provide substantial room to regulate firearms

Winnie Stachelberg, Executive Vice President for External Affairs, CAP, Arkadi Gerney, Senior Fellow, CAP, and Robyn Thomas, Executive Director, Law Center to Prevent Violence, “Constitutionality of Proposed Firearms Legislation,” Center for American Progress, 2—12—13, p. 2-3.

The Second Amendment of the U.S. Constitution provides that “[a] well regulated Militia, being necessary to the security of a free State, the right of the people to keep and bear Arms, shall not be infringed.” In District of Columbia v. Heller, the Supreme Court issued its most significant opinion regarding the Second Amendment since 1939, striking down a total ban on handgun possession in the home as inconsistent with the right to keep and bear arms conferred by the Second Amendment. The Supreme Court held that the Second Amendment protects “the right of law-abiding, responsible citizens to use arms in defense of hearth and home,” even apart from collective service in a militia. In striking down the District of Columbia’s ban on handgun possession, the Court took note that the handgun is “the quintessential self-defense weapon” and that it is “the most popular weapon chosen by Americans for self-defense in the home.” Two years later in McDonald v. City of Chicago, the Supreme Court affirmed that the Second Amendment is fully applicable to the states through the 14th Amendment because it protects the “fundamental” right to self-defense. The Court emphasized that at the core of the Second Amendment is the “basic right” of self-defense, and that this right is “deeply rooted in this Nation’s history and tradition.” Even as the Court affirmed and reaffirmed that the Second Amendment protects an individual right to possess weapons, it also stressed that the right to bear arms is “not a right to keep and carry any weapon whatsoever in any manner whatsoever and for whatever purpose.” In particular, the Court identified a nonexhaustive list of firearms regulations that are “presumptively lawful,” including: • Longstanding “prohibitions on the possession of firearms by felons and the mentally ill” • Laws “forbidding the carrying of firearms in sensitive places such as schools and government buildings” • Laws “imposing conditions and qualifications on the commercial sale of arms” • Laws prohibiting “dangerous and unusual weapons” In Heller and again in McDonald, the Court emphasized that legislators retain “a variety of tools” for combatting the problem of gun violence—repeating assurance that Heller “did not cast doubt” on measures such as these and that “experimentation with reasonable firearms regulations will continue under the Second Amendment.” Thus Heller and McDonald make clear that the individual right to keep and bear arms for self-defense may be subject to reasonable regulation. This is entirely consistent with other cherished liberties in the Bill of Rights, such as the freedom of speech protected by the First Amendment. (See, for example, Ward v. Rock Against Racism, which ruled that restrictions on the time, place, and manner of speech, such as noise limitations, are permissible, and United States v. O’Brien, which ruled that content-neutral regulations of expressive conduct, such as burning draft cards, are permissible). And as the Supreme Court has emphasized in the First Amendment context, state and federal legislators “must be allowed a reasonable opportunity to experiment with solutions to admittedly serious problems.”

2. The Heller precedent shows that background checks are constitutionally permitted

Ashley Mata, J.D. Candidate, California Western School of Law, “Kevlar(R) for the Innocent: Why Modeling Gun Regulation After Great Britain, Australia, and Switzerland Will Reduce the Rate of Mass Shootings in America,” CALIFORNIA WESTERN INTERNATIONAL LAW JOURNAL v. 45, Fall 2014, p. 209-210.

The Supreme Court in Heller held that the Second Amendment guaranteed the right to carry weapons for self-defense. However, this guarantee did not extend to those already prohibited from obtaining firearms, such as felons or the mentally ill. The Brady Act currently requires FFLs to conduct background checks through the NICS before transferring a firearm. The background check proposal of this comment would only affect the requirements for hospitals and healthcare agencies in reporting information to allow NICS to determine if a person is prohibited from purchasing a firearm. The main obstacle preventing this is the HIPAA Privacy Rule. The government can navigate around HIPAA and encourage states to report information more frequently, as discussed above. The proposed requirement seeks to identify those individuals already prohibited from acquiring or possessing firearms. Therefore, this regulation would pass constitutional scrutiny.
**UBC Desirable: Answers to “Second Amendment”—Militias-Only**

1. **The Second Amendment is not a core interest in its own regard, but only for the purpose of maintaining a militia**


   This Court has held that the First Amendment does more than just safeguard a right for its own sake; it plays a structural role “in securing and fostering our republican system of self-government.” Richmond Newspapers, Inc. v. Virginia, 448 U.S. 555, 587-88 (1980) (Brennan, J., concurring) (observing that the First Amendment’s structural role “entails solicitude not only for communication itself, but also for the indispensable conditions of meaningful communication”). Similarly, in Heller, this Court reaffirmed that the Second Amendment has its own structural role in preserving what the Founders viewed to be a cornerstone of a free country—namely, the States’ ability to raise citizen militias, given that standing armies were disfavored. 128 S. Ct. at 2800-01. Unlike the First Amendment, however, the Second Amendment does not also safeguard a right for its own sake; it does so only as a means to the end of preserving citizen militias. at 2801. The Heller Court observed that history had shown that the way tyrants had eliminated a militia consisting of all the able-bodied men was not by banning the militia but simply by taking away the people’s arms, enabling a select militia or standing army to suppress political opponents. This is what had occurred in England that prompted codification of the right to have arms in the English Bill of Rights. 128 S. Ct. at 2801. No differently, and as its prefatory clause makes clear, the Second Amendment codified the right to bear arms in order “to prevent the elimination of the militia.” “[T]he threat that the new Federal Government would destroy the citizens’ militia by taking away their arms was the reason that right— unlike some other English rights— was codified in a written Constitution.” See also United States v. Miller, 307 U.S. 174, 179 (1939) (“The sentiment of the time strongly disfavored standing armies; the common view was that adequate defense of country and laws could be secured through the Militia— civilians primarily, soldiers on occasion.”).

2. **The Second Amendment does not protect a core liberty interest—it ensures a militia may be raised in case of constitutional emergency.**


   At the same time, however, this Court has upheld the exercise of police power to curb violence, breach of peace, and corruption of public morals that threaten the very order and stability of the State as a constitutional government, and speech that incites such conduct is not immune. Stromberg, 283 U.S. at 368-69; Whitney, 274 U.S. at 371; Gitlow, 268 U.S. at 667-68. Such are the limits that this Court’s early incorporation cases placed on the First Amendment right of free speech. Applying the same framework that this Court has used for the First Amendment right of free speech, it becomes clear that the Second Amendment right to bear arms is distinguishable from free speech considerations. For one thing, its existence is not central to the functioning of a free and democratic government; on the contrary, as the Amendment’s prefatory clause makes clear, one of the reasons for its existence (and the only reason of constitutional significance to the Framers) is to provide the States with the ability to raise a militia in the event of disaster, emergency, or breakdown in the constitutional order. Thus, rather than furthering the preservation and improvement of the incumbent constitutional government, the Second Amendment right provides a failsafe in the event the constitutional government fails by reason of disaster, emergency or other cause. Furthermore, unlike speech, bearing arms for self-defense almost always gives rise to a risk of violence and breach of peace. Accordingly, while speech has enjoyed considerable room under this Court’s precedent free from State regulation, the same cannot be said of the right to bear arms under the reasoning in Gitlow, Whitney and Stromberg. If anything, the Court’s early incorporation cases regarding the right of free speech pay obeisance to the States’ police powers in preventing and fighting violence, breach of peace and corruption of morals in their communities.
UBC Desirable: Answers to “Second Amendment”—Public Safety Trumps

1. The right to arms is qualitatively different than any other—the dangers of guns justify a different approach

Charles M. Dyke, Counsel of Record and Yi-Yi Chang, for Board of Education for City of Chicago et al., Amici Curiae brief in “Otis McDonald et al. v. City of Chicago,” Supreme Court Case n. 08-1521, 1—6—10, www.americanbar.org/content/dam/aba/publishing/preview/publiced_preview_briefs_pdfs_09_10_08_1521_RespondentAmCu14AntiGunGrps.authcheckd.pdf, accessed 10-8-17.

The right to arms, even for personal self-defense, is fundamentally different from all other liberties retained by individuals in society, because of the inherent lethality of firearms. We tolerate few restrictions on the right to free speech because of its salutary effects, and because “sticks and stones may break my bones but words can never hurt me,” as the children’s rhyme goes. Guns, on the other hand, will kill you. 1. The structure of the Second Amendment prevents incorporation against the states of the right to keep and bear arms articulated in District of Columbia v. Heller, 128 S. Ct. 2783 (2008). The reason the Second Amendment was added to the Constitution was to prevent the federal government from destroying the militia, a body concurrently governed by the states and which, when “well-regulated” (i.e., composed of men trained to arms), stood as a check against federal tyranny. The Amendment accomplished this by “confer[ring] an individual right to keep and bear arms (although only arms that ‘have some reasonable relationship to the preservation or efficiency of a well-regulated militia’)” and only “arms ‘in common use at the time’ for lawful purposes like self-defense.” Heller, 128 S. Ct. at 2814, 2815 (quoting United States v. Miller, 307 U.S. 174, 178, 179 (1939)). It would be illogical to use the Fourteenth Amendment to turn such a federalism provision against the states.

2. The Second Amendment must yield to the provision of basic public safety because the latter is a core right


In Munn v. Illinois, 94 U.S. 113 (1877), this Court explained that the source of the police powers reserved to the States comes from the inherent authority of a sovereignty to establish laws requiring each citizen to conduct himself or herself, and to use his or her property, so as not to injure others unnecessarily. at 124-25. This inherent authority stems from the social compact between each citizen and the community to which he or she chooses to belong, agreeing to be governed by certain laws and regulations necessary for the common good. at 124. In making this compact and becoming a member of society, each citizen “necessarily parts with some rights or privileges which, as an individual not affected by his relations to others, he might retain.” Id. The right to bear arms protected by the Second Amendment is unquestionably one of those rights or privileges that must necessarily yield to some measure of regulation by the State for the common good. As the Heller Court makes clear, “the inherent right of self-defense has been central to the Second Amendment right.” 128 S. Ct. at 2817. Self-defense, however, refers to an individual’s particular relation to another person, often marked by violence, and carries with it the risk of injury or death, whether necessarily or unnecessarily caused, to the parties involved, as well as to others, including innocent bystanders.
1. State regulation of firearms is critical to uphold responsive and free government in the United States


In Heller, this Court recognized that the individual right to bear arms in self-defense is “not unlimited” with respect to the manner in which the right may be exercised. 128 S. Ct. at 2799, 2816. Instead, the right is subject to “presumptively valid regulatory measures” such as laws prohibiting possession “by felons and the mentally ill,” and carrying “in sensitive areas like schools and government buildings,” and laws imposing “conditions and qualifications on the commercial sale of firearms.” at 2816-17 & n.26. Another “important limitation on the right to keep and carry arms” is that the right applies only to weapons that were “in common use at the time.” Heller, 128 S. Ct. at 2817 (quoting United States v. Miller, 307 U.S. 174, 179 (1939)). In other words, “the Second Amendment does not protect those weapons not typically possessed by law-abiding citizens for lawful purposes, such as short-barreled shotguns.” at 2815-16. This interpretation accords with the historical tradition of prohibiting the carrying of “dangerous and unusual weapons.” at 2817. Both of these pronouncements—that the right to bear arms is subject to “presumptively valid regulatory measures” and that it applies only to weapons “in common use” and excludes “dangerous and unusual weapons”—underscore the importance of allowing the States to retain their plenary authority to regulate the right to the full extent of their police powers. The States are in the best position to determine what regulatory measures are necessary and proper to ensure the health, safety and welfare of their own citizens and communities. See, e.g., United States v. Lopez, 514 U.S. 549, 583 (1995) (Kennedy, J., concurring) (recognizing that States may properly lay claim to the area of guns on school premises “by right of history and expertise”). They are in the best position to determine what weapons should be considered dangerous or unusual, and therefore not fit for possession for lawful purposes. See, e.g., Bell v. State, 8 So. 133, 133-34 (Ala. 1889) (affirming a conviction under a statute that outlawed concealed brass knuckles as a “barbarous weapon” not recognized for self-defense and as to which “good reason to apprehend an attack” is not justification or mitigation); N.H. REV. STAT. ANN. § 159:20 (2009) (defining “self-defense weapons”). Incorporation of the Second Amendment against the States would intrude upon the traditional prerogative of the States to make such determinations on behalf of the citizens in their local communities.

2. State police power regulations are foundational to a free society


In Slaughter-House Cases, 83 U.S. 36 (1873), this Court construed this Clause as protecting from State infringement only those privileges or immunities “which owe their existence to the Federal government, its National character, its Constitution, or its laws.” at 79. Importantly, the Court did not view this Clause as transferring from the States to the Federal Government the responsibility for the security and protection of an “entire domain of civil rights heretofore belonging exclusively to the States.” at 77. The Court held that this latter class of civil rights encompasses those rights that belong to an individual as a citizen of a State and that the State was created to establish and secure. at 76. A right to bear arms should be regarded as one of those civil rights that the States have long recognized and regulated. As already discussed, this right is not granted by the Constitution and does not depend upon that instrument for its existence. Heller, 128 S. Ct. at 2797; Cruikshank, 92 U.S. at 553. Instead, this is an ancient right emanating from English common law. Heller, 128 S. Ct. at 2805. In short, the right does not owe its existence to the Federal Government, its National character, the Constitution, or any federal law, and therefore cannot be considered a privilege or immunity of National citizenship. Moreover, as this Court recognized in Cruikshank, the States had protected and regulated a right to bear arms under their plenary police powers long before the Fourteenth Amendment came into being. 92 U.S. at 553. The rationale in Slaughter-House Cases thus squarely applies here: surely the Reconstruction Congress did not intend, through the Privileges or Immunities Clause, to transfer the primary responsibility of protecting and regulating a civil right to bear arms recognized under State law from the States to the Federal Government. Such a result would turn the Second Amendment on its head—transforming the Amendment from its original conception as a limitation on Federal power with respect to the right to bear arms and the States’ ability to muster citizen militias, into a broader Federal constitutional mandate on the States with respect to firearms possession. That cannot have been the intent of a clause that was designed to combat discrimination against freedmen. A more plausible reading is that the States were commanded by the Fourteenth Amendment to treat freedmen no differently from whites with respect to the right to bear arms. It was never the intent of the Fourteenth Amendment to strip the States of their existing sovereignty to protect and regulate the right to bear arms and replace it with a Federal standard.
3. The right to maintain weapons is not implicit in the very concept of ordered liberty.


In view of the attributes described above, the Second Amendment right should not be considered “implicit in the concept of ordered liberty” in the way that the First Amendment rights, for example, have been considered under this Court’s selective incorporation doctrine. There are sound reasons for drawing this distinction. In Illinois v. Allen, 397 U.S. 337 (1970), Justice Brennan equated “ordered liberty” with “social justice and peace,” and contrasted it with “the breakdown of lawful penal authority—the feud, the vendetta, and the terror of penalties meted out by mobs or roving bands of vigilantes” and with the perversion of penal authority “through secret denunciation followed by summary punishment” or “the caprice of tyrants.” at 347-48 (Brennan, J., concurring). In other words, “ordered liberty” refers to those rights and procedures that one would expect a government of the sort created by the Constitution to provide to its citizens in the pursuit of justice and fairness. Its antithesis would be a society that has suffered a breakdown in the constitutional order, such that conditions of vigilantism, mob rule and tyranny can breed. As discussed above, the First Amendment right of free speech unquestionably promotes the existing constitutional order by preserving the opportunity for political discussion in a participatory democracy. The Second Amendment right, however, does not promote the constitutional order. Rather, it functions in situations in which the constitutional order has broken down, and the States must therefore look to their able-bodied citizens for militia assistance in restoring order. The right to bear arms thus is not implicit in the concept of “ordered liberty,” and it should not be incorporated against the States through the Due Process Clause of the Fourteenth Amendment under this Court’s selective incorporation doctrine.
**UBC Desirable: Answers to “Self-Defense”**

1. Gun ownership does not make one safer—it actually increases safety risks

   Myth: Owning a gun makes you safer Fact: Owning a gun puts you at heightened risk for gun violence The NRA often argues that the United States is a dangerous place and that owning and carrying a gun is the only way to protect both oneself and one’s family. While gun ownership is certainly one option for home defense, a growing body of data and research shows that owning a gun also increases the risk of a gun-related tragedy occurring in the home. • Numerous studies have found that gun ownership increases the risk of both gun-related homicides and suicides. • Guns in the home are particularly dangerous for victims of domestic violence. The presence of a gun in a home with a history of domestic violence increases the risk that a woman will be killed by 500 percent. • Guns intended for self-defense are commonly involved in fatal accidents. Studies have shown that across states, higher levels of gun ownership are linked to higher rates of unintentional firearm deaths. • Guns are used far more often in criminal homicides than in justifiable acts of self-defense. In 2014, for every self-defense gun homicide in the United States, guns were used in 34 criminal homicides.

2. Armed citizens rarely stop armed criminals

   Myth: The only thing that stops a bad guy with a gun is a good guy with a gun Fact: Armed citizens rarely successfully intervene to stop an active shooter While the NRA actively perpetuates this idea that ensuring a fully armed citizenry is the best approach to stopping so-called bad guys before they are able to do too much damage, there is very little evidence suggesting that civilians can effectively serve this role. Armed citizens often lack training for high-stakes situations and can actually make a bad situation worse. A more effective approach to preventing gun deaths is to enact strong laws and policies to help keep guns out of the wrong hands and limit access to highly dangerous weapons of war. • An FBI study of 160 active-shooting incidents from 2000 to 2013 found that only one was stopped by an individual with a valid firearms permit. In contrast, 21 incidents were stopped by unarmed citizens. • Armed citizens can worsen the outcome of a mass shooting. During the 2011 shooting in Tucson, Arizona, an armed bystander misidentified the perpetrator and almost shot the wrong person. • Expansive concealed carry permitting laws are linked to an increase in violent crime. A 2017 study by researchers at Stanford University found that, 10 years after enacting these laws, states experienced a 13 percent to 15 percent rise in violent crimes. • Using a gun for defense during a robbery has no significant benefits. A 2015 analysis by researchers at the Harvard T.H. Chan School of Public Health of the National Crime Victimization Survey found that the likelihood of sustaining an injury during a robbery was nearly identical between people who attempted to defend themselves with a gun and those who took no defensive action. • A gun is more likely to be stolen than used to stop a crime. According to a CAP analysis of the National Crime Victimization Survey, guns are nearly twice as likely to be stolen than to be used for self-defense.

3. Gun access increases the risk of death—they do not protect us

   The assertion that access to firearms makes us safe, rather than increases the likelihood that oneself or a family member will die, is contradicted by a large body of evidence. Gunshots kill more than 30,000 Americans each year. Homicide accounts for approximately one-third of these deaths, with the remainder involving suicides and accidental gun discharges. In fact, firearms put us at greater risk of death than participating in war; in four months, as many Americans were shot dead in the United States as have died fighting in Iraq for an entire decade.
UBC Desirable: Answers to “Self-Defense” [cont’d]

4. Guns do not make us safer—the high death toll proves


Mass murders shock and awe but account for a small fraction of gun related fatalities. Indeed, on the days of the Boston marathon bombing and the subsequent manhunt for the perpetrators, forty-nine Americans, mostly low-income minorities living in inner cities marred with violent crime, died at gunpoint. The belief that access to firearms makes us safe, rather than exacerbates these mortality rates, is entirely fallacious. More than 30,000 Americans die by firearm each year. Homicide accounts for approximately one-third of these deaths, with the remainder involving suicides and accidental gun discharges. As of April 2013, gun violence killed approximately as many Americans in the preceding four months as have died fighting in Iraq in the past decade. Given these grim statistics, it would be reasonable to expect swift legislative action. Personal security is a foundational human value, and living in a nation plagued by the highest gun death rate in the world should trigger public and political outrage. Polled in the aftermath of the Newtown tragedy, nearly ninety percent of the public favored universal background checks. Even in the libertarian “Live Free or Die” state of New Hampshire, nearly fifty percent of the public favored stricter gun control laws.
UBC Desirable: Answers to “Self-Defense Rights”

1. Even if there is an inherent right to self-defense, looking at the externalities of weapons usage is necessary

   Charles M. Dyke, Counsel of Record and Yi-Yi Chang, for Board of Education for City of Chicago et al. Amici Curiae brief in “Otis McDonald et al. v. City of Chicago,” Supreme Court Case n. 08-1521, 1—6—10,
   www.americanbar.org/content/dam/aba/publishing/preview/publiced_preview_briefs_pdfs_09_10_08_1521_RespondentAmCu14AntiGunGrps.authcheckdam.pdf, accessed 10-8-17.

   Although a right to self-defense may or may not be fundamental, its existence, scope and “fundamental-ness” are not directly at issue in this case. The Second Amendment expressly protects a right to arms, not a right to self-defense. Finding an unenumerated right to self-defense in the Second Amendment, and applying it against the states, would have to occur under the Court’s “substantive due process” jurisprudence, the judge-made doctrine that has been described as “an oxymoron” and a license for “judicial usurpation.” United States v. Carlton, 512 U.S. 26, 39 (1994) (Scalia, J., concurring); City of Chicago v. Morales, 527 U.S. 41, 85 (1999) (Scalia, J., dissent-ing). Determining the scope of such a right would inherently require a balancing of the liberty interests of all involved, including taking into account the externalities of exercises of the right. E.g., Michael H. v. Gerald D., 491 U.S. 110, 124 n.4 (1989) (“We cannot imagine what compels this strange procedure of looking at the act which is assertedly the subject of a liberty interest in isolation from its effect upon other people – rather like inquiring whether there is a liberty interest in firing a gun where the case at hand happens to involve its discharge into another person’s body.”). If a right to self-defense were found to be fundamental and therefore incorporated, a determination still would have to be made whether the ban of a particular weapon amounted to a denial of the ability defend oneself. Petitioners do not try to make that showing for handguns. Petitioners’ position would require the Court to find that the Fourteenth Amendment was understood to elevate all common-use weapons beyond the reach of any legislative body’s power to ban. This is not a plausible description of the country’s regulatory his-tory of arms and, if followed to its logical conclusion, would undermine the ability of democratic government to preserve order and itself persist.

2. The right to self-defense does not categorically trump one’s right to security

   Charles M. Dyke, Counsel of Record and Yi-Yi Chang, for Board of Education for City of Chicago et al. Amici Curiae brief in “Otis McDonald et al. v. City of Chicago,” Supreme Court Case n. 08-1521, 1—6—10,
   www.americanbar.org/content/dam/aba/publishing/preview/publiced_preview_briefs_pdfs_09_10_08_1521_RespondentAmCu14AntiGunGrps.authcheckdam.pdf, accessed 10-8-17.

   Even if the Court incorporates into the Fourteenth Amendment the right to keep and bear arms articulated in Heller, the right should remain, like all individual liberties, subordinate to the greater right of “personal security” that all individuals acquire upon entering society from the state of nature. In the social-contract political theory that pervaded post-revolutionary American thought, civil government is the proper remedy for the inconveniences of the state of nature.” John Locke, Second Treatise of Government § 13, at 12, (C.B. Macpherson ed., Hackett Pub’g 1980) (1764). Locke posited that in nature people have the right to enforce their individual rights against others. But since humans are partial to themselves and their friends, and susceptible to passion and revenge when punishing others, only “confusion and disorder” exist in nature. To escape this perpetual anxiety and exposure, people join together to create “government to restrain the partiality and violence of men.” Blackstone recognized that “the principal aim of society” is to protect individuals in the enjoyment of their natural, “absolute rights.” 1 William Black-stone, Commentaries on the Laws of England 120 (Univ. of Chicago Press 1979) (1765) (emphasis added). These rights “could not be preserved in peace without that mutual assistance and intercourse, which is gained by the institution of friendly and social communities,” and therefore “the first and primary end of human laws is to maintain and regulate these absolute rights of individuals.” Blackstone’s three “absolute” rights are the rights of “personal security” (life, limb, health and reputation), “liberty” and “property.” at 125-36. To “serve principally as barriers to protect and maintain inviolate the[se] three great primary rights,” the English constitution established five other “auxiliary subordinate rights of the subject.” at 136. The fifth, which most immediately concerns us in this case, is the right of subjects to “hav[ ] arms for their defence, suitable to their condition and degree, and such as are allowed by law. Which is also declared by the same statute 1 W. & M. st. 2. c.2. [the English Bill of Rights] and is indeed a public allowance, under due restrictions, of the natural right of resistance and self-preservation, when the sanctions of society and laws are found insufficient to restrain the violence of oppression.” at 139 (emphasis added).
**UBC Desirable: Answers to “Shooters Target Gun-Free Zones”**

- **Mass shooters do not target gun-free zones**

  Center for American Progress, “Myth vs. Fact: Debunking the Gun Lobby’s Favorite Talking Points,” 10—5—17, p. 3.  
  Myth: Mass shooters specifically target gun-free zones  
  Fact: A small percentage of mass shootings occur in locations where guns are prohibited. This is a corollary to the myth that so-called good guys need to carry guns to protect against prospective shooters. This myth is often used to try to stop legislative efforts to limit gun carrying in certain locations that are considered particularly sensitive or unsuitable for guns, such as schools, houses of worship, or government buildings. However, most of the incidents in the United States in which a single shooter kills four or more people—the FBI’s definition of a mass shooting—do not occur in locations where guns are banned but rather in private homes or public locations where individuals are free to carry guns. There is absolutely no evidence that mass shooters specifically seek out locations where guns are banned for acts of mass violence. • Of the 156 mass shootings that occurred from 2009 to 2016, only 10 percent occurred in so-called “gun-free zones.” The majority of these shootings—63 percent—occurred in private homes.
**UBC Desirable: Answers to “State Regulations Solve Now”**

- Private-party sales remain largely unregulated at the state level


Both incidents point to a major loophole in the nation’s system of regulating firearms, experts say: Private parties can buy and sell guns in many parts of the country with little or no scrutiny from state and federal authorities. Nearly 40 percent of gun transactions in America occur through so-called private party sales, creating a secondary firearms market that is largely invisible. More than three-quarters of states have no laws requiring background checks or documentation during private party sales, increasing the risk of weapons falling into the hands of convicted felons, juveniles or those who are mentally ill. As lawmakers in Washington examine gun control measures in the wake of last week’s school massacre in Connecticut, many advocates and researchers are pushing to extend federal regulations requiring background checks and registrations to private gun sales. “Fixing this would be one of the single most important things we could do to address overall gun violence,” said David Kennedy, director of the Center for Crime Prevention and Control at John Jay College of Criminal Justice in New York. “A lot of people don’t understand that this is the way the world works. It means that people who everybody agrees shouldn’t get guns have little trouble getting guns.” Under the current system, federal law on gun purchases extends only to the first point of sale. Federally licensed firearms dealers are required to perform background checks on prospective buyers to screen out those with felony records, a history of domestic violence or mental illness and several other categories. Dealers are also required to keep detailed records of customers. On private party sales, none of those restrictions apply under federal rules. States come up with their own laws governing the secondary gun market, and the restrictions vary widely, leaving an uneven patchwork of regulations from state to state. A handful of states, including California and Rhode Island, require universal background checks for all private party transactions. If someone wanted to purchase from an unlicensed seller at a gun show or anywhere else, he or she would have to go to a federally licensed seller to certify the transaction: the licensed dealer would have to perform a background check before the sale could go through and keep a record of the transfer. Other states, including Illinois, require that sellers register the transaction with the state, though they don’t require background checks for all private sales (Illinois requires background checks at gun shows). States such as Hawaii require all gun purchasers, including in the private market, to do a background check and obtain a gun license, which lasts for 10 days. The vast majority of states have no regulations whatsoever on private gun sales, except for vague statutes that prohibit “knowingly” selling firearms to someone who is a criminal or has mental health problems.
UBC Desirable: Answers to “U.S. Crime Rate Just Higher”

1. Guns are the problem—not the overall U.S. crime rate


In a 2015 email to Vox, Zimring contended that Crime Is not the Problem's core argument remains true despite a significant international drop in overall crime rates since the book was published. "There has been quite a bit of work on these issues in the 18 year[s] since the book was published," he wrote, "and it confirms the basic argument rather powerfully." The data seems to support this. "Robbery and assault rates ... reveal several Western nations that rival the United States," a 2011 review found. "While the level of lethal violence in the United States is probably the highest in the Western world, it is hard to make the case for US exceptionalism when it comes to non-lethal violence." Harold Pollack, co-director of the University of Chicago's Crime Lab, called Zimring and Hawkins's book "an excellent source." In a 2015 phone interview, he pointed to a number of more recent studies that fit the pattern it identified. "There's no question the United States faces a number of distinctive social policy challenges, some of which affect the crime rate. But many other OECD countries face their own distinctive problems that affect their crime rate," he told me. Western Europe, for example, has a major problem with drug use. Canadian cities have "very high" rates of property crime like car theft. And yet, the US still stands out on murders. "I think that Americans have this view of Western Europe, or Toronto for that matter, which is very stereotypical and doesn't take into account the challenges that many of peer industrial democracy problems face," he points out. "There's a lot of drug sale, a lot of ethnic stratification and conflict, there's a lot of just general crime." Pollack also shared Zimring and Hawkins's theory of the ease with which guns escalate conflict to violence, and thus heighten homicide rates. "Some of the behaviors that we think of as fundamentally linked with violence may stay quite steady as the violence rate goes down, as you get a better handle on the gun issue," he explained. New York's recent tightening enforcement of gun laws serves as a good example. According to Pollack, New York didn't effectively reduce its heroin use rate or solve underlying problems such as poverty — the things that gun rights advocates often claim actually contribute to gun violence. But New York did tighten gun restrictions, which coincided with less violence. "The proliferation of off-the-shelf handguns is really our problem," Pollack says. "If we regulated guns the way that England regulates guns, we would certainly have a much lower homicide rate."

2. It is not that crime rates are higher in the U.S.—the problem is that there are more guns


Sunday's shooting in Las Vegas, like so many mass murders before it, seems likely to raise a debate we've had many times before: Why does the US have such a high rate of gun murders, by far the highest in the developed world? Is it because of guns, or is there something else going on? Maybe America is just more prone to crime, say, because of income inequality or cultural differences? A landmark 1997 study actually tried to answer this question. Its findings — which scholars say still hold up — are that America doesn't really have a significantly higher rate of crime compared to similar countries. But that crime is much likelier to be lethal: American criminals just kill more people than do their counterparts in other developed countries. And guns appear to be a big part of what makes this difference.
3. Crime rates in the U.S. are comparable to those of other countries


The seminal work here is a 1999 book by Berkeley's Franklin Zimring and Gordon Hawkins, called Crime Is Not the Problem. Zimring and Hawkins set out to examine what was, at the time, the conventional wisdom: that America had a uniquely terrible crime problem, one without any parallel in other developed democracies. They found, pretty definitively, that the conventional wisdom was wrong.

"Rates of common property crimes in the United States are comparable to those reported in many other Western industrial nations, but rates of lethal violence in the United States are much higher," they write. "Violence is not a crime problem." Zimring and Hawkins determined this by looking at 20 developed countries' overall crime rate and rates of violent death. They found virtually no connection between the two, indicating that a country's level of violent death wasn't determined by its overall crime levels: The lowest death rate country (England) has a crime rate just over average. The next lowest violence nation is Japan, which has the lowest crime rate also. The third lowest death rate country is the Netherlands, in the highest crime rate group. "This data set provides a multinational example of the central point that lethal violence is the crucial problem in the United States," Zimring and Hawkins write. "It shows the United States clustered with other industrial countries in crime rate, but head and shoulders above the rest in violent death." Why does this happen? It's not because, as you might think, American violent criminals are just more likely to kill people. "Only a minority of Los Angeles homicides grow out of criminal encounters like robbery and rape," they find (there's no reason to believe the pattern would differ in other cities). So even if it could be shown that American robbery and rape rates are across-the-board higher than those in similar countries (which doesn't appear true today), that still wouldn't explain why America has so many more homicides than other countries. Again, Zimring and Hawkins's LA data was revealing. "A far greater proportion of Los Angeles homicides grow out of arguments and other social encounters between acquaintances [than robbery or rape]," they find. This is where guns enter the story. The mere presence of firearms, according to Zimring and Hawkins, makes a merely tense situation more likely to turn deadly. When a gang member argues with another gang member, or a robber sticks up a liquor store, there's always a risk that the situation can escalate to some kind of violence. But when people have a handheld tool that is specially engineered for killing efficiently, escalation to murder becomes much, much more likely. And indeed, that's what Zimring and Hawkins's data found. "A series of specific comparisons of the death rates from property crime and assault in New York City and London show how enormous differences in death risk can be explained even while general patterns are similar," they explain. "A preference for crimes of personal force and the willingness and ability to use guns in robbery make similar levels of property crime fifty-four times as deadly in New York City as in London." Guns, not criminality per se, are the problem.
1. Expanding background checks fails—they do not respond to mass shootings or most forms of gun violence and they will not stop many illegal transfers


Senate Democrats plan to ingratiate themselves with voters by introducing a new package of gun controls. In a letter to fellow Democrats, Sens. Chuck Schumer (D-N.Y.) and Debbie Stabenow (D-Mich.) said they hope gun control advocacy "will be a rallying point for a public that is eager for congressional action and will be the basis for future legislation that we will demand," although there is zero chance that such legislation will actually pass. Schumer and Stabenow's wish list includes a requirement that everyone who acquires a firearm, whether from a private seller or a federally licensed dealer, undergo a background check. That particular change, unlike stricter gun control in general, does indeed poll well, but that does not mean it's a good idea. Here are four major problems with requiring background checks for private gun transfers as a policy, as opposed to a political stunt: 1. Expanding the background check requirement makes no sense as a response to mass shootings (even though that is how it has been presented), because the perpetrators of these crimes, including last week's massacre in Oregon, typically either have actually passed background checks or could do so because they do not have disqualifying criminal or psychiatric records. 2. Expanding the background check requirement makes little sense as a response to more common forms of gun violence, since criminals with felony records can always obtain weapons on the black market, through buyers with clean records, or by theft. 3. Expanding the background check requirement, especially if it is coupled with "improved" databases, compounds the injustice of disarming millions of people who pose no threat to others but are nevertheless forbidden to own guns because they use illegal drugs, overstay a visa, were once subjected to court-ordered psychiatric treatment, or have felony records, even if they have never committed a violent crime. 4. Expanding the background check requirement is not the same as actually compelling people to perform background checks for private gun transfers. Many gun owners will balk at the inconvenience and expense of finding and paying a licensed dealer who is willing to facilitate a transaction. In Oregon, which expanded its background-check requirement in August, some local law enforcement officials have publicly stated they do not plan to enforce the new rule, either because they do not have the resources or because they view it as an unconstitutional intrusion. The Oregonian notes that "there is no centralized registry of guns in Oregon...that could be used to track a gun found in a criminal's possession." The federal government has no such registry either, so how can it possibly hope to track transfers and make sure background checks are performed? Even with hefty criminal penalties, widespread noncompliance is a certainty. Consider: Does the theoretical prospect of a 10-year prison sentence deter gun owners from smoking pot or pot smokers from owning guns?

2. Background checks might be good in theory, but they are unlikely to work in practice


Another popular proposed policy is mandating background checks for private sales. Would that be an effective way to reduce gun crime? I think that requiring background checks for all gun sales, period, would be a good idea in principle. The problem is implementing and enforcing such a system. There’s no universal registry of firearms, so if the police were to arrest somebody and try to prosecute whoever sold them their gun without the required check, there’s no way to verify who the seller was or when the sale took place. To have an effective system of regulating private sales you would need a registry, and the idea of a registry is an anathema to the gun owning community because they see a registration system as a precursor to a general confiscation—which it was in the U.K. and has been in other countries as well. But even if we could politically will a gun registry into existence, it’s unlikely that it would work. In the few states where we have a requirement that assault weapons be registered, no more than 10% of the owners of assault weapons have generally gone through the registration process, meaning at least 90% of the people don’t register. Other countries have also had a difficult time making registration work. The Canadians have registered handguns since the 1930s. In 1993, the liberal government initiated shotgun and long gun registration . The program attracted a great deal of criticism, huge cost overruns and resistance from firearms owners, and in 2012 the Conservative government scrapped the program and destroyed the registry. That might give people pause for thought about the feasibility of a registration program. Another problem with background checks is surveys of inmates show overwhelmingly that criminals obtain guns on the black market or the grey market. Almost no prison inmates say they went to a licensed dealer and filled out forms. And why would they? Even the lowest estimates show 30% of U.S. households own at least one firearm, making it very easy for someone banned from purchasing a gun to obtain one from a friend, family member, or fellow criminal who already has one.
3. Universal background checks backfire for multiple reasons


here are three basic problems with universal background checks; it will have no effect, the numbers don’t prove the case, and the only way to make the scheme remotely effective is repugnant to the people. Those are three big hills to climb. That’s why few politicians seem ready to take the hike. Most important is that criminals disobey such laws (and according to the Supreme Court in their Haynes vs. U.S. decision, criminals are not legally obligated to). In a report titled “Firearm Use by Offenders”, our own Federal Government noted that nearly 40 percent of all crime guns are acquired from street level dealers, who are criminals in the black market business of peddling stolen and recycled guns. Standing alone, this shows that “universal” background checks would have an incomplete effect on guns used in crimes. The story gets worse. The same study notes that just as many crime guns were acquired by acquaintances, be they family or friends (this rather lose category also includes fellow criminals, who are equally unlikely to participate in “universal” background checks). Totalled, nearly 80 percent of crime guns are already outside of retail distribution channels (which are 14 percent of crime gun sources) and outside of transactions made by the law abiding folks who would participate in “universal” background checks at gun shows (0.7 percent). When 80 percent of the problem is not addressed by legislation, even if the law was enforced it would be nearly useless. In the rush to do “something,” bad legislation is proposed and then has to be justified. When public support for “universal” registration started slipping, politicians brought out statistics to bolster their case. Unsurprisingly those statistics were as weak as the legislation itself. “As many as 40 percent of all gun purchases are conducted without a background check,” was President Barack Obama’s assertion concerning the National Instant Check System (NICS) which is exercised by every licensed gun retailer in the country. Aside from problem that 80 percent of crime guns come from non-retail acquisitions, the president’s 40 percent number is horribly mangled and completely inaccurate. The quoted datum (which actually totaled 36 percent, not 40 percent) came from a survey conducted before NICS came into being in 1998. The 1994 survey, reported in the 1997 study “Guns in America: National Survey on Private Ownership and Use of Firearms”, 36 percent of transfers (not sales just simple transfers of possession) were outside of background checks. “Transfer” is another very lose category which include gifts, trades, inheritances, and loans as well as sales. Indeed, 17 percent of all those transactions were non-sales, and 27 percent were outside of normal retail channels. So “universal” background checks would only extend to an additional 9% of firearm transactions under the most favorable circumstances. Though 80 percent of crime guns already bypass the new system. To achieve any degree of success, the “universal” background check system would require universal gun registration. Rep. Sheila Jackson Lee (D-Texas) has already acknowledged this, which doomed the bill before it was drafted. Despite denials by some politicians, registration has already led to gun confiscation in the United States – in New York, California, Chicago, District of Columbia. Voters are wary of repeating the same process in their home towns. National registration to support “universal” background check system is almost universally repugnant. This is the insurmountable hill representatives and senators face. Universal background checks aren’t. Voters are anxious and willing to control violence. But controlling guns doesn’t control criminals and lunatics. Cops and counseling do.

4. Background checks threaten gun rights—risk a registry and future confiscation

David B. Kopel, Research Director, Independent Institute and Associate Policy Analyst, Cato Institute, “The Costs and Consequences of Gun Control,” POLICY ANALYSIS n. 784, Cato Institute, 12—1—15, p. 18.

Firearms in the hands of law-abiding citizens enhance public safety. Firearms in the wrong hands endanger everyone. Responsible firearms policies focus on thwarting dangerous people and do not attempt to infringe the constitutional rights of good persons. Background checks on firearms sales can be improved by including more records on persons who have been adjudicated to be so severely mentally ill that they are a genuine threat. Extending federal gun control to private intrastate sales between individuals—and to firearms loans among friends and family—is constitutionally dubious, and imposes severe burdens for no practical benefit. Such a system is futile without registration of all firearms. Gun owners have justifiably resisted gun registration because it has facilitated gun confiscation in the United States and other nations.
UBC Undesirable: Alternatives Better—General

1. Very narrow interventions might work somewhat—broader gun controls will not curb gun violence


However, the next-largest set of gun deaths — 1 in 5 — were young men aged 15 to 34, killed in homicides. These men were most likely to die at the hands of other young men, often related to gang loyalties or other street violence. And the last notable group of similar deaths was the 1,700 women murdered per year, usually as the result of domestic violence. Far more people were killed in these ways than in mass-shooting incidents, but few of the popularly floated policies were tailored to serve them. By the time we published our project, I didn’t believe in many of the interventions I’d heard politicians tout. I was still anti-gun, at least from the point of view of most gun owners, and I don’t want a gun in my home, as I think the risk outweighs the benefits. But I can’t endorse policies whose only selling point is that gun owners hate them. Policies that often seem as if they were drafted by people who have encountered guns only as a figure in a briefing book or an image on the news. Instead, I found the most hope in more narrowly tailored interventions. Potential suicide victims, women menaced by their abusive partners and kids swept up in street vendettas are all in danger from guns, but they each require different protections.

2. We should focus on improving the existing background check system instead of trying to broaden it

Robert A. Levy, Chair, Cato Institute, “Our Core Second Amendment Rights,” CATO’S LETTER v. 11 n. 3, Summer 2013, p. 4.

In 2010 the National Instant Criminal Background Check System (NICS) denied 76,000 would-be buyers. How many of those individuals were prosecuted? Forty-four out of 76,000. How many convicted? Thirteen out of 76,000. That is a conviction rate of 0.02 percent, which suggests two possibilities. Either the remaining denials were legitimate purchases that were unjustly blocked by the NICS system or, if the denials were proper, then somehow 99.98 percent of those 76,000 rejected applicants escaped punishment. Most likely both factors were at work. But neither of those possibilities offers much hope for an expanded system of background checks. We would do much better to improve the existing system.

3. Improving NICS is a better option than universalizing background checks


Members of Congress should reject the idea that expanding a broken background check system will make anyone safer. The American people deserve better than politicians who continue to pursue failed policy agendas. Americans deserve to be safe in their communities and to have their Second Amendment rights respected. We can achieve both. Congress should support the NICS Reporting Improvement Act of 2013, introduced by Senators Lindsey Graham, R-S.C., and Mark Begich, D-Alaska. This bill, unlike the false notion of “universal background checks,” will improve the current national instant background check system (NICS) by improving the records within it. We know that NICS needs improvement. The Graham-Begich bill helps fix NICS by clearly spelling out the definition of who is a danger to themselves or others and should not have access to firearms, while protecting the rights of law abiding citizens. In particular, America’s veterans should not be deprived of their Second Amendment rights based on a purely administrative finding that they need assistance in managing their financial affairs. The bill also takes the important step of establishing clear circumstances for the reinstatement of gun ownership rights through judicial action or administrative processes at the federal or state level. If a person is still under any mandatory treatment for a mental disorder that makes him a danger to himself or others, the person would still be prohibited from possessing firearms. Currently, 23 states submit little or no information on mental health adjudications into NICS. To address this inadequacy, Congress should continue working to improve the background check system by strengthening incentives for states to transmit these records. In addition, it should take steps to address our broken mental health system, ensure that violent criminals are prosecuted to the fullest extent of the law and protect our children by improving school security. The Graham–Begich bill is a step in the right direction towards fixing some of the deficiencies within NICS. Expanding NICS to include millions of additional law-abiding citizens without addressing fundamental problems in the current system will not.
UBC Undesirable: Alternatives Better—Mental Health Funding

1. We need increased mental health funding to address the problem of mass shootings


Many shootings, whether on a college campus or in a workplace setting, could be prevented not solely through stricter gun control laws, but rather through a higher level of mental health awareness in these respective communities and increased funding for community and support services. Unfortunately, funding for mental health care has diminished significantly; over the past few years, states have cut approximately $ 4.35 billion from their mental health care budgets. While it is important to control access to firearms by those who are prone to violence (not just those with mental illness), it is more important that we fix the flawed mental health system, starting with increasing the funding for, and availability of, mental health services.

2. We need more mental health funding


While federal lawmakers failed to make any progress, several states passed gun control bills with the goal of pre-venting gun violence. For example, Colorado, Connecticut, Delaware, Maryland, Nevada, New Jersey, and New York “now require background checks for all gun purchases in person or online, including at gun shows.” Even states with historically weak gun laws, such as Florida, Missouri, and Texas, took action to strengthen their gun control laws in 2013. These states and many others adopted new gun control provisions or laws with varying degrees of consequences for the mental health world. The sad truth is that none of the recently enacted state gun laws will likely prevent major acts of gun violence. For example, the mental health professionals who examined Adam Lanza said he was not a risk to himself or to others. Further, Lanza used guns and ammunition purchased legally by his mother. Aaron Alexis was never convicted of a crime or involuntarily committed to a psychiatric hospital, both of which might have led to his name being entered into a federal database. Instead of developing new legislation focused on keeping guns out of the hands of those with mental illness, legislation should call for increased funding and awareness of mental health issues that will help identify, intervene, evaluate, and oversee the mentally ill. Being proactive and preventive means a greater possibility of treatment, recovery and stability for those individuals suffering from a mental illness.
UBC Undesirable: Bloomberg Checks

1. Bloomberg checks are dangerous—they threaten self-defense


The Second Amendment includes "the core lawful purpose of self-defense." As will be detailed in Part VI, the Uniform Firearms Act, the model gun control law of the 1920s and 1930s, imposed new controls on retail handgun sales and was designed to protect "the lending of a weapon by one citizen to another in case of emergency." Under the Bloomberg laws, such lending is mostly forbidden. In the Bloomberg federal model, there is no allowance for lending a firearm to a citizen in case of emergency. Under the proposed Nevada initiative, the latest version of the Bloomberg laws, a firearm may be loaned if the loan "is necessary to prevent imminent death or great bodily harm" and the loan "lasts only so long as immediately necessary to prevent such imminent death or great bodily harm." Whatever "imminent" means, the loan is allowed only as long as "immediately necessary." This exemption is exceedingly narrow. If people in a house were attacked by rioters, the exemption would allow the sharing of all arms within the house. But the exemption does not allow for a much more common self-defense situation: a former domestic partner threatening a woman and her children. An attack might come in the next hour, or the next month, or never. The victim and her children cannot know. Because the attack is uncertain--and is certainly not "immediate"--the woman cannot borrow a handgun from a neighbor for her defense. Many domestic violence victims do not have several hundred spare dollars so that they can buy their own gun. In abortion jurisprudence, the Supreme Court has distinguished permissible regulations from those "designed to strike at the right itself." The Second Circuit has applied this language and principle to the Second Amendment. In regard to self-defense, the Bloomberg laws strike at the right itself.

2. Bloomberg background checks are too great an infringement on Second Amendment rights

As detailed in Part III, the Bloomberg laws severely burden the core of the Second Amendment right. "One cannot exercise the right to keep and bear arms without actually possessing a firearm." Requiring two trips to a gun store for the loan and return of a firearm is a further burden. In historical perspective--presented in Parts V and VI--the Bloomberg laws are extreme outliers in the tradition of American gun control; their historical analogues are the limitations on arms acquisitions by free blacks and by slaves, and these restrictions were abolished by the Fourteenth Amendment and related congressional statutes. For the reasons discussed in Part VII, the Bloomberg laws are unnecessarily oppressive. There is no reason to require that firearms loans of a few minutes or several days, between people who know each other, must be treated as if they were firearms sales. There is no reason to require that the return of a loaned firearm be treated like a firearms sale. There is no reason to require trips to a gun store and extensive paperwork for the ostensible purpose of conducting a background check on someone who, by being issued a concealed carry permit, has already passed a much more stringent background check than the store can offer. There is no reason to require anyone to travel to gun stores for background checks when such checks can be accomplished by telephone or the Internet. The Bloomberg laws criminalize the common activities of the vast majority of law-abiding gun owners, including the large majority of them who will never sell a firearm in their lives. The most charitable explanation of this massive criminalization would be drafting ineptitude. When drafters are unfamiliar with an activity and dislike it, unintended collateral damage can be an expected result; if one hired Marxist-Leninists to draft banking regulations, some of the resulting harms to ordinary banking activities might not be intended. Yet even the 2015 version of the Bloomberg proposal, drafted for a generally "pro-gun" electorate, retains many of the problems that have been previously pointed out--most egregiously, making it nearly impossible to loan a firearm for lawful self-defense in an emergency.
3. Bloomberg family exemptions are far too narrow


Proponents of the Bloomberg laws point out that the laws have exemptions for "family." This is politically sensible, since many voters do not believe that the government should meddle in innocent intra-family activities. The family exemption also makes sense criminologically. A person who privately sells a gun to a stranger may have no idea whether that stranger is a prohibited person. But when people sell (or loan) to individuals whom they personally know, the risks of unintentionally giving a gun to a prohibited person are much less. So it is reasonable that rules on sales/loans among strangers should be different from the rules for sales/loans among people who know each other. Family members likely know each other better than they know anyone else. All versions of the Bloomberg laws have some form of family exemption, but they are unreasonably narrow. The Bloomberg laws allow family members to make a "bona fide gift" of a firearm to each other. In the federal proposal, this exception includes only spouses, parents, children, grandparents, and siblings. In Washington, it also includes aunts, uncles, nieces, nephews, and first cousins. The federal and Washington models take care of gifts, but they forbid family members from lending guns to each other, or from selling guns to each other. The federal law has no provision for this type of transfer, while the Washington law allows temporary transfers only between spouses and domestic partners. The proposed Nevada language is somewhat broader, covering "sale or transfer," and also specifies that step-relations, adopted children, and half-blood relations are part of a family. In none of the Bloomberg laws are in-laws considered to be a member of one's family.

4. Bloomberg-style background checks seriously threaten our constitutional rights

David B. Kopel, Adjunct Professor, Advanced Constitutional Law, Denver University, Research Director, Independence Institute, and Associate Policy Analyst, Cato Institute, “Background Checks for Firearm Sales and Loans: Law, History, and Policy,” HARVARD JOURNAL ON LEGISLATION v. 53, Winter 2016, p. 304-305.

In Congress and in the states, "universal background checks" have become an important topic in the firearms policy debate. Legislation on the subject is the creation of former New York City Mayor Michael Bloomberg, whose lobby is called Everytown for Gun Safety in America ("Everytown"). The Bloomberg laws forbid most private sales of firearms, private loans, and the return of loaned firearms, unless the transaction is processed at a gun store, following the same procedure as if the gun store were selling a firearm from its inventory. In Congress, the Bloomberg legislation has been sponsored by Senator Charles Schumer (D-N.Y.). He calls his bill "the gold standard" for background checks. Laws based on the Bloomberg federal model have been enacted in Delaware, Colorado, Washington, and Oregon, and will be on the ballot in Nevada in 2016. This Article concentrates on the federal Schumer bill as the national model, while also discussing its state analogues. The Bloomberg laws are highly destructive of Second Amendment rights. Their effect is to criminalize many ordinary and responsible activities, such as firearms safety training, museum displays of historic arms, and safe storage. Mr. Bloomberg's Everytown organization argues that the laws are constitutional, because they are of the type that the Supreme Court, in District of Columbia v. Heller, called "presumptively lawful" and "longstanding." However, examination of gun control laws from early American history through the first third of the twentieth century shows that the Bloomberg laws are outliers in the history of American gun control.

5. There are several superior alternatives to Bloomberg background checks

David B. Kopel, Adjunct Professor, Advanced Constitutional Law, Denver University, Research Director, Independence Institute, and Associate Policy Analyst, Cato Institute, “Background Checks for Firearm Sales and Loans: Law, History, and Policy,” HARVARD JOURNAL ON LEGISLATION v. 53, Winter 2016, p. 305.

There are much better alternatives to the Bloomberg system of requiring that private transactions must always use gun stores as intermediaries. In particular, background checks on private sales can be accomplished by allowing the buyer and seller to conduct the check through contact with the appropriate state or federal agency via Internet or telephone. Nor is there a need to force people to travel to gun stores for background checks when they have already passed a more stringent check: the check for the issuance of a handgun carry permit (and the continuous checks under-taken to ensure the permit's validity).
UBC Undesirable: Burdensome

1. Background checks are not quick—many take up to 72 hours

Robert A. Levy, Chair, Cato Institute, “Our Core Second Amendment Rights,” CATO’S LETTER v. 11 n. 3, Summer 2013, p. 4.

I have two further points regarding background checks. First, if they actually promoted public safety, then taxpayers should foot the bill, not law-abiding gun owners. Second, the claim that background checks just take a few minutes is disingenuous. Many of the checks take up to 72 hours. Most gun shows are two-day events. In some cases, the real goal of the expanded checks was to drive gun shows out of business. That strategy has been partially successful. Yet its advocates know that if they tried to implement a law banning gun shows, it would be deemed unconstitutional.

2. Background checks are expensive


The theory behind background checks is simple: if you stop a potential killer from getting a weapon, you will stop him from committing a crime. The question is how difficult it is for these killers to obtain weapons from other sources. Background checks add a significant cost to obtaining a gun, reducing gun ownership for both potential killers as well as the victims who want to defend themselves. Background checks on private transfers add $125 to the cost of transferring a gun in New York City and about $50 in the rest of the state, $60 in Washington State, and $200 in DC. A significant academic literature has failed to produce evidence that background checks on private purchases actually make a difference in reducing violent crimes such as murder and robbery. But no one has done a study on whether background checks help stop mass public shootings.

3. Background checks are costly


Polls that ask about specific pieces of legislation also don’t show much support. These background checks are also costly. They can add, for instance, north of $150 to the cost of a gun in Washington, D.C. That fee can put guns out of reach for the most likely victims of violent crime, such as poor minorities living in high-crime areas. These costs may explain the finding that these checks actually increase some types of crime. Given that Democrats keep pushing for laws after each mass shooting before we even know the facts of the case and that they have nothing to do with these attacks, one may wonder if there are any ulterior motives. Making it costly for the poor to own guns is one explanation.
**UBC Undesirable: Citizen Self-Defense—Topshelf**

1. **Self-defense is effective and is a basic right**

Clayton E. Cramer, history instructor, College of Western Idaho and David Burnett, Director, Public Relations, Students for Concealed Carry, TOUGH TARGETS: WHEN CRIMINALS FACE ARMED RESISTANCE FROM CITIZENS, Cato Institute, 2012, p. 20.

Self-defense is one of our most basic rights. Strict gun control regulations interfere with that right because ordinary citizens abide by the regulations while criminals acquire guns from underground markets. That leaves honest, law-abiding people at a distinct disadvantage because it is not possible for the police to be at every scene where they are desperately needed. Many people support gun control regulations because they are convinced that the average citizen is either incapable of using a gun in self-defense or will use the gun in a fit of anger over some petty matter. Those assumptions are false. The evidence on this point has grown so strong that even President Obama has had to chide gun safety advocates to accept the proposition that “almost all gun owners in America are highly responsible.”

And, as the scores of incidents described in this study show, gun owners stop a lot of criminal mayhem—attempted murders, rapes, assaults, robberies—every year. Moreover, it is important to note that when a gun owner kills an attacker or is able to hold a rapist or a burglar until the police arrive, it is very likely that more than one crime has been prevented because if the culprit had not been stopped, he could have targeted other citizens as well. Policymakers interested in harm reduction should thus refrain from treating ordinary gun owners as hoodlums or loose cannons and adopt policies that respect the ownership and carrying of arms by responsible individuals.

2. **Increasing gun restrictions only elevates the possibility that unarmed citizens will be confronted with armed criminals**

Clayton E. Cramer, history instructor, College of Western Idaho and David Burnett, Director, Public Relations, Students for Concealed Carry, TOUGH TARGETS: WHEN CRIMINALS FACE ARMED RESISTANCE FROM CITIZENS, Cato Institute, 2012, p. 1.

The ostensible purpose of gun control legislation is to reduce firearm deaths and injuries. The restriction of access to firearms will make criminals unable to use guns to shoot people. Gun control laws will also reduce the number of accidental shootings. Those are the desired effects, at least in theory. It is important, however, for conscientious policymakers to consider not only the stated goals of gun control regulations, but the actual results that they produce. What would be the effect of depriving ordinary, law-abiding citizens from keeping arms for self-defense? One result seems certain: the law-abiding would be at a distinct disadvantage should criminals acquire guns from underground markets. After all, it is simply not possible for police officers to get to every scene where they are urgently needed.
1. The right to bear arms is a core liberty


Fundamental Right of All Americans Guaranteed By The Fourteenth Amendment And Applies Equally To The States And The Federal Government. As this Court held in Heller, the right to keep and bear arms secured by the Second Amendment is not limited to the context of militias. Citing William Blackstone, the majority in Heller found the origin of the right to be variously “the natural right of resistance and self-preservation” and “the right of having and using arms for self-preservation and defence.” Around 200 years after Blackstone, it fell to George Orwell to opine that the rifle hanging on the wall of the flat or cottage of the working classes was “the symbol of democracy.” Even the Seventh Circuit recognized in its decision below that the Second Amendment protects the right of citizens to keep and bear arms in their homes for the lawful purpose of self-protection. Thus, Heller and other cases have resolved the question of whether the right to bear arms relates to militias, and have instead established the inviolable right of individuals to keep and bear arms in their private homes. While the opinion in Heller was limited to the federal enclave of Washington D.C., the Second Amendment itself clearly is meant to apply more broadly. The Second Amendment proclaims in unambiguous terms: “A well-regulated Militia, being necessary to the security of a free State, the right of the people to keep and bear Arms, shall not be infringed” (emphasis added). Courts have found that handguns fall within the definition of arms under the Second Amendment. Since at least the turn of the 20th century, this Court has not hesitated to ensure that the essential, fundamental liberties set forth in the Bill of Rights are protected from state impairment through “incorporation” of those rights into the Fourteenth Amendment, which provides in relevant part, no state shall make or enforce any law which shall abridge the privileges and immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

2. Established jurisprudence proves that self-defense is a foundational and essential right in a free society

David Kopel, Counsel, Independence Institute, Brief of the International Law Enforcement Educators and Trainers Association (ILEETA) et al., Amici Curiae brief in “Otis McDonald et al. v. City of Chicago,” Supreme Court Case n. 08-1521, 1—10, www.americanbar.org/content/dam/aba/publishing/preview/publiced_preview_briefs_pdfs_09_10_08_1521_PetitionerAmCu11LawEnforceCivilRightsandPublicPolicyOrgs.authcheckdam.pdf, accessed 10-8-17.

Heller affirmed that self-defense is an “inherent,” “natural,” and “fundamental” “right.” Heller, at 2793, 2797-99, 2801, 2809, 2817, 2820. There are eleven cases in which this Court has overturned a conviction because of a violation of the defendant’s right of armed self-defense. These cases provide further evidence that the right is “deeply rooted in our history and traditions,” is “fundamental to the American scheme of justice,” and is “necessary to an Anglo- American regime of ordered liberty.” See Moore v. East Cleveland, 431 U.S. 494, 503 (1977) (plurality op.); Washington v. Glucksberg, 521 U.S. 702, 727 (1997); Duncan v. Louisiana, 391 U.S. 145, 149 (1968). In Brown v. United States, at a federal naval yard in Texas a man named Hermes had twice assaulted Brown with a knife, and warned that the next time, either Hermes or Brown “would go off in a black box.” 256 U.S. 335, 342 (1921). One day Hermes again attacked Brown with a knife; Brown ran to get his coat, which contained a pistol. Hermes pursued, and Brown shot him four times, killing him. The trial judge instructed the jury that Brown had a duty to retreat if he could do so safely, and Brown was convicted. Overturning the conviction, Justice Holmes traced the duty to retreat rule to a much earlier period in English history, when the law did not even recognize the right of self-defense. “The law has grown,” Holmes wrote, “in the direction of rules consistent with human nature.” As a practical matter, “Detached reflection cannot be demanded in the presence of an uplifted knife.” Id., at 343. So, declared Holmes, there is no duty to retreat from anywhere that the victim has a right to be. Richard Maxwell Brown, a leading historian of American violence, explains that “to Holmes—as to so many other Americans—the right to stand one’s ground and kill in self-defense was as great a civil liberty as, for example, freedom of speech.” Justice Holmes’ opinion in Brown provides a link between two great civil libertarians. Joining the Holmes opinion in Brown was new Justice Louis Brandeis, who later wrote “We shall have lost something vital and beyond price on the day when the state denies us the right to resort to force . . .” Holmes’ opinion quoted Justice Harlan’s opinion from Beard v. United States, 158 U.S. 550 (1895); in private correspondence, Holmes wrote approvingly of the anti-retreat view of “old Harlan.”
The ability to maintain arms for self-defense is foundational to participation in a free society

Paul M. Kienzle, Counsel, Paragon Foundation, Amici Brief in “Otis McDonald et al. v. City of Chicago,” Supreme Court Case n. 08-1521, 1—10, www.americanbar.org/content/dam/aba/publishing/preview/publiced_preview_briefs_pdfs_09_10_08_1521_PetitionerAmCuParagonFund.pdf, accessed 10-8-17.

The court of appeals’ judgment should be reversed because the Second Amendment embodies a pre-existing, fundamental right to keep and bear arms. As such, that right is incorporated as against the States by the Fourteenth Amendment’s Due Process Clause. As an individual right rather than a collective one, the right to keep and bear arms is not subject to attack on federalism grounds. The right of the people to keep and bear arms, preserved by the second amendment, is a fundamental right. The Declaration of Independence, stating that “[w]e hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the pursuit of Happiness,” is the finest example of natural rights theory applied to public policy. Every individual has “unalienable Rights” that exist not because of government but spring wholly from the human condition itself. It is our humanity that is the fountainhead of those natural rights. As the founders of this country moved from the Declaration of Independence to other formal organizing documents, numerous natural rights were carried forward and enshrined in the Bill of Rights. At a speech given on June 8, 1789, James Madison proposed certain amendments to the Constitution that would later become the Bill of Rights. His speech and notes from that speech reflect that the proposed amendments preserved and protected certain natural rights and retained the same for individuals. Among those natural rights was a right to keep and bear arms that is substantively similar to the present Second Amendment. In accord with the natural rights theory, the Court in Robertson v. Baldwin, 165 U.S. 275, 281–82 (1897) stated that: The law is perfectly well settled that the first 10 amendments to the constitution, commonly known as the ‘Bill of Rights,’ were not intended to lay down any novel principles of government, but simply to embody certain guaranties and immunities which we had inherited from our English ancestors, and which had, from time immemorial, been subject to certain well-recognized exceptions, arising from the necessities of the case. In incorporating these principles into the fundamental law, there was no intention of disregarding the exceptions, which continued to be recognized as if they had been formally expressed. Thus, the freedom of speech and of the press (article 1) does not permit the publication of libels, blasphemous or indecent articles, or other publications injurious to public morals or private reputation; the right of the people to keep and bear arms (article 2) is not infringed by laws prohibiting the carrying of concealed weapons; the provision that no person shall be twice put in jeopardy (article 5) does not prevent a second trial, if upon the first trial the jury failed to agree, or if the verdict was set aside upon the defendant’s motion. . . . The Court pointed out that the Second Amendment is among those individual rights that Americans “inherited from our English ancestors” and that the Bill of Rights is not a collection of “novel principles of government” but something personal and individual. The individual right of the people to keep and bear arms was thus incorporated into what the Robertson Court called “the fundamental law.” The Second Amendment does not lay down the right of the people to keep and bear arms as a matter of positive law but reflects that the right is more fundamental. The government is not the fount from which the Second Amendment flows.

The right to armed self-defense is fundamental to participation in a liberal society

C.D. Michel, Glenn S. McRoberts, and Hillary J. Green, Counsel, Brief of Thirty-Four California District Attorneys et al., Amici Curiae in “Otis McDonald et al. v. City of Chicago,” Supreme Court Case n. 08-1521, 1—10, www.americanbar.org/content/dam/aba/publishing/preview/publiced_preview_briefs_pdfs_09_10_08_1521_PetitionerAmCuThirty_FourCaliforniaDistrictAttorneys.authcheckdam.pdf, accessed 10-8-17.

California, the home state of most of the District Attorneys represented herein, is one of the few states without a constitutional provision expressly guaranteeing a right to keep and bear arms. Yet California’s Supreme Court found that even a felon nonetheless had a right to use his friend’s handgun to shoot an attacker in self-defense, and could not be prosecuted for possessing the firearm for that purpose. The court found that the prohibition against felons possessing handguns “was not intended to affect a felon’s right to use a concealable firearm in self-defense[,]” This Court came to a similar conclusion in Starr v. United States, 153 U.S. 614, 623 (1894), finding an alleged horse thief had the right to defend himself against an overzealous posse. These holdings are not an anomaly. They reflect a judicial recognition of the American tradition of gun ownership and use, and an acknowledgment of the fundamental right to armed self-defense. This tradition and right are also recognized in state constitutions, statutes, and in this Court’s own jurisprudence. People v. King and countless other cases confirm that the right to keep and bear arms is the “true palladium of liberty,” and the right to armed self-defense is fundamental to the American scheme of justice.
5. **An entitlement to armed self-defense is a hallmark of both state and federal law**

C.D. Michel, Glenn S. McRoberts, and Hillary J. Green, Counsel, Brief of Thirty-Four California District Attorneys et al., Amici Curiae in “Otis McDonald et al. v. City of Chicago,” Supreme Court Case n. 08-1521, 1—10, www.americanbar.org/content/dam/aba/publishing/preview/publiced_preview_briefs_pdfs_09_10_08_1521_PetitionerAmCuThirty_FourCaliforniaDistrictAttorneys.authcheckdam.pdf, accessed 10-8-17.

A central argument in Heller is that the right to keep and bear arms is inextricably tied to a fundamental, individual right to self-defense, a right well-established in state and federal law – especially when defending hearth and home, a principle known as the “castle doctrine.” As Judge Cardozo explained in People v. Tomlins, 213 N.Y. 240 (Ct. App. 1914): It is not now, and never has been the law that a man assailed in his own dwelling, is bound to retreat. If assailed there, he may stand his ground, and resist the attack. He is under no duty to take to the fields and the highways, a fugitive from his own home. More than two hundred years ago it was said by Lord Chief Justice Hale (1 Hale’s Pleas of the Crown, 486): In case a man is assailed in his own house, he “need not fly as far as he can, as in other cases of se defendendo, for he hath the protection of his house to excuse him from flying, for that would be to give up the possession of his house to his adversary by his flight.” Flight is for sanctuary and shelter, and shelter, if not sanctuary, is in the home. That there is, in such a situation, no duty to retreat is, we think, the settled law in the United States as in England. It was so held by the United States Supreme Court in Beard v. United States (158 U.S. 550). Tomlins, 213 N.Y. at 243; see also People v. Jones, 3 N.Y.3d 491, 495-496 (Ct. App. 2004) (at least since Tomlins, the castle doctrine has been part of New York’s statutory and decisional law, which in turn grew out of the common law). In addition to Beard, Judge Cardozo cites two more self-defense opinions by this Court (discussed below), and references leading treatises, scholars, and several other state opinions for the same proposition. Moreover, the Beard decision cited by Judge Cardozo is only one of many cases where this Court and others have recognized the right to defend oneself and others, and the right to use lethal force in doing so.

6. **The right to armed self-defense easily fits under the doctrine of fundamental and essential rights—governments are not free to violate it**

C.D. Michel, Glenn S. McRoberts, and Hillary J. Green, Counsel, Brief of Thirty-Four California District Attorneys et al., Amici Curiae in “Otis McDonald et al. v. City of Chicago,” Supreme Court Case n. 08-1521, 1—10, www.americanbar.org/content/dam/aba/publishing/preview/publiced_preview_briefs_pdfs_09_10_08_1521_PetitionerAmCuThirty_FourCaliforniaDistrictAttorneys.authcheckdam.pdf, accessed 10-8-17.

Numerous cases confirm what Justice Scalia has said: “virtually all” individual rights found in the Bill of Rights have been incorporated against the States via the Fourteenth Amendment. Pac. Mut. Life Ins. Co. v. Haslip, 499 U.S. 1, 34 (1991) (Scalia, J., concurring in judgment); see also Planned Parenthood v. Casey, 505 U.S. 833, 847 (1992) (“We have held that the Due Process Clause of the Fourteenth Amendment incorporates most of the Bill of Rights against the States”). Thus, if the rights protected by the Second Amendment are “fundamental,” then the Second Amendment likewise restricts state infringement of those rights through the Fourteenth Amendment. “Fundamental” rights have been defined as those “necessary to an Anglo-American regime of ordered liberty,” Duncan, 391 U.S. at 150 n.14, or “deeply rooted in this Nation’s history and tradition.” To determine whether the right to keep and bear arms is “fundamental,” this Court must engage in a culturally specific inquiry, canvassing the attitudes and historical practices of the founding-era and post-Civil War period because those times produced the constitutional provisions at issue. In Heller, this Court already effectively conducted this incorporation analysis, albeit for a different but related purpose. In determining whether the right to arms was a right of the people or the state, Heller canvassed the attitudes and historical practices of the Founding era and post-Civil War period – and more.
7. The Heller decision definitively established that self-defense is a foundational right

C.D. Michel, Glenn S. McRoberts, and Hillary J. Green, Counsel, Brief of Thirty-Four California District Attorneys et al., Amici Curiae in “Otis McDonald et al. v. City of Chicago,” Supreme Court Case n. 08-1521, 1—10, www.americanbar.org/content/dam/aba/publishing/preview/publiced_preview_briefs_pdfs_09_10_08_1521_PetitionerAmCuThirty_FourCaliforniaDistrictAttorneys.authcheckdam.pdf, accessed 10-8-17.

Heller explored the history and foundations of the ancient right of self-defense and the right to arms for that purpose. After its exhaustive analysis, this Court concluded that self-defense is an “inherent,” “natural,” “fundamental,” “right.” See Heller, at 2793 (natural right of defense), 2797-2798 (pre-existing right), 2798 (fundamental right), 2799 (natural right), 2801 (central right), 2809 (natural right), and 2817 (inherent right). The Court came to a similar conclusion concerning the Second Amendment’s origins and links to self-defense. It found the “inherent right of self-defense has been central to the Second Amendment right[ ] to keep and bear arms, and further, that while self-defense “had little to do with the right’s codification; it was the central component of the right itself.” Given Heller’s findings, the incorporation determination reduces to a simple syllogism: (1) all fundamental rights of the people enumerated in the Bill of Rights are incorporated by, and apply to, the states through the Fourteenth Amendment; (2) Heller found the Second Amendment embodied a fundamental right of the people to keep and bear arms; and therefore (3) the Second Amendment is incorporated by, and applies to, the states through the Fourteenth Amendment. Accordingly, we will not repeat Heller’s “fundamental rights” analysis, here. To the extent we revisit the analysis in Heller, we do so in the context of our review of this Court’s own cases on armed, self-defense, and of NRA v. Chicago, which questions the inevitability of incorporation.

8. A fundamental right to armed self-defense is long recognized in American jurisprudence

C.D. Michel, Glenn S. McRoberts, and Hillary J. Green, Counsel, Brief of Thirty-Four California District Attorneys et al., Amici Curiae in “Otis McDonald et al. v. City of Chicago,” Supreme Court Case n. 08-1521, 1—10, www.americanbar.org/content/dam/aba/publishing/preview/publiced_preview_briefs_pdfs_09_10_08_1521_PetitionerAmCuThirty_FourCaliforniaDistrictAttorneys.authcheckdam.pdf, accessed 10-8-17.

NRA v. Chicago considered itself bound by Cruikshank, Presser, and Miller, deferring to this Court on whether Second Amendment rights should be incorporated. Consequently, the NRA v. Chicago court did not engage in the inquiry suggested in Heller’s footnote 23. Judge Easterbrook, writing for the panel, did however offer provocative observations on incorporation, the right of self-defense, and its corollary right to arms. Those observations conflict with Heller and other decisions of this Court, and thus warrant discussion. A. Self-Defense Is More Than A “Common- Law Gloss On Criminal Statutes,” It Is A Universally Recognized Fundamental Right NRA v. Chicago suggests the right to self-defense is a “common-law gloss on criminal statutes,” and may be a “right” so lacking in foundation that state legislatures would be free to abrogate it entirely. Without a right to self-defense, however, the right to keep and bear arms is stripped of one of its fundamental tenets – indeed, its core motivating principle, as the court reveals in posing its self-described “farfetched” hypothetical: Suppose a state were to decide that people cornered in their homes must surrender rather than fight back – in other words, that burglars should be deterred by the criminal law rather than self-help. That decision would imply that no one is entitled to keep a handgun at home for self-defense, because self-defense would itself be a crime, and Heller concluded that the second amendment protects only the interests of law-abiding citizens. “Farfetched” perhaps too gently describes that hypothetical. If, as NRA v. Chicago suggests, some states are moving toward criminalizing – and have authority to criminalize – self-defense, then the Heller decision came down none too soon. The court’s hypothetical rests on the false premise that the “right” to self-defense is divorced from self-preservation, from survival, from natural law, i.e., that it is solely a creature of the legislature. The court indicates that, rather than being a fundamental right, self-defense is little more than an affirmative defense, a statutory entitlement to avoid criminal prosecution for bodily injury inflicted upon an aggressor by the intended victim – if the victim survives. And further, that despite a “common-law gloss” applied by courts, self-defense remains a mere legislative creation legislatures can revoke at will. Heller, however, put to rest the belittling notion that the bedrock right to self-defense, i.e., the right to fight for one’s own life, is mere legal varnish. And it did so repeatedly.
9. **Free societies do not exist without a right to self-defense that is backed up with arms**

C.D. Michel, Glenn S. McRoberts, and Hillary J. Green, Counsel, Brief of Thirty-Four California District Attorneys et al., Amici Curiae in “Otis McDonald et al. v. City of Chicago,” Supreme Court Case n. 08-1521, 1—10, www.americanbar.org/content/dam/aba/publishing/preview/publiced_preview_briefs_pdfs_09_10_08_1521_PetitionerAmCuThirty_FourCaliforniaDistrictAttorneys.authcheckdam.pdf, accessed 10-8-17.

The individual right of self-defense, and the right to keep and bear arms necessary for self-defense, are integral parts of this nation’s laws and tradition. The Founders understood the fundamental nature of these inseparable rights, and the need to protect them to secure all other rights in a free society. Legal scholars and philosophers, too, understood the right of self-defense as the first law of nature, and the right to arms as its corollary. This Court has recognized both rights on multiple occasions, as have state courts and legislatures. While often unstated, the link between self-defense and the right to arms is the unique function firearms serve in human society. Firearms in the hands of law-abiding citizens uniquely allow the weak to defend against victimization by the strong. Nations that ban firearms have not managed to control crime, nor even disarm criminals. Only the law-abiding disarm themselves in reaction to such laws. The effect has often been to promote violence, not dissipate it. This result fulfills the prediction of “the father of criminology,” His comments are doubly worthy of attention: First, because they are the flowery 18th Century precursor of the modern slogan: “When guns are outlawed, only outlaws will have guns.” Second, because Thomas Jefferson translated this passage from the Italian and wrote it into his collection of great quotations: False is the idea of utility that sacrifices a thousand real advantages for one imaginary or trifling inconvenience; that would take fire from men because it burns, and water because one may drown in it; that has no remedy for evils, except destruction. The laws that forbid the carrying of arms are laws of such a nature. They disarm those only who are neither inclined nor determined to commit crimes. Can it be supposed that those who have the courage to violate the most sacred laws of humanity, the most important of the code, will respect the less important and arbitrary ones, which can be violated with ease and impunity, and which, if strictly obeyed, would put an end to personal liberty – so dear to men, so dear to the enlightened legislator – and subject innocent persons to all the vexations that the guilty alone ought to suffer? Such laws make things worse for the assaulted and better for the assailants; they serve rather to encourage than to prevent homicides, for an unarmed man may be attacked with greater confidence than an armed man. They ought to be designated as laws not preventive but fearful of crimes, produced by the tumultuous impression of a few isolated facts, and not by thoughtful consideration of the inconveniences and advantages of a universal decree.

10. **There is a strong legal, philosophical, and moral consensus that there is a fundamental right to self-defense**

Don B. Kates and Marc James Ayers, Counsel, Brief of Professors of Philosophy, Criminology, Law and Other Fields, Amici Curiae brief in “Otis McDonald et al. v. City of Chicago,” Supreme Court Case n. 08-1521, 1—10, www.americanbar.org/content/dam/aba/publishing/preview/publiced_preview_briefs_pdfs_09_10_08_1521_PetitionerAmCuProfessorsofPhilosophy.authcheckdam.pdf, accessed 10-8-17.

This brief represents the combined views of the amici professors of philosophy, criminology, social and political science, and law. The amici professors of philosophy, political science, and law wish to make two points. The first is that the founding fathers embraced the right of self-defense as among the most fundamental of human rights, and thought that right included a right to possess firearms as the means of self-defense. The second point is that the prevailing view among contemporary philosophers is that the right of self-defense implies a right to possess firearms. The amici professors of social science, criminology and law wish to make three further points. First, the vast majority of murder or serious gun crimes are committed by the deranged and by long-time criminals, two groups who are already prohibited from owning firearms to the extent legally possible. Accordingly, there is little, if any, statistically identifiable danger stemming from the possession of firearms by ordinary adults. Second, this statistical reality has now been acknowledged in the criminological world, even by many criminologists who are openly hostile to private gun ownership. Many scholars now accept the fact that, according to the data, bans on firearms for the general population are misdirected and do not control or reduce violent crime. Finally, amici critique as fundamentally flawed and unreliable a recently published study erroneously suggesting that gun ownership automatically increases one’s chances of becoming a victim of gun crime. In reality, there is no basis to believe that ordinary, law-abiding citizens who happen to own guns are at any greater risk of being assaulted, but there is a strong basis to believe that disarming such law-abiding citizens increases the risk of danger to them and their families.
1. **Gun control backfires—massacres happen in areas with gun bans**


Last week’s shooting in Colorado shows us, once again, the failure of gun control. The Century 16 theaters in Aurora were "gun free" zones, where citizens are prohibited from carrying weapons for self defense. If this sad scenario sounds familiar, it should—as almost every large-scale massacre in this country has occurred in an area where guns are outlawed: Columbine High School, Virginia Tech, Fort Hood, etc. In all of these shootings, the victims were disarmed by law or regulation—yes, even the one at Fort Hood. They were made mandatory victims by restrictions which never stop the bad guys from getting or using guns. Contrast these disastrous events—which occurred in "gun free" kill zones—with the Aurora shooting you didn't hear about. That shooting occurred three months ago at a church, which is not a gun free zone. A gunman drove into the New Destiny Church parking lot in Aurora, got out of his car, and started spraying bullets. Thankfully, a congregant with a concealed firearm shot and killed him, saving countless lives.

2. **Guns are important to self-defense, criminals don’t obey the laws**


There are, of course, other reasons that the federal government should do nothing when it comes to gun control. First of all, it is still true that if guns are outlawed, only outlaws will have guns. Criminals don’t obey gun-control laws. The accused shooter in the Aurora theater massacre has been charged with 24 counts of first-degree murder and 116 counts of attempted murder. Anyone who plans and carries out such a horrendous public act knows that either he will be killed in the act or he will be caught and possibly face the death penalty. If someone is going to perpetuate such a crime, then concern about violating weapons laws is the last thing on his mind. Second, it is also still true that more guns means less crime, as the heroic John Lott has shown in More Guns, Less Crime and The Bias against Guns: Why Almost Everything You’ve Heard about Gun Control Is Wrong. And as Lott points out in a recent article, Since the federal [assault-weapons] ban expired in September 2004, murder and overall violent-crime rates have actually fallen. In 2003, the last full year before the law expired, the U.S. murder rate was 5.7 per 100,000 people. Initial data for 2011 shows that the murder rate has fallen to 4.7 per 100,000 people. Third, according to the FBI’s Uniform Crime Report, rifles and shotguns that liberals are so concerned about are used less often in murders than knives, hands, and feet.

3. **Gun rights are important—allow people to protect themselves**


Evil is a part of life, and this has been true since the dawn of our civilization. Evil recently appeared in a dark theater in Aurora, Colo. As we know, a disturbed man hurt and massacred dozens. And it is a natural human emotion to think of ways to stop it from happening again. This is now causing some people to push for the disarmament of all, regardless of who they are, and regardless of whether they are dangerous to other people. But there are other evils in this world. Our civil right to armed self defense has a storied history of protecting us from many of those evils: This right protected the abolitionists who took the message that slavery was evil directly into the slave states. After the civil war, the right to bear arms was used to protect freedmen from the brutal violence of the Ku Klux Klan. Arms continued to protect civil rights workers even through the 1960s as the twin specters of racism and the Klan itself, had permeated local law enforcement. Today, the right to armed self defense protects the LGBT community from the twin evils of ignorance and hate. The right to self defense also protects mothers and daughters from rapists, merchants from robbers, and families from home invaders. The U.S. Department of Justice reports that guns are used 1,500,000 times a year to successfully defend good people from bad people—almost always without the firing of a single shot. The Colorado massacre is disturbing, but it must be seen in this context. Like all civil rights, our right to self defense is dangerous and can be abused—ask a mourning soldier's parents about the abuse of the freedom of speech they experience at the hands of the Westboro Baptist Church.
4. Research shows that guns are often successfully used for self-defense

Clayton E. Cramer, history instructor, College of Western Idaho and David Burnett, Director, Public Relations, Students for Concealed Carry, TOUGH TARGETS: WHEN CRIMINALS FACE ARMED RESISTANCE FROM CITIZENS, Cato Institute, 2012, p. 3.

This paper examines instances of gun use in self-defense in order to provide a better understanding of their character. When ordinary Americans use guns in self-defense, what is the nature of that use? How frequently do these events occur and what are the consequences? These are important questions, but they are also difficult to answer. The survey data on defensive gun use is controversial. Some methods of recording or estimating the incidence of gun usage underestimate the number of defensive gun usage, while others may overstate it. This paper makes use of a news report–gathering project to explore in more detail how Americans use guns in self-defense. The collection of news reports of self-defense shootings over an eight-year period provides a useful survey of the circumstances and outcomes of defensive gun uses. Some shootings are treated differently than they would have been a few years ago because of recent changes to state laws. Some shootings have been considered legal by the authorities yet are unwise or foolish. And some defensive gun uses are unsuccessful—the defender may still lose his or her life—but these cases are the exception, not the rule. Federal and state lawmakers have often opposed repealing or amending laws governing the ownership or carrying of guns. That opposition is typically based on assumptions that the average citizen is incapable of successfully employing a gun in self-defense or that possession of a gun in public will tempt the average citizen to violence in “road rage” or other contentious situations. This paper finds that such cases represent an exceedingly small minority of gun uses by otherwise law-abiding citizens and that a great number of tragedies—murders, rapes, assaults, robberies—have been thwarted by self-defense gun uses.

5. Background check laws undermine self-defense—loans


The extreme burdens on firearms loans can be deadly. Universal background check laws make it impossible for a person to lend a firearm to a woman who is being threatened by an ex-boyfriend, if the threat arises on a Saturday night, when gun stores are closed. (Most background check proposals only allow defensive firearms loans when the threat is “immediate”—and not for cases when a stalker might attack in an hour, or next week, or the next month.) The absurdly overbroad controls on loans criminalize most gun owners for innocent activity. They are particularly problematic for gun safety instructors, who pass guns back and forth between themselves and students while teaching safety courses; for people in rural areas who may live hours away from any gun store; and even for museums that may wish to display guns but cannot obtain, move, or clean them without submitting to a background check. Colorado amended its universal background check law to exempt all temporary transfers of less than 72 hours. That made the law more sensible but did not solve all the problems. Someone who wishes to store his gun at his cousin’s house while he spends two years in the Peace Corps, for example, would need a background check on his cousin and then another on himself when the gun is returned. Some think that people would never be prosecuted for these minor infractions, even if they are “technically” illegal. But relying on the restraint of federal prosecutors is never a good idea. Gun owners are constantly prosecuted for similar, or even smaller, transgressions. In one example, in 2002, John Mooney seized a firearm from his ex-wife when she, while intoxicated, pointed it at his head. He then walked seven blocks to the bar where he worked to hand the weapon over to the police. Because Mooney was a convicted felon, however, he was charged with the unlawful possession of a firearm.
1. Armed citizens have stopped several mass shootings


Policymakers can take steps to make treatment available for persons with serious mental illness, and, when necessary, to incapacitate such persons if they are proven to be at grave risk of perpetrating violent crime. Better care, treatment, and stronger laws for civil commitment (consistent with constitutional safeguards) could prevent some horrific crimes. Finally, before adding new gun regulations to the legal code, policymakers should remember that several mass murders in the U.S. were prevented because citizens used firearms against the culprit before the police arrived on the scene.

2. People at places like Virginia Tech could protect themselves if they had access to firearms


To belabor the obvious, murderers do not obey restrictions on gun possession, contrary to the long-repeated suggestion of the gun-control crowd — that if we simply enact such restrictions into law, murderers will comply with them. As we once again see in the context of the Virginia Tech massacre, a person who intends to break a law against murder isn’t going to stop and say to himself, “Oh my, I can’t use a gun to commit these murders because the school’s regulations prevent me from carrying a gun onto campus.” Virginia Tech, a state school, prohibits its students from carrying guns onto campus. When someone recently introduced a bill in the Virginia legislature to permit students with state-issued concealed-carry permits to carry guns onto campus, the bill was allowed to die in committee. So there you have it, once again: Virginia Tech’s gun-control regulation disarmed Virginia Tech’s students from defending themselves against a mass murderer who, having ignored the regulation, could be virtually certain that all Virginia Tech students would be disarmed. Why, just one or two armed students could have taken the murderer out. Virginia Tech officials steadfastly maintain that their “gun-free zone” makes their campus safer. Yeah, safer for mass murderers who know that they won’t have to worry about students with the capacity to fire back.

3. An armed citizenry can help protect us against potential mass killers

David B. Kopel, Research Director, Independent Institute and Associate Policy Analyst, Cato Institute, “The Costs and Consequences of Gun Control,” POLICY ANALYSIS n. 784, Cato Institute, 12—1—15, p. 18.

Unfortunately, misguided laws in recent years have made certain buildings vulnerable to sociopaths who, like Adam Lanza, aim to kill as many people as possible before there is effective resistance. By state law, Sandy Hook Elementary School was a gun-free zone: the state forbids carrying guns at schools, even by responsible adults who have been issued a permit based on the government’s determination that they have the good character and training to safely carry a firearm throughout the state. Thus, law-abiding adults were prohibited from protecting the children in their care, while an armed criminal could enter the school easily. Over the last 25 years, there have been at least 10 cases in which armed persons have stopped incipient mass murder: a Shoney’s restaurant in Alabama (1991); Pearl High School in Mississippi (1997); a middle school dance in Edinboro, Pennsylvania (1998); Appalachian School of Law in Virginia (2002); Trolley Square Mall in Salt Lake City (2007); New Life Church in Colorado (2007); Players Bar and Grill in Nevada (2008); Sullivan Central High School in Tennessee (2010); Clackamas Mall in Oregon (2012; three days before Newtown); Mayan Palace Theater in San Antonio (2012; three days after Newtown); and Sister Marie Lenahan Wellness Center in Darby, Pennsylvania (2014).

Gun prohibitionists insist that armed teachers, or even armed school guards, won’t make a difference, but in the real world, they have—even at the Columbine shooting, where the armed school resource officer (a sheriff’s deputy, in that case) was in the parking lot when the first shots were fired. The officer fired two long-distance shots and drove the killers off the school patio, saving the lives of some of the wounded students there. Unfortunately, however, the officer failed to pursue the killers into the building—perhaps due to a now-abandoned law enforcement doctrine of waiting for the SWAT team to arrive. The contrasts are striking and tragic. The attempted massacre at New Life Church in Colorado Springs was stopped by a private citizen with a gun; the massacre at South Carolina’s Emanuel AME wasn’t. The mass murder at Pearl High School was stopped by a private citizen (the vice principal) with a gun; the mass murder at Newtown’s elementary school wasn’t stopped until the police arrived. The shootings at Appalachian Law School ended when private citizens (armed students) subdued the gunman; the shootings at Virginia Tech continued until the police arrived. More licensed-carry laws that reduce the number of pretend gun-free zones are an effective way to save lives.
**UBC Undesirable: Citizen Self-Defense—Right to Bear Arms Key**

1. **Individuals must have the capacity to defend themselves—police cannot be everywhere at all times**


   The Police Have No Practical Ability to Protect All Citizens from Every Crime. Approximately 83% of Americans “will be victims of violent crime at some point in their lives” and “in any given year serious crime touches 25 percent of all households.” In the past decade, the number of Chicago Police Department sworn and exempt personnel has decreased slightly, from 13,484 in 1998 to 13,354 in 2008. (Chicago Police Department, 1998 Annual Report at 34; Chicago Police Department, 2008 Annual Report at 68.) In that same decade, the number of calls to 911 has skyrocketed. There were 3,770,795 calls to 911 in 1998. There were 5,076,219 calls made to 911 in 2007 and 4,704,590 such calls in 2008. Apart from any legal duty, the Chicago Police Department has no practical ability to protect everyone at all times. In most instances, and despite best efforts, police rarely arrive in time to prevent or interrupt a crime: Apart from the Second Amendment’s role in deterring government oppression, the right to arms has another purpose that is every bit as important and urgent today as it was in the eighteenth century. That purpose is to enable American citizens to defend themselves, not against direct oppression by the government, but against oppression from which the government fails to protect them. The principal source of such oppression today is violent criminals. [T]he police do not and cannot protect law-abiding citizens from criminal violence. The impotence of our governments in the face of criminal violence is so obvious that it is simply preposterous to maintain that those individuals with the means and the will to arm themselves are not thereby enhancing their ability to exercise their natural right of self-defense. While Chicago struggles to deter youthful gun crime, all McDonald and the other Petitioners ask is that this Court recognize their right to keep and bear arms under the Second Amendment, as incorporated against the States by the Fourteenth Amendment’s Privileges or Immunities Clause or its Due Process Clause. Surely, that is not too much to ask. The founder of modern criminology, Cesare Beccaria, knew two centuries ago what Chicago is only now finding out: that gun bans cause murders: False is the idea of utility that sacrifices a thousand real advantages for one imaginary or trifling inconvenience; that would take fire from men because it burns, and water because one may drown in it; that has no remedy for evils, except destruction. The laws that forbid the carrying of arms are laws of such a nature. They disarm those only who are neither inclined nor determined to commit crimes. . . . Such laws make things worse for the assaulted and better for the assailants; they serve rather to encourage than to prevent homicides, for an unarmed man may be attacked with greater confidence than an armed man.

2. **Guns are a critical means for deterring crime because they create uncertainty in the mind of criminals— empirical data prove**

   David Kopel, Counsel, Independence Institute, Brief of the International Law Enforcement Educators and Trainers Association (ILEETA) et al., Amici Curiae brief in “Otis McDonald et al. v. City of Chicago,” Supreme Court Case n. 08-1521, 1—10, www.americanbar.org/content/dam/aba/publishing/preview/publiced_preview_briefs_pdf..09_10_08_1521_PetitionerAmCu11LawEnforceCivilRightsandPublicPolicyOrgs.authcheckdam.pdf, accessed 10-8-17.

   Since burglars do not know which homes have a gun, people who do not own guns enjoy free-rider benefits because of the deterrent effect from the homes that do keep arms. ☐ In a National Institute of Justice study, many criminals reported that they personally were deterred from committing a crime because of the risk that the victim might be armed. Large majorities of incarcerated felons agree that armed victims are a substantial crime deterrent. Natural experiments confirm that armed citizens deter crime. In Orlando, Florida, rapes and burglaries fell abruptly and dramatically after the police instituted a program to train women in handgun use. In Kennesaw, Georgia, home burglaries plunged after the city enacted a highly publicized ordinance mandating home gun ownership. ☐ Thirteen studies show that defensive gun use (DGU) is frequent in the United States. Studies range from 760,000 to 2.5 million DGUs annually, with the most thorough, highly-controlled research supporting the higher figures. In contrast, the National Crime Victimization Survey (NCVS), which does not directly ask about DGUs, indicates about 95,000 annually. The National Opinion Research Center’s analysis of all the research results in an estimate of between 256,500 and 1,210,000 annually. ☐ Data refute the notion that armed self-defense makes the victim worse off, or frequently results in a criminal taking a victim’s gun. In an amicus brief below, the Chicago Board of Education (CBE) ignored this data, and wrote: “[E]ven among highly trained police officers, 16% of officer homicides occur with the officers’ own service weapons.” However, unlike home defenders, most police officers wear their handguns every working day on unconcealed belt holsters. Thus, guns are sometimes snatched from inattentive officers. For police officers and for civilians, guns are virtually never taken from a defender who is aware of a threat and is holding the gun in his or her hands.
UBC Undesirable: Citizen Self-Defense—Right to Bear Arms Key [cont’d]

3. The right to defense of the self is inalienable from the ability to meaningfully arm oneself

The Heller majority’s final words were: “[I]t is not the role of this Court to pronounce the Second Amendment extinct.” Having saved the Second Amendment from that fate, it is equally true that it is not the role of this Court to deem Second Amendment rights less worthy of incorporation than other rights of the people enumerated in the Bill of Rights. Accurately considered the “true palladium of liberty,” the people’s right to keep and bear arms should be incorporated into the Due Process Clause of the Fourteenth Amendment, and rightfully take its place alongside all the other fundamental rights that the right to arms secures. The people’s right to arms is inextricably tied to the equally fundamental right to defend oneself – to fight to save one’s own life. The former is often indispensable to effectuate the latter. Heller noted that founding-era legal scholars considered these rights inseparable. In fact, an original justice of this Court, Justice Wilson, described the right to use deadly force to repel a homicidal attacker as “the great natural law of self-preservation which, as we have seen, cannot be repealed or superseded, or suspended by any human institution.” While the question of incorporation was not squarely before this Court in Heller, this Court nonetheless effectively made the case for incorporation there. Finding an individual right to arms in the first place requires the same inquiry needed to test for incorporation of that right. Heller informs, if not resolves, the issue of incorporation by reaffirming that armed self-defense is an “inherent,” “natural,” “fundamental,” “right.” And further, the “inherent right of self-defense has been central to the Second Amendment right” to keep and bear arms. It is difficult to read Heller without acknowledging, whether by hearty agreement or begrudging concession, that the right to keep and bear arms must be incorporated, under any test. The Court’s landmark decision in Heller concluded that the Second Amendment’s right to arms is “deeply rooted in this Nation’s history and tradition,” is “fundamental to the American scheme of justice,” and is “necessary to an Anglo-American regime of ordered liberty.” Those are the tests for incorporation.

4. A right to keep and bear arms emanates from a natural and inalienable right to safety

The text is paramount in constitutional interpretation, and properly interpreting the text requires reading it with an eye toward what it meant by common understanding at the time of its enactment. This Court confirmed in District of Columbia v. Heller that constitutional “words and phrases were used in their normal and ordinary as distinguished from technical meaning.” 554 U.S. ___, 128 S. Ct. 2783, 2788 (2008) (quotation omitted). The plain meaning of the Constitution’s text should also guide the Court in this case. The right to keep and bear arms, like many rights, was not granted by the Constitution; it codified and protected a “pre-existing right.” at 2797. It is preexisting not merely because the English Bill of Rights codified it, but because it is derived from the natural, inalienable right of self-defense given by Almighty God. This natural right was recognized as early as ancient Israel, in the Roman Republic, and at the founding of the United States Constitution. The Founders knew that the Second Amendment was protecting a right of the people derived not from mere men or manuscripts, but from the law of nature and of nature’s God. The Fourteenth Amendment prevents states from abridging “the privileges or immunities of citizens of the United States.” U.S. Const. amend. XIV. This Court affirmed in Heller that “the right of the people to keep and bear arms” was an individual right, one that “belongs to all Americans,” a “class of persons who are part of a national community.” at 2791 (quotations omitted). Given the deeply-rooted importance of the Second Amendment right to American history, independence, and liberty, U.S. citizens should be able to assert this privilege and immunity against such abridgement seen in the Chicago and Oak Park, Illinois, handgun bans.
5. There is no tenable separation between the right to self-defense and the right to arms—they are coterminous

C.D. Michel, Glenn S. McRoberts, and Hillary J. Green, Counsel, Brief of Thirty-Four California District Attorneys et al., Amici Curiae in “Otis McDonald et al. v. City of Chicago,” Supreme Court Case n. 08-1521, 1—10, www.americanbar.org/content/dam/aba/publishing/preview/publiced_preview_briefs_pdfsd_09_10_08_1521_PetitionerAmCuThirty_FourCaliforniaDistrictAttorneys.authcheckdam.pdf, accessed 10-8-17.

As A Matter Of Common Sense, The Right To Self-Defense Implies The Right To Arms The court in NRA v. Chicago tried unsuccessfully to distinguish the right to arms from the right to self-defense. NRA v. Chicago, 567 F.3d at 859-860 (suggesting “pepper spray” might suffice). The right to self-defense without access to the tools essential for self-defense is no right at all. The Heller decision left no doubt on this point. To reiterate, the “inherent right of self-defense has been central to the Second Amendment right” to keep and bear arms, Heller, 128 S.Ct. at 2817. And, while self-defense had little to do with the codification of the right to arms, “it was the central component of the right itself.” With respect to spray cans and similar products, studies show these half-measures are simply ineffective against anyone sufficiently inebriated, under narcotic influence or just very angry. In other words, as a practical matter, sprays are ineffective to defend against exactly the people from whom victims need defense. A “right” to self-defense without a correlative right to firearms is no right at all. That is why modern philosophers overwhelmingly conclude that a right of self-defense entails a right to possess a gun. The Founders were of a similar mind. The Founders Understood That The Right To Self-Defense Included The Right To Arms The Founders inherited the view that self-defense is the first right—and embraces the right to arms—from the philosophers they knew, especially Locke34 and Hobbes. The Founders did not entertain any theoretical distinction between the right of self-defense and the right to possess arms for self-defense. An original justice of this Court, law professor James Wilson, was a member of the Continental Congress and the principal draftsman of the Pennsylvania Constitution. Wilson explained the right to use deadly force to repel a homicidal attacker: [I]t is the great natural law of self-preservation which, as we have seen, cannot be repealed or superseded, or suspended by any human institution. This law, however, is expressly recognized in the Constitution of Pennsylvania: “The right of the citizens to bear arms in defence of themselves shall not be questioned.” Modern philosophy and the Founders agree: any academic distinction between the right of self-defense and the right to possess arms for self-defense is a distinction without a difference.

6. The right to firearms is an inherent and inalienable entailment of a universal right to self-defense


From this God-given natural right of “resistance and self-preservation,” as Blackstone called it, is derived the people’s right of “having arms for their defense.” Richard Henry Lee, a signer of the Declaration, wrote, “To preserve liberty, it is essential that the whole body of the people always possess arms, and be taught alike, especially when young, how to use them.” And not just civil liberty: Zechariah Johnston, a Virginia legislator and Constitutional Ratification Convention, declared that the right to bear arms is “a principle which secures religious liberty most firmly.” Mason argued that “disarm[ing] the people [is] the best and most effectual way to enslave them.” Given the importance of this right, he wondered aloud, “Why should we not provide against the danger . . . ?” Less than two years before the ratification of the Second Amendment, President George Washington told Congress: “A free people ought . . . to be armed.” Justice Joseph Story wrote in his Commentaries on the Constitution about the “importance” of the Second Amendment “as the palladium of the liberties of a republic since it offers a strong moral check against the usurpation and arbitrary power of rulers.” Since this Court’s Heller decision did much to elucidate the importance of the right to keep and bear arms to America’s historic concept of personal and civil liberty and security, Amicus need not further belabor that point. But what Heller called a “natural” and “pre-existing” right had those attributes precisely because it did not spontaneously generate out of positive law or “musty parchments”; the right to keep and bear arms is rather an inalienable gift from “the hand of divinity itself,” the Creator God.
UBC Undesirable: Citizen Self-Defense—Answers to “Accidents”

- Accidents in cases of defensive firearm use are rare

Clayton E. Cramer, history instructor, College of Western Idaho and David Burnett, Director, Public Relations, Students for Concealed Carry, TOUGH TARGETS: WHEN CRIMINALS FACE ARMED RESISTANCE FROM CITIZENS, Cato Institute, 2012, p. 18. Gun control proponents often claim that the average citizen is not sufficiently trained to use a gun defensively—that the risk is very high that a homeowner will, say, shoot his teenager who stayed out beyond his curfew and is sneaking into the home late in the evening. Or the homeowner will accidentally shoot himself. Gun accidents do occur, but they are among the most overstated of risks. There were 535 accidental firearms deaths in 2006—every one unfortunate, but in a nation of almost 300 million people, that is not a particularly startling rate. Yet in spite of the widespread concern about accidents involving defensive gun uses by “untrained civilians,” there are far fewer of these incidents making the newspapers than supposed. The authors did not actively look for gun accident stories. As a result, no claim is advanced here that these results are typical, although if defensive gun uses resulted in a high rate of gun accidents, one would expect searches to find such news stories as well. Only five accidental shootings appear in the database. One story describes a Shreveport, Louisiana, man who fought off a carjacking “by two black males wearing all black clothing and black bandanas over their faces.” The carjackers drew a revolver on him, and then demanded his car. Although he did thwart the carjacking attempt, the defender also accidentally shot himself in the leg.
UBC Undesirable: Citizen Self-Defense—Answers to “Easily Disarmed”

1. Criminals are actually much more likely to be disarmed

Clayton E. Cramer, history instructor, College of Western Idaho and David Burnett, Director, Public Relations, Students for Concealed Carry, TOUGH TARGETS: WHEN CRIMINALS FACE ARMED RESISTANCE FROM CITIZENS, Cato Institute, 2012, p. 14.

For a very long time, gun control proponents would insist that having a gun was a mistake, because many people (especially women) would not be willing to shoot a person who was attacking them—and the criminal would then take away the victim’s gun and use it on the victim. Oddly enough, while the authors have recorded a large number of incidents where someone has their gun taken away from them, it is usually the other way around. In 227 incidents, a criminal’s gun was taken away from him by the victim. This does not necessarily mean that the victim shot the criminal, but it does mean that the victim successfully disarmed the criminal and then threatened the criminal with it in order to make him leave, or make him remain on the scene until the police could arrive. Often, these were situations where the victim, at the start of the attack, did not have a gun. On May 14, 2010, police arrested Major Lee Barnes, 19. Barnes is alleged to have first solicited an act of prostitution from a woman, and when she declined, he threatened her with a handgun, ordering her to, as the newspaper described it, “get on her knees and perform a sex act on him.” Barnes apparently put the handgun back in his pocket, “put his arms back in an apparent relaxed gesture,” at which point the victim grabbed the handgun, and shot him.

2. The criminals are much more likely to be disarmed than the reverse

Clayton E. Cramer, history instructor, College of Western Idaho and David Burnett, Director, Public Relations, Students for Concealed Carry, TOUGH TARGETS: WHEN CRIMINALS FACE ARMED RESISTANCE FROM CITIZENS, Cato Institute, 2012, p. 14.

There may be a fine line between stupidity and courage, and trying to disarm a criminal when you do not have a gun could present more risks than simply complying with a robber’s demands—but it is startling how often this works out well for the victim, considering how often the opposite situation is claimed to exist. By comparison, the data set contains only 11 stories out of 4,699 where a criminal took a gun away from a defender; the reverse, as we have seen, was reported more than 20 times more often. Again, these are situations where a defender may not have been shot. Of course, even if a defender loses control of the gun, it does not mean that the criminal “wins” the engagement. Here is a reasonably positive outcome, nonetheless. On January 16, 2008, a Pittsburgh, Pennsylvania man confronted two home invaders. They took his rifle from him—but the homeowner then drew his handgun, shooting one of the robbers. The other robber fled with the rifle.
UBC Undesirable: Citizen Self-Defense—Answers to “FBI Data”

- The FBI under-reports defensive uses of firearms

Clayton E. Cramer, history instructor, College of Western Idaho and David Burnett, Director, Public Relations, Students for Concealed Carry, TOUGH TARGETS: WHEN CRIMINALS FACE ARMED RESISTANCE FROM CITIZENS, Cato Institute, 2012, p. 5.

The FBI’s Uniform Crime Reports also significantly overstate murders and understate defensive gun uses. If the police investigate a homicide and ask the district attorney to charge someone with murder or manslaughter, that is reported as a murder or manslaughter to the Uniform Crime Reports program. But district attorneys will often investigate a case in the weeks afterward, find evidence that the killing was justifiable or excusable homicide, and drop the case entirely. Further, some of those charges are found to be justifiable or excusable homicide by judges and juries during a trial. This is very often the case in spousal abuse situations where a woman defends herself or her children from an estranged husband. A killing initially charged as a murder or non-negligent homicide that is later reclassified as a justifiable or excusable homicide, will not be moved in the Uniform Crime Reports data from the homicide column to the justifiable homicide column. How do we find out how many such cases exist? In 1989, Time magazine published an article called “Death by Gun.” It included photographs and information about every person killed by a gun in one week in the United States: May 1–7, 1989. There were 464 gun deaths reported in the article. Of these, 216 were suicides, 14 were initially reported as non-law enforcement defensive homicides, 13 were police justifiable homicides, and 22 accidents. That left 199 murders and manslaughters. The Time article, like the FBI’s data collection, showed the number of defensive gun uses that resulted in a death based on initial reports. A year later, Time followed up on the murder cases, to see how the courts handled them. Instead of 14 self-defense or “justifiable” homicides, there were now 28. This was because 14 of the “crimes” reported in “Death by Gun” were now found to be justifiable homicides. At least 43 murder cases had still not gone to trial, and it was possible that some of those would be found “justifiable.” Clearly, the FBI’s justifiable homicide data is not particularly meaningful for understanding defensive gun uses that result in death—and is useless for understanding the vastly larger number of defensive gun uses that do not result in death. Just as clearly, a better data set is needed.
UBC Undesirable: Citizen Self-Defense—Answers to “Founders Did Not Anticipate”

1. The right to self-defense through arms is a living right—an individual right to keep arms has been strongly and consistently enshrined by Congress

James Edward Olson, Professor, Law, Hamline University and David T. Hardy, Counsel, Academics for the Second Amendment, Amici Curiae brief in “Otis McDonald et al. v. City of Chicago,” Supreme Court Case n. 08-1521, 1—10, www.americanbar.org/content/dam/aba/publishing/preview/publiced_preview_briefs_pdfs_09_10_08_1521_PetitionerAmCuAcademicsfor2ndAmendment.authcheckdam.pdf, accessed 10-8-17.

Congress Has Repeatedly Recognized an Individual Right to Arms Congressional action followed a similar pattern. In the 1866 Freedmen’s Bureau Act, the 39th Congress recognized and protected against racial discrimination “the constitutional right to arms.” It was the only Bill of Rights liberty singled out for specific mention in the statute. In 1982 the Senate Judiciary Committee issued a lengthy report on the right to arms, concluding that it was an individual one. This may in turn explain why, when Congress reformed the Federal gun laws four years later, it cited the “rights of citizens” to keep and bear arms. Most recently, in 2005 Congress made a detailed finding that: (1) The Second Amendment to the United States Constitution provides that the right of the people to keep and bear arms shall not be infringed. (2) The Second Amendment to the United States Constitution protects the rights of individuals, including those who are not members of a militia or engaged in military service or training, to keep and bear arms. Among the purposes of the 2005 legislation, Congress listed (3) To guarantee a citizen’s rights, privileges, and immunities, as applied to the States, under the Fourteenth Amendment to the United States Constitution, pursuant to section 5 of that Amendment. The individual right to arms is, in short, very much a living right. The people of the United States believed that they had such a right in 1789; they believed this even more clearly in 1866; in 2009 they overwhelmingly believe that they hold it. Over the last century, they have consistently voted to adopt individual-oriented State guarantees, or to make existing guarantees more clearly individual. Their representatives in Congress have repeatedly evidenced an identical understanding of the right.

2. Even if the original Second Amendment was mostly envisioned as a means to build militias, it has organically evolved into an individual right to keep and bear arms

James Edward Olson, Professor, Law, Hamline University and David T. Hardy, Counsel, Academics for the Second Amendment, Amici Curiae brief in “Otis McDonald et al. v. City of Chicago,” Supreme Court Case n. 08-1521, 1—10, www.americanbar.org/content/dam/aba/publishing/preview/publiced_preview_briefs_pdfs_09_10_08_1521_PetitionerAmCuAcademicsfor2ndAmendment.authcheckdam.pdf, accessed 10-8-17.

In 1789 the American right to arms was individual, but it can be argued that much of the motivation for its adoption related to preserving the infrastructure for a mandatory, enrolled militia that could protect the States against the Federal government, and substitute for a dangerous standing army. By 1866, all this had changed. The universal militia as the primary source of enrollees for mandatory military service had long been discarded, with no harm to our liberties. The regular army had saved, rather than overthrown, the Republic. In the North, even voluntary militias had vanished; in the South, the organized militias were oppressors rather than protectors. In 1789, “a well-regulated militia [is] necessary to a free state” was a truism; in 1866 it was a phrase of minor historic importance. Between those dates, the individual aspect of the right to arms simply overwhelmed any other understanding of the right, prevailing among commentators, both political parties, this Court, the lower courts, and the Congress. The persecution of abolitionists and the refusal of the authorities to protect them made the individual right to arms for self-defense a tenet of that movement as it expanded from a small minority to a great majority of Americans. The actions of the postwar southern militias in disarming freedmen and Unionists brought this individualist understanding into sharp focus, and Congress showed its understanding of the right to arms by disbanning those militias but not disarming individual members in order to protect the right to arms. The 1866 Framers of the Fourteenth Amendment, and the Americans who ratified their recommendation, implemented the right to arms as it was understood in their day, which involved a purely personal right – the right to shoot a violent, unlawful intruder as he came through the door – a right to do so even if the intruder in question served the State. The Fourteenth Amendment was intended to, and does, enforce that Second Amendment right against the states and also against the Federal government.
3. Constitutional founders believed that arms were an essential component of the right of self-defense

Don B. Kates and Marc James Ayers, Counsel, Brief of Professors of Philosophy, Criminology, Law and Other Fields, Amici Curiae brief in “Otis McDonald et al. v. City of Chicago,” Supreme Court Case n. 08-1521, 1—10, www.americanbar.org/content/dam/aba/publishing/preview/publiced_preview_briefs_pdfs_09_10_08_1521_PetitionerAmCuProfessorsofPhilosophy.authcheckdam.pdf, accessed 10-8-17.

Indeed, to the founders, the right to be armed was an integral part of the right to self-defense, as is illustrated in a 1790 lecture by an original member of this court, justice James Wilson. Justice Wilson was a law professor, member of the constitutional convention, and the primary author of the Pennsylvania constitution. He explained the right to use deadly force to repel a homicidal attacker as a natural, inalienable right: (i)t is the great natural law of self-preservation which, as we have seen, cannot be repealed or superseded, or suspended by any human institution. This law, however, is expressly recognized in the constitution of Pennsylvania, “the right of the citizens to bear arms in defense of themselves shall not be questioned.” This view was held beyond the time of the founders and has continued into the present. Indeed, in Heller this court cited various 19th century American writings equating the right to arms and the right to self-defense from which it was derived. And the dominant view among modern philosophers that have seriously addressed the issue is that the right of self-defense implies a right to possess firearms. Given their background in natural-rights philosophy, the understanding that the second amendment guarantees a right to possess the means of self-defense was universal among its authors, their contemporaries and later commentators down to the twentieth century. Only when gun control became a political issue in the twentieth century did anyone suggest that the second amendment did not guarantee law abiding, responsible adults a right to arms for the defense of self, home and family.

4. Self-defense is not an abstraction—it demands practical and effective tools that can wield lethal force

Don B. Kates and Marc James Ayers, Counsel, Brief of Professors of Philosophy, Criminology, Law and Other Fields, Amici Curiae brief in “Otis McDonald et al. v. City of Chicago,” Supreme Court Case n. 08-1521, 1—10, www.americanbar.org/content/dam/aba/publishing/preview/publiced_preview_briefs_pdfs_09_10_08_1521_PetitionerAmCuProfessorsofPhilosophy.authcheckdam.pdf, accessed 10-8-17.

As this court correctly indicated in district of Columbia v. Heller, 128 s. Ct. 2783 (2008), the second amendment is related to, and derives from, the natural right of self-defense. Indeed, the founders viewed self-defense as not merely a fundamental right but as one of the most central of the fundamental rights. They and the philosophers they followed believed that man consented to join in society in order to better preserve his life. And from that notion flowed their belief that society could never abolish the right to defend life. To religiously-oriented thinkers like Samuel Adams, self-defense was as much a duty as a right. Colonial preachers reasoned that god gives men life and, accordingly, to fail to defend life was to denigrate god’s gift and to frustrate his plan. So man’s duty was always to defend life as best he could. Thus, men had both right and duty of self-defense, but no right to voluntarily desist from it, thereby sacrificing life. To the founders, the right of self-defense was not a linguistic triviality. Instead, it was a right to effective—in other words, armed—self-defense. This kind of effective self-defense, rather than being a mere abstraction, is what truly equalizes (at the very least) victim and attacker—for example, a 110-pound woman and her 200-pound male attacker, or one victim against many attackers.

5. An individual right to arms is the clear custom that has organically evolved in American common law

James Edward Olson, Professor, Law, Hamline University and David T. Hardy, Counsel, Academics for the Second Amendment, Amici Curiae brief in “Otis McDonald et al. v. City of Chicago,” Supreme Court Case n. 08-1521, 1—10, www.americanbar.org/content/dam/aba/publishing/preview/publiced_preview_briefs_pdfs_09_10_08_1521_PetitionerAmCuAcademicsfor2ndAmendment.authcheckdam.pdf, accessed 10-8-17.

Like most other Bill of Rights freedoms, the right to arms has flourished in American minds over the past century. The great majority of Americans believe that their right to arms is an individual one; it is hardly surprising that this belief is reflected in their making of laws and crafting of constitutions. A. Americans Have Continued to Adopt, at the State Level, Increasingly Clear Guarantees of an Individual Right to Arms Over the last century, the people of the United States have increasingly adopted individual rights guarantees, or made existing guarantees more clearly individualistic. In no State did the people vote to weaken their guarantee, or make it less individual and more militia-related. The most concise formats guaranteed a citizen the right to arms “in defense of himself or the State” (Arizona’s original 1912 constitution), or referred to the right “of the individual citizen” (Illinois’ new 1970 provision) or “of each citizen” (Louisiana’s 1974 amendment). These measures expressed an individual right with minimum use of words. From there, the formulations grew more detailed and even more specifically individual. Oklahoma (1907) and Missouri (1945) guaranteed a person’s right to arms “in defense of his home, person, or property,” while New Hampshire (1982) chose the plural form: “themselves, their families, their property, and the State....”
1. **Law enforcement is insufficient to deter and prevent violent crime**

Maureen Martin and Nancy Lee Carlson, Counsel, Heartland Institute, Amici Curiae brief in “Otis McDonald et al. v. City of Chicago,” Supreme Court Case n. 08-1521, 1—10, https://www.americanbar.org/content/dam/aba/publishing/preview/publiced_preview_briefs_pdfs_09_10_08_1521_PetitionerAmCuHeartlandInst.authcheckdam.pdf, accessed 10-8-17. That is why McDonald agreed to get involved in the Chicago case. [T]he police can’t do it alone. There are too many guns in here and they’re coming in here too fast. They [the police] need the community to have the right to a handgun in their own home. I believe to my heart that will help the police out, [protecting people] from home robbery, burglary. I will not be pinned down in my house without anything to defend myself, while they walk the streets. I will not be victimized by the law that tells me I cannot have a handgun in my own home, when I know there’s a right that’s out there that’s given to me. The people out there on the streets don’t have the right to have a gun out there on the streets. But we law-abiding citizens – senior citizens, I may stress – have the constitutional right under the Second Amendment. It will make the residents, old people like myself, feel a little more secure. Chicago Police Department crime statistics, set out and discussed below, demonstrate that Mc-Donald’s apprehensions, and those of his neighbors, are well-founded.

2. **Asking law enforcement to be the only ones with self-defense weapons is inappropriate because police have no specific duty to ensure the personal security of every individual**

Maureen Martin and Nancy Lee Carlson, Counsel, Heartland Institute, Amici Curiae brief in “Otis McDonald et al. v. City of Chicago,” Supreme Court Case n. 08-1521, 1—10, https://www.americanbar.org/content/dam/aba/publishing/preview/publiced_preview_briefs_pdfs_09_10_08_1521_PetitionerAmCuHeartlandInst.authcheckdam.pdf, accessed 10-8-17. The Police Have No Legal or Constitutional Duty to Protect Citizens from Crime. Under well-established Illinois law, the police have no legal duty to protect individual citizens. In Schaffrath, the court stated: duty to protect individual citizens from criminal acts. Their responsibility is to the general public. The duty of the police to preserve the well-being of the community is owed to the public at large rather than to specific members of the community. This rule rests upon public policy considerations that a police department’s negligence, oversights, blunders or omissions are not the proximate or legal cause of harms committed by others. A general duty would put the police in the position of guaranteeing the personal safety of every member of the community. Nor do police have any federal constitutional duty to protect particular individual citizens: Consistent with these principles, our cases have recognized that the Due Process Clauses generally confer no affirmative right to governmental aid, even where such aid may be necessary to secure life, liberty, or property interests of which the government itself may not deprive the individual.

3. **Response times are simply too long for police to be an effective means of guaranteeing individual protection against violent crime**

David Kopel, Counsel, Independence Institute, Brief of the International Law Enforcement Educators and Trainers Association (ILEETA) et al., Amici Curiae brief in “Otis McDonald et al. v. City of Chicago,” Supreme Court Case n. 08-1521, 1—10, www.americanbar.org/content/dam/aba/publishing/preview/publiced_preview_briefs_pdfs_09_10_08_1521_PetitionerAmCu11LawEnforceCivilRightsandPublicPolicyOrgs.authcheckdam.pdf, accessed 10-8-17. Chicagoans cannot rely on 911 America’s police work hard to rescue crime victims. But the police often cannot arrive in time to protect the victims and interrupt the crimes. The problem is acute in Chicago, where some Chicago neighborhoods have long periods when no police are available for 911 emergencies. For example, “Gussie Townsend, a 75-year-old schoolteacher . . . arrived home during a burglary in progress. Townsend said she did not see a police car for two hours, six minutes.” When seconds count, Chicago rescuers are minutes away. The mean time for ambulance arrival for Chicago 911 calls for cardiac arrest is 6 minutes. The range was 1 to 22 minutes. The situation is little different in many other American jurisdictions. Even if 911 responses were instant, a criminal in control of a crime scene will not permit his victim to call the police; meanwhile, neighbors may be unaware of the crime in progress. In contrast, when the victim of a home invasion has a handgun, she can prevent the criminal from gaining control, and use her free hand to dial 911.
4. **Firearms are the only weapon that gives victims of violent crime a reliable chance to stop an attacker**

Don B. Kates and Marc James Ayers, Counsel, Brief of Professors of Philosophy, Criminology, Law and Other Fields, Amici Curiae brief in “Otis McDonald et al. v. City of Chicago,” Supreme Court Case n. 08-1521, 1—10, www.americanbar.org/content/dam/aba/publishing/preview/publiced_preview_briefs_pdfs_09_10_08_1521_PetitionerAmCuProfessors ofPhilosophy.authcheckdam.pdf, accessed 10-8-17.

Firearms uniquely give a victim a reliable, realistic advantage over an attacker. Firearms are unique among weapons; only firearms allow weaker people to most easily and effectively resist predation by stronger ones. As one evaluation puts it: reliable, durable, and easy to operate, modern firearms are the most effective means of self-defense ever devised. They require minimal maintenance and, unlike knives and other weapons, do not depend on an individual’s physical strength for their effectiveness. Only a gun can allow a 110 pound woman to defend herself against a 200 pound man. The available empirical evidence establishes that: (1) America’s “firearms are used over half a million times in a typical year against home invasion burglars; usually the burglar flees as soon as he finds out that the victim is armed, and no shot is ever fired”; (2) annually, 3-6 times as many victims use handguns to defend against criminals as criminals use handguns to commit crimes—so guns do up to six times more good than harm; and (3) “(r)esistance with a gun appears to be most effective in preventing serious injury (to victims, and) ... For preventing property loss....”
UBC Undesirable: Citizen Self-Defense—Answers to “Only Drug Dealers”

- Claims that many ‘defensive’ uses are by drug dealers are simply implausible

Clayton E. Cramer, history instructor, College of Western Idaho and David Burnett, Director, Public Relations, Students for Concealed Carry, TOUGH TARGETS: WHEN CRIMINALS FACE ARMED RESISTANCE FROM CITIZENS, Cato Institute, 2012, p. 15. A commonly held view among skeptics of defensive gun uses is that many—perhaps most—involve criminals defending themselves from other criminals, such as drug dealers who are stealing from rival dealers. Without question, there are stories that fit that description—or where you can read between the lines and get that impression. In February 2008 Washington residents Marcus Bradford, Khiry Jackson, and Lawrence Adams went to steal drugs and money from Luis Acevedo. Acevedo shot Bradford to death. While Acevedo was still facing charges, it was not for shooting Bradford—but for the drugs that Bradford and his associates were there to steal. Still, such stories seem to be sufficiently rare that the data set does not have a separate category for drug dealers defending themselves. A search for the string “drug dealer” in the database found only nine news stories. It is entirely possible that police responding to shootings involving known drug dealers are less inclined to give such individuals the benefit of the doubt on questionable shootings—but still, the overwhelming majority of defensive gun use stories involve ordinary and decent people defending themselves against criminals.
1. **Background checks increase crime and do not keep guns out of the hands of criminals**


President Obama ignores what happens to those who suddenly feel threatened. A gun really can make a huge difference in being able to defend against assailants. Indeed, my own research suggests these delays from the background check system likely increase violent crime, even if ever so slightly. Perhaps not too surprisingly, rape appears to be the crime most sensitive to these delays. Furthermore, there is no real scientific evidence among criminologists and economists that background checks actually reduce crime. In fact, a 2004 National Academy of Sciences panel concluded that the Brady background checks didn’t reduce any type of violent crime. Nor have other later studies found a beneficial effect. The number of criminals stopped by the checks is also quite small. In 2010, there were over 76,000 initial denials, but only 44 of those were deemed worthy for prosecution and only 13 individuals were convicted. Even those 13 cases don’t tend to be the “dangerous” criminals Obama claims are being stopped.

2. **Universal background checks will only undermine public safety**

David B. Kopel, Research Director, Independent Institute and Associate Policy Analyst, Cato Institute, “The Costs and Consequences of Gun Control,” POLICY ANALYSIS n. 784, Cato Institute, 12—1—15, p. 17.

It would be inaccurate to claim that the entire reason that crime has declined in recent decades is because Americans have so many more guns, but it would be accurate to say that having more guns is not associated with more crime. If anything, just the opposite is true. Policies that seek to stigmatize or criminalize gun ownership per se (such as a universal background check law that criminalizes loaning a gun to one’s sister, as discussed above) have little to do with public safety, except to undermine it.

3. **There is no evidence that background checks decrease gun violence**


Some think that background checks are the answer. Indeed, after each mass public shooting, President Barack Obama calls for background checks on the selling of guns through private transfers. But these new rules wouldn’t have stopped the attackers. Since at least 2000, all of America’s mass shooters obtained guns without going through private transfers. Some of the attacks occurred in states that already have these background check laws. As I show in my book The War on Guns, there is no evidence that expanded background checks reduce rates of violent crime including mass public shootings, suicide, murder of police officers or domestic violence against women. (Gun-control groups contest this claim, but they compare states with and without background checks, not states before and after background checks are imposed.)
UBC Undesirable: Criminals Avoid / Evade

1. Criminals will just get around background-check required sources

Danielle Kurtzleben, journalist, “Research Suggests Gun Background Checks Work, But They're Not Everything,” NPR, 1—9—16, www.npr.org/2016/01/09/462252799/research-suggests-gun-background-checks-work-but-theyre-not-everything, accessed 10-2-17. According to the figures cited by Kessler, 7 percent of guns were obtained from gun shows (and many of those sales probably underwent background checks). But data suggests that gun shows don't directly supply many of the guns used in crimes. Spokespeople from the National Rifle Association and National Shooting Sports Foundation, a trade group for gun sellers, both also pointed NPR to government data showing that less than 1 percent of prison inmates in 1997 said they got their guns from gun shows. Meanwhile, nearly 80 percent obtained their guns from friends, family or "street" (illegal) sources. All of this very well may mean that, as gun-rights advocates like Florida Republican Sen. Marco Rubio often point out, criminals will simply obtain guns through some avenue other than stores. That would mean that background checks don't deter those people, and, therefore, that expanding them to more online or private or gun show sales would do little.

2. Criminals selling guns to each other will not follow any background check requirements

David B. Kopel, Research Director, Independent Institute and Associate Policy Analyst, Cato Institute, “The Costs and Consequences of Gun Control,” POLICY ANALYSIS n. 784, Cato Institute, 12—1—15, p. 5. As a practical matter, criminals who are selling guns to each other (which is illegal and subject to severe mandatory sentencing) are not going to comply with a background-check mandate. It would be irrelevant to them. Ordinary law-abiding citizens who sell guns to each other might be willing to take the gun to a firearm store for a voluntary check, provided that the check is not subject to a special fee, that there is no registration, and that the check is convenient and expeditious. The new ATF regulations for private-party sales comply with two of those three conditions; however, the regulations do require that dealers keep permanent records on the buyer and one of the make, model, and serial number of the gun, just as if the dealer were selling a firearm out of his own inventory. The dealer-based system of registration, created by the Gun Control Act of 1968, avoids the dangers of a central registry of guns, but it does have risks: a government that wanted to confiscate guns could simply harvest the dealer sales records.

3. Criminals rarely obtain guns via legal channels—surveys prove

Cato Institute, “22. Restoring the Right to Keep and Bear Arms,” CATO HANDBOOK FOR POLICYMAKERS, 8th Ed., 2017, www.cato.org/cato-handbook-policymakers/cato-handbook-policy-makers-8th-edition-2017/restoring-right-keep-bear, accessed 10-4-17. Surveys of criminals have long indicated that their guns are rarely obtained through legal avenues. Instead, the black market is the overwhelming source for guns used in crimes. That makes sense: criminals are unlikely to submit to a background check process, which they are likely to fail. Therefore, most criminals acquire guns in unlawful ways. Most important, if new laws are enacted that prohibit certain types of sales without background checks, criminals will adjust and find new methods for obtaining guns.

4. Background checks will only rarely keep guns away from criminals

Cato Institute, “22. Restoring the Right to Keep and Bear Arms,” CATO HANDBOOK FOR POLICYMAKERS, 8th Ed., 2017, www.cato.org/cato-handbook-policymakers/cato-handbook-policy-makers-8th-edition-2017/restoring-right-keep-bear, accessed 10-4-17. Nevertheless, it is also overreachingly to say that background checks will never help keep guns away from any criminal. There will always be marginal criminals who are weakly motivated to acquire a gun. But the effectiveness of expanding background checks depends upon a truly rare combination of conditions: (1) a law-abiding seller who does not wish to sell to a criminal; (2) a seller who fears getting caught if he doesn’t perform the required background check; (3) a buyer who is prohibited from acquiring a gun; (4) a buyer who is willing to submit accurate information about himself to a background check; and (5) a buyer who cannot acquire the gun elsewhere. Such a confluence of conditions might occasionally exist, but any rare benefit would be outweighed by false positives, which deny legitimate purchasers their Second Amendment rights.
5. **Criminals do not obtain their firearms from legitimate sources**


3. Universal background checks. Surveys indicate that less than 2 percent of guns used by criminals are bought at gun shows — and that includes sales through licensed dealers who are already subject to background checks. Meanwhile, violence-prone buyers who fail those checks can purchase weapons illegally, or steal them. In a recent year, the National Instant Criminal Background Check System denied 76,000 would-be buyers. Of those, 44 were prosecuted and 13 were convicted. That’s a conviction rate of two one-hundredths of 1 percent. Either the remaining denials were legitimate purchases that were unjustly blocked, or, if the denials were proper, then 99.98 percent of the 76,000 rejected applicants escaped punishment. Neither conclusion offers much hope for an expanded system of checks.

6. **Federally-licensed dealers are not a major source of firearms used in crimes**


We find that only a small percentage of crime guns were directly obtained new from a Federal Firearms License (FFL) dealer in a documented sale. This pattern holds true for crime guns confiscated from gang members as well as non-gang members. One challenge with estimating this percentage from administrative data sources is matching individually-identifying information in the ATF crime-gun trace data to CPD arrest records and other data sources, given the presence of data entry errors and missing data. We use probabilistic match techniques and estimate that 11% of adults acquired their crime guns new from a FFL dealer in a documented sale. This estimate is quite close to a comparable estimate (11.4%) based on the most recent national survey of adult prisoners, which was conducted in 2004.

7. **Strongly motivated individuals will evade background check requirements**


Universal background checking is often cited as the number one example of “sensible gun control.” In principle, it makes no sense to require people who purchase firearms from a licensed gun dealer to pass a background check, but not require background checks of persons who purchase firearms from unlicensed sellers. If background checking is an important strategy for keeping firearms out the hands of dangerous and unreliable people, it should apply to all purchasers, indeed to all transferees, regardless of who sells or otherwise transfers the firearm. However, extending back-ground checking to all firearm transfers faces significant implementation and enforcement obstacles. Just as the Brady Law is easily circumvented by firearms-prohibited individuals obtaining a gun by means of a straw purchaser or directly in the secondary market or black market, firearms-prohibited individuals can easily avoid the SAFE Act's universal background checking requirements by obtaining a gun from a family member, straw purchaser, black market dealer or private gun seller willing (perhaps for a premium) to ignore the background checking law. It is hard to believe that a firearms disqualified person who wants to acquire a firearm will have difficulty obtaining one. New York statistics on firearm crimes and suicides before and after passage of the SAFE Act support this conclusion.
8. **Criminals can obtain firearms from lots of other venues**


Federal law requires all firearm dealers to be licensed and to initiate a background check before transferring a firearm to a non-dealer, regardless of where the transfer takes place. Background checks for firearms have been conducted through the National Instant Criminal Background Check System (NICS) since November 1998. However, background checks don’t stop criminals from stealing firearms, getting them on the black market, or getting them from straw purchasers. According to the Department of Justice (DOJ), 77 percent of criminals in state prison for firearm crimes get firearms through theft, on the black market, from a drug dealer or “on the street,” or from family members and friends, while less than one percent get firearms from dealers or non-dealers at gun shows. A study by the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) of armed career criminals showed that while 79 percent had acquired their firearms from “off the street” sales, “criminal acts,” and relatives, only six percent had acquired firearms from dealers or non-dealers at gun shows and flea markets. According to the DOJ, “about 1.4 million guns, or an annual average of 232,400, were stolen during burglaries and other property crimes in the six-year period from 2005 through 2010.” The FBI’s stolen firearm file contained over two million reports as of March 1995. ATF has said, “Those that steal firearms commit violent crimes with stolen guns, transfer stolen firearms to others who commit crimes, and create an unregulated secondary market for firearms, including a market for those who are prohibited by law from possessing a gun.” Even gun control supporters have said, “approximately 500,000 guns are stolen each year from private citizens. . . . Obviously, these stolen guns go directly into the hands of criminals.” A study conducted by gun control supporters found that in 1994, “[a]bout 211,000 handguns and 382,000 long guns were stolen in noncommercial thefts that year, for a total of 593,000 stolen firearms.” ATF has reported, “[t]he most frequent type of trafficking channel identified in ATF investigations is straw purchasing from federally licensed firearms dealers. Nearly 50 percent . . . .” Criminals defeat the background check system by getting guns through straw purchasers. The terrorists who attacked in San Bernardino, California, in December 2015, used firearms they acquired through an alleged straw purchaser.

9. **Prisoner surveys show that most criminals obtain firearms through illegal channels**

David B. Kopel, Adjunct Professor, Advanced Constitutional Law, Denver University, Research Director, Independence Institute, and Associate Policy Analyst, Cato Institute, “Background Checks for Firearm Sales and Loans: Law, History, and Policy,” HARVARD JOURNAL ON LEGISLATION v. 53, Winter 2016, p. 311-312.

President Obama is among the many gun control advocates who have asserted that forty percent of firearms sales have no background check. However, the study on which this claim is based was conducted before NICS became operational. The Washington Post has given the modern use of this claim “Three Pinocchios” for being misleading. Surveys of prisoners have long indicated that firearms retailers are a minor source of criminals’ guns. A larger source of guns is personal theft by criminals themselves. But by far the largest source of criminal guns is purchases from the criminal’s acquaintances. As the black market has long supplied criminals with cocaine, heroin, methamphetamine, and other illegal drugs, it also supplies them with firearms. It is likely that a significant number of those firearms have previously been stolen by someone else; many other firearms might have been legally acquired at some point, but their sellers did not care that they were selling to criminals.
UBC Undesirable: Database Concerns

1. The NICS does virtually nothing to keep guns from criminals


The Brady Campaign's recent report that the National Instant Criminal Background Check System (NICS) has “stopped more than 2.1 million would-be gun purchases” sure sounds impressive – only it isn’t true. The fact is the vast majority of the 2.1 million people flagged by NICS are either legitimate purchasers who are snagged by mistake, or criminals who are then turned loose to obtain firearms elsewhere, rather than being prosecuted to the fullest extent of the law. For example, in 2010, only 62 out of 72,659 NICS denials led to prosecutions by the federal government – and only 13 of those prosecutions resulted in a conviction. That’s .0001 percent. According to Vice-President Joe Biden, the reason for the Obama administration’s near-total lack of enforcement is that “we simply don’t have the time or the manpower to prosecute everybody who lies on a form, that checks a wrong box, that answers a question inaccurately.” If that’s the case, then what’s the point of the check? Does the administration think a determined criminal will give up a life of crime after a NICS denial?

2. The NICS system is highly unreliable


The truth is, the databases the government uses to determine eligibility for gun purchases are rife with errors. This is the same problem experienced with the “No Fly” list. Remember the five times that the late Sen. Ted Kennedy was “initially denied” flights because his name was on the anti-terror “no fly” list? His name was just too similar to someone that we really did want to keep from flying. By Obama’s method of counting, that means the “no fly” list stopped five flights by terrorists. For gun purchases, the Bureau of Alcohol, Tobacco, Firearms and Explosives dropped over 94 percent of “initial denials” after just the first preliminary review. The annual National Instant Criminal Background Check System report explains that these cases were dropped either because the additional information showed that the wrong people had been stopped or because the covered offenses were so many decades old that the government decided not to prosecute. At least a fifth of the remaining 6 percent were still false positives. All these denials mean delays for many law-abiding gun buyers. Although this is merely an inconvenience for most, initial denials cause dangerous delays for people who suddenly, legitimately need a gun for self-defense, such as a woman being stalked by an ex-boyfriend or spouse. Beyond the crashes in the computers doing the checks and the initial denials, another 6 percent of checks fail to be completed within two hours, with most delays winding up taking three days.

3. Bureaucratic errors limit the utility of background checks—the Dylann Roof case proves

David B. Kopel, Research Director, Independent Institute and Associate Policy Analyst, Cato Institute, “The Costs and Consequences of Gun Control,” POLICY ANALYSIS n. 784, Cato Institute, 12—1—15. p. 2.

Dylann Roof, the racist who attacked the churchgoers in Charleston, had previously been arrested, and he had admitted to law enforcement officers that he was a user of methamphetamine. That was sufficient, under the federal Gun Control Act of 1968, to prohibit him from owning guns, because the statute bans gun ownership by illegal drug users. However, as the FBI later admitted, the bureau failed to properly enter into its database the prohibiting information that had been provided by local law enforcement. This incident points to a key limitation to the background-check concept: bureaucratic errors. In 2013, the FBI conducted more than 21 million background checks for firearm purchases. Given the massive scale of the system, there are always going to be errors as those records get misplaced or neglected.
UBC Undesirable: Database Concerns [cont’d]

4. Background checks are highly problematic—gaps in the databases

Keene did say he favored background checks to block people who may be mentally ill or potentially violent from buying guns. But federal law already requires that, Nichols said. One problem with the systems is that many states don't report the names of people who've been legally labeled dangerously mentally ill. Improving the accuracy and availability of information about these people, Keene said, is one possible area for agreement. He suggested "tightening up on putting information in the database. It's school security. It's beefing up the way we deal with the mentally ill.” Nichols said "huge gaps” exist in the database, which is called the National Instant Criminal Background Check System, or NICS. For example, the Virginia Tech shooter, who killed 33 people and himself in 2007, had passed two background checks because Virginia didn't submit his mentally ill status to the database, Nichols said. "As a result of that shooting, the federal government passed a law encouraging these states to submit these records, and a large number of states passed laws. So there's been significant improvement in reporting dangerously mentally ill persons to NICS," Nichols said. "But there are still about half of the states that report hardly any dangerously mentally ill people. They may not have the resources or the political will to enforce the law. Yeah, it's crazy."
UBC Undesirable: Fail

1. Background checks will not decrease gun crime


Background checks are not “the most important thing we can do.” Michael Bloomberg’s gun control group says, “The single most important thing we can do to reduce gun violence is to require a criminal background check for every gun sale.” The statement is preposterous. Since 1991, when the nation’s violent crime rate hit an all-time high, violent crime has been cut by more than half, as gun control has been eliminated or ameliorated at the federal, state, and local levels. Most experts attribute the decrease in crime to economic factors, improved policing programs, the reduction in the crack cocaine trade, increased incarceration rates, and other factors unrelated to gun control. The FBI doesn’t include gun ownership or gun control in its list of crime factors.

2. Gun control does not decrease violence—huge study proves


In 2004, the National Academy of Sciences reviewed 253 journal articles, 99 books and 43 government publications evaluating 80 gun-control measures. Researchers could not identify a single regulation that reduced violent crime, suicide or accidents. A year earlier, the Centers for Disease Control reported on ammunition bans, restrictions on acquisition, waiting periods, registration, licensing, child access prevention and zero tolerance laws. CDC’s conclusion: There was no conclusive evidence that the laws reduced gun violence. So much for the quasi-religious faith that more controls mean fewer murders. There are about 500,000 gun-related crimes annually in the United States. Further, Americans own roughly 250 million guns. Assuming a different gun is used in each of the 500,000 crimes, only 0.2% of guns are involved in crime each year. A ban on firearms would be 99.8% over-inclusive.

3. Gun control does not lower levels of violence—examples like Japan or the UK are red herrings


But mild controls don't always stay mild; more often, they evolve into strict limits on guns, bordering on outright prohibition. And this isn't just slippery-slope speculation; a century ago most countries had few gun controls, yet today many have virtual bans on private ownership. Some of these countries (the U.K. and Japan) have low violence rates that might seem to justify strict controls, yet others experience substantial or extreme violence (Brazil and Mexico). More broadly, comparisons between states and countries --as well as social-science research — provide no consistent support for the claim that gun controls lower violence. Strict controls and prohibition, moreover, don't eliminate guns any more than drug prohibition stops drug trafficking and use. Prohibition might deter some potential gun owners, but mainly those who would own and use guns responsibly.
UBC Undesirable: Firearm Access—Poor People

- Background checks will decrease the access that low-income people have to firearms


The delays have other consequences. States that have applied background checks to sales by private individuals have seen around a 20 percent drop in the number of gun shows, eliminating for many poorer people a relatively inexpensive source of buying guns. For gun shows, which usually only last two days, even a three-day delay means that no sale will be made. The fees in the Senate bill on those getting background checks on gun transfers are not trivial, ranging from $35 to $50 in most states and rising as high as $125 in the District of Columbia. This effective tax will price poor blacks -- the people most likely to be victims of violent crime -- out of being able to buy a gun for self-defense. Americans might also not be ready for a national registry. Expanded background checks might intuitively seem to make sense. But how laws work in theory is often different from how they work in the real world. Unless the databases somehow are dramatically improved, expanded background checks are likely to do more harm than good.
- Universal background checks risk a backdoor to a federal firearms registry—threaten our Second Amendment rights


Congress should return to the drawing board with its so-called "universal background check" effort because the reported legislation goes far beyond the concept of simply clearing a law-abiding citizen for the purchase of a firearm and delves into de facto gun registration and possibly criminalizing the simple act of loaning a gun to a friend. Gun rights advocates are properly alarmed about a provision in the current measure to require record keeping on private transactions or transfers. While the Citizens Committee for the Right to Keep and Bear Arms is not opposed to instant background checks, the proposed record keeping mandate crosses the line. Under current federal law, background check information is destroyed after 24 hours, and that is the way it should be. In addition to the Second Amendment right to keep and bear arms, gun owners also have a Fourth Amendment right to privacy. Any measure that would establish a permanent record of their firearms transactions is unacceptable. When the government creates a database, they use it, and not always for good purpose. If someone owns one or a dozen guns, to use and carry responsibly, it's nobody's business and certainly not the government's business. Pushing legislation with backdoor gun registration hiding in the small print does nothing to encourage serious discussion with gun rights advocates or organizations. Millions of law-abiding citizens who have committed no crime, but only wish to exercise a constitutionally-protected civil right, should not be treated like criminals or played for fools. Legislation that leaves gun owners vulnerable to privacy invasion by a snoopy government is unwarranted and unnecessary. After all, this is still the United States, not a police state.
1. Universal background checks will only work if we also create a firearms registry


Further, Greg Ridgeway, acting director of the National Institute of Justice, acknowledged in a 2013 memorandum that requiring background checks for gun sales by non-FFLs would be unenforceable without universal gun registration. Such a gun registry would be contrary to the Firearm Owners’ Protection Act and other provisions of federal law. The prohibitions on federal gun registration exist because Congress recognized that registration sets the stage for confiscation. For example, New York City’s registration is currently being used to confiscate rifles and shotguns that hold more than five rounds of ammunition. Universal background check proposals at the federal and state level are Trojan horses that criminalize ordinary activities having nothing to do with firearms sales. At minimum, any proposed federal bill should be heavily scrutinized to ensure that it doesn’t produce the absurd consequences of state universal background check laws. In Washington State — which has enacted one version — the normal, everyday practices of gun owners, safety instructors, hunters, and even museums have been turned into felonies. Even harmless firearms transfers, such as giving a rifle to a friend at a backyard shooting range, are prohibited without first processing the transfer through an FFL. That is because the state of Washington defines a “transfer” as “the intended delivery of a firearm to another person without consideration of payment or promise of payment including, but not limited to, gifts and loans.” The Washington law applies not only to permanent but also to temporary and even momentary transfers. Or imagine that the owner of a farm has invited a friend over for some target shooting on the man’s farm. He wishes to lend a rifle to his friend for the afternoon. Under Washington’s universal background check law, the owner and the friend must first travel to a gun store. There, the FFL will process the loan as if he is selling a firearm out of his own inventory. Thus, state universal background check laws can require lenders to fill out federal paperwork consisting of dozens of questions (including offensive and irrelevant ones, such as the friend’s race and whether the friend is Hispanic). A knowingly false answer is a federal crime punishable by up to five years in prison. Filling out the form in a manner not approved by the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) (such as writing one’s state of residence as “Wash.” rather than “WA”) will get the store in trouble with the ATF. So store clerks understandably spend a lot of time making sure that customers fill out the paperwork correctly. Of course the store charges a fee for the service, since all the time spent processing the loan is time not spent selling the store’s own firearms. On top of the store’s fee, the state government may collect its own fee for conducting the background check. Even worse, a few hours later, after the farmer and his friend are finished with an afternoon of target shooting, they must return to the gun store. The whole process must be repeated, with a new round of paperwork and fees. This time, the store will process the return of the loaned gun to its owner as if the owner were buying a new gun from the store’s inventory. Imposing this process on firearms loans is pointless and bureaucratic. It also makes firearms loans impossible except during hours when there is a nearby gun store that is open and is willing to process the transaction. Many stores refuse to do so, since they want their employees to spend time on selling their own inventory, rather than on risking liability for paperwork errors involving other people’s guns.

2. Universal background checks would enable a federal firearms registry


Since December 2012, gun control supporters have “demanded” background checks on all private transfers of all firearms, regardless of location. And in 2013, Rep. Barbara Lee (D-Calif.) introduced legislation to eliminate the requirement that the FBI destroy the records of approved NICS checks within 24 hours. Also in 2013, the Department of Justice said that background checks on all firearm transfers “depends on . . . requiring gun registration.” NICS would become a registry of firearm transfers if all firearms transfers were subject to NICS checks and the FBI retained records of approved checks indefinitely, both of which gun control supporters have proposed, and such records included information currently maintained on federal Form 4473, documenting the identity of the firearm purchaser and the make, model and serial number of the firearm transferred. Over time, as people sell or bequeath their firearms, a registry of firearm transfers would become a registry of firearms possessed.
UBC Undesirable: International Comparisons Prove

- International evidence proves that restrictions do not decrease lethality


Before I started researching gun deaths, gun-control policy used to frustrate me. I wished the National Rifle Association would stop blocking common-sense gun-control reforms such as banning assault weapons, restricting silencers, shrinking magazine sizes and all the other measures that could make guns less deadly. Then, my colleagues and I at FiveThirtyEight spent three months analyzing all 33,000 lives ended by guns each year in the United States, and I wound up frustrated in a whole new way. We looked at what interventions might have saved those people, and the case for the policies I’d lobbied for crumbled when I examined the evidence. The best ideas left standing were narrowly tailored interventions to protect subtypes of potential victims, not broad attempts to limit the lethality of guns. I researched the strictly tightened gun laws in Britain and Australia and concluded that they didn’t prove much about what America’s policy should be. Neither nation experienced drops in mass shootings or other gun-related crime that could be attributed to their buybacks and bans. Mass shootings were too rare in Australia for their absence after the buyback program to be clear evidence of progress. And in both Australia and Britain, the gun restrictions had an ambiguous effect on other gun-related crimes or deaths. When I looked at the other oft-praised policies, I found out that no gun owner walks into the store to buy an “assault weapon.” It’s an invented classification that includes any semi-automatic that has two or more features, such as a bayonet mount, a rocket-propelled grenade-launcher mount, a folding stock or a pistol grip. But guns are modular, and any hobbyist can easily add these features at home, just as if they were snapping together Legos.
UBC Undesirable: Multiwarrant / General

1. Universal background checks are undesirable—multiple reasons

Chris Good, journalist, “The Case Against Gun Background Checks,” ABC NEWS, 4—10—13, http://abcnnews.go.com/blogs/politics/2013/04/the-case-against-gun-background-checks/, accessed 10-1-17. Some Republicans have balked at universal background checks. The National Rifle Association opposes them. Why? Here are a few arguments that have been offered up against the most popular move Congress could make on gun control. Underpinning most of the arguments is a similar idea, usually from conservatives: that universal background checks aren’t worth an expansion of government power. Few prosecutions of denied gun buyers. Created under the Brady Handgun Violence Prevention Act of 1993 and implemented in 1998, the National Instant Criminal Background Check System allows licensed gun sellers to check with the FBI, as required by law, before making a sale. While background checks have prevented tens of thousands of unlawful gun sales each year, opponents have said that the government doesn’t prosecute enough attempted buyers who are turned away. "The law right now is a failure the way it’s working,” National Rifle Association Executive Vice President Wayne LaPierre has said. According to Justice Department statistics supplied by the office of Sen. John Cornyn, out of more than 76,000 denials in 2010, 62 were referred for prosecution, and 13 resulted in guilty pleas or verdicts. Cornyn and LaPierre argued this point at a February hearing of the Senate Judiciary Committee on guns. There are already enough gun laws. At the same hearing in February, NRA’s LaPierre argued that more robust prosecution of criminals for gun crimes would be more effective than instituting universal background checks. "The fact is, we could dramatically cut crime in this country with guns and save lives all over this country if we would start enforcing the 9,000 federal laws we have on the books,” LaPierre said. They're an invasion of privacy. As opponents of gun control warn about privacy issues, background checks are tangled up with another proposal, that records of gun sales must be kept. In a March 22 letter to Senate Majority Leader Harry Reid, six GOP senators, led by Rand Paul of Kentucky and Mike Lee of Utah, warned that they would oppose any measures that involved "government surveillance." While it's not entirely clear what policy those senators had in mind, the American Civil Liberties Union has raised concerns about both records and background checks. "You just worry that you're going to see searches of the databases and an expansion for purposes that were not intended when the information was collected," Chris Calabrese, an ACLU privacy lobbyist, told The Daily Caller last week. Meanwhile, Sen. Chuck Schumer, D-N.Y., has made it clear that a "national gun registry" is illegal and won't be part of any Democratic gun bill. They might be too broad. Another concern raised by the ACLU's Calabrese was that, if a "transfer" of guns is defined too broadly, people with good intentions could unwittingly become criminals. "You worry about, in essence, a criminal justice trap where a lawful gun owner who wants to obey the law inadvertently runs afoul of the criminal law. They don't want to transfer a gun or they don't think that's what they're doing, but under the law they can be defined as making a transfer," Calabrese told The Daily Caller. The Heritage Foundation has said it is wary of any bill that would ban loaning guns to friends at gun ranges or on hunting trips. Criminals don't submit to background checks. This argument sounds a bit tautological, but the NRA argues that most criminals don't get their guns from stores, but on a black market. "My problem with background checks is, you're never going to get criminals to go through universal background checks," the NRA’s LaPierre said at the February hearing of the Senate Judiciary Committee. "Gun shows … are not a source of crime guns, anyway. It's 1.7 percent." The Washington Post's fact-checker, Glenn Kessler, notes that this figure comes from Daniel Webster, director of the Johns Hopkins Center for Gun Policy and Research, who cites a 2004 survey of incarcerated gun-violence convicts about where they got their guns, in his new book "Reducing Gun Violence in America." A Johns Hopkins spokeswoman said the figure is probably higher, as some "friends and family members" who give guns to criminals (40 percent of inmates surveyed said they obtained their guns this way) likely get them from gun shows in the first place. The Brady Center has argued that surveys of prisoners underestimate how many criminals get their guns from private sellers and gun shows, and the center has chronicled cases in which criminals bought guns from private sellers and used them to kill people.

2. Universal background checks are a bad idea for many reasons

David B. Kopel, Research Director, Independent Institute and Associate Policy Analyst, Cato Institute, “The Costs and Consequences of Gun Control,” POLICY ANALYSIS n. 784, Cato Institute, 12—1—15, p. 1. In politicizing mass murders, gun control advocates, such as President Obama, insist that more laws against firearms can enhance public safety. Over and over again, there are calls for common sense gun controls, such as a system of universal background checks, a ban on high-capacity magazines, and a ban on assault weapons. And yet such proposals are not likely to stop a deranged person bent on murder. Although universal background checks may sound appealing, the private sale of guns between strangers is a small percentage of overall gun sales. Worse, the background check bills are written so broadly that they would turn most gun owners into criminals for innocent acts—such as letting one’s sister borrow a gun for an afternoon of target shooting.
3. It is too late for gun restrictions to be effective


It seems obvious: Restrict gun access, and people will be safer. But theory and practice don't always match. Too often, gun bans or background checks don't stop criminals and instead disarm law-abiding citizens, particularly poor minorities. This only makes life easier for criminals. There are already 300 million guns in circulation, and more than 12 million enter the market each year. With 3-D metal printers, more people will be able to make weapons that are indistinguishable from those purchased in stores. It would be almost impossible to remove those weapons from circulation. Getting rid of these weapons would require a door-to-door campaign by law enforcement officials, and even that would be of only limited effectiveness. It's also not clear that it would help. When countries like England, Wales, Ireland and Jamaica banned guns and handguns, they saw a subsequent increase in murder rates. Even these island nations, which have relatively easily monitored and defendable borders, have faced fivefold or sixfold increases in murder rates after guns were banned. Some of the biggest spikes in murder rates corresponded with increases in drug gang violence.
**UBC Undesirable: Private Sale Rights**

- **Truly universal checks would effectively eliminate private sales**


  That does not mean it is a good idea, however. Here are some questions to keep in mind if, as the Times predicts, "universal background checks” get a warmer reception from Congress than Dianne Feinstein's latest hodgepodge of "military characteristics": 1. How universal?

  After the 1999 massacre at Columbine High School, Colorado voters approved a ballot measure that requires everyone who buys firearms at a gun show to undergo a federal background check. If the seller is not a licensed gun dealer, he has to get someone who is to run the check. According to the Coalition to Stop Gun Violence, five other states (California, Illinois, New York, Oregon, and Rhode Island) have similar rules, while an additional three states (Connecticut, Maryland, and Pennsylvania) require background checks at gun shows only for handguns. (There are also seven states—Hawaii, Iowa, Massachusetts, Michigan, New Jersey, North Carolina, and Nebraska—that require handgun buyers to obtain permits, a process that involves a background check.) Now Colorado Gov. John Hickenlooper wants to go further, requiring background checks for private sales that do not occur at gun shows, which are said to account for 40 percent of gun purchases in his state. That policy seems tantamount to banning private sales, since a licensed dealer with access to the National Instant Check System would have to be involved in every transaction. And if Hickenlooper is serious about making the requirement universal, simply giving your guns to someone—a father passing his hunting rifle to his son, for instance—also would have to be criminalized.
1. **Gun control only encourages overpolicing, which threatens the civil rights of minorities**

Alex Gourevitch, Assistant Professor, Political Science, Brown University, “Gun Control’s Racist Reality: The Liberal Argument Against Giving Police More Power,” SALON, 6—24—15,

www.salon.com/2015/06/24/gun_controls_racist_reality_the_liberal_argument_against_giving_police_more_power/, accessed 10-4-17. It is perhaps counterintuitive to say so but gun control responses to mass killings – whether racially motivated or otherwise – are a deep mistake. The standard form of gun control means writing more criminal laws, creating new crimes, and therefore creating more criminals or more reasons for police to suspect people of crimes. More than that, it means creating yet more pretexts for a militarized police, full of racial and class prejudice, to overpolice. As multiple police killings of unarmed black men have reminded us, the police already operate with barely constrained force in poor, minority neighborhoods. From SWAT to stop-and-frisk to mass incarceration to parole monitoring, the police manage a panoply of programs that subject these populations to multiple layers of coercion and control. As a consequence, more than 7 million Americans are subject to some form of correctional control, an extremely disproportionate number of whom are poor and minority. While it is commonly assumed that the drug war is to blame for all this, work by scholars like Benjamin Levin and Jeff Fagan demonstrates that already existing gun control efforts also play an important role. One of the most notorious areas of policing, the NYPD’s stop-and-frisk program, was justified as a gun control rather than a drug war measure. In the name of preventing violence, hundreds of thousands of poor minorities are subject to searches without probable cause each year. Further, a range of Supreme Court-authorized exceptions to standard Fourth Amendment protections against illegal search and seizure derive from a concern with gun violence. This invasiveness is a necessary feature of criminalized gun possession. After all, policing guns is just like policing drugs. Like drugs, there are a vast number of guns. Possession is far more widespread than can possibly be policed so decisions have to be made about where to devote resources. Furthermore, since possession itself is the crime, the only way to police that crime is to shift from actual harm to identifying and preventing risks. As legal scholar Benjamin Levin argues in a forthcoming piece “Searching for guns – like searching for drugs – can easily become pretextual, a proxy for some general prediction of risk, danger, or lawlessness.”

2. **Guns laws will not be enforced fairly—they will be used to control black and poor people**

Alex Gourevitch, Assistant Professor, Political Science, Brown University, “Gun Control’s Racist Reality: The Liberal Argument Against Giving Police More Power,” SALON, 6—24—15,

www.salon.com/2015/06/24/gun_controls_racist_reality_the_liberal_argument_against_giving_police_more_power/, accessed 10-4-17. There is an unrecognized gap between the justification for gun control and its most likely effect. There is no reason to expect fair enforcement of gun control laws, or even that they will mainly be used to someone prevent these massacres. That is because how our society polices depends not on the laws themselves but on how the police - and prosecutors and courts - decide to enforce the law. Especially given how many guns there are in the U.S., gun law enforcement will be selective. That is to say, they will be unfairly enforced, only deepening the injustices daily committed against poor minorities in the name of law and order. It is hard to imagine any feasible gun control laws doing much to decrease mass shootings. But it is easy to see how they will become part of the system of social control of mostly black, mostly poor people. There are already too many crimes, there is too much criminal law, and there is far too much incarceration – especially of black people. To the degree that all that is part of the "dark chapter in our history," given the deep injustice of our society, and especially its policing practices, the actual practice of gun control will continue that dark chapter, not resolve it. Of course, a reasonable gun control regime is logically possible. We can imagine one in our heads. But it is not politically possible in the United States right now. And it is a great error to think that gun control is the path to racial justice. More likely, it is the other way around. Racial justice is a precondition for any reasonable gun control regime. That, perhaps, is why the demands that have emerged from the #blacklivesmatter movement focus not on gun control but instead on demilitarizing the police and investing in “jobs, housing, and schools” for those “black communities most devastated by poverty.” What happened in Charleston is a horrific tragedy. The criminal law will not solve it. I wish I had a better solution ready at hand. I don't, though I think it would start by freeing our political imagination from instinctively reaching for the criminal law.
UBC Undesirable: Racial Disparities—General [cont’d]

1. **Gun laws are enforced selectively**

   Alex Gourevitch, Assistant Professor, Political Science, Brown University, “Gun Control’s Racist Reality: The Liberal Argument Against Giving Police More Power,” SALON, 6—24—15,
   www.salon.com/2015/06/24/gun_controls_racist_reality_the_liberal_argument_against_giving_police_more_power/, accessed 10-4-17.
   In other words, there must be selective enforcement, where enforcement includes invasive searches based on existing prejudices about who is and isn’t dangerous. For example, as research by Jeff Fagan and Garth Davies shows, in the late 1990s, the NYPD used suspected weapons violations to justify numerous stops, even though these stops resulted in fewer arrests than stops for other crimes. And when it comes to individualized assessments of who is dangerous and worthy of punishment, every study shows steep, and unfounded, bias.

   Michelle Alexander, quotes a former U.S. attorney in her recent sensation, "The New Jim Crow," saying the following: “I had an [assistant U.S. attorney who] wanted to drop the gun charge against the defendant [in a case which] there were no extenuating circumstances. I asked, ‘Why do you want to drop the gun offense?’ And he said, ‘He’s a rural guy and grew up on a farm. The gun he had with him was a rifle. He’s a good ol’ boy, and all good ol’ boys have rifles, and it’s not like he was a gun-toting drug dealer.’ But he was a gun-toting drug dealer, exactly.” This isn’t just a point about conscious and unconscious biases towards poor minorities – biases that some imagine can be removed with proper training. No matter how neutral the laws are, their enforcement must remain unequal and unfair. That is because the policing involved would never be tolerated if they affected politically influential groups to the same degree. These policing practices persist because they are disproportionately directed against marginal populations.

2. **Gun violations are used to enhance sentences for other crimes—they fuel a deeply unjust system**

   Alex Gourevitch, Assistant Professor, Political Science, Brown University, “Gun Control’s Racist Reality: The Liberal Argument Against Giving Police More Power,” SALON, 6—24—15,
   www.salon.com/2015/06/24/gun_controls_racist_reality_the_liberal_argument_against_giving_police_more_power/, accessed 10-4-17.
   Once individuals find themselves arrested gun control reappears as a reason for increasing punishment. Gun possession can be used to enhance sentences for other crimes and even functions as a kind of double punishment when that possession becomes the reason for also tacking on an extra criminal charge. Gun charges are also a part of the excessive and racially unequal over-charging practices that not only contribute to rising incarceration rates but also ends force numerous individuals away from trial and into plea bargains. Poor Blacks and Latinos are easily intimidated by charge-happy prosecutors into accepting plea deals, meaning they never see their day in court. Some even end up admitting to crimes they did not commit just to avoid the possibility of more severe punishments. More criminal gun laws would only feed this deeply unjust system.

3. **We simply cannot ask communities of color to trust law enforcement agencies—we should be wary of restricting citizen gun access**

   Sameer Rao, journalist, “Gun Control Advocates Cannot Win Without Fighting Their Own Racism,” COLORLINES, 10—4—17,
   Most gun control measures rely on law enforcement that people of color rightfully don’t trust. MC and political activist Michael “Killer Mike” Render once defended the Second Amendment by saying, “I represent a group of people who are being killed by the people who their tax money pays.” Mike certainly doesn’t represent all left-leaning Black activists, but his statement addresses something that too many gun control advocates ignore. While gun-toting White racists threaten communities of color with an unyielding frequency, one of the biggest daily threats—particularly for African and Native Americans—comes from law enforcement. That threat existed when early U.S. municipalities first created police departments to recapture the enslaved, and it continues today, when they are killed at disproportionately high rates. Most contemporary gun control legislation doesn’t stop police departments of all sizes from arming themselves to the teeth, greeting Black protesters with military-grade weapons and tactics, calling on the actual military to suppress pushback to their policing or appropriating activist chants while violently claiming public spaces for themselves. It does, however, allow these agencies explicit authority to enforce who can have what guns. Last year, it relied on terror watch lists that target people of color to determine that ownership. We cannot tell communities of color to trust law enforcement agencies—who don’t intervene when White supremacists fire into crowds or take racists to Burger King after arresting them for killing Black churchgoers—to protect them from mass shooters. They already have and exercise the means to kill people of color en masse.
UBC Undesirable: Racial Disparities—General [cont’d]

4. Gun control measures historically target people of color—they can only work if we first demilitarize police departments


Gun control measures did work—just not against White shooters. The NRA’s current pro-Second Amendment stance contrasts with its previous support for gun control measures. The group successfully lobbied for both California’s Mulford Act of 1967 and its federal successor, the Gun Control Act of 1968. So it’s clear that the NRA can understand why certain people shouldn’t access assault rifles, machine guns or other mass murder-primed arms. But to the NRA, “certain people” originally meant Black activists. The Mulford Act came barely two months after Black Panther Party members staged an open-carry demonstration at the California state capitol. The legislation repealed part of the state’s Penal Code 12031, which allowed people to carry loaded weapons—as the Panthers did while patrolling Black neighborhoods to ward off police abuse—as long as they were in the open. The Panthers still believed in guns, but without the law’s protection, other armed groups—like the Los Angeles Police Department—that had legal authority to shoot up Party headquarters. Repression like what the Panthers faced dates back to the antebellum period, when state laws prohibited people who were enslaved from even touching guns without a White supervisor. Free African Americans who owned guns risked seizure and violent punishment by White so-called “citizen patrols.” The end of the Civil War brought no relief as White supremacist governments enacted Black codes that effectively outlawed Black gun ownership. Founded in 1871, the NRA did not participate in these gun ownership debates for much of its early history. That changed in 1926, when NRA president Karl Fredrick responded to perceptions of gun violence in immigrant communities by drafting legislation to restrict concealed carry practices. The organization then embarked on a gun control mission that primarily impacted people of color (including immigrants from Southern and Eastern Europe, who had yet to be deemed “White”). Thirty years later, the NRA was silent when the state of Alabama denied Dr. Martin Luther King Jr. a concealed carry permit after his house was firebombed. Decades later, the NRA is true to form, saying nothing when Black legal gunowners like Philando Castile are shot dead by police. Instead, it chooses to demonize unarmed activists who are fighting for equity as the real threat. Gun control in America won’t work for all Americans unless advocates push to demilitarize police departments and advance measures that don’t disproportionately impact people of color. Gun control reform that does not go this route will end in laws that further empower police to seize weapons and use them against whomever they choose. History shows who they’ll target first.

5. Gun laws disproportionately burden the Black community


Looking ahead, we should not continue the old thinking of the past two centuries. Mass shootings and other gun crimes elicit strong emotions, but they should be tempered when trying to craft sound policy. Every gun death is a tragedy. Any loss of life wreaks havoc on families, friends, and communities. In hindsight, it is abundantly clear that Dylann Storm Roof should not have had a firearm. It is much less clear any law could have prevented him from using it to murder nine people in cold blood. Far too often, our gun laws and criminal laws—even when well intentioned—have disproportionately burdened the black community. As calls grow for more gun laws, let's not compound a tragedy by continuing the same mistakes of the past.
6. Gun ownership by Black people is on the rise


Nonetheless, African American gun ownership is on the rise today. "Throughout much of American history gun control was a method for keeping Blacks and Hispanics, 'in their place' for lack of a better expression," Tiffany Ware of the Brown Girls Project (BGP), an initiative that aims to encourage and inspire black women and teaches them to responsibly own and use firearms, told Al Jazeera. For many, the near-daily news of another black person killed by police has been motivation to exercise their Second Amendment rights. The Guardian newspaper's The Counted database found that African Americans, who make up around 12 percent of the country's population, constituted almost a quarter of the 1,092 killed by police in 2016. The US has experienced a noticeable increase in hate crimes in the months following the election of Donald Trump. Ware said that "increasingly blatant racism" in the US under the Trump administration is another motivating factor. "It's driven by fear and a need to protect those that we love," Ware said. With this in mind, BGP began hosting workshops on self-defence, gun ownership and laws for Black women. "We are the organisers of our families. We have to be prepared," Ware added. The complicated relationship between the African American community and gun control makes it difficult to imagine new controls, the BGP's Ware said. When asked what responsible limits would look like, she responded: "I really don't know. It seems to me that it's not the people who own firearms legally that are the problem." Ware said she isn't against new controls and being a gun owner doesn't form an important part of her identity. Motherhood, her community and career, among other aspects, come first. But systemic biases in the US must be dealt with, she said. Until then, she will continue carrying a weapon. "The system is rotten with bias towards people of colour … With the knowledge and power that I have with a gun on my hip, I am a protector."
1. **Gun control is used historically to oppress people of color—we should be very wary of efforts to further criminalize gun ownership**


But as politicians call for new gun laws in the wake of this racist attack, lawmakers ought to take a look at the origins and effectiveness of similar gun control measures that have passed, and their consequences—especially for black people. And in an era where blacks and other minorities continue to suffer from over-policing and disproportionately suffer the abuses of law enforcement, any new criminal laws should be carefully considered. Like many criminal laws, gun control legislation has disproportionately affected black people and contributed to sky-high rates of incarceration for minorities in the US. As Radley Balko wrote in the Washington Post last year:

> Although white people occasionally do become the victims of overly broad gun laws...the typical person arrested for gun crimes is more likely to have [black] complexion.... Last year, 47.3 percent of those convicted for federal gun crimes were black — a racial disparity larger than any other class of federal crimes, including drug crimes. In a 2011 report on mandatory minimum sentencing for gun crimes, the U.S. Sentencing Commission found that blacks were far more likely to be charged and convicted of federal gun crimes that carry mandatory minimum sentences. They were also more likely to be hit with “enhancement” penalties that added to their sentences. In fact, the racial discrepancy for mandatory minimums was even higher than the aforementioned disparity for federal gun crimes in general.

Balko’s piece goes on to detail the case of Shaneen Allen, a black woman and single mother who legally owned a firearm in Pennsylvania. She was arrested in New Jersey for having that weapon during a routine traffic stop in October 2013. She faced a three-year mandatory minimum sentence despite a clean record and having committed no other crime. Allen fortunately received a pardon from Governor Chris Christie as her case gained national attention. Another story that made headlines was that of Marissa Alexander, a black woman who was convicted and sentenced to a mandatory minimum 20 years in prison after firing what she claimed was a warning shot in self-defense against her estranged husband. After public agitation and much legal wrangling, Alexander was offered a plea bargain and was released from prison in January after serving three years. This evidence is anecdotal, to be sure, but strict gun laws with harsh penalties aimed at punishing violent criminals can also ensnare law-abiding people who make mistakes. That these laws often affect people of color is not at all new. The history of gun control in this country is long and has usually been directly or indirectly tied to race. After the Civil War, disarming freed slaves became a priority of white Southern state governments and roving bands of terrorists, like the Ku Klux Klan and other white supremacist organizations. In this environment, gun rights were viewed as an essential tool for freed slaves and other black Americans to take care of themselves and their families. In part to circumvent resistance from black Americans, Southern states created convict lease systems, not unlike old slave leasing systems, aimed at profiting off of captured black labor. As Nicholas Johnson describes in his book Negroes and the Gun: The Black Tradition of Arms, blacks who carried firearms to protect themselves were often pulled into this leasing system for violating concealed carry laws. As Johnson and other authors have noted, those laws, as well as vagrancy and other minor offenses, were almost exclusively enforced against blacks. In the years following Reconstruction, conflagrations like the coup d’etat of Wilmington, North Carolina, in 1898, the Tulsa race riots in 1921, and the Rosewood Massacre in 1923 peppered the South as outgunned blacks fell victim to white mob violence. As Johnson explains in his book, some blacks were able to fend off small attacks on themselves or their homes, but white mob violence—and Jim Crow—ultimately prevailed as the dominant and unchallenged power structure. Fast-forward to the Civil Rights Movement of the 1950s and 60s. Dr. Martin Luther King Jr. committed himself to peaceful civil disobedience and political non-violence. He also applied for a gun permit for personal protection given continuous threats to his safety. It was denied because the local police were not required to issue him one. Such discretion comes from "may issue" gun permit laws, still in effect in states like New York and New Jersey, which allow states or localities to determine whether or not an individual may carry a gun, even if that person meets all the legal requirements.

2. **Gun control has racially-tinged historic roots**


Gun control is again at the forefront of US public discourse following the mass shooting in Las Vegas on Sunday that left 59 people dead and more than 500 wounded. Stephen Paddock, 64, had stockpiled 23 firearms in his 32nd-floor room, many with legal "bump stocks" that served to convert the guns into fully automatic weapons. These upgrades allowed him to wreak havoc on the 22,000 concertgoers at the Route 91 Harvest country music festival for nine to 11 minutes. Clark County Sheriff Joseph Lombardo said on Tuesday. The mass shooting was the deadliest of its kind in the last seven decades. The calls for increased gun control have grown louder as the victims are mourned, even from the historically pro-gun country music community. But the country's history reveals a dark side to gun control. The implementation of stricter gun laws has always been marred by accusations of racism. In many cases, regulations were specifically introduced in response to people of colour exercising their Second Amendment right to bear arms.
3. **Gun control is about control, not decreasing violence—it has deeply racist origins**


The Supreme Court's rejection of Chicago's handgun ban in McDonald v. City of Chicago is more than a recognition that the Second Amendment applies to the states as well as the federal government. The McDonald decision is a harbinger for the end of gun prohibition as an idea. The simple, undeniable truth is that gun control does not work. McDonald brings the law up to speed with reality, where advocates of gun control have been wrong since the issue became a national discussion. Strict gun-control policies have failed to deliver on their essential promise: that denying law-abiding citizens access to the means of self-defense will somehow make them safer. This should come as no surprise, since gun control has always been about control, not guns. Racism created gun control in America. Confronted with the prospect of armed freedmen who could stand up for their rights, states across the South instituted gun-control regimes that took away the ability of blacks to defend themselves against the depravity of the Klan. Fast forward to the 1960s, when a century of institutionalized racism began to come to an end. While racism was no longer the driving force, social change, the drug trade, and the assassination of several national figures turned gun control into an article of faith among progressive politicians. They saw the elimination of guns as the only way to counter the rapid increase of crime in inner cities. Truly onerous gun control came to fruition only in a minority of jurisdictions, predominantly those run by Democrat machines. The District of Columbia enacted a registration requirement for all handguns in 1976, then closed the registry so that all guns not on the books could never be lawfully owned in the District. Chicago followed suit in 1983. With each failure of gun control, the rejoinder was to do it again, this time with f...
Universal background checks would strip millions of people of their Second Amendment rights and do little to curb mass shootings


2. How would the requirement be enforced? The Washington Post reports that the gun control task force headed by Vice President Joe Biden, which is expected to make its recommendations next week, "is seriously considering measures backed by key law enforcement leaders that would require universal background checks for firearm buyers [and] track the movement and sale of weapons through a national database." To make the background check requirement stick, you have to know where the guns are at any given time and when they change hands. So now we are talking about a national registry of gun owners, enabling the federal government to make sure everyone who obtains a firearm is allowed to have one. If he's not, presumably he can expect a not-so-friendly visit from federal agents, who might merely confiscate the gun but could also arrest him for violating the Gun Control Act of 1968, which is punishable by up to five years in prison. The Times reports that "some [Obama administration] officials would like to expand mandatory minimum sentences for gun law violations." 3. Do we want better enforcement? As I noted last month, the categories of people prohibited by federal law from buying or owning guns are absurdly broad, including the 40 million or so Americans (probably considerably more) who qualify as "unlawful user[s] of...any controlled substance" and anyone who has been convicted of a felony, whether or not it involved violence or even a victim. Universal background checks, combined with the improved data collection that also is widely perceived as an eminently sensible response to mass shootings, would unjustly strip millions of people of their Second Amendment rights and subject them to criminal penalties for actions that harm no one. 4. How is this supposed to prevent mass murder? Northeastern University criminologist James Alan Fox, an expert on mass shootings, notes that "most mass murderers do not have criminal records or a history of psychiatric hospitalization," so "they would not be disqualified from purchasing their weapons legally." And if they were, he adds, "mass killers could always find an alternative way of securing the needed weaponry, even if they had to steal from family members or friends."

The government needs a strong justification to curb Second Amendment Rights

Robert A. Levy, Chair, Cato Institute, “Our Core Second Amendment Rights,” CATO’S LETTER v. 11 n. 3, Summer 2013, p. 2. The right to bear arms, however, is not absolute. Like other provisions of the Bill of Rights, it’s subject to reasonable restrictions. Nevertheless, the Supreme Court declared in both Heller and McDonald that the right to bear arms is considered a “fundamental right.” What does that mean? It means individuals enjoy a presumption of liberty. Government bears a heavy burden to justify any regulations that would compromise our right to bear arms. That point was central to a ruling in December 2012 by the U.S. Court of Appeals in Moore v. Madigan, which overturned the Illinois ban on concealed-carry of firearms. The state, said the court, failed to meet its burden of proof.

Gun ownership is a fundamental right

Robert Levy, Chair, Cato Institute, “Gun Control: Grounds for Compromise?” CATO POLICY REPORT, September / October 2016, www.cato.org/policy-report/septemberoctober-2016/gun-control-grounds-compromise, accessed 10-3-17. Three constitutional principles underlie gun control: 1. The Supreme Court has held that individuals have a right to bear arms in common use for lawful purposes. 2. Second Amendment rights are not absolute. Everyone understands that children can’t carry automatic weapons to school. Some people, some weapons, and some circumstances are subject to regulation. 3. The right to bear arms is “fundamental,” which means that government bears a heavy burden to justify its regulation. Government must show (a) public safety requires the proposed restrictions, (b) they will work, and (c) they are no more extensive than necessary.
**UBC Undesirable: Second Amendment Rights—Extensions**

1. **Background checks are dangerous—they deny us our gun rights**


   The fact is, background checks are dangerous because: * They force law-abiding citizens to prove their innocence to the government before exercising a constitutionally protected right – something that we wouldn't tolerate with the First Amendment; * They require the names of gun owners to be sent to the FBI, thus creating the framework for a national registration system – a cause for concern when politicians like Democratic Governor Andrew Cuomo of New York and others have called for gun confiscation; and * They use a database through which government bureaucrats unduly denied more than 150,000 military veterans their constitutional rights, without any due process whatsoever, based on things such as PTSD. Proponents claim that background checks prevent thousands of people from buying guns every year. It's a lie. In 2010, only 13 people were incarcerated for illegally trying to purchase a gun – meaning that the thousands of people with initial denials weren't ultimately stopped from buying a gun on the street. It's also a lie that 40 percent of gun purchases are done through private sales; The Washington Post gave Obama “Three Pinocchios” for this claim. Finally, under Operation Fast & Furious, the Obama administration knowingly approved the sales of thousands of firearms to criminals. It is the height of hypocrisy for Obama to then tell Americans they will be safer with expanded background checks when the chief gun runner in America – Obama himself – was ultimately responsible for the program that directly led to hundreds of Mexican deaths.

2. **Background checks deprive many people of their constitutional rights**


   Meanwhile, other law-abiding citizens are left in a lurch. We see that with the National Instant Criminal Background Check System. Its proponents boast that the system has stopped 2.4 million “prohibited purchases.” But in 96 percent of these cases, the ban was dropped after the first two stages of review. People who have been mistakenly stopped from buying guns are forced into a costly appeals process that frequently requires them to hire lawyers. These “initial denials” affect certain racial groups more than others. Hispanics are more likely to share names with other Hispanics, and the same is true of blacks. Because 30 percent of black males are forbidden to buy guns because of their criminal records, law-abiding black males are especially likely to have their names confused with those of prohibited people. And these background checks are costly. In Washington, D.C., checks on private transfers add $125 to the cost of a gun. That fee can put guns out of reach for the most likely victims of violent crime: poor blacks living in high-crime, urban areas.
UBC Undesirable: Second Amendment Rights—Answers to “Only About Militias”

1. The right to maintain arms is not for the purposes of a militia—the right adapted and changed in the wake of the Civil War and reconstruction

James Edward Olson, Professor, Law, Hamline University and David T. Hardy, Counsel, Academics for the Second Amendment, Amici Curiae brief in “Otis McDonald et al. v. City of Chicago,” Supreme Court Case n. 08-1521, 1—10, www.americanbar.org/content/dam/aba/publishing/preview/publiced_preview_briefs_pdf_09_10_08_1521_PetitionerAmCuAcademics for2ndAmendment.authcheckdam.pdf, accessed 10-8-17.

Lincoln’s hope that his age would see a “new birth of freedom” took tangible form in the Civil War amendments. The nation and the Constitution as we know them today were not created in the events of 1776, nor those of 1787, but forged in the cataclysm of 1861-65. To interpret these events we must look initially to the intent of Congress in 1866 and to the understanding of the public in 1866-68. It is difficult to overstate the differences between Americans of 1789 and those of the late 1860s, differences that went far deeper than railroads and telegraphs. Americans of 1789 anticipated, and often feared, an untried national government, a new “Crown” that they were imposing on themselves; the victors of 1866 had experienced three generations under a federal system and a strong central government. The former saw regular troops as a menace to the Republic; the latter saw them as its saviors. The former looked to the several States as protection for individual rights against the national government; the latter to the national government for protection of individual rights against some States. Nowhere was this change more obvious than in the public understanding of the American right to arms. [B]etween 1775 and 1866 the poster boy of arms morphed from the Concord minuteman to the Carolina freedman. The Creation motto, in effect, was that if arms are outlawed only the central government would have arms. In Reconstruction a new vision was aborning: when guns are outlawed, only the Klan will have guns. Americans of 1789 saw their right to arms as linked to self-defense, and also to a universal militia system, the only safe defense of a free nation. By 1866 the universal militia as a source of soldiers had gone extinct, with no loss of liberty. Americans of that era saw the right to arms purely as an individual right: the right to shoot a Klansman at the front door, even if he was a militiaman.

2. Understanding the Fourteenth Amendment’s incorporation doctrine requires viewing the Bill of Rights through the lens of Reconstruction-era America.

James Edward Olson, Professor, Law, Hamline University and David T. Hardy, Counsel, Academics for the Second Amendment, Amici Curiae brief in “Otis McDonald et al. v. City of Chicago,” Supreme Court Case n. 08-1521, 1—10, www.americanbar.org/content/dam/aba/publishing/preview/publiced_preview_briefs_pdf_09_10_08_1521_PetitionerAmCuAcademics for2ndAmendment.authcheckdam.pdf, accessed 10-8-17.

The process whereby individual rights are protected against State action by the Fourteenth Amendment has come to be termed “incorporation.” Amici Academics for the Second Amendment will suggest that the term is misleading. “Incorporation” implies that the determination is whether the 1868 Amendment applies the intent or understanding of 1789 to the States. Instead, the proper approach involves examining the intent of the framers of the Fourteenth Amendment in 1866 and the understanding of the American people in 1866-68; these are the views that undergird the Amendment. One major difference between Americans of 1789 and 1866 lies in the latter’s expanded understanding of individual rights, an expansion largely driven by conflicts over abolitionism. Freedom of expression is one example. As late as 1804, American aspirations in this area involved immunity for publishing “truth, with good motives, for justifiable ends ...”. As late as 1833, JOSEPH STORY, 3 COMMENTARIES ON THE CONSTITUTION OF THE UNITED STATES 736-44 (1833), still argued that freedom of the press prevented only prior restraint – not a protection from punishment for “licentiousness.” Story quoted Blackstone that “A man may be allowed to keep poisons in his closet; but not publicly to vend them as cordials.” Then came the abolitionist authors and slavery’s response – which took the form of laws broadly penalizing (sometimes with death) distribution of abolitionist publications, demands to extradite authors from free States, interception of the mails, mob attack, and homicide. By 1866, the existing popular concept of freedom of expression largely paralleled the modern view as a right to publish political opinions without fear of punishment after the fact. The right to arms provides an even clearer example of this transition. In 1789, it was a two-pronged right that arose from the fundamental right of self-defense – defense against capital “T” tyrants and against small “t” thugs. The Second Amendment preserved the armed individual – both for his own sake and for the infrastructure of the universal militia from which enrolled units were formed. The universal militia was seen as essential to a republican “free state.” By 1866, the emphasis had undergone a dramatic shift. The practice of enrolling the universal militia for mandatory military service had gone into eclipse, with no loss of freedom. Conversely, prewar conflicts over slavery, and postwar terrorist attacks on freedmen and other Unionists, made individual self-defense the predominant underpinning of the American right to arms.
3. Militia linkages are not relevant—the idea of militias evolved into individual rights over the course of decades

James Edward Olson, Professor, Law, Hamline University and David T. Hardy, Counsel, Academics for the Second Amendment, Amici Curiae brief in “Otis McDonald et al. v. City of Chicago,” Supreme Court Case n. 08-1521, 1—10, www.americanbar.org/content/dam/aba/publishing/preview/publiced_preview_briefs_pdfs_09_10_08_1521_PetitionerAmCuAcademics for2ndAmendment.authcheckdam.pdf, accessed 10-8-17.

The right to arms’ militia linkage, which existed to a measurable extent in 1789, had by 1860 virtually vanished. 1. The Militia Linkage circa 1789 In 1789, the States all had universal militias, composed of males of military age. The 1789 view had been that this universal, mandatory, militia – “composed of the whole body of the people,” in the words of the first House of Representatives6 – was not merely useful but “necessary to the security of a free State.” There simply were no conceivable alternatives. Standing armies were pathways to tyranny. “Recollect the history of most nations of the world,” asked George Mason. “What havoc, desolation, and destruction, have been perpetrated by standing armies?” Select militias, composed only of a part of the people, with special training, were no better. “Congress may give us a select militia, which will in fact be a standing army,” argued a delegate to the Pennsylvania ratifying convention. It would be impossible for a republic to survive without mandatory service by the universal militia consisting of all males of military age. Hence the Second Amendment’s militia clause, explaining why the right to arms had been selected for explicit constitutional guarantee. The Militia Linkage circa 1860 In his 1833 commentaries, Justice Story noted “a growing indifference to any system of militia discipline,” and expressed a fear “that indifference may lead to disgust, and disgust to contempt ... ” When Story wrote, Delaware and Ohio had already abandoned their mandatory militias. After decades of peace, requiring the enrollment of the universal militia to engage in service and training had come to be seen as a waste of time. The popular press derided it as “a stupendous farce,” “a bore and a nuisance,” and as “odious and oppressive.” It referred to muster as “but a season of intoxication and quarrelling,” and praised abolition of militia musters as “emancipation from mock military duty.” In the 1840s, mandatory militia service was abolished in Massachusetts, Maine, Ohio, Vermont, Connecticut, New York, and Missouri; New Hampshire followed in the early 1850s. “By the middle of the 1840s, the enrolled militia system had all but faded away into obsolescence.” The mandatory enrollment of the universal militia was supplanted by organizing smaller and better-trained volunteer militia units. In the North, following the Civil War, even these voluntary militia units temporarily died off. The world had changed, and Americans’ outlook changed with it. What would have been heresy in 1789 was commonplace in 1860. The universal militia was long gone as the preferred source of soldiers, with no ill effect to the Republic. Select militias and even standing armies were perfectly acceptable and a more efficient means of national defense.

4. The crucial context for interpreting the Fourteenth Amendment was the need to establish safety for black citizens in the aftermath of the Civil War

James Edward Olson, Professor, Law, Hamline University and David T. Hardy, Counsel, Academics for the Second Amendment, Amici Curiae brief in “Otis McDonald et al. v. City of Chicago,” Supreme Court Case n. 08-1521, 1—10, www.americanbar.org/content/dam/aba/publishing/preview/publiced_preview_briefs_pdfs_09_10_08_1521_PetitionerAmCuAcademics for2ndAmendment.authcheckdam.pdf, accessed 10-8-17.

The Importance of Avoiding Anachronism It is natural to associate the end of the Confederacy with the beginning of Reconstruction, but in fact most of the background to the Fourteenth Amendment occurs during an interregnum that spanned 1865 and 1866. During this period the former Confederate States had reconstituted their governments under exclusively white rule. President Andrew Johnson, a pro-Union Democrat, was prepared to throw the freedmen under the bus, or perhaps under the wagon, as a price of reunion and reconciliation. The 38th Congress was stalemated by Johnson and the threat of veto. The 1864 elections gave Republicans, for the first time, 3-1 majorities in both the House and Senate. When the 39th Congress convened in December 1865, some eight months after the surrender of Lee’s army, Republicans and their allies at last had a veto-proof majority. At that, the 39th Congress faced a considerable agenda: the first Reconstruction Act was not passed until March 1867, long after the 39th Congress had acted on the Fourteenth Amendment. The electoral franchise was not secured for blacks until the Fifteenth Amendment was ratified in 1870. It must thus be borne in mind that the events underlying the Fourteenth Amendment occurred, not in the context of reconstruction governance, but in that of reconstituted, white supremacist, governments bound upon subjugating black freedmen, suppressing white Unionists, and restoring, as far as possible, the antebellum status quo.
5. The very purpose of the Fourteenth Amendment was to prevent the southern states from disarming newly freed black citizens after emancipation

James Edward Olson, Professor, Law, Hamline University and David T. Hardy, Counsel, Academics for the Second Amendment, Amici Curiae brief in “Otis McDonald et al. v. City of Chicago,” Supreme Court Case n. 08-1521, 1—10, www.americanbar.org/content/dam/aba/publishing/preview/publiced_preview_briefs_pdfs_09_10_08_1521_PetitionerAmCuAcademics for2ndAmendment.authcheckdam.pdf, accessed 10-8-17.

Popular Understanding of the Need for a Constitutional Amendment Petitioner has ably outlined the events of 1866-1868, as over 100,000 freedmen, now Union veterans, returned to the former Confederacy. These men knew, in the words of Frederick Douglass, that “the liberties of the American people were dependent upon the Ballot-box, the Jury-box, and the Cartridge-box, that without these no class of people could live and flourish in this country ...” Those recalcitrant States, however, did not intend for the freedmen to “live and flourish,” and set out to subjugate them as far as was possible. Many former Confederate States enacted statutes, the “Black Codes,” forbidding blacks to own arms. The States’ postwar white militias enforced these arms restrictions. Alabama forbade all gun ownership by blacks; Louisiana forbade blacks to carry guns unless authorized by their employer and a “chief of patrol”; Mississippi required a permit from the board of police. Disarmaments were often accompanied by political intimidation and murder: one report from Mississippi stated that the “rebels are going about in many places through the State and robbing the colored people of arms, money, and all they have and in many places killing.” Conventions of freedmen petitioned Congress to protect their arms rights; Federal legislators protested that these post-war measures violated the right to arms. Federal government officials expressed a widespread awareness of violations: “[I]n some parts of this State armed parties are, without proper authority, engaged in seizing all fire-arms found in the hands of the freedmen. Such conduct is in plain and direct violation of their personal rights as guaranteed by the Constitution of the United States, which declares that “the right of the people to keep and bear arms shall not be infringed” (emphasis added). These events were well known to the 39th Congress, and reinforced the prewar abolitionist position that the right to arms was an individual right, linked to self-defense. They were well known to the public. The Black Codes were discussed in major and minor newspapers of the day.

6. The need to enforce the Second Amendment and fully incorporate it was the popular and conventional understanding of the Fourteenth Amendment at the time of its passage

James Edward Olson, Professor, Law, Hamline University and David T. Hardy, Counsel, Academics for the Second Amendment, Amici Curiae brief in “Otis McDonald et al. v. City of Chicago,” Supreme Court Case n. 08-1521, 1—10, www.americanbar.org/content/dam/aba/publishing/preview/publiced_preview_briefs_pdfs_09_10_08_1521_PetitionerAmCuAcademics for2ndAmendment.authcheckdam.pdf, accessed 10-8-17.

Original Popular Understanding of the Purpose of the Proposed Amendment Members of the 39th Congress were outraged at the actions of the former Confederate States. Rep. Sidney Clarke read into the record Alabama’s ban on firearms ownership by blacks and then excoriated Mississippi, “whose rebel militia, upon seizure of the arms of black Union soldiers, appropriated the same to their own use.” He added: Sir, I find in the Constitution of the United States an article which declares that ‘the right of the people to keep and bear arms shall not be infringed.’ For myself, I shall insist that the American people had a reading of the Amendment contrary to the widely publicized views of its creators, we would suggest that the critic bears the burden of so establishing this fact.
UBC Undesirable: Second Amendment Rights—Answers to “Outdated”

1. We should have a strong presumption in favor of the right to bear arms even if society adapts how it interprets constitutional rights

John W. Whitehead, Douglas R. McKusick, and John M. Beckett, Counsel, Rutherford Institute, Amici Brief in “Otis McDonald et al. v. City of Chicago,” Supreme Court Case n. 08-1521, 1—10, www.americanbar.org/content/dam/aba/about/publishing/preview/publiced_preview_briefs_pdfs_09_10_08_1521_PetitionerAmCuRutherfordInst.authcheckdam.pdf, accessed 10-8-17.

When the Second Amendment was drafted, the definition of those it covered was narrow, and limited to members of the militia. In U.S. v. Miller, 307 U.S. 174, 179 (1939), this Court observed that at that time, the militia “comprised all males physically capable of acting in concert for the common defense.” In other words, the Amendment drew within its ambit only an extremely narrow group of individuals. Were this Court to find that the Second Amendment applied to the states as well as to the federal government, it would of course not be practicable to limit its holding to men only, or only to those capable of acting for the common defense. In other words, the reading this Court gives to the Constitution has evolved, and continues to evolve, so as to prevent the Constitution from becoming little more than a relic with no applicability to the lives of citizens today. In the same way, it is necessary for the Court to consider the purpose informing the Second Amendment today. Although it is clear that militias as the authors of the Second Amendment knew them do not exist today, the need for self-defense and defense of the home has not disappeared. The figures cited supra make apparent the fact that homicides occasioned by firearms amount to more than a small percentage of all crimes committed in Chicago. As one observer has pointed out, crime is even more prevalent in America’s inner cities than in its rural areas, because “[t]he concentrated poverty of innocence neighborhoods erodes the web of social connections that often restrains crime in urban areas.” Moreover, if the argument against allowing handguns in citizens’ homes is motivated by safety concerns, the legislative remedy should be the adoption of stricter state laws on the storage of handguns, not to their outright ban. Safety concerns may also be effectively addressed by laws requiring background checks prior to the purchase of a firearm. In fact, a bipartisan 2009 survey of 612 registered voters by the Illinois Campaign to Prevent Gun Violence revealed that 90% of those asked were in favor of background checks for all gun sales. Most importantly, such laws would not threaten or infringe upon the right guaranteed in the Second Amendment, but would simply place reasonable restrictions upon that right as are in the public interest. For the aforementioned reasons, therefore, this Court should hold that the right to hold and bear arms as enumerated by the Second Amendment to the Constitution of the United States applies to the states and territories of the United States, and not only to the federal government.

2. The right to armed self-defense is timeless, predating even the English Common Law tradition


The natural right to self-defense is among the inalienable rights given by nature and nature’s God and recognized in antiquity. This natural right predates not just the Constitution but America and even England. The Israel of the Old Testament, which influenced western law in general and Anglo-American law in particular, relied upon a citizen militia of men who bore their own arms for defense against foreign enemies. As Chaim Herzog and Mordechai Gichon observe, The military organization of the Israelites was, like that of all nations emerging from tribal status, based on the duty of every able-bodied male to bear arms and serve, whenever necessary, in his tribal contingent in the national host. According to the Bible, Moses and Aaron organized the first Israelite army when leaving the Egyptian bondage: Take ye the sum of all the congregation of the children of Israel, after their families, by the house of their fathers, with the number of their names, every male by their polls; from twenty years old and upward, all that are able to go forth to war in Israel: thou and Aaron shall number them by their armies, and with you there shall be a man of every tribe; everyone head of the house of his fathers. In classical Rome, Marcus Tullius Cicero spoke of the right to use arms in self-defense: And indeed, gentlemen, there exists a law, not written down anywhere but inborn in our hearts; a law which comes to us not by training or custom or reading but by derivation and absorption and adoption from nature itself; a law which has come to us not from theory but from practice, not by instruction but by natural intuition. I refer to the law which lays it down that, if our lives are endangered by plots or violence or armed robbers or enemies, any and every method of protecting ourselves is morally right. . . . [A] man who has used arms in self-defense is not regarded as having carried them with homicidal aim. Hugo Grotius, whom the Framers of our Constitution frequently quoted and who is sometimes called the “Father of International Law,” likewise recognized the right of self-defense with arms, “for all animals are provided by nature with means for the very purpose of self-defence.”
3. Constitutional decrees, and especially amendments, should be interpreted and upheld according to the conventional understanding at the time of their passage


James Madison once wrote that, “As a guide in expounding and applying the provisions of the Constitution . . . the legitimate meanings of the Instrument must be derived from the text itself.” This is almost axiomatic when dealing with any legal instrument, let alone a constitution. “The Constitution is a written instrument. As such, its meaning does not alter. That which it meant when it was adopted, it means now.” A textual reading of the Constitution, Madison said, requires “resorting to the sense in which the Constitution was accepted and ratified by the nation” because “[i]n that sense alone it is the legitimate Constitution.” Chief Justice Marshall confirmed that this was the proper method of interpretation: As men whose intentions require no concealment, generally employ the words which most directly and aptly express the ideas they intend to convey, the enlightened patriots who framed our constitution, and the people who adopted it, must be understood to have employed words in their natural sense, and to have intended what they have said. Justice Joseph Story later succinctly summarized these thoughts on constitutional interpretation: [The Constitution] is to be interpreted, as all other solemn instruments are, by endeavoring to ascertain the true sense and meaning of all the terms; and we are neither to narrow them, nor enlarge them, by straining them from their just and natural import, for the purpose of adding to, or diminishing its powers, or bending them to any favorite theory or dogma of party. It is the language of the people, to be judged according to common sense, and not by mere theoretical reasoning. It is not an instrument for the mere private interpretation of any particular men. “In expounding the Constitution . . . every word must have its due force, and appropriate meaning; for it is evident from the whole instrument, that no word was unnecessarily used, or needlessly added.” In Heller this Court reaffirmed the premise that the meaning of the Constitution was not solely the province of federal judges and lawyers: [W]e are guided by the principle that “[t]he Constitution was written to be understood by the voters; its words and phrases were used in their normal and ordinary as distinguished from technical meaning.” District of Columbia v. Heller, 554 U.S. ___, 128 S. Ct. 2783, 2788 (2008) (quoting United States v. Sprague, 282 U.S. 716, 731 (1931)). “Constitutional rights are enshrined with the scope they were understood to have when the people adopted them, whether or not future legislatures or (yes) even future judges think that scope too broad.”
**UBC Undesirable: Tyranny / Insurrection Rights**

- Gun control is dangerous—are an important check against tyranny


The gun controllers have a second rationale for gun control — that with harshly enforced gun-control laws, guns would disappear from the marketplace and, therefore, murderers would be unable to acquire guns. You know, sort of like drug laws, which, as everyone knows, have caused illicit drugs to disappear from the marketplace, thereby preventing drug users from acquiring them. The problem is that the gun-control crowd has never heard of — or at least never understood — a free-market phenomenon known as the “black market.” It is an illegal market that immediately arises whenever the government criminalizes a peaceful activity, such as the consumption of drugs or ownership of guns. Moreover, as we have learned in the drug war (and during Prohibition), the black market inevitably generates collateral violence, which the government then uses as the excuse for more intervention and control. We should note also that gun controllers hardly ever confront the original and central purpose of the Second Amendment: To serve as a check against tyranny. Their position here, which is as faulty and fallacious as their other two gun-control positions, is that, unlike the olden days, the federal government can now be trusted never to become tyrannical. How many gun massacres must we witness before Americans finally abandon their devotion to gun control? The best thing Americans could ever do is to abolish all restrictions on ownership of weapons, including registration requirements, waiting periods, concealed-carry laws, et cetera, which would once again permit ordinary, peaceful, law-abiding Americans the unrestricted ability to defend themselves against murderers, who have as much respect for laws against guns as they do for laws against murder.
1. The most comprehensive and critically appraised research shows that wide availability is not a factor

Don B. Kates and Marc James Ayers, Counsel, Brief of Professors of Philosophy, Criminology, Law and Other Fields, Amici Curiae brief in “Otis McDonald et al. v. City of Chicago,” Supreme Court Case n. 08-1521, 1—10, www.americanbar.org/content/dam/aba/publishing/preview/publiced_preview_briefs_pdfs_09_10_08_1521_PetitionerAmCuProfessors ofPhilosophy.authcheckdam.pdf, accessed 10-8-17.

In 1991, Prof. Kleck reiterated these views in his comprehensive evaluation of the evidence which was acclaimed by the American society of criminology, and even by critics, as the definitive work on the criminology of firearms. (it was succeeded in 1997 by a revised and enlarged paperback edition which remains the definitive treatment of the area.). Kleck’s two books remain virtually unchallenged as the dispositive and comprehensive summaries of the state of criminological learning about the relation between firearms and violent crime. Kleck’s views are confirmed by later studies such as Moody & Marvell’s exhaustive 2005 statistical analysis: “the estimated net effect of guns on crime ... Is generally very small and insignificantly different from zero.” The high water mark of anti-gun thought among academics was the 1968-69 Eisenhower commission’s call for handgun prohibition. One of the commission’s advisors, professor Hans Toch of the school of criminology at the state university of New York (Albany), has noted that he fully endorsed the commission’s official conclusion “that the heart of any effective national firearms policy for the united states must be to reduce the availability of the (handgun, the) firearm that contributes most to violence.... (r)educing the availability of the handgun will reduce firearms violence.” But, prof. Toch continues, subsequent research has progressively impacted this: “rates of male firearms ownership tend to be inversely correlated with violent crime rates, a curious fact if firearms stimulate aggression. It is hard to explain that where firearms are most dense, violent crime rates are lowest, and where guns are least dense violent crime rates are highest.” Toch further notes that in contrast to male ownership, women’s gun ownership is very low where crime rates are low, but high where crime is prevalent. But “(t)his does not imply that urban women are responsible for the urban crime problem” writes professor Toch; rather “it demonstrates that when violent crimes are high, women arm themselves for protection.” Moreover, professor Toch sees women arming themselves as rational and successful because armed self-defense works: (w)hen used for protection, firearms can seriously inhibit aggression and can provide a psychological buffer against the fear of crime. Furthermore, the fact that national patterns show little violent crime where guns are most dense implies that guns do not elicit aggression in any meaningful way.... Quite the contrary, these findings suggest that high saturations of guns in places, or something correlated with that condition, inhibit illegal aggression.

2. Even the strongest advocates of gun prohibition have recanted the belief that gun availability fuels violence

Don B. Kates and Marc James Ayers, Counsel, Brief of Professors of Philosophy, Criminology, Law and Other Fields, Amici Curiae brief in “Otis McDonald et al. v. City of Chicago,” Supreme Court Case n. 08-1521, 1—10, www.americanbar.org/content/dam/aba/publishing/preview/publiced_preview_briefs_pdfs_09_10_08_1521_PetitionerAmCuProfessors ofPhilosophy.authcheckdam.pdf, accessed 10-8-17.

Perhaps the most dramatic recantation came from professor Marvin e. Wolfgang who, until his death, was generally deemed the doyen of American criminologists. He himself wrote of his antagonism toward firearms, i am as strong a gun-control advocate as can be found among the criminologists in this country. If i were Mustapha Mond of Brave New World, I would eliminate all guns from the civilian population and maybe even from the police. I hate guns.... Nevertheless, asked by the journal of criminal law and criminology to evaluate a Kleck/Gertz paper on defensive firearms use, prof. Wolfgang confessed that he was thoroughly impressed. “i do not like their conclusions that having a gun can be useful, but i cannot fault their methodology. They have tried earnestly to meet all objections in advance and have done exceedingly well.” (incidentally, prof. Kleck’s endorsement of the viability and value of armed self-defense has subsequently received confirmation in publications by professors Lawrence Southwick and John Lott, and by the Canadian work of prof. Gary Mauser. Summarizing his research, prof. Southwick writes: “the use of a gun by the victim significantly reduces her chance of being injured” or victimized.) Most recent is the recantation of professor David mustard, who admitted that, when he began his research at the university of Chicago in 1995, he “passionately disliked firearms and fully accepted the conventional wisdom that increasing the gun-ownership rate would necessarily raise violent crime and accidental deaths.” After researching the actual data, prof. Mustard concluded the opposite: my views on this subject were formed primarily by media accounts of firearms, which unknowingly to me systematically emphasized the costs of firearms while virtually ignoring their benefits. I thought it obvious that passing laws that permitted law-abiding citizens to carry concealed weapons would create many problems. It is now over six years since i became convinced otherwise and concluded that shall-issue laws—laws that require permits to be granted unless the applicant has a criminal record or a history of significant mental illness— reduce violent crime and have no impact on accidental deaths.
3. Empirical public health indictments of gun control are rooted in greatly distorted uses of literature for partisan ends

Don B. Kates and Marc James Ayers, Counsel, Brief of Professors of Philosophy, Criminology, Law and Other Fields, Amici Curiae brief in “Otis McDonald et al. v. City of Chicago,” Supreme Court Case n. 08-1521, 1—10, www.americanbar.org/content/dam/aba/publishing/preview/publiced_preview_briefs_pdfs_09_10_08_1521_PetitionerAmCuProfessors ofPhilosophy.authcheckdam.pdf, accessed 10-8-17.

Fifteen years ago three professors from Harvard and Columbia medical schools, a criminologist, and a university of north Carolina bio-statistician published a critique of the entire “public health” literature against guns. Noting that public health journals and lobbyists had committed themselves to lobbying for the banning and confiscation of guns, the article appraised the public health literature on firearms as follows: (t)he anti-gun health advocacy literature is a “sagecraft” literature in which partisan academic “sages” prostitute scholarship, systematically inventing, misinterpreting, selecting or otherwise manipulating data to validate preordained political conclusions. Consciousness that one represents the forces of light against those of darkness can overwhelm not only the canons of scholars hip but even the ordinary demands of personal honesty and integrity: given the urgent needs of political advocacy, all too often academic health “sages” feel no compunction about asserting falsehoods, fabricating statistics and falsifying references to counterfeit support for them. If the study published by dr. Charles c. Branas in 2009 was not driven by such political (rather than scientific) methodology, it nonetheless suffers from the same end result: the study is fundamentally flawed and simply unreliable. In the event that the Branas study is cited with approval in any briefing in this case, amici provide the following critique.
UBC Undesirable: Answers to “Gun Show Loophole”

1. The size of the ‘gun show loophole’ is exaggerated


The NRA disputes that characterization about the "gun show loophole" because federally licensed firearms dealers participate at gatherings and, of course, conduct background checks. "Most of the guns that are purchased at a gun show are purchased from federal firearms-licensed holders," Keene said. He challenged the 40% figure for gun sales without background checks -- particularly at gun shows. "We don't know what (is the) percentage at gun shows. It may be 10%," Keene said. "It's not such a loophole at gun shows. But it's like if you sell me your shotgun, that's a private transaction. Just as if I sell you a car, I don't have a dealer's license." Ten states and the District of Columbia have their own laws requiring background checks for any firearm sold at a gun show, Nichols said. Six more states require background checks for gun-show sales of handguns, but not for rifles or shotguns, Nichols said. In total, 16 states and the District of Columbia require background checks on handguns sold at gun shows, Nichols said.

2. The so-called ‘gun show lobby’ is just a myth


In reality, the so-called “gun show loophole” is a myth. It does not exist. There is no loophole in federal law that specifically exempts gun show transactions from any other laws normally applied to gun sales. Not one. If you purchase a firearm from a federal firearms licensee (FFL) regardless of the location of the transaction — a gun store, a gun show, a gun dealer’s car trunk, etc. — that FFL must confirm that you are legally allowed to purchase that gun. That means the FFL must either run a background check on you via the federal NICS database, or confirm that you have passed a background check by examining your state-issued concealed carry permit or your government-issued purchase permit. There are zero exceptions to this federal requirement. If an individual purchases a gun across state lines — from an individual or FFL which resides in a different state than the buyer — the buyer must undergo a background check, and the sale must be processed by an FFL in the buyer’s home state. What does exist, however, is a federal exemption for sales between two private, non-FFL residents of the same state, regardless of whether that transaction happens at a gun show or not. The identity of the parties involved in the transaction, not the venue of the sale, is what matters under federal law. This federal exemption makes perfect sense: there’s no federal nexus for a purely private transaction between two private individuals who reside in the same state. Many states, including Oregon, Colorado, and Illinois, have enacted universal background checks in order to eliminate the exemption for same-state private firearms transactions. Federal universal background checks may or may not be a wise idea — the U.S. Senate in 2013 explicitly refused to enact them — but referring to the federal exemption for private, same-state sales as a “gun show loophole” is misleading and factually inaccurate.

3. There is no “gun show loophole”


There is no “gun show loophole.” Since 1994, federal law has required dealers to initiate a background check before selling or otherwise transferring a firearm, whether at a gun show or anywhere else. “Loophole” is a phony term. The Gun Control Act (1968) and the Brady Act (1993), written and voted for by gun control supporters, expressly impose record-keeping and background check requirements on firearm dealers, manufacturers, and importers alone. The Gun Control Act’s preamble states, “it is not the purpose of this title to place any undue or unnecessary federal restrictions or burdens on law-abiding citizens.”
UBC Undesirable: Answers to “Gun Violence Justifies”

1. The number of firearms-related homicides is in decline

   David B. Kopel, Research Director, Independent Institute and Associate Policy Analyst, Cato Institute, “The Costs and Consequences of Gun Control,” POLICY ANALYSIS n. 784, Cato Institute, 12—1—15, p. 17.

   When policymakers consider steps to address the problem of mass homicide, they should remember that highly publicized and emotionally wrenching events can distort our understanding of risk and what ought to be done about it. Airplane disasters, for example, get a lot of media coverage, but safety experts remind us that one is more likely to get injured in an automobile accident on the way to the airport than injured in an actual airline crash. We should similarly acknowledge that mass murders are rare in the United States. The risk of dying in a mass murder is roughly the same as being killed by lightning. And because favorable trends are not considered newsworthy, many people are unaware of some very positive developments. Since 1980, the U.S. homicide rate has fallen by over half, from more than 10 victims per 100,000 population annually, to under 5 today. Firearm accidents involving minors have also dropped. For children (age 0 to 14), the fatal-gun accident rate has declined by 91 percent since 1950. The annual number of such accidents has plunged from its 1967 high of 598. As of 2013, there were only 69 such accidents. These favorable trends have taken place during a period when American gun ownership has soared. In 1964, when the homicide rate was about the same as it is now, per capita gun ownership was only .45—fewer than one gun per two Americans. In 1982, there were about .77 guns per capita (about 3 guns per 4 Americans). By 1994, that had risen to .91 (9 guns per 10 Americans). By 2010, there were slightly more guns in America than Americans.

2. Gun violence is declining


   If you’ve spent any time on social media, you’ve seen the lamentations: gun violence is skyrocketing. It is an epidemic. Constant TV coverage of shootings can certainly make it seem that way. But the truth of the matter is that gun violence is actually way down. It hasn’t skyrocketed; it’s plummeted. A 2013 study from the Pew Research Center found that gun violence had fallen by nearly 50 percent since its 1993 peak: Compared with 1993, the peak of U.S. gun homicides, the firearm homicide rate was 49% lower in 2010, and there were fewer deaths, even though the nation’s population grew. The victimization rate for other violent crimes with a firearm—assaults, robberies and sex crimes—was 75% lower in 2011 than in 1993. Violent non-fatal crime victimization overall (with or without a firearm) also is down markedly (72%) over two decades. A 2014 analysis from the Federal Bureau of Investigation (FBI) showed a significant decline in violent crime over the last five years: [chart omitted]. In 2013, the latest year for which complete data are available, the number of homicides in which a firearm was involved totaled 8,454, representing a 12 percent drop compared to the number of gun homicides in 2003. And the 2003 figure represented a 41 percent drop from the gun homicide total in 1994, the earliest year for which data are readily accessible on the FBI’s website. All told, the number of gun homicides in the U.S. has fallen by nearly 50 percent over the last two decades. Any amount of violent crime is too much, but it’s wrong to assert in the face of all evidence that gun violence in the U.S. is skyrocketing.

3. The number of gun-related homicides is declining


   But the number of firearm-related homicides in the U.S. has dropped dramatically, from more than 18,000 in 1993, to fewer than 9,000 in 2010 - numbers the NRA is quick to point out. "Those rates are the lowest record in 43 years while gun ownership is at an all time high," Chris Cox, chief lobbyist and principal political strategist for the National Rifle Association, told CBS News. "It really destroys the arguments from the gun control community that more guns means more crime."
UBC Undesirable: Answers to “Gun Violence Justifies” [cont’d]

4. **Use of deadly weapons within the home does not prove that domestic violence is the root cause—most violent deaths are between criminals**

Don B. Kates and Marc James Ayers, Counsel, Brief of Professors of Philosophy, Criminology, Law and Other Fields, Amici Curiae brief in “Otis McDonald et al. v. City of Chicago,” Supreme Court Case n. 08-1521, 1—10, www.americanbar.org/content/dam/aba/publishing/preview/publiced_preview_briefs_pdfs_09_10_08_1521_PetitionerAmCuProfessors ofPhilosophy.authcheckdam.pdf, accessed 10-8-17.

To the extent that counter-arguments are published, oftentimes such arguments merely note the fact that murders often involve people who knew each other and arise from arguments and/or occur in homes. But such facts are not particularly instructive because criminals—even killers—certainly have acquaintances, arguments and homes. In fact, the broadest study of national data on gun murders that occurred in homes between acquaintances found that “the most common victim-offender relationship” was “where both parties knew one another because of prior illegal transactions.” In sum, the best and most comprehensive studies show that the overwhelming majority of murderers are individuals with criminal backgrounds, and not ordinary, law abiding, responsible adults. Accordingly, it is not only irrational to seek to disarm such responsible adults in order to avoid homicides and violent gun crimes, it is in fact counter-productive and dangerous because it strips the innocent of the most effective and efficient means of defending themselves against violent predators.

5. **Multiple studies demonstrate that most gun deaths are suffered by violent criminals, proving that availability is not the key link in deaths—crime is**

Don B. Kates and Marc James Ayers, Counsel, Brief of Professors of Philosophy, Criminology, Law and Other Fields, Amici Curiae brief in “Otis McDonald et al. v. City of Chicago,” Supreme Court Case n. 08-1521, 1—10, www.americanbar.org/content/dam/aba/publishing/preview/publiced_preview_briefs_pdfs_09_10_08_1521_PetitionerAmCuProfessors ofPhilosophy.authcheckdam.pdf, accessed 10-8-17.

Various studies reveal the predation of criminals on each other: • Los Angeles: 71% of minors injured in drive-by shootings were documented members of violent street gangs. • Charlotte: of 545 adult gunshot victims over a one year period, 71% had criminal records. • Atlanta: 60% of homicide victims had a criminal record of drug violation. • Chicago: the Chicago police department’s murder analyses dating back to the mid-1960s consistently show upwards of two-thirds of homicide victims with criminal records and/or other indicia of criminal behavior. • New Orleans: 85% of autopsied murder victims in the years 1992-1993 were positive for metabolites of cocaine. • Baltimore: of 211 patients who came to a major urban trauma center for treatment of gunshot or knife wounds or other violent trauma, 61.9% tested positive for narcotics with another 8.6% testing positive for alcohol; 11.7% had had both alcohol and narcotics. The most intensive local study of which we are aware is from San Francisco where, of gunshot victims in 1999, two-thirds had a prior criminal history. Three further findings of this 1999 study are indicative: by 2001, 63% of the gunshot victims who recovered had been re-arrested in San Francisco for some other crime. And, among all the gunshot victims, those with prior criminal histories were twice as likely to have suffered multiple gunshot wounds as those without such a history—and were seven times more likely to have been wounded in connection with a drug transaction. Likewise, studies in major trauma care centers report the same people (i.e., criminals) come in time after time with successive bullet or knife wounds or other intentional trauma. So frequently is this the case that some studies actually describe such trauma as a chronic recurrent disease peculiar to unemployed, uninsured law breakers. These facts provide indispensable perspective on the erroneous conclusions of the Branas article. If, as the Virginia department of justice found, those gun toting individuals involved in a criminal milieu are 22 times (or even close to that number) more likely to end up with a gun-crime injury than are law-abiding people, then Branas’ conclusions—which do not properly separate criminal gun owners from law abiding gun owners—are simply not reliable.
1. **It is already difficult to obtain a gun**


Last March, President Barack Obama was asked about guns during a press conference, and he responded by saying, “It’s easier for you to buy a handgun and clips than it is for you to buy a fresh vegetable.” Ignoring for the moment that the president does not understand the difference between a clip and a magazine, his claim is not true. It is not easier to buy a gun than it is to buy a fresh vegetable, or any canned vegetable for that matter. Never in my life have I been required to fill out federal form 4473 and have the cashier run a background check on me before being allowed to buy an onion. There are no federal laws requiring onion dealers to register with the federal government prior to selling onions. There are no state laws requiring that you apply for and receive an onion purchase permit, complete with background check, prior to purchasing an onion. There are no onion waiting periods or limits on how many onions you can purchase within a certain period of time. Nor are there, to my knowledge, any state or local laws prohibiting the possession of onions in schools or government buildings. Firearm manufacturing and sales are highly regulated by the federal government. Numerous complicated laws govern virtually every aspect of the process. Anyone who has purchased a gun before can you tell you in great detail that it is not as easy as buying a vegetable at a grocery store. It is an expensive and time-consuming process. Some people may think gun control is a great idea and that it should be harder to buy a gun than it currently is, but they should refrain from suggesting that legally purchasing a firearm is easier, cheaper, and less time-consuming than buying a carrot. Because it’s not.

2. **Federal gun control laws are already sufficiently robust**


Federal gun control laws are already strong enough. In addition to requiring firearm dealers, manufacturers, and importers to initiate a background check on any non-licensee to whom they intend to transfer a firearm, and prohibiting the possession of firearms by nine categories of prohibited persons, federal law already prohibits things associated with what gun control supporters call “online” or “internet” firearm sales. While a person may advertise a firearm on the internet: * Federal law prohibits transferring a firearm to anyone known or believed to be prohibited from possessing firearms. (18 USC922(d)) * Federal law prohibits a non-licensee from acquiring a handgun outside his state of residence and prohibits a non-licensee from acquiring a rifle or shotgun from a non-licensee outside his state of residence. (18 USC 992(a)(3)) * Federal law prohibits anyone from transferring a handgun to a non-licensee who resides in another state (with rare exceptions), and prohibits a non-licensee from transferring any firearm to a non-licensee who resides in another state. (18 USC 922(a)(5)) * Federal law prohibits the acquisition of a firearm on behalf of a person who is prohibited from possessing firearms. (18 USC 922(h) and 922(a)(6)) * Federal law prohibits anyone from providing a handgun to a juvenile (person under age 18), and prohibits juveniles from possessing handguns, with limited exceptions. (18 USC 922(x)) * Federal law also prohibits dealers from selling rifles or shotguns to persons under age 18. (18 USC 922(b)(1))
UBC Undesirable: Answers to “Mass Shootings”

1. Background checks for private sales are only enforceable if it is couple with a federal firearm registry

David B. Kopel, Research Director, Independent Institute and Associate Policy Analyst, Cato Institute, “The Costs and Consequences of Gun Control,” POLICY ANALYSIS n. 784, Cato Institute, 12—1—15, p. 3-4.

As a 2013 National Institute of Justice memo from Greg Ridgeway, acting director of the National Institute of Justice, acknowledged, a system requiring background checks for gun sales by non-FFLs is utterly unenforceable without a system of universal gun registration. For FFLs, enforcement of recordkeeping is routine. They are required to keep records of every gun which enters or leaves their inventory. As regulated businesses, the vast majority of them will comply with whatever procedures are required for gun sales. Even the small minority of FFLs who might wish to evade the law have little practical opportunity to do so. Federal firearms licensees are subject to annual warrantless inspections for records review and to unlimited warrantless inspections in conjunction with a bona fide criminal investigation or when tracing a gun involved in a criminal investigation. The wholesalers and manufacturers who supply the FFLs with guns must keep similar records, so a FFL who tried to keep a gun off the books would know that the very same gun would be in the wholesaler’s records, with precise information about when the gun was shipped to the retailer. In contrast, if a rancher sells his own gun to a neighbor, there is no practical way to force the rancher and the neighbor to drive an hour into town, and then attempt to find a FFL who will run a background check for them, even though they are not customers of the FFL. Once the rancher has sold the gun to the neighbor, there is no practical way to prove that the neighbor acquired the gun after the date when the private sales background check came into effect. As the National Institute of Justice recognized, the only way to enforce the background check law would be to require the retroactive registration of all currently owned firearms in the United States. Such a policy did not work in Canada, and anyone who thinks that Americans would be more willing to register their guns than Canadians is badly mistaken.

2. Mass killers can easily evade gun restrictions

David B. Kopel, Research Director, Independent Institute and Associate Policy Analyst, Cato Institute, “The Costs and Consequences of Gun Control,” POLICY ANALYSIS n. 784, Cato Institute, 12—1—15, p. 17.

We must also recognize that mass murderers often spend months planning their crimes. These are generally not crimes of passion that are committed in the heat of the moment. Dylan Klebold and Eric Harris spent several months plotting their 1999 attack at Columbine High School. Dylann Roof allegedly plotted for six months prior to his attack in Charleston, South Carolina. Adam Lanza attempted to destroy the evidence of his plan to attack Sandy Hook students, but investigators uncovered the extensive research he had done on mass murders in the months leading up to that incident.

3. Multiple examples show that background checks cannot stop mass killers


Three other shootings in 2015 that garnered media attention show the limitations of background checks. Muhammad Youssef Abdulazeez attacked two military installations in Chattanooga, Tennessee on July 16. Like the Boston marathon bombers, Abdulazeez was a radicalized jihadi. He apparently radicalized after visiting his Palestinian relatives in Jordan. Abdulazeez was a U.S. citizen and purchased firearms lawfully after passing background checks. Professor James Alan Fox of Northeastern University, who studies mass shootings, explains that “mass killers are determined, deliberate and dead-set on murder. They plan methodically to execute their victims, finding the means no matter what laws or other impediments the state attempts to place in their way. To them, the will to kill cannot be denied.” On July 23, John Russell Houser murdered several people in a movie theater in Lafayette, Louisiana. Houser was severely mentally ill; in 2008, a Georgia judge issued an order to apprehend him so that he could be held for five days for a mental health evaluation. The mental hospital records have not been released, but the hospital apparently did not petition for a longer involuntary commitment. Had Houser been involuntarily committed, he would have become a prohibited person under the 1968 Gun Control Act. But he was not, and so he passed a background check and purchased a handgun from a gun store in February 2014. Houser shot 11 people, killing two, and then committed suicide when police arrived. A background-check system cannot stop people like Houser, who are dangerous, yet have fallen through the cracks in the system and have no disqualifying record. Christopher Harper-Mercer, who murdered nine people at Umpqua Community College in Roseburg, Oregon, on October 1, 2015, was not affected by one of the most severe background check statutes in the United States. The Oregon background-check law applies to almost all private firearm sales, not just commercial sales. Despite this universal background check regime, all of the firearms recovered from the killer were legally purchased, either by him or his mother. Harper Mercer appears to have been seriously mentally ill, but neither he nor his mother were in any way impeded by background check laws.
UBC Undesirable: Answers to “Mass Shootings” [cont’d]

4. Background checks will not decrease mass shootings—multiple examples prove


But such expanded background checks wouldn’t have stopped any of these attacks. Since 2000, all of our mass shooters obtained their weapons without using private transfers. Attacks such as the San Bernardino massacre in California and the Umpqua Community College shooting in Oregon occurred in states that already have universal background checks. Indeed, mass public shootings have recently occurred in France, Belgium, Norway, Germany and other European countries where these background checks also exist. This hole in their argument is so glaring that even some of the media have noticed it. Last year, ABC News’s Jon Karl asked Sen. Chris Murphy (D-Conn.), “Why are we focusing on things that have nothing to do with the massacres that we are responding to?” Murphy responded, “We can’t get into the trap in which we are forced to defend our proposals simply because it didn’t stop the last tragedy.” But obviously Karl’s question wasn’t just limited to the most recent attack. Research looking at U.S. data has consistently found no evidence that any type of background checks reduce rates of violent crime. Michael Bloomberg’s groups are the source of contrary claims, but they fail to analyze the national data in an academic manner. They compare states with background checks next to those without them. They do not compare states before and after background checks are imposed.

5. Background checks will not prevent mass shootings—new research proves


A new study is questioning long-held government claims that background checks on private gun transfers could help stop mass public shootings. The report, published by the Crime Prevention Research Center on Jan. 2, argues that not only are background checks expensive, but that they have failed to thwart mass public shootings. The findings come as President Obama on Tuesday formally announced plans to expand background checks and make other changes to America’s gun rules through executive action. The White House has aggressively pushed for background checks following mass public shootings. After the December murders by a husband and wife terror team in San Bernardino, Calif., Obama told the nation there were steps the U.S. could take to “improve the odds that they don’t happen as frequently: commonsense gun safety laws, stronger background checks.” The study, however, states that the initial data on universal background checks does not confirm the claims of supporters and the White House. “Despite the frequent calls for expanded background checks after mass public shootings, there is no evidence that background checks on private transfers of guns would have prevented any of the attacks that have taken place since at least 2000,” the study states, adding that there is no statistical evidence that proves the mass public shootings are “rarer in states with background checks on private transfers.” “Simple regression estimates provide no support for the claim that background checks reduce mass public shootings or the harm from those attacks,” the study states. “Mass public shootings may vary between states for many reasons that have nothing to do with background checks.” Since 2013, states with “universal” background checks have had 124 percent more mass public shootings and dramatically higher rates of death and injury. “Per capita, there were 267 percent more deaths and 1,431 percent more injuries,” the study states. The study also found the per capita rate of deaths and injuries from mass public shootings increases after states pass stricter background checks on private transfers. In addition, the study calls out the costs of expanding background checks to private transfers – specifically, the fees attached to private transfers. “Law-abiding poor blacks who live in high crime urban areas and who benefit the most from protecting themselves will be the ones most likely priced out of owning guns for protection,” the study finds. “Without some benefits in terms of either reduced crime or mass public shootings, it is hard to see how these rules pass any type of cost-benefit test.”

6. Most mass murders would pass a background check


According to the nation’s leading criminologist specializing in the study of murder, “Most mass murderers do not have criminal records or a history of psychiatric hospitalization. They would not be disqualified from purchasing their weapons legally. Certainly, people cannot be denied their Second Amendment rights just because they look strange or act in an odd manner. Besides, mass killers could always find an alternative way of securing the needed weaponry, even if they had to steal from family members or friends. None of the mass shootings that President Barack Obama named in a White House speech on gun control in January 2016, would have been prevented by requiring background checks on private sales of firearms.
7. Background checks would not have stopped any of the recent mass shootings


Expanding gun background checks to include all sales — the crux of President Obama’s new executive gun control push — would not have stopped the firearms from reaching the hands of recent mass shooters, according to studies and experts who have looked at the issue. From the 2012 Newtown school shooting that reignited the gun debate to last month’s terrorist shooting in California, the firearms used were purchased from licensed dealers by individuals who all passed background checks. In that California case, the terrorist couple used weapons bought by a friend, who passed the background check then gave the guns to the husband and wife who would go on to kill 14 people. Enrique Marquez, the friend, has been indicted on charges of lying on his background check application because he didn’t reveal his plans to turn the weapons over — but he did pass the background check. Chris Harper-Mercer, who went on a shooting spree at Umpqua Community College in October, used guns he and other family members bought, each of them clearing the FBI’s mandated background check. And in the case of Newtown, gunman Adam Lanza used weapons that had been legally purchased by his mother. In more than a dozen mass shootings since Newtown, analyses by The Washington Post and New York Times found none of them involved firearms purchased from unlicensed people — the so-called “gun-show loophole” — that Mr. Obama moved to crack down on this week.

8. Empirical evidence shows that stronger background checks will not decrease mass shootings


Hillary Clinton has also pointed to background checks as the solution to mass shootings. After the shooting at a Planned Parenthood clinic in Colorado Springs, she called for “common-sense steps like comprehensive background checks, closing the loopholes that let guns fall into the wrong hands.” Clinton made the same calls for expanded background checks after Oregon, San Bernardino, and the killing in August of the two Roanoke, Virginia journalists. People just assume that expanded background checks will stop these mass public shootings. Yet, there has been no attempt to do even the most basic statistical tests. In none of these shootings nor other ones that the president or Clinton have spoken about would have been stopped if background checks on private transfers had been required. Often overlooked is that the three most recent massacres occurred in states – California, Colorado, and Oregon – which already have such laws in place. The same is true of mass public shootings that have occurred in France, Belgium, Norway, Germany and other European countries.

9. Background checks will not decrease the incidence of mass shootings


Despite the frequent calls for expanded background checks after mass public shootings, there is no evidence that background checks on private transfers of guns would have prevented any of the attacks that have taken place since at least 2000. Nor is there any statistical evidence that indicates that these mass public shootings are rarer in states with background checks on private transfers. What we do find is that fatalities and injuries from mass public shootings increased in states after they imposed background checks on private transfers. States with background checks on private transfers tended to have relatively low rates of murders and injuries from mass public shootings before the passage of background checks on private transfers and that these rates became relatively high afterwards. There are real costs of expanding background checks to private transfers. In particular, the fees on private transfers. Law-abiding poor blacks who live in high crime urban areas and who benefit the most from protecting themselves will be the ones most likely priced out of owning guns for protection. Without some benefits in terms of either reduced crime or mass public shootings, it is hard to see how these rules pass any type of cost-benefit test.
10. Cross-state comparisons show that universal background checks do not decrease the number of mass shootings


Using data from 2000 through 2015, let us compare the rate of mass public shooting occurrences in states with and without additional background checks. Mass public shootings are defined as non-gang attacks in which four or more people are killed in a public place. During that time period, nineteen states (plus Puerto Rico and DC) had background checks on the private transfer of guns for at least part of that period. States are only counted as having background checks on private transfers during the years that those regulations are in effect. States with these additional background checks had a 15% higher per capita rate of mass public shooting deaths and a 38% higher rate of injuries (Table 2 and Figure 1). Mass public shootings rose only very slightly – by just 0.44%. There was no clear, year-to-year pattern. In about half the years, states with background checks on private transfers had higher per capita rates of death and injury. A comparison for so-called universal background checks is more difficult. Six of the eight states with these laws have only had them since 2013, thus limiting the period of time over which one can make a reasonable comparison. Naturally, shootings are only counted as occurring in a universal background check state if they occurred after the law was in place. The narrowest time gap came before the Umpqua Community College shooting in Oregon. The law went into effect on August 9, 2015, and the attack occurred at the beginning of October. In this case, however, the shooter legally obtained all of his guns through a federally licensed firearms dealer. The law wouldn’t have made a difference even if it had been enacted years earlier. But, since 2013, states with “universal” background checks have experienced 124% more mass public shootings and dramatically higher rates of death and injury. Per capita, there were 267% more deaths and 1,431% more injuries (Table 3). In addition, in each year, all three rates were higher in states with universal background checks. Yet, even eight states is a small sample and with so few years of data, it is hard to put a lot of weight on these results. What is clear is that the initial data on universal background checks definitely does not confirm the claims of supporters.

11. Gun control measures won’t stop mass killings


Following the Aurora shooting, some gun control supporters began immediately hunting through the wreckage for scraps of political advantage. It showed all the sensitivity and consideration of starting a food fight at a funeral. It is one thing to draw lessons from tragedy. It is another to hang a political banner on an occupied cross. At the proper time, however, the drawing of lessons is appropriate. What happened in a theater outside Denver was not an act of God — not the moral equivalent of an earthquake or meteor strike — but the act of a mentally unbalanced man with access to destructive weaponry. The quest to separate the mentally ill from modern armaments may well be hopeless. But it is at least worth a discussion. There are two questions to consider. First, would tighter gun control laws — say, one banning the AR-15 James Holmes allegedly used — have prevented the Aurora shooting? It is a difficult case to make. A committed, intelligent mass murderer will find a way. Gun control laws do not reduce massacres in the same manner that OSHA regulations reduce industrial accidents. Massacres are purposely monstrous violations of the law, which marginal changes in the law are unlikely to prevent.
UBC Undesirable: Answers to “Private Sales Loophole”

1. More accurate studies show that only about 20% of guns are obtained via private sales

Cato Institute, “22. Restoring the Right to Keep and Bear Arms,” CATO HANDBOOK FOR POLICYMAKERS, 8th Ed., 2017, www.cato.org/cato-handbook-policymakers/cato-handbook-policy-makers-8th-edition-2017/restoring-right-keep-bear, accessed 10-4-17. Federal law currently requires all firearms dealers to be FFLs and, among other things, requires a background check on every buyer to whom they sell a firearm. Yet no background check is required when a sale occurs between two private individuals. In other words, you can sell your neighbor your hunting rifle without doing a background check on your neighbor. There is some dispute about how many guns are transferred via this so-called private sale loophole. President Barack Obama and other gun-control advocates have consistently and irresponsibly claimed that the number is 40 percent. That claim, which relies on data that is two decades old and predates the inauguration of our current background check system, was given “three Pinocchios” by the fact checkers at the Washington Post. Other, more accurate studies have found nonbackground-check purchases to be around 20 percent of gun sales — and many of those are gifts between family members.

2. The ‘forty percent’ claim is simply false—‘Three Pinocchios’

David B. Kopel, Research Director, Independent Institute and Associate Policy Analyst, Cato Institute, “The Costs and Consequences of Gun Control,” POLICY ANALYSIS n. 784, Cato Institute, 12—1—15, p. 3. Gun-control advocates often claim that 40 percent of annual firearms sales take place today without background checks. The Washington Post “fact-checker” has debunked that claim, giving it “Three Pinocchios.” The Post noted that the survey data used for the study on which the 40 percent claim is based are more than two decades old, which means they were collected prior to the National Instant Criminal Background Check System becoming operational in 1998. The survey only polled 251 people, and, upon asking whether their gun transfer involved a federally licensed dealer—that is, a federal firearms licensee (FFL)—gave respondents the choice of saying “probably” or “probably not” in addition to “yes” and “no.” From that survey, the report concluded that 35.7 percent of acquisitions did not involve a background check. But “acquisitions” is a much broader category than “purchases,” which is the term used by advocates for gun control. Gifts and inheritances between family members or among close friends are acquisitions, but not purchases. When the Post asked researchers to correct for that distinction, the percentage of firearms purchased without a background check fell to between 14 and 22 percent. The Post subsequently conducted its own survey of Maryland residents, and found that 21 percent of respondents reported not having gone through a background check to purchase a firearm in the previous decade. Even that 21 percent, which entails transactions between private, noncommercial sellers, is regulated by the federal law against giving a firearm to someone the transferor knows, or reasonably should know, is among the nine categories of prohibited persons under federal law (e.g., mentally impaired; convicted felons). The assertion that nearly half of the gun sales in America are unregulated is simply false. Federal law governs as many gun sales and transfers as is practically enforceable already.

3. The “forty percent” figure is unreliable

John R. Lott, Jr., journalist and former Chief Economist, United States Sentencing Commission, “Fact vs. Fiction on Background Checks and the Gun Control Debate,” FOX NEWS, 4—9—13, www.foxnews.com/opinion/2013/04/09/fact-vs-fiction-on-background-checks-and-gun-control-debate.html, accessed 10-2-17. Mr. Obama got it all backwards in his April 3rd speech in Colorado: “tougher background checks . . . won’t infringe on the rights of responsible gun owners, but will help keep guns out of the hands of dangerous people.” The president kept claiming this week and last week that: “as many as 40 percent of all gun purchases take place without a background check” and that “background checks have kept more than 2 million dangerous people from buying a gun.” But both statistics are false. Start with the 40 percent figure. That number comes from a very small study covering purchases during 1991 to 1994. Not only is that two decades-old data, but it covered sales before the federal Brady Act took effect on February 28, 1994. The act required federally licensed dealers to perform background checks. And what's more, Mr. Obama conveniently forgets that the researchers gave this number (well, actually 36%, not his rounding up to 40%) for all transfers, not just for guns sold. Most significantly, the vast majority of these transfers involved within-family inheritances and gifts. Counting only guns that were sold gives a very different perspective, with only 14 percent not actually going through federally licensed dealers. But even that is much too high as there were biases in the survey. For example, two-thirds of federally licensed dealers at the time were so-called “kitchen table” dealers who sold gun out of their homes and most buyers surveyed were likely unaware these individuals were indeed licensed. By the way, that survey also found that all gun-show sales went through federally licensed dealers. If President Obama really trusts the study, he should stop raging about the “gun show loophole.”
4. **The forty percent figure is just wrong**


Moreover, the Brady Campaign is being intentionally deceitful by claiming “40 percent” of gun purchases are conducted without a background check. You won’t read this in their misleading report, but even the notoriously anti-gun Washington Post debunked their “40 percent” whopper, giving it a rating of “3 Pinocchios” for dishonesty. That’s because this statistic comes from a 251-person survey conducted nearly two decades ago, in which more than three-quarters of the firearm sales covered in the survey occurred before background checks were mandated by federal law. The most recent Department of Justice survey of 1,402 convicted criminals found that nearly 90 percent of them got their guns from sources including theft, straw purchases, family, friends, and the black market. None of these would have been blocked by NICS. If the Brady Campaign truly wanted to keep guns out of the wrong hands, it would challenge Biden and the Obama administration on their admitted refusal to prosecute those they know may be attempting to purchase a firearm illegally. Instead, they’re renewing their push for Obama’s so-called “universal background checks” scheme, which has more to do with registering and criminalizing lawful transfers than reducing violent crime. But that’s the point. The Brady Campaign’s clear goal is to harass law-abiding gun owners and manufacture public shame toward anyone who exercises their Second Amendment rights. They can try by hook or by crook, but the National Rifle Association won’t them get away with it.
UBC Undesirable: Answers to “Public Support”

- Claims that 90% of the public supports background checks are false

Erich Pratt, Director of Communications, Gun Owners of America, “The Math Doesn’t Add up for Gun Control Advocates,” U.S. NEWS & WORLD REPORT, Debate Club, 4—9—13, www.usnews.com/debate-club/should-congress-support-universal-background-checks-for-gun-purchases/the-math-doesnt-add-up-for-gun-control-advocates, accessed 10-3-17. President Obama wants us to believe that 90 percent of Americans support background checks – a dubious claim to be sure. But even if true, since when do liberties guaranteed by our Bill of Rights become subject to a popular vote? Polls that throw around the 90 percent figure are suspect for many reasons. For starters, they claim that roughly 80 percent of Gun Owners of America and National Rifle Association members support background checks. But after polling our members, we found that fewer than 5 percent support such restrictions -- thus obliterating the credibility of these polls which purport to speak for our supporters. Not only did a Quinnipiac poll say that, by a margin of 48 to 38 percent, Americans think background checks will lead to confiscation, a recent CBS News poll found that only 47 percent of Americans want stricter gun control. So if that's true, how is it that twice that number supposedly want background checks expanded? The numbers just don't add up.
UBC Undesirable: Answers to “Regulate Guns Like Automobiles”

- The “regulate cars like guns” argument really demonstrates that we should have less regulation


Another mass shooting has sparked a gun-control debate in America, and gun-control advocates and gun-rights supporters are talking past each other as usual. And there’s one question that often comes up: What if we treated guns like cars? Cars, after all, kill around 40,000 people per year-about as many as guns-with 2016 being the deadliest year on American roads since 2007. Yet, in general, we regard auto fatalities as an inevitable consequence of allowing private citizens to own and drive cars. As long as cars are going to be in private hands, then there will be car accidents, including large accidents with multiple fatalities. We expect and accept that the number of auto fatalities increases as more people own cars, and we expect and accept that sometimes cars would be misused with tragic consequences. We can do this because there is broad agreement about the value of cars and therefore little fear that cars will be banned or regulated to the point that normal people won’t have access to commonly used vehicles. And, due to that broad agreement, it is easier to pass regulations to make both cars and drivers safer. Through the guns/cars comparison, we can see how the gun debate is fundamentally a culture debate. In fact, many gun-rights advocates would be okay with regulating guns like cars. There would be no federal registration or licensing, state-granted licenses would be given to people over 16, 17, or 18 years old after passing a simple test, the license would be good in all 50 states, and using a gun on private property wouldn’t require a license. As others have pointed out, in many ways this would be less onerous than current firearm regulations. Purchasing a car requires no background check or waiting period, and cars can be purchased by people who have been convicted of a felony, use illegal drugs, have been dishonorably discharged from the military, or are illegal aliens—all of whom are “prohibited persons” under current federal gun laws. So why don’t we have such purportedly “common-sense” regulations for guns? Quite frankly because many gun-control advocates want to go much further than “common-sense” restrictions. Gun-rights supporters know that gun-controller won’t stop after enacting, say, “universal” background checks. While a significant number of gun-control advocates ultimately prefer total prohibition, the majority likely prefer limiting access to guns in a manner that would be akin to limiting cars to licensed NASCAR drivers on official NASCAR tracks. Gun-control supporters don’t get the comparison between guns and cars. People need cars, but no one needs a gun, they argue. Whereas they see cars as integral to a modern, flourishing civilization, guns are throwbacks to a primitive time when we settled disputes via duels. Moreover, there’s admittedly a significant difference between an intentional and an accidental killing. If you think a gun is only a tool for destruction, then the comparison makes no sense. But gun-rights supporters understand the analogy. A gun, like a car, is both an effective tool and a deadly instrument. The qualities that make a car or a gun an effective tool are the same qualities that make it a deadly instrument. A good car or a good gun is reliable, easily controllable, and gets the job done. And while there are some cars and guns that are more dangerous due to shoddy construction or because they go particularly fast, no car or gun is good “only for killing.” Yes people die from guns or cars, sometimes in horrific ways, but that’s no reason to ban either one. Through the guns/cars comparison, we can see how the gun debate is fundamentally a culture debate. Guns divide us like so many other things. Liberals and conservatives live in different places, go to different restaurants, and watch different shows. Conservatives own guns more often and are more likely to understand that, while a gun is a tool that can be misused, it is also enjoyable to spend an afternoon at the shooting range. For some liberals, an afternoon at the shooting range is akin to watching dog-fighting or bear-baiting. There is no analogous culture debate about cars. Liberals and conservatives alike enjoy cars, understand their value, and generally understand how they work. We all understand that a car’s deadliness is inexorably tied to its usefulness. And there is broad support for “common sense” regulations to make cars and drivers safer because we don’t worry that safety regulations or licensing requirements are part of a plan to ultimately ban or severely restrict cars. But if only half the country owned cars, and that ownership roughly tracked political divisions, then we’d see similar Facebook debates sparked by posts claiming “40,000 people died in car accidents last year. When will we stop the madness?”” Jeeps might be described as “military-style” vehicles that are clearly only meant for war, ignoring the fact that Jeeps are just normal cars. Car owners would try to explain that one person’s misuse of a car doesn’t justify banning whole classes of cars; that the only way to stop auto fatalities entirely is to ban and confiscate cars, an unreasonable goal in a country with hundreds of millions of cars and a deeply entrenched car culture; and that the focus should be on drivers rather than cars because stopping bad drivers is more effective than banning bad drivers’ cars. Bad drivers, after all, will just switch to different cars. If gun-control advocates could better understand the gun/car comparison, then perhaps more productive conversations can happen—or at least less hateful. A more productive conversation about guns-like a more productive conversation about cars-would look to the conditions that help create fatalities rather than just focusing on the object itself. The battle against drunk driving didn’t focus on banning drunk drivers’ cars; it focused on the conditions that create drunk driving—such as being over-served in bars—and sought to raise awareness through a variety of informational campaigns. Similarly, a productive conversation about guns would also examine the conditions that foment gun violence, especially a failed and immoral drug war, rather than just focusing on guns. Instead, gun-control proposals are often arbitrary, ineffective, based in ignorance about guns, and seemingly part of a long-term effort to ban guns entirely—and it drives gun-rights supporters crazy.
UBC Undesirable: Answers to “Rejection Rates Prove Effectiveness”

- Claims that background checks ‘work’ because of the number of rejections are silly—we have no way of knowing why someone failed the check

Robert A. Levy, Chair, Cato Institute, “Our Core Second Amendment Rights,” CATO’S LETTER v. 11 n. 3, Summer 2013, p. 4. What about the clamor to extend background checks to private sales, which includes purchases at gun shows, over the Internet, and through published ads? Survey data indicates that less than 2 percent of guns used by criminals are bought at gun shows and flea markets—a figure that includes sales through licensed gun show dealers, which are already subject to background checks. Yet the New York Times still editorializes that background checks “prevented nearly 2 million gun sales over a 15-year period.” This is an incredible claim. There is no way for the Times to know how many sales were prevented from occurring. Violence-prone buyers who don’t pass a background check will purchase elsewhere or steal a gun. Peaceful buyers who don’t pass their background check, however, might be unable to defend themselves with an appropriate firearm.
UBC Undesirable: Answers to “Suicide”

Restrictions will not decrease the incidence of suicide


As my co-workers and I kept looking at the data, it seemed less and less clear that one broad gun-control restriction could make a big difference. Two-thirds of gun deaths in the United States every year are suicides. Almost no proposed restriction would make it meaningfully harder for people with guns on hand to use them. I couldn’t even answer my most desperate question: If I had a friend who had guns in his home and a history of suicide attempts, was there anything I could do that would help?