

# NEG Brief

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



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## Definitions

### Universal Background Checks

Universal background checks close prevent the transfer of arms between unlicensed persons (Krouse - Congressional Research Service).

William J. Krouse (Specialist in Domestic Security and Crime Policy/Congressional Research Service), "Gun Control Legislation in the 113th Congress." January 8 2015. <https://fas.org/sgp/crs/misc/R42987.pdf> HS.

The Administration's 23 executive actions, under the plan, range from directing the Attorney General to work with U.S. Attorneys to ensure that firearms-related criminal cases are prosecuted to directing the CDC to research the causes and prevention of gun violence.<sup>12</sup> The Administration periodically updated a report chronicling its progress in implementing these executive actions.<sup>13</sup> This report does not focus on the President's plan in its entirety. Rather, this report provides an overview of federal firearms laws as a basis for examining the three most salient legislative proposals included in the President's plan. Those proposals would have (1) **required background checks for intrastate firearms transfers between unlicensed persons at gun shows and nearly any other venue, otherwise known as the "universal background checks" proposal**; (2) increased penalties for gun trafficking; and (3) reinstated and strengthened an expired federal ban on detachable ammunition magazines of over 10-round capacity and certain "military style" firearms commonly described as "semiautomatic assault weapons," which are designed to accept such magazines. This report also briefly examines counter-proposals designed to increase both open and concealed firearms carrying privileges under certain circumstances.

### Summary of federal law (Giffords Law Center).

NA (Giffords Law Center to Prevent Gun Violence). "Universal Background Checks." 2017 <http://lawcenter.giffords.org/gun-laws/policy-areas/background-checks/universal-background-checks/> HS.

#### **Federal law imposes various duties on federally licensed firearms dealers. Firearms dealers must,**

**among other things: Perform background checks on prospective firearm purchasers.** Maintain records of all gun sales. Make those records available to law enforcement for inspection. Report certain multiple sales. Report the theft or loss of a firearm from the licensee's inventory.<sup>31</sup> **Federal law imposes none of these requirements on unlicensed sellers,**

**however.** The Gun Control Act of 1968 provides that persons "engaged in the business" of dealing in firearms must be licensed.<sup>32</sup> Although Congress did not originally define the term "engaged in the business," it did so in 1986 as part of the McClure-Volkmer Act (also known as the Firearms Owners' Protection Act). That act defined the term "engaged in the business," as applied to a firearms dealer, as "a person who devotes time, attention, and labor to dealing in firearms as a regular course of trade or business with the principal objective of livelihood and profit through the repetitive purchase and resale of firearms."<sup>33</sup> **Significantly, however, the term was defined to exclude a person who "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."**<sup>34</sup>

According to a 1999 report issued by the Bureau of Alcohol, Tobacco, Firearms and Explosives, the current definition of "engaged in the business" often frustrates the prosecution of **"unlicensed dealers masquerading as collectors or hobbyists but who are really trafficking firearms to felons or other prohibited persons."**<sup>35</sup>

### Summary of state law (Giffords Law Center).

NA (Giffords Law Center to Prevent Gun Violence). "Universal Background Checks." 2017 <http://lawcenter.giffords.org/gun-laws/policy-areas/background-checks/universal-background-checks/> HS.

Nineteen states and Washington DC have extended the background check requirement beyond federal law to at least some private sales.

#### **Nine states (California, Colorado, Connecticut, Delaware, Nevada, New York, Oregon, Rhode Island, Washington) and DC require universal background checks at the point of sale for all transfers of all**

**classes of firearms, including purchases from unlicensed sellers;** Maryland and Pennsylvania do the same for handgun purchases only. Four states (Hawaii, Illinois, Massachusetts, and New Jersey) require any firearm purchaser, including a purchaser from an unlicensed seller, to obtain a permit issued after a background check, and four more states (Iowa, Michigan, Nebraska, and North Carolina) do the same only for handgun purchasers. Illinois also requires a background check whenever a firearm is sold at a gun show.<sup>36</sup> Voters in Washington and Nevada adopted universal background checks laws by ballot initiative in 2014 and 2016 respectively. STATE LAWS CLOSING

THE PRIVATE SALE LOOPHOLE Background Checks at the Point of Transfer **The most comprehensive approach to ensuring that guns are not sold to prohibited persons is through a requirement for a background check at the point of transfer of any firearm. Processing transfers by private sellers through licensed dealers or a law enforcement agency helps to ensure that a background check will be conducted prior to any transfer.** States that Require a Background Check at the Point of Transfer: **California Colorado Connecticut Delaware District of Columbia Maryland (handguns and assault weapons only) Nevada New York Oregon**

**Pennsylvania (handguns only) Rhode Island Washington California, Colorado, Delaware, Nevada, New York, Oregon, and Washington generally require all firearm transfers to be conducted by or processed through licensed dealers, who conduct background checks on prospective firearm purchasers or**

**recipients.** In the District of Columbia, firearms may be sold and transferred only by or to a licensed dealer. Rhode Island requires all sellers to obtain a completed application form from the prospective purchaser and to submit the form to law enforcement for purposes of conducting a background check. Connecticut requires any person transferring a firearm to either submit a form to law enforcement or conduct the transfer through a licensed dealer, so that a background check is conducted for every sale or transfer. Maryland and Pennsylvania require a background check for every prospective handgun sale or transfer, and provide that the background check may be conducted either by a licensed dealer or a designated law enforcement agency.

## Transfer of Ownership

**The current UBC proposal and state implementation defines “transfer” as the delivery of a firearms which applies to a short terms transfer (Kopel - Washington Post).**

David Kopel (The Washington Post). “How Everytown’s background check law impedes firearms safety training and self-defense.” November 2, 2015.

[https://www.washingtonpost.com/news/volokh-conspiracy/wp/2015/11/02/how-everytowns-background-check-law-impedes-firearms-safety-training-and-self-defense/?utm\\_term=.a34ad0ca12af](https://www.washingtonpost.com/news/volokh-conspiracy/wp/2015/11/02/how-everytowns-background-check-law-impedes-firearms-safety-training-and-self-defense/?utm_term=.a34ad0ca12af) HS.

Today, many gun control advocates are pushing for what they call universal background checks. In this and future articles, I will explain the strange system of “universal background checks” being promoted by Michael Bloomberg’s Everytown for Gun Safety lobby. These laws severely obstruct ordinary activities that do not involve gun sales, such as self-defense and firearms safety training. Laws based on the Bloomberg system have been enacted in Colorado, Oregon and Washington. They will be on the ballot in 2016 in Nevada, and perhaps in Maine. A similar law (Fix Gun Checks Act, S. 374) has been repeatedly proposed federally by Sen. Charles Schumer (D-N.Y.) The Bloomberg system applies to every firearms “transfer.” In normal firearms law, a “transfer” means “a permanent exchange of title or possession and does not include gratuitous temporary exchanges or loans.” *Chow v. State*. 393 Md. 431, 473, 903 A.2d 388, 413 (2006). However, **the**

**Bloomberg laws create a very different definition. For example, the Washington state law says that “ ‘Transfer’ means 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.” Rev. Code Wash. § 9.41.010(25). In other words, it applies to sharing a gun while target shooting on one’s own property, or to lending a gun to a neighbor for a weekend hunting trip. Under the Bloomberg system, transfers may take place only at a gun store.**

The transfer must be conducted exactly as if the retailer were selling a firearm out of her inventory. So the transferee (the neighbor borrowing the hunting gun) must fill out ATF Form 4473; the retailer must contact the FBI or its state counterpart for a background check on the transferee; and then, the retailer must take custody of the gun and record the acquisition in her Acquisition and Disposition book. Finally, the retailer hands the gun to the transferee and records the disposition in her Acquisition and Disposition book. A few days later, after the hunting trip is over, the process must be repeated for the neighbor to return the gun to the owner; this time, the owner will be the “transferee,” who will fill out Form 4473 and undergo the background check.

# NEG Offense

## Increases Crime

### UBCs in several states were found to increase crime rates

Edwards 17 Cam Edwards, 10-18-2017, "Bad News For "Universal" Background Check Supporters," No Publication, <https://www.americas1stfreedom.org/articles/2017/10/18/bad-news-for-universal-background-check-supporters/> //DF

The problem for Wintemute is that these laws are nearly impossible to enforce, and law enforcement officers know it. That's why so many have been opposed to these feel-good but ineffective background check laws for quite a while. Virtually every county sheriff in New Mexico opposed the Bloomberg-backed gun control bill when it was introduced in the state's legislature earlier this year. Sheriffs spoke out about the need to be able to hold repeat offenders on higher bond, the number of plea bargains, and other issues surrounding the criminal justice system and violent offenders. That's where they think the focus should be, but gun control advocates have a different priority. They think cops across the country should be spending precious time and resources trying to find illegal gun transfers instead of the individuals who are actually committing violent crimes. How well does that work to make us safer? Well, take one more look at that study on background check laws. Supposedly,

**Delaware saw a significant increase in background checks. Unfortunately, Delaware also saw its homicide rate significantly increase as well**; from 4.4 in 2013 to a 30-year high of 6.6 in 2015, before dropping slightly to 5.9 in 2016. **Washington and Colorado also had a slight increase in homicide rates** (from 2.4 to 2.7 in the case of Washington and 3.3 to 3.7 for Colorado), but nothing like the spike seen in Delaware. Yes, **the state most compliant with its "universal" background check law also had the highest homicide rate and the biggest increase in its homicide rate of the states studied.**

## Ineffective

### Rebuttal Overview

Prefer evidence that does a before and after analysis of states that have implemented a universal background check. This is because it takes into account differences in gun culture and policies that state to state comparisons don't account for. This is really important because an analysis conducted Cramer of the College of Western Idaho compares the average crime rates before for eight states after a universal background check was passed and found that the majority of statistically significant and insignificant results showed an increase in murder rates.

Clayton E. Cramer (History professor at College of Western Idaho/NRA ILA). "Do "Universal" Background Checks Reduce Murder Rates?" August 15, 2013. <https://www.nraila.org/articles/20130815/do-universal-background-checks-reduce-murder-rates>

Let's examine what happened to murder rates in states that adopted mandatory private party firearms background checks (and in Missouri, which did just the opposite). Did murder rates go up or down after these laws went into effect? **One method for measuring this is called interrupted time series analysis (ITSA), which compares the average of crime rates for several years before and after a change in a law.** Like most methods that compare changes in two variables to determine if one influences the other, this is a fairly crude tool. If a law has a very subtle influence on behavior, applying ITSA to a single state will not tell you very much. Another problem is if there are other changes to the state's laws that take place at the same time as adoption of the background check law, it is difficult to determine which law actually might have caused a change in murder rates. However, **if multiple states pass**

**a background check law in different years, and you see similar changes in crime rates in most cases, it may be a good indicator that the law affects crime rates. If different states get different results, and there is no consistent pattern, it may be an indicator that the law either does nothing, or its effects**

**are very subtle.** Unfortunately, the only particularly trustworthy and consistent data on murder rates for U.S. states are those collected by the FBI Uniform Crime Reports program, started in 1960. The FBI may not be always correct, but the odds are that it is at least consistent, making it useful for this sort of study. Because many of the mandatory background check laws took effect before 1960, these states really aren't going to be useful for ITSA. One interesting exception: Rhode Island's mandatory background check for handguns dates back at least to 1956, so we can't really do an ITSA on that law. But the background check requirement for long guns first appears in 1990, and is thus appropriate. For the states that adopted mandatory background check laws after 1960, **I gathered murder rates for the first five full calendar years after the law was in effect, and the average murder rate for the previous five calendar years, including the year of enactment if the law took effect partway through the calendar year. Five years is long enough to smooth out random variations caused by the actions of one criminal on a rampage. At the same time, going beyond five years in either direction could compare very different**

**societies with very different morals, economies and legal systems.** For example, the California where I grew up in 1965 was not at all the same society it was in 1991, when California's mandatory firearms background check law took effect. Note that merely determining how much murder rates changed is not enough to draw any valid conclusions. You also must determine whether the change in murder rates is statistically significant. This is a term that social scientists use to determine if a change was coincidental or indicates a real change. In the social sciences, a 95 percent confidence interval means that the odds of this change being random are less than 1 in 20; this is also the standard that social scientists typically use to say, "Hmmm. This is probably not random. We should take a more careful look." For this article, I used the 95 percent confidence interval standard for determining whether the changes are statistically significant. Table 1 on p. 36 shows for each state the first full year the background check law was in effect; the average murder rate in the five years before, and the standard deviation, the average murder rate for the five years after, and the standard deviation. It also shows the net change in murder rates, whether the change was statistically significant, and to what category of firearms the law applied. **There are statistically significant changes in murder rates for five of the eight states—three increased after adoption; two went down.**

**Also, two of the three statistically insignificant states experienced an increase in murder rates after the laws were passed.** Examining the data based on whether it applies just to handguns or all guns does not give much confidence in the effectiveness of such laws. Because handguns were used in 48 percent of U.S. murders in 2011 (according to FBI crime states), you might expect the biggest gains from such laws would involve the handguns background check requirements. Yet results for the four laws that applied to handguns (Maryland, Iowa, Nebraska and Pennsylvania) are quite mixed. In Maryland and Pennsylvania, the change in murder rates was downward and significant. The insignificant change states, Iowa and Nebraska, had an increase in murder rates. Earlier, I mentioned that Missouri repealed its permit-to-purchase law in 2007. Dr. Daniel Webster, a public health professor, testified before the U.S. Senate Judiciary Committee on Feb. 12 of this year that Missouri's repeal of its permit-to-purchase law (which required police approval of pistol purchases) increased murder rates. He claimed that the increase was directly tied to the repeal of the law, stating: "In 2008, the first full year after the permit-to-purchase licensing law was repealed, the age-adjusted firearm homicide rate in Missouri increased sharply to 6.23 per 100,000 population, a 34 percent increase." Watch the sleight of hand carefully. Dr. Webster talks about not the "murder rate," but "firearm homicide rate." The "firearm homicide rate" Dr. Webster uses comes from the Centers for Disease Control mortality database, and includes all intentional firearm deaths not classified as "legal intervention." Additionally, the term "legal intervention" is defined so narrowly by the CDC that in Missouri it certainly includes only shootings by police officers. There are a number of killings contained in the FBI's "murder and non-negligent homicides" statistics that will be determined during investigation, by a grand jury, or at trial, to be excusable or justifiable homicides. Almost certainly, the same problem exists with the "firearms homicide" category in the CDC mortality database. The Elizabethan poet John Donne is most remembered today for "No Man Is An Island," which includes the memorable lines, "Each man's death diminishes me, / For I am involved in mankind." There is truth to this; even when criminals kill each other or are killed by their intended victims, these deaths are unfortunate. At a minimum, the experience of taking another human life, even in completely justified self-defense, is often traumatic. It is possible that at least part of Missouri's increase in "firearm homicides" was because of murderers, rapists, armed robbers or gang members getting shot to death by victims or other criminals. Each of these deaths diminishes us, but I confess that I do not feel quite the same sense of horror and tragedy at these deaths as if a law-abiding person had been murdered. Also, notice that the 34 percent rise from 2007 to 2008 Dr. Webster refers to is specifically firearms. Murders with knives, fists, feet and fire don't matter? It turns out that while Missouri's total murder rate (from the FBI's Uniform Crime Reports) did indeed rise from 2007 to 2008, it was a 24 percent increase, which while still disturbing, is not as disturbing as 34 percent (Then the murder rate started to fall again in 2009, according to FBI reports.) There is also some reason to doubt that the repeal of Missouri's permit-to-purchase law really made the difference. At least, it is not as clear as Dr. Webster's testimony claimed. Table 2 on p. 36 shows Missouri firearms homicides from CDC's database for 2007 and 2008, by month. It took eight months from the effective date of the repeal before this "sharp" increase took place. St. Louis Public Radio ran a series of programs in late 2008 about the increase in gang violence

(including murders) that had lately plagued the city. It's possible this was the real cause. Of course, it is possible that the gangs had been unable to obtain handguns before repeal of the permit-to-purchase law—but it seems implausible that criminal organizations, often involved in drug trafficking across international borders, were having trouble buying handguns before the new law took effect. Secondly, it seems unlikely that the gangs required eight months to take advantage of the new law. Attempts to determine if the rise in murder rates was specific to handguns (the subject of the repealed permit-to-purchase law) were inconclusive. For reasons of confidentiality, the CDC database will not provide sufficient detail concerning handgun homicides on a monthly basis for Missouri. Dr. Webster compared the average firearms homicide rates for 1999 through 2007 and 2008 through 2011 (the last year for which the CDC's mortality database contains data). Using a similar methodology as above for Missouri's repeal of its permit-to-purchase law, I analyzed murder rates (and not just those involving firearms). There is an increase in murder rates after repeal of the permit-to-purchase law, but like some of the other states we have examined, the change is not statistically significant. And to repeat: some of this increase might be defensive gun uses that were initially reported as murders. I consider it very unlikely that most or even many of the additional crimes charged as murders in 2008 were actually defensive gun uses, but I do not consider it impossible that some of the increase involved such "firearms homicides." At this point, many people will start blubbering that these findings have to be a coincidence—how could a background check requirement not consistently reduce murder rates? **A recent internal memo from the deputy director of the National Institute of Justice (the U.S. Department of Justice's research arm) discussed the various gun control strategies that the Obama administration could pursue, and the likely effectiveness of each. The memo's discussion of a mandatory private party firearm national background check points out that a 2000 study of the sources of firearms trafficking found that 47 percent of investigations involved straw purchasers, while 26 percent involved theft (14 percent from stores, 10 percent from homes, and 2 percent from common carriers—the shipping companies that transport guns). An additional 8 percent are described as "retail diversion," apparently involving corrupt gun dealers, according to the NIJ report. The straw purchasers are already committing a federal felony. It is hard to imagine that they are going to suddenly start obeying a new law on background checks.** Of course, the government could do that with the current law. **Nor will a background check law affect thefts, or corrupt gun dealers.** There are also already laws on the books for those situations. As I said at the beginning, there are strong arguments in favor of keeping guns out of the hands of those who are not lawfully allowed to possess them. But the evidence just doesn't exist that such laws would be effective at reducing murder rates.

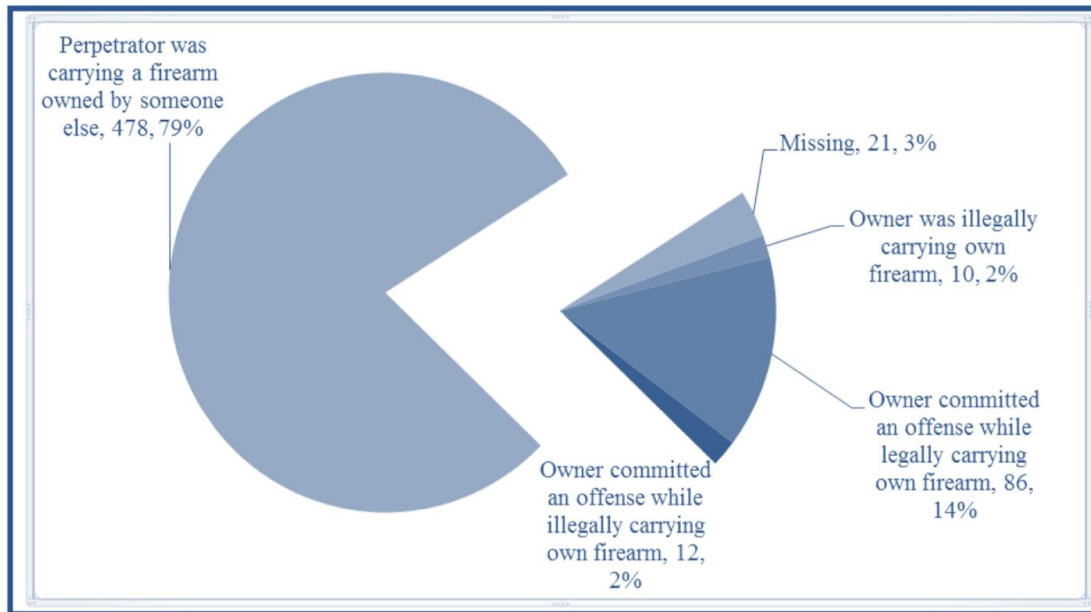
## General

### **Lawful gun owners commit less than a fifth of all gun crimes (Fabio - University of Pittsburgh).**

Anthony Fabio (University of Pittsburgh). "Gaps continue in firearm surveillance: Evidence from a large U.S. City Bureau of Police." July 2016. <http://www.socialmedicine.info/index.php/socialmedicine/article/view/852/1649>

While the broad relationship between violence, poor health outcomes, and firearms is well-established, there is limited research in the public health field on the source of guns collected by police departments, many of which are used for violent crime that results in injury or death. This data could be valuable for purposes of improving surveillance around violent crime and health outcomes as well as for evaluating prevention strategies and future programs that aim to reduce gun violence. The objectives of this study are to describe how guns come into police possession, identify the primary source of these guns, determine how guns leave possession of lawful owners, and determine disposition of guns and perpetrators. In order to meet the objectives, we analyzed data on 762 cases in which a gun was recovered by the Pittsburgh Bureau of Police Firearm Tracking Unit (FTU). Descriptive analyses were conducted. Most cases involve a single perpetrator. Traffic stop and street patrol accounted for 31% of method of recovery. **Most perpetrators (79%) were carrying a gun that did not belong to them.** More than 30% of the guns recovered were reported stolen by owners when the FTU contacted them. For 44% of the guns, whether the gun was stolen was either unknown or not able to be determined. In most cases, individual

**Figure 2.**  
**Ownership of firearm by perpetrator, Pittsburgh, 2008.**



### Three loopholes around UBC (Cramer – College of Western Idaho)

Clayton E. Cramer (College of Western Idaho). Background Checks And Murder Rates. Published 4/12/13.  
[https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=2249317](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2249317)

Could all of this be a coincidence – **how could a background check requirement not consistently reduce murder rates? A recent internal memo from the deputy director of the National Institute of Justice** (the U.S. Department of Justice’s research arm) discusses the various gun control strategies that the Obama Administration could pursue, and the likely effectiveness of each. The memo’s discussion of a mandatory private party firearm national background check **points out that** a 2000 study of **the sources of crime guns** found that **[1] 47% [of crime guns came from] were straw purchasers, [2] while 26% were stolen** (14% from stores, 10% from homes, and 2% from common carriers – the shipping companies that transport guns). **[3] An additional 8% are described as “retail diversion,” apparently corrupt gun dealers.**<sup>26</sup> The straw purchasers are already committing a federal felony;<sup>27</sup> **it is hard to imagine that they are going to suddenly start obeying a new law on background checks, unless the government enforces that new law with some serious vigor.** But they could do that with the current law. Nor will a background check law affect thefts, or corrupt gun dealers. There are already laws on the books for those situations. **There may well be a case for a national background check on all private party firearms sales. As a method of reducing murder rates, the evidence in support of it does not exist.**

**No evidence that more background checks reduces homicide: In two out of eight states where BC laws became stricter murders declined but in six of eight murders increased (Cramer – College of Western Idaho).**

Clayton E. Cramer (College of Western Idaho). Background Checks And Murder Rates. Published 4/12/13.  
[https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=2249317](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2249317)



**For the states that adopted mandatory background check laws after 1960, this study examines murder rates for the first five full calendar years after the law was in effect,** and the average murder rate for the previous five calendar years. Five years is long enough to smooth out random variations caused by the actions of one criminal on a criminal rampage. At the same time, going much beyond five years either direction compares very different societies with very different morals, economies, and legal systems. As an example, the California of 1965 is not at all the same society that it was in 1990, when California passed its mandatory firearms background check law. The following table shows for each state the first full year the background check law was in effect; the average murder rate in the five years before, and the average murder rate for the five years after. It also shows the net change in murder rates, whether the change was statistically significant, and to what category of firearms the law applied. **There are statistically significant changes in murder rates for two of the eight states, both of which declined. Of the other seven, six experienced increased murder rates after the change.** Distinguishing between laws that applied only to pistols or to all guns does not change the results. Because pistols were used in 48% of U.S. murders in 2011, you might expect the biggest gains from such laws would involve the pistol background check requirements. Yet of the four laws that applied just to pistols (Maryland, Iowa, Nebraska, and Pennsylvania) are quite mixed. In Maryland and Pennsylvania the change in murder rates is downward and significant. The insignificant change states, Iowa and Nebraska, had an increase in murder rates. Going the other direction, Missouri repealed its permit-to-purchase law in 2007. Dr. Daniel Webster, a public health professor, testified before the U.S. Senate Judiciary Committee on February 12, 2013, that Missouri's repeal of its permit-to-purchase law (which required police approval of pistol purchases) increased murder rates. He claimed that the increase was directly tied to the repeal of the law:

### **80% of gun crimes would bypass UBC's and UBC's would only extend to 9% of firearm transactions (Michel - Chapman University School of Law).**

C. D. MICHEL (ADJUNCT PROFESSOR, CHAPMAN UNIVERSITY SCHOOL OF LAW/The Hill). "Why universal background checks won't work." 4/17/13. <http://thehill.com/blogs/congress-blog/judicial/294213-why-universal-background-checks-wont-work> HS.

There 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 loose category also includes fellow criminals, who are equally unlikely to participate in "universal" background checks). Totaled, 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 loose 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 checks 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.

**UBCs are ineffective for 6 reasons: 1- The background check system is ineffective because it is not fully funded, for three consecutive years it has only gotten 5.3% of its authorized funds. 2- Many states don't report data to the background check system which results in individuals who should be disqualified to purchase guns to get guns. 3- The Justice Department has only prosecuted less than 1% of background check fraud cases, meaning there is no disincentive to commit background check fraud. 4- UBCs don't address gun trafficking, which is significant because criminals get 40% of their guns from family and friends and 39% get their guns illegally. 5- UBCs don't stop people from getting someone who would pass a background check from getting them a gun. 6- Criminals can still steal guns (MacBradaigh - The Mic).**

MacBradaigh (The Mic). "6 Biggest Problems With Mandatory Gun Background Checks." Feb 25, 2013.

<https://mic.com/articles/27309/6-biggest-problems-with-mandatory-gun-background-checks#.7UeehM29> HS.

One of the ideas proposed with the new gun control legislation is mandatory "universal" background checks required for all gun sales. **The National Instant Criminal Background Check System (NICS) is the database checked during gun purchases to ensure individuals such as felons and the mentally ill aren't allowed to purchase guns.** In theory, requiring a check for each firearm purchase would clamp down on guns getting into the wrong hands. There are a few problems with this idea. **The system is woefully inadequate, underfunded, lacking in up-to-date or accurate state-reported felony and mental illness data, and doesn't address the core root problem of criminals getting guns via illegal trafficking or straw man purchases. 1. NICS, the background check system, is not fully funded:** During the Obama administration, Congress has failed to provide the necessary funding for NICS. **Despite Congress passing the NICS Improvement Amendments Act in 2007, many states have made little or no progress reporting felony and mental illness data to NICS. This is largely because Congress has not fully funded NICS or provided correct incentives for states to do so. Congress actually appropriated just 5.3% of the total authorized amount** in fiscal years 2009, 2010, and 2011. **2. Many states do not report data to NICS:** Many states do not report, or grossly under-report, felony and mental health information to NICS. In fact, **19 states have provided fewer than 100 records of individuals disqualified on mental health grounds since the implementation of NICS** in the early 1990s. For instance, Maryland has only submitted 58 mental health records to the NICS database since 1999. **Failing to report this data has allowed several mentally ill people to commit mass shooting murders**, such as the shooters at both Arizona and Aurora, Colorado. **3. The Justice Department doesn't prosecute background check fraud:** The Obama administration's Justice Department is also not strongly enforcing prosecutions of people who falsify information on their gun background checks. **The FBI reported 71,000 instances of people lying on their background checks to buy guns in 2009, but the Justice Department prosecuted a mere 77 cases, or a fraction of 1%.** **4. NICS doesn't address illegal gun trafficking:** Advocating universal background checks may leave the uninformed with the impression that this measure would solve the issue of criminals obtaining guns; it doesn't. **According to a 2001 Department of Justice study, 78.8% of criminals get their guns from sources outside of retail store purchases. 39.6% get guns from friends or family while another 39.2% get guns from the street or other illegal means. Universal background checks don't address illegal trafficking.** Trafficking has been a huge problem in Australia and in the UK since their respective gun bans. Here in the United States, we have serious issues with border security. The FBI states gangs - which boast 1.2 million active members as of 2011 - engage in illegal guns trafficking, as well as narcotics. **Universal background checks for purchases could easily be circumvented through illegal trafficking.** This is not to say that legal purchases shouldn't have a check, but to demonstrate that this measure doesn't solve illegal gun possession. **5. Universal**

**checks don't satisfactorily address straw man purchases:** Another issue unaddressed by universal background checks is the straw man purchase, the act of illegally acquiring a firearm through a third party. The ATF defines straw man as using another person to acquire a firearm when the end user is specifically prohibited from acquiring the firearm. "That is to say, the actual purchaser is a felon or is within one of the other prohibited categories of persons who may not lawfully acquire firearms." The straw purchaser violates federal law by making false statements on Form 4473. **Criminals could circumvent universal checks by having another person with a "clean" record purchase the gun for them. This is already illegal, but that doesn't stop it. Criminals could also borrow, buy, or otherwise take illegal possession of a gun, even if the gun wasn't originally purchased with straw man intent.** There is no logical, credible reason why universal checks would be any more effective in stopping either already illegal activity. **Combine this with the fact the Justice Department doesn't prosecute referred fraud cases, and it's a loser solution to stopping guns from getting into the the wrong hands. 6. Universal checks doesn't prevent acquiring guns through theft:** The Sandy Hook Elementary shooter killed his mom and stole her guns. Police have been targeted for gun theft - both from their homes and from their vehicles. The FBI also reports that organized gangs have stolen weapons from the military. Even safes can be cracked or if not bolted down, removed and later cracked. Home invaders can steal weapons right out of houses, even when the occupant is inside. **No system can prevent the wrong people from acquiring guns in this manner.**

**Ex. Nevada deemed UBCs unenforceable and put an indefinite hold on its implementation. 1- they did not have the resources to conduct and enforce UBCs 2- impossible to regulate private sales and transfers (Noble - Washington Times).**

Andrew Noble (Washington Times). "Nevada's universal gun background check law deemed unenforceable, put on ice." January 1, 2017. <http://www.washingtontimes.com/news/2017/jan/1/nevadas-universal-gun-background-check-law-deemed-/> HS.

**A universal gun background check measure, approved by Nevada voters** and touted as a victory by gun control advocates, **was supposed to take effect** after the clock struck midnight Saturday and residents rang **in the new year. But the FBI and Nevada's attorney general, calling the initiative unenforceable, have put it on hold indefinitely.** The unexpected development is a welcome surprise for Second Amendment supporters, who have long been critical of such background check efforts funded by Michael's R. Bloomberg's gun control advocacy group, Everytown for Gun Safety. "When you have folks who don't know what they are doing and don't know what they are talking about when it comes to firearms policy, this is the sort of mess that you wind up with," said Craig DeLuz, a spokesman for the Firearms Policy Coalition. "An idea that sounds good on paper can end up violating the rights of citizens." At issue with the Nevada ballot initiative, which 50.4 percent of voters approved on Nov. 8, is who would be responsible for conducting background checks during gun transactions between private citizens. **Transactions between private citizens previously did not require any background checks. Under the initiative, transactions are subject to federal screenings through the FBI-run National Instant Criminal Background Check System. But the FBI on Dec. 14 alerted the Nevada Department of Public Safety that it would not conduct the checks. The bureau said in a letter to state officials that it is the state's responsibility to facilitate the checks and that the ballot measure's approval "cannot dictate how federal resources are applied."** Nevada is one of 12 "points of contact" where states handle their own gun background checks. Firearms dealers contact the Department of Public Safety's Central Repository rather than rely solely on the FBI's system. The FBI notes that the state-run system offers more current data on criminal histories and a broader array of checks on disqualifiers, such as commitment to a mental hospital. But the Bloomberg-backed initiative specifically prohibits private sales checks from being run through the state's central repository, leaving the state with no authority to perform checks for private sales, according to an opinion issued by Nevada Attorney General Adam Laxalt, a Republican. **"It is manifestly unjust to criminally penalize someone for failing to perform an act that is impossible to perform," Mr. Laxalt wrote in an opinion Wednesday deeming the ballot initiative unenforceable. "Despite its intent to merely regulate the transfer or sale of firearms between private parties, because it is impossible to perform the background checks as required by the Act, the Act now unconditionally prohibits such transactions under the threat of criminal prosecution for conduct that was formerly lawful and routine."** He concluded that unless the FBI changes its position, the state cannot enforce the background check requirement on private sales. A spokeswoman for Gov. Brian Sandoval, a Republican who opposed the initiative, said the opinion is under review by the governor's

office and he plans to discuss it with the Department of Public Safety. Supporters of the initiative raised more than \$19 million to have the law implemented, and it was not immediately clear what, if any, action they could take.

### **States are not submitting necessary information for background checks (Cirilli- Politico)**

Kevin Cirilli, 1/28/2013, "Background Checks: Do they work?", <http://www.politico.com/story/2013/01/guns-background-checks-do-they-work-086755?o=1>.

While the system is well-intentioned, many argue it's just not working and they've got plenty of evidence to point to. For instance, **while the background checks cover mental illness, few states are submitting the required records to the federal database.** From 2004 and 2011, **the number of mental health records made available to NICS increased** dramatically from 126,000 to 1.2 million, **according to a July report from the Government Accountability Office** (GAO). **But the GAO noted that the increase is largely a result of efforts by only 12 states.** Under the current restrictions regarding mental health issues, gun purchases are prohibited for anyone found not guilty of a crime by reason of insanity, anyone who has been involuntarily committed to a mental institution, or found legally incompetent to handle their own affairs. **Like mental health records, drug violations are also under-reported to the feds,** according to reports. The **GAO concluded that "most states" aren't informing the feds of failed drug tests, as the federal background check law requires — with 30 states not making any noncriminal data available.** With regards to drugs, the law bars anyone with multiple arrests for the use or possession of a controlled substance within the past five years with the most recent arrest happening in the last year. It also restricts someone who is convicted for the use or possession of a controlled substance within the last year.

### **Interview of prisoners about how guns can act as a deterrent (Chung - MIT)**

Michael Chung, 1/28/1994, "Gun Control Legislation Ineffective in Reducing Crime", <http://tech.mit.edu/V114/N1/chung.01o.html>. The underlying premise of nearly every type of gun control is that crime will be reduced. This is not necessarily the case. Gun control inevitably delays the purchase of a weapon by honest people who need a gun for self defense. Sometimes extreme circumstances require quick response. For instance, several years ago, a serial killer was on the loose in Gainesville, Florida. Naturally, people who wanted to defend themselves chose to do so, be it with guns, knives, or baseball bats. **A 1985 National Institute of Justice report by professors James Wright and Peter Rossi found that the armed citizen or the threat of the armed citizen is possibly the most effective deterrent to crime** and the nation. More than **1,800 prisoners were interviewed, and** it was found that **85 percent agreed that the smart criminal will attempt to find out if a potential victim is armed; 75 percent felt burglars avoided occupied dwellings for fear of being shot; 53 percent did not commit a specific crime for fear the victim was armed, and 57 percent of handgun predators were scared off or shot at by armed victims.** Many acts of violent crime, including rape and robbery, have been prevented through effective and proper use of a firearm. According to Gun Rights Fact Book by Alan Gottlieb, handgun use in self-defense was the best prevention against crime (66 percent rate) from results of Chicago robberies in the 1970s.

### **Most background checks are verified – ineffective?**

**Wintemute 13** Garen Wintemute [Baker–Teret Chair in Violence Prevention and Professor of Emergency Medicine, the University of California, Davis], 2013, "Background Checks for Firearm Transfers," Violence Prevention Research Program, University of California, Davis, <http://www.ucdmc.ucdavis.edu/vprp/CBC%20White%20Paper%20Final%20Report%20022013.pdf> //DF Background checks on persons purchasing firearms from licensed retailers have only been required under federal law since March 1, 1994, when the Brady Handgun Violence Prevention Act took effect. From then **through 2009,** the most recent year for which full data are available, **107,845,000 background checks were performed; 1,925,000 (1.8%) purchases were denied.**<sup>22</sup> In 2009 alone, 10,764,000 background checks were performed, and 150,000 (1.4%) denials resulted. Prior to the Brady Act, no background check was required in 32 states to verify purchasers' statements that they were not prohibited persons. The 18 other states had enacted background check requirements of their own, sometimes many years earlier.<sup>23</sup> When the Act first took effect, states where no background checks had previously been required found that as many as 9.4% of persons who sought to purchase firearms from licensed retailers, and who had just certified under penalty of perjury that they were eligible to own firearms, were in fact prohibited persons.<sup>24</sup>

### **Law Enforcement and Others Refused to Comply with new Gun Legislation (Beckett - Guardian)**

Lois Beckett, 10/13/2017, "Gun Laws cost millions had little effect because they weren't enforced", <https://www.theguardian.com/us-news/2017/oct/13/gun-laws-that-cost-two-state-lawmakers-their-seats-had-little-effect-study-finds>. Congressional Republicans, joined by a handful of Democrats, have repeatedly refused to pass a national law to require background checks on gun sales, despite public survey results that show overwhelming public support for the policy. As a result, **some states have chosen to close the loophole themselves, mandating that any gun sale now be preceded by a background check**, an attempt to crack down on the flow of guns to the illegal market. Opponents of the new laws in both Colorado and Washington had proudly advertised their noncompliance with the new regulations. **In Washington, Wintemute** and his co-authors **noted, more than 1,000 gun rights supporters held an "I will not comply" demonstration** at the state capitol **where they reportedly flouted the newly passed law in public by transferring firearms to each other in full view of law enforcement. In Colorado, some sheriffs in more conservative rural areas reportedly said they would not enforce the new gun control law, and others that enforcement would simply be "a very low priority"**. The new research results are likely to be touted by opponents of gun control as evidence that new gun regulations are futile. The National Rifle Association did not immediately respond to a request for comment.

### **Database prohibiting people from owning guns varies between states (Pérez-Peña-New York Times)**

Richard Pérez-Peña, July 27 2015, "Problems Plague System to Check Gun Buyers", <https://www.nytimes.com/2015/07/28/us/problems-riddle-system-to-check-buyers-of-guns.html>  
Under federal law, the list of prohibited buyers is supposed to include people convicted of felonies and certain misdemeanors, drug abusers and those convicted of certain drug crimes, and anyone whom a court has involuntarily committed for being dangerously mentally ill. But **there is no requirement that the states participate in adding names to the database**. Putting the states' convicted criminals on the list of prohibited buyers generally works fairly smoothly, but **the systems for adding people with drug problems have been erratic, and those for the mentally ill even more so**, experts say. **Some states have highly automated record-keeping, while others have more room for human error** and some still work with paper records; some scour old cases for names to add, but most do not bother; **and the states use varying standards for committing people to mental hospitals against their will. Some states have put hundreds of thousands of people with involuntary commitments on the list over the years, but in other states, the figure is in the single digits, according to records kept by both the National Shooting Sports Foundation, the trade association for the gun industry, and gun control advocates**. On Sunday, Gov. Bobby Jindal of Louisiana argued that if Mr. Houser had been involuntarily committed in his state, he could not have passed a background check. That is because of a law the governor signed last year, requiring the state's courts to report such rulings to the federal database. Mr. Jindal urged other states to strengthen their laws and make sure such information is reported to the federal government.

### **Wouldn't address most guns used in crime**

**Ridgeway 13** Greg Ridgeway [ Ph.D., Deputy Director, National Institute of Justice], 1-4-2013, "Summary of Select Firearm Violence Prevention Strategies," National Institutes of Justice, <https://www.firearmsandliberty.com/PDF-News/nij-gun-policy-memo.pdf> //DF  
To understand the value of background checks it is essential to understand the source of crime guns. Several sporadic attempts have been made to learn how criminals acquire guns. For example, a 2000 study by the ATF found the following distribution of sources. These figures indicate informal transfers dominate the crime gun market. **A perfect universal background check system can address the gun shows and might deter many unregulated private sellers. However, this does not address the largest sources (straw purchasers and theft), which would most likely become larger** if background checks at gun shows and private sellers were addressed. **The secondary market is the primary source of crime guns**. Ludwig and Cook (2000) compared **states that introduced Brady checks to those states that already had background checks and found no effect of the new background checks**. They hypothesized that the **background checks simply shifted to the secondary market those offenders who normally purchased in the primary market**. Supply sources can vary in different parts of the country. An NIJ funded study of the Los Angeles illicit gun market noted: "Results showed that many crime guns were first purchased at local—that is, in county—licensed dealers, rather than from out of state. That is, contrary to the

conventional wisdom that crime guns were being trafficked across state borders from places with less stringent regulations, such as Arizona and Nevada, we found that a majority of the guns used in crimes were purchased in Los Angeles County.” Thus, gun markets can be highly local.

### **Universal Background Checks are bureaucratic and ineffective (Burrus - Cato)**

Trevor Burrus (The CATO Institute). “Restoring the Right to Keep and Bear Arms.” 2017.

<https://object.cato.org/sites/cato.org/files/serials/files/cato-handbook-policymakers/2017/2/cato-handbook-for-policymakers-8th-edition-220.pdf>

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. 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. 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.)

### **Colorado and Washington saw no increase in background checks when they implemented UBCs**

#### **(Weber - Injury Prevention Journal)**

DW Webster (UC Davis/Injury Prevention Journal). “Comprehensive background check policy and firearm background checks in three US states.” October 6, 2017. <http://injuryprevention.bmi.com/content/early/2017/10/06/injuryprev-2017-042475.info> HS.

Abstract Background Comprehensive background check (CBC) policies are hypothesised to reduce firearm-related violence because they extend background checks to private party firearm sales, but **no study has determined whether these policies actually**

**increase background checks, an expected intermediary outcome**. We evaluate the association between CBC policies and the rates of firearm background checks in three states that recently implemented these policies: Delaware (July 2013), Colorado (July 2013) and Washington (December 2014). Methods We used the synthetic control group method to estimate the difference from estimated counterfactual post intervention trends in the monthly rate of background checks per 1 000 000 people for handguns, long guns and both types combined, using data for January 1999 through December 2016. Inference was based on results from permutation tests. We conducted multiple sensitivity analyses to assess the robustness of our results. Results Background check rates increased in Delaware, by 22%–34% depending on the type of firearm, following enactment of its CBC law. **No overall changes were observed in Washington**

**and Colorado. Our results were robust to changes in the comparison group and statistical methods.**

**Conclusions The enactment of CBC policies was associated with an overall increase in firearm**

**background checks only in Delaware. Data external to the study suggest that Washington experienced**

**a modest, but consistent, increase in background checks for private party sales, and Colorado**

**experienced a similar increase in checks for sales not at gun shows. Non-compliance may explain the**

**lack of an overall increase in background checks in Washington and Colorado.**

## **Guns are becoming more concentrated in the US as owners are stocking up**

**Ingraham 15** Christopher Ingraham, 10-21-2015, "The average gun owner now owns 8 guns — double what it used to be," Washington Post, <https://www.washingtonpost.com/news/wonk/wp/2015/10/21/the-average-gun-owner-now-owns-8-guns-double-what-it-used-to-be/?tid=ainl//DF>

There are nearly twice as many guns in the average gun-owning household today as there were 20 years ago, according to new Wonkblog estimates based data from surveys and the Bureau of Alcohol, Tobacco, Firearms and Explosives. In 2013, there were an estimated 8.1 firearms in the typical gun-owning household, according to these data. In 1994, the average gun-owning household owned 4.2 guns. These numbers comport with what survey research has shown for several years now: the share of gun-owning households has been declining over the past 20 years and possibly more, according to numbers from Gallup and the General Social Survey. On the other hand, domestic firearm production and imports of firearms have risen sharply, particularly in recent years. If those numbers are correct, it follows that increasing gun purchases are being driven primarily by existing owners stocking up rather than first-time buyers. Plenty has been written about the decline in overall gun ownership rates. Many of these stories are based on the General Social Survey's data, which shows household ownership rates falling from over 50 percent in the 1970s to around 32 percent today. Some gun rights advocates dispute these numbers, preferring to use Gallup's household ownership rates instead, which have remained essentially flat over the same period. But even Gallup's numbers show a decline in gun ownership since the early 1990s, from 54 percent of households in late 1993 to 43 percent as of this fall. And regardless of whether overall ownership rates are flat or falling, one thing that's largely been overlooked is how more guns and fewer gun owners means that firearms are being concentrated in fewer hands than ever before. I calculated the per-household estimates as follows: I multiplied the total number of households in the U.S. (from the Census) by the share of households owning guns. Given the differences between the Gallup and GSS numbers on household ownership (something of a survey mystery), rather than pick one I used them both, to create high and low bounds for the number of gun-owning households. I divided the total number of guns in the U.S. by the number of gun-owning households to arrive at an average number of guns per household. For the final number each year, I took the average of the estimate created by the GSS and Gallup household ownership rates. Important caveat, as always: these are estimates built upon estimates, so there's a fair amount of wiggle room in the actual numbers. However, the overall trend of increasing guns per household is generally not in dispute. And the numbers comport with other estimates of the number of guns per gun-owning household, like a 2006 study finding that the average individual gun-owner owned 6.6 guns in 2004. Also important: these are averages, which are a very blunt instrument for understanding the distribution of guns in the population. In all likelihood, there's a situation where a small percentage of gun owners own a huge number of guns, which brings the average up for everyone. For instance, that same 2006 study found that the top 20 percent of gun owners owned 65 percent of America's firearms. The top 3 percent of gun owners averaged over 25 firearms each. For many owners guns are like tools, and you need different tools for different jobs: a rifle for hunting deer. A shotgun for hunting duck. A pistol for self-defense. An AR-15 for fun. Etc. But in recent years, it seems many gun owners have seen fit to expand their toolboxes. There are probably a number of factors driving this: fear-stoking by some gun rights groups in the wake of mass shootings can lead to surges in gun-buying from existing owners concerned the government could take their guns away. The rising popularity of "prepper" groups, who stock up on food and firearms in preparation for a variety of coming apocalypses, may also be playing a role.

## Stolen Guns

### **UBCs don't solve for stolen guns (Weisser - The Huffington Post).**

Mike Weisser (The Huffington Post). "Why Universal Background Checks Aren't A Panacea." 2/8/17.

[https://www.huffingtonpost.com/entry/why-universal-background-checks-arent-a-panacea\\_us\\_589b5ac6e4b0c1284f29e719](https://www.huffingtonpost.com/entry/why-universal-background-checks-arent-a-panacea_us_589b5ac6e4b0c1284f29e719) HS.

The problem with data which shows the origin of crime guns, both in New York and elsewhere, is that since only the first gun transaction can be traced in most states (although 18 states have extended NICS checks to handgun sales, or all gun show sales or all sales), the fact that a gun first sold in South Carolina ended up being used to kill someone in Long Island doesn't really say anything about how that particular gun got from there to here. And this is because, in most states, the original owner of the gun doesn't have to report when or why he no longer owns a particular gun. **Most states don't require mandatory reporting of gun thefts, and few states require that police report stolen guns to the feds.** The only gun owners who must report missing or stolen guns to the ATF are federally-licensed gun dealers, and most dealers protect their inventory because replacing a stolen gun ain't cheap. Now for the first time a

group of researchers at the University of Pittsburgh have published data on how guns that were picked up by the Pittsburgh PD actually went from the counter-top to the street. Based on an analysis of 762 gun traces conducted by the Firearms Tracing Unit in 2008, the researchers established that while **80 percent of the guns were recovered from persons other than the legal owner, at least one-third were stolen (the actual number was probably substantially higher) but less than half of those thefts were reported to the police. If this data is at all representative of the national scene, this means that upwards of 200,000 unreported guns get into "wrong hands" each year without a single straw sale. Neither expanded background checks nor more diligence about straw sales has anything to do with stolen guns.** And if gun owners were penalized for not reporting gun thefts, I guarantee you they would be more careful about securing their guns. And by the way, reporting a missing gun doesn't violate any of those so-called 2nd Amendment "rights" at all.

## Need A Federal Gun Registry

**Obama's Justice Department concluded that in order for UBCs to be effective it would need to be accompanied by a federal gun registry, which is prohibited by federal law (Cory - The Mic).**

Lexi Cory (The Mic). "Gun Control Debate: Universal Background Checks Aren't Universal." May 6, 2013.

<https://mic.com/articles/39683/gun-control-debate-universal-background-checks-aren-t-universal#.NibooFpkP>

On February 23, House Republicans signed a letter declaring that it is "imprudent to simply call for more laws, without examining the efficacy of the current laws." Although it is a federal crime to submit false information on a background check, they note that, according to an official Justice Department report, 76,142 gun ownership permits were denied in 2010, with 4,732 cases being "referred to field offices for investigation. However, only 62 prosecutions resulted from these actions." Of those prosecutions, only 13 resulted in convictions. Even when felons do try to buy guns and are marked by the system, they are almost never stopped. Why are we looking at making more stringent laws when the ones we already have aren't enforced? Vice President Joe Biden answered that question for us: "And to your point, Mr. [Jim] Baker, regarding the lack of prosecutions on lying on Form 4473s, [background check forms] we simply don't have the time or manpower to prosecute everybody who lies on a form, that checks a wrong box, that answers a question inaccurately." We don't have the time? Then why is more legislation being pursued when we "don't have the time" for what's already in place? The thriving firearm black market shows that illegal guns in circulation will not be stopped. UBCs will do nothing to keep a criminal intent on harming people from illegally obtaining a firearm on the black market, as many already do. Nearly 40% of crime guns are acquired from dealers in the business of black market dealing. In addition, as seen in recent shootings, often the perpetrators suffered from different levels of mental illness and all had legally obtained firearms. If the laws already in place had been enforced, these tragedies would not have happened. However, because they weren't, these tragedies did take place and no amount of background checks and banning firearms would have stopped them. This is nothing but a backdoor for gun registration records. UBC legislation that has already been enacted allows the government to keep a computerized government registry of gun owners. In fact, **Obama's own Justice Department recently reported that the effectiveness of a universal background check system "depends on ... requiring gun registration." In other words, the only way that the government could fully enforce universal background checks would be to mandate the registration of all firearms in private possession, which is something that has been prohibited by federal law since 1986.** A gun registry database would do nothing to monitor criminals who obtained guns illegally; it would only allow the government to keep tabs on law-abiding citizens. UBCs will not keep criminals from purchasing guns, and in fact they will only endanger law-abiding citizens and infringe on their rights.

**A national gun registry is the only way to enforce UBCs, but it doesn't exist. Even if we had a national registry it would be ineffective -> states that have a registration requirement for assault weapons have only 10% of owners registered (Davidson - TIME).**

Jacob Davidson (TIME Magazine). "A Criminologist's Case Against Gun Control." December 1, 2015.

<http://time.com/4100408/a-criminologists-case-against-gun-control/>

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.

## Black Market

### **40% of crime guns are acquired from the black market (Cory - The Mic).**

Lexi Cory (The Mic). "Gun Control Debate: Universal Background Checks Aren't Universal." May 6, 2013.

<https://mic.com/articles/39683/gun-control-debate-universal-background-checks-aren-t-universal#.NibooFpkP>

On February 23, House Republicans signed a letter declaring that it is "imprudent to simply call for more laws, without examining the efficacy of the current laws." Although it is a federal crime to submit false information on a background check, they note that, according to an official Justice Department report, 76,142 gun ownership permits were denied in 2010, with 4,732 cases being "referred to field offices for investigation. However, only 62 prosecutions resulted from these actions." Of those prosecutions, only 13 resulted in convictions. Even when felons do try to buy guns and are marked by the system, they are almost never stopped. Why are we looking at making more stringent laws when the ones we already have aren't enforced? Vice President Joe Biden answered that question for us: "And to your point, Mr. [Jim] Baker, regarding the lack of prosecutions on lying on Form 4473s, [background check forms] we simply don't have the time or manpower to prosecute everybody who lies on a form, that checks a wrong box, that answers a question inaccurately." We don't have the time? Then why is more legislation being pursued when we "don't have the time" for what's already in place? **The thriving firearm black market shows that illegal guns in circulation will not be stopped. UBCs will do nothing to keep a criminal intent on harming people from illegally obtaining a firearm on the black market, as many already do. Nearly 40% of crime guns are acquired from dealers in the business of black market dealing.** In addition, as seen in recent shootings, often the perpetrators suffered from different levels of mental illness and all had legally obtained firearms. If the laws already in place had been enforced, these tragedies would not have happened. However, because they weren't, these tragedies did take place and no amount of background checks and banning firearms would have stopped them. This is nothing but a backdoor for gun registration records. UBC legislation that has already been enacted allows the government to keep a computerized government registry of gun owners. In fact, Obama's own Justice Department recently reported that the effectiveness of a universal background check system "depends on ... requiring gun registration." In other words, the only way that the government could fully enforce universal background checks would be to mandate the registration of all firearms in private possession, which is something that has been prohibited by federal law since 1986. A gun registry database would do nothing to monitor criminals who obtained guns illegally; it would only allow the government to keep tabs on law-abiding citizens. UBCs will not keep criminals from purchasing guns, and in fact they will only endanger law-abiding citizens and infringe on their rights.

### **(Sieberg - Studies in Economic Theory).**

Katri K. Sieberg (Studies in Economic Theory/Department of Political Science at Binghamton University). "Criminal Dilemmas: Understanding and Preventing Crime." 2005. H.S.

An example of this problem can be seen in apartment seeking in Manhattan, New York. Several apartments in the city are included in subsidized housing plans, and have extremely low rents relative to the other apartments. Because many rental agencies are reluctant to rent apartments at the low prices specified, fewer apartments are provided, often leading to a housing shortage. In this case, people are often willing to pay more than the specified price "under the table," or illegally, in order to obtain an apartment. In this manner, even actions that may have been designed to help Manhattan residents can result in shortage and an increase in illegal activity. In other words, illegal action is introduced into a situation in which it should not naturally occur. Most individuals seeking an apartment do not expect nor wish to engage in criminal activity, however, the constraints of the system - creating the lack of housing - may lead them to do just that. Thus, the system may encourage otherwise law-abiding individuals to break the law. This analysis extends to our concern about gun control. **Using gun control, the**

**government effectively sets a quantity that is lower than the market-clearing amount. This action can be expected to result in shortages, causing many to be willing to pay more in order to obtain the desired goods. Many critics have pointed out that gun laws are able to restrict only legal access to guns.<sup>361</sup> Accordingly, black marketeers, recognizing this fact, can gain by providing guns illegally, and citizens can gain by purchasing them. Some illegal sources include sale by legal owners, theft from legal owners, smuggling from foreign manufactures, and manufacture by illegal gunsmiths in the U.S.<sup>362</sup> The situation becomes one in which going outside of the rules creates "mutually advantageous trade". Neither the criminal nor the buyer has an incentive to assist the government. Thus, it is more difficult for the government to stop gun distribution.** This behavior can be explained by using standard supply and demand graphs found in the financial pages of a newspaper. The crossing of the lines in the graph indicates the equilibrium quantity,  $Q_0$ , and the corresponding price,  $P_0$ . These are the prices and quantities that will result if the market is allowed to function without restriction.

(Sieberg - Studies in Economic Theory).

Katri K. Sieberg (Studies in Economic Theory/Department of Political Science at Binghamton University). "Criminal Dilemmas: Understanding and Preventing Crime." 2005. H.S.

If criminals have an inelastic demand for firearms, then they will obtain more of these weapons than law-abiding people. This can result in a precarious situation in which the 'balance of power,' seen here as access to firearms, rests in favor of the criminals.<sup>364</sup> This concern has support in the literature. Polsby and Bremen compare the issue to international relations. Thus, it appears that gun control laws will have the effect not of disarming criminals, but rather increasing the ratio of firearms-holding criminals to non-criminals. Unilateral disarmament does not have a good reputation in international affairs, because such a tactic on occasion has invited aggression by the better-armed party. What reason do we have to suppose that domestic unilateral disarmament would be more successful?<sup>365</sup> If we agree with the above argument, then **gun laws are not entirely successful in reducing criminal possession of firearms. They are mainly successful in reducing the number of law-abiding citizens who have access to these weapons. This fact can produce a disturbing ratio of armed criminals to similarly armed law-abiding citizenry. Additionally, because gun control creates the incentives for the formation of a black market, the laws could be contributing to more crime in a way similar to effects of the infamous alcohol Prohibition in the U.S. By creating a situation in which it is mutually advantageous for groups to break the law, the government may be reducing an important aspect in crime prevention and enforcement, the self-interest of individuals in avoiding crime and in aiding enforcement.**

## Backlash

**Uniqueness: Gun control efforts increasing in squo; opposition attempts are failing (Wilson – The Hill)**

Reid Willson (The Hill). State legislatures rolled back gun restrictions this year. Published 10/03/17.

<http://thehill.com/homenews/state-watch/353542-state-legislatures-rolled-back-gun-restrictions-this-year>.

Several more **aggressive efforts to roll back gun regulations failed this year.** Iowa and Nebraska lawmakers blocked proposals to end background check requirements for those seeking to buy a firearm. Constitutional carry measures failed in South Dakota and Montana, where legislators could not override the governor's veto. A similar measure stalled in the Texas legislature. Some states passed measures restricting gun access. Oregon legislators allowed residents concerned about family members or friends to seek an extreme risk protection order, which would block an individual with mental health issues from obtaining a weapon. Legislators in eight states — Rhode Island, Louisiana, Maryland, Nevada, New Jersey, North Dakota, Tennessee and Utah — passed new measures to curb gun ownership for those who have been convicted of domestic abuse. **"We are seeing strong bipartisan laws to keep people**

**safe from gun violence in red, purple and blue states,”** said Kate Folmar, a spokeswoman for Everytown for Gun Safety, a group bankrolled by former New York City Mayor Michael Bloomberg. **“We’re also seeing states really reject the gun lobby’s guns-everywhere agenda.”** A National Rifle Association (NRA) spokeswoman did not comment by deadline. **Three additional measures restricting gun rights have passed California’s state legislature. One would ban guns on college campuses. Another would restrict the rights of gun owners to carry firearms in the open. And a third strengthens storage and security requirements on gun dealers.** All three bills await Gov. Jerry Brown’s (D) signature. **New measures in Hawaii and Washington will require gun dealers to notify state law enforcement agencies when someone fails a background check required to purchase a gun. Tennessee passed a similar measure last year.** After chafing for years under the Obama administration, gun rights supporters have new allies in the Trump administration. In his first months on the job, President Trump signed legislation rolling back an Obama-era rule limiting access to guns for those with a mental health condition. The Justice Department also ended Operation Choke Point, another Obama-era program aimed at preventing criminal fraud in the gun industry. The Republican-led Congress could act as soon as this week on a new measure to end a federal requirement to register suppressors and to expand protections for those who travel with guns across state lines. Gun owners have an estimated 1.3 million suppressors they have registered with the federal government. The NRA has been especially active on Capitol Hill this year, after spending millions to elect Trump and Republican members of Congress. The group has spent \$3.2 million lobbying Congress during the first half of the year, according to the Center for Responsive Politics. That’s more than the \$3.18 million the NRA spent on lobbying activities in all of 2016.

### **The NRA doesn’t actually support background checks in the wake of Vegas, they just want to appear compassionate but will eventually fight back against the legislation (Moore – American Public University)**

Moore, Jason M., "The Influence of External Factors (Lobbyists) Regarding Major Policy Decisions on Gun Rights and How they Affect Public Impressions Regarding Federal Government" (2015). Master's Capstone Theses. Paper 35. url: <http://digitalcommons.apus.edu/cgi/viewcontent.cgi?article=1037&context=theses>.

**Initially, the NRA supported the GCA fearing the backlash the organization could receive through perceived lack of compassion due to the President Kennedy assassination. However, this stance would quickly fade as the more conservative members within the NRA demanded a more partisan approach.**

**Although in support of the bill, the NRA was able to water down some of the more key components of the legislation.** According to Eakins (2004), “The NRA publication The Rifleman criticized the bill as a product of “irrational emotionalism,” and the 19 Running head: Influence of Lobbyists and Gun Policy first four issues of The Rifleman in 1964 dedicated more than thirty columns to firearms legislation” (para. 2). Sorensen (2013) states, Two opposing forces appeared: Senator Thomas J. Dodd from Connecticut versus the most powerful gun lobbying group, the National Rifle Association. The next five years of proposing gun control legislation landed in stalemate for the majority of the time period. As the public opinion swayed politicians into favoring Dodd’s bill, the National Rifle Association made amendments to the Dodd Bill. The bill’s passing was seen as a victory for gun control in response to accumulating political assassination, but the key secret was the National Rifle Association’s ability to amend and shortcut the original Dodd Bill into a less effective piece of gun control legislation (p. 2). Unlike the passage of the NFA, the GCA legislation was heavily lobbied under the model that is currently practiced in politics today.

### **Backlash leads to loosening laws (Fan – U Wash)**

Mary Fan (University of Washington School of Law). Disarming the Dangerous: Preventing Extraordinary and Ordinary Violence. Published 2015. <http://www.repository.law.indiana.edu/cgi/viewcontent.cgi?article=11135&context=ilj>.

This Article’s main aims were to determine the characteristics of potentially dangerous individuals who firearms-restrictions laws should be catching and why those individuals may be evading current legal screens. The data in Part II showed that though the paradigm of danger in current gun-restriction debates is a heavily armed, mentally ill stranger hunting in public, most firearms deaths are perpetrated at home by people the victim knows. The most prevalent risk factors are perpetration of interpersonal violence in the past month and intimate-partner relationship problems.<sup>134</sup> As Table 3 showed, a major reason why dangerous perpetrators evade current legal screens is that cases of interpersonal violence never make it into the legal system. This concluding Part proffers a potential way to address the problem through executive action rather than entering a bristling political minefield to seek new laws. **The drive for new laws has proved difficult—even perilous. Attempts to pass federal legislation have faltered in Congress after fierce**

**campaigns with influential interventions by the National Rifle Association (NRA).<sup>135</sup> Many state efforts also stalled—and backlash led to loosening firearms restrictions in several states.**<sup>136</sup>

Moreover, the majority of Americans have preferred stricter enforcement of existing laws rather than passing new gun laws in every national Gallup poll since the question has been posed, beginning in 2000 and continuing until 2013—when support for passing new gun laws spiked to a record high of forty-seven percent after a spate of mass shootings.<sup>137</sup> Thus, this proposal focuses on executive action steering enforcement discretion at the scene of an assault rather than enacting more laws. Despite revolutionary reforms to try to improve responses to assaults within the family in recent decades, many cases never proceed because of underreporting and victim reluctance.<sup>138</sup> Policies that mandate proceeding even if victims refuse to cooperate have proved immensely controversial, beset with allegations of coercing victims and exposing them to more violence.<sup>139</sup> In many cases, the only chance law

**Backlash (Mardeusz – Trinity College)**

Julia Mardeusz (Trinity College). An Intractable Issue? Gun Control in America, 1968-Present. Published 2016.

<http://digitalrepository.trincoll.edu/cgi/viewcontent.cgi?article=1595&context=theses>.

Gun control belongs to a uniquely contentious category of policy that is characterized by strongly-held convictions and emotions on both sides of the issue. Its status as social regulatory policy, which seeks to restrain or regulate individual conduct, means that the NRA and other gun rights groups have an advantage when trying to sway both lawmakers and the general public. Because people have a tendency to dislike policy that seeks to regulate their behavior, the pro-gun-control side of the debate has faced far more difficulty in swaying lawmakers and the public, which means that the impetus for federal gun control policy has come from tragic situations where public outrage over gun violence is at a sufficiently high level to override concerns of governmental restriction of individual rights and behavior. **This**

**outrage-action-reaction cycle has led to incremental policy that later faces backlash from gun rights groups and their supporters, diminishing the effectiveness of the policy and increasing the level of difficulty that gun control advocates face the next time policy regulation on guns is sought on the federal level.**

Gun control is one of the most polarized issues in politics (Enten – FiveThirtyEight)

Harry Enten (FiveThirtyEight). The U.S. Has Never Been So Polarized On Guns. Published 10/4/17.

<https://fivethirtyeight.com/features/the-u-s-has-never-been-so-polarized-on-guns/>.

Democrats want to take action on gun control in the wake of the mass shooting Sunday in Las Vegas, the deadliest in recent U.S. history. And as the Pew Research Center has found, there is bipartisan support for a number of gun control measures. Yet the chance of the

Republican-controlled Congress restricting access to guns in any way seems remote at best — at least in the near term. **Opposition to gun control laws is now a default position of the Republican Party, and guns as an issue has become one of the most polarized topics in modern American politics. More than that, it's become a defining issue — which party people choose to identify with is inextricably intertwined with their relationship with guns and gun policy.** As we wrote in 2012: **Whether someone owns a gun is a more powerful predictor of a person's political party than her gender, whether she identifies as gay or lesbian, whether she is Hispanic, whether she lives in the South or a number of other demographic characteristics.** Similar to the

issue of immigration reform, Republicans are much more conservative on gun control broadly than on individual policy questions. An April 2017 Pew Research Center poll found that 76 percent of Republicans and Republican-leaning independents believe it is more important to protect the rights of Americans to own guns than it is to control gun access.<sup>1</sup> But Pew also found this year that 77 percent of Republicans favored background checks for private sales and at gun shows, and 54 percent favored banning assault-style weapons. It seems, however, that Republicans will vote based on how they feel about the broader issue. Before last year's presidential election, 90 percent of Republicans said they trusted then-candidate Donald Trump (who was against gun control measures) more than Hillary Clinton on the issue, according to an October Pew survey. That's very close to the 88 percent of Republicans who voted for Trump, per the exit polls. For comparison, 84 percent of Republicans trusted Trump more than Clinton on immigration. Among all voters, positions on gun control align nearly perfectly and uniformly with vote choice. In that Pew poll, 48 percent of voters trusted Clinton more on the issue of guns, compared with 47 percent who were in Trump's camp. That pretty much mirrors the 48 percent to 46 percent margin by which Clinton beat Trump in the national popular vote. The April 2017 Pew poll on whether it's more important to control gun ownership or to protect Americans' right to purchase a gun also reflects last year's election divide nearly perfectly. Slightly more Americans overall favored gun control (51 percent) over protecting gun ownership rights (47 percent). This gap is reflective of a polarized electorate. **Just 22 percent of self-identified Democrats chose**

**protecting gun ownership rights over limiting gun access, compared with the 76 percent of**

**Republicans who did. This 54-point gap is about as wide as you'll see on any issue.** You can see this in the chart below, which shows the difference between how Democrats and Republicans feel on 10 key issues, according to polls taken by the Pew Research Center since 2016.x

### **The NRA opposes expanding background checks (NRA).**

NA (NRA). "Background Checks for Guns." August 8, 2016. <https://www.nra.org/issues/background-checks-nics/>

### **NRA opposes expanding firearm background check systems, because background checks don't stop criminals from getting firearms, because some proposals to do so would deprive individuals of due process of law, and because NRA opposes firearm registration.**

Background checks don't necessarily stop criminals from getting firearms. Federal studies have repeatedly found that persons imprisoned for firearm crimes get their firearms mostly through theft, the black market, or family members or friends. Less than one percent get guns at gun shows. (Bureau of Justice Statistics) Most mass shooters, including those inspired by Islamic terrorist groups, pass background checks to acquire firearms. ATF has said that nearly half of illegally trafficked firearms originate with "straw purchasers"—people who pass background checks to buy firearms for criminals. The terrorists who attacked in San Bernardino in 2015 allegedly got firearms from a straw purchaser who passed a background check.

### **The NRA spent \$6.6 million fighting a push for a UBC in Nevada, more than its spent on any house or senate race. Although the measure was passed not a single background check has been conducted on a private sale and the Nevada attorney general said that the measure was unenforceable -> 54% of Nevada legislators have an A- or above rating from the NRA (Spies - The Trace).**

Mike Spies (The Trace). "The NRA Spent Millions Last Year to Fight Background Checks in Nevada." October 2, 2017.

<https://www.thetrace.org/rounds/nra-spending-nevada-universal-background-checks-las-vegas/>

### **Last year, the National Rifle Association spent more money fighting a push for a universal background check for gun purchases in Nevada than it did on any Senate or House race.**

There's no indication that Question 1, which passed by a razor-thin margin, would have factored into Sunday night's rifle attack on the Las Vegas Strip, which left 59 people dead and an estimated 527 injured in the worst mass shooting in American history. The gunman, identified as Stephen Paddock, purchased at least some of his guns from a licensed dealer and passed a background check; it does not appear that he was the sort of prohibited purchaser, seeking unvetted gun show deals, that expanded background checks are meant to thwart. But **the NRA's all-out effort to sink the ballot initiative shows just how far it will go to try to beat back new gun restrictions. The group's state-level operation tends to fly below the radar, but is key to its power, continually expanding the boundaries of where it's acceptable to carry guns. Over the last decade, the NRA has successfully worked to allow firearms on college campuses, and into bars, churches, day care centers, and government buildings. The gun group poured more than \$6.6 million into opposing Question 1, making it the NRA's second-largest campaign expenditure of 2016.** The only contest that drew more funds from the gun-rights group was the presidential election, in which it invested over \$30 million in support of Donald Trump. **After the measure passed, the state's attorney general, Adam Laxalt, a Republican, issued an opinion stating that the law was "unenforceable." The law was supposed to go into effect in January, but so far this year the FBI has not conducted a single background check on a private gun sale in the state.** Before the ballot, Laxalt openly opposed the measure. In an ad produced by the NRA, he claimed it would turn "well-meaning Nevadans into criminals." **Across the country, just under 4,000 state lawmakers have a grade of A- or better from the NRA. The figure represents about 54 percent of all state legislators,** almost all of them Republicans.

### **Senator Toomey of PA sacrificed NRA support in order to co-sponsor a bill proposing a UBC after Sandy Hook (Henigan - Huffington Post).**

Dennis Henigan (Huffington Post). "What Does The NRA Want? (And What To Do About It)." November 22, 2016.

[https://www.huffingtonpost.com/dennis-a-henigan/what-does-the-nra-want- b\\_13135086.html](https://www.huffingtonpost.com/dennis-a-henigan/what-does-the-nra-want- b_13135086.html)

Second, it must be made clear to both political parties that the gun control movement is now a potent political force and will remain so. The 2016 election cycle brought a historic infusion of resources from gun control groups into the political process, with Michael Bloomberg's

Everytown for Gun Safety and his Independence USA Super PAC, along with Gabby Giffords' Americans for Responsible Solutions PAC, leading the way. Their spending contributed to some impressive victories, particularly the successful Nevada referendum to extend background checks to all gun sales, in a state with a record of hostility to gun control, aided by \$16 million in spending by gun control forces, as well as the defeat of Republican incumbent Senator Kelly Ayotte in New Hampshire, with the help of \$8.8 million in ads hammering her pro-gun votes in the Senate. Significantly, **Republican incumbent Senator Pat Toomey of Pennsylvania was reelected, even though he sacrificed NRA support by co-sponsoring a universal background check bill after Sandy Hook.** Toomey received the support of Everytown and ARS, which sent a message that gun control forces will exercise their political muscle to support Republicans willing to buck the gun lobby. Going forward, this kind of well-financed, hard-nosed election activity by the gun control movement must become a permanent feature of the political landscape in a way that it has not been in the past.

### **Tougher calls for gun laws strengthen the NRA and gun control opposition (Terbush - The Week).**

Jon Terbush (The Week). "How the gun-law backlash made the NRA stronger." March 21, 2013.

<http://theweek.com/articles/466348/how-gunlaw-backlash-made-nra-stronger> HS.

"Is the Mighty NRA Beginning to Topple?" a Forbes headline asked in December. But **while calls for tougher gun laws grew louder, so too did the NRA's opposition. The organization released a number of no-holds-barred ads, with one calling the president an "elitist hypocrite." To back that up, the NRA also stepped up its fundraising pitch, warning members that Obama and congressional Democrats were going to curtail their right to bear arms. There are signs the NRA's efforts have paid off. In addition to the massive fundraising haul, the assault weapons ban the group vehemently opposed is toast. And a CNN poll released this week found that support for major new gun laws — which a clear majority of Americans supported in the immediate aftermath of Sandy Hook — had fallen to a 43 percent, mostly due to firmer opposition from older, rural Americans.** "They can call me crazy, or anything else they want, but the NRA's nearly five million members, and America's 100 million gun owners, will not back down, not ever," LaPierre said in a speech to CPAC last week. If that sounds like a familiar story, that's because it is. It's the same pattern that has played out following past tragic shootings, with the NRA time and again effectively raising millions and leading a successful drive to thwart new gun bills. A review of annual NRA fundraising totals compiled by OpenSecrets.org shows, perhaps unsurprisingly, that an intensification of the gun law debate has corresponded with a spike in NRA donations. Donations rose in 1994 when Congress debated an assault weapons ban, but then fell back to normal levels for the next half decade. When the Columbine shooting and presidential election returned gun laws to the forefront of political discourse in 2000, donations skyrocketed to \$3.1 million from \$2 million the year before.

### **Those who are anti-gun control are much more likely to make a decision in an election based on the candidate's position on guns (Miller - Lancet Public Health Journal).**

B.T. Miller (The Lancet Public Health Journal). "Policy misperceptions and support for gun control legislation." January 16, 2016.

[http://www.thelancet.com/journals/lancet/article/PIIS0140-6736\(16\)00042-8/fulltext](http://www.thelancet.com/journals/lancet/article/PIIS0140-6736(16)00042-8/fulltext) HS.

Among those people who strongly supported universal background checks, correct information about existing laws predicted support for stricter gun laws. Whereas 74% (95% CI 69-79) of those who incorrectly believed that the USA has universal background checks supported stricter gun laws, 89% (86-92) of those who knew that some gun sales do not require background checks supported stricter laws. We recorded no such relation among those who did not strongly favour universal background checks. **We also identified evidence of an engagement gap: among voters who thought gun laws should be less strict than at present, 71%** (95% CI 65-78) **said they would never vote for a political candidate who did not share their position on gun control, compared with just 34%** (30-37) **of those who support stricter gun laws.** However, the role of policy misperceptions in this domain is not well studied. Public education about the limits of existing laws could be an important way to mobilise support for new legislation.

## NRA Backlash

**In order to halt gun control in 2013 the NRA proposed and circulated pro-gun legislation (Hamburger - Washington Post).**

Tom Hamburger (Washington Post). "NRA tactics erode post-Newtown support for gun-control measures." April 5, 2013.

[https://www.washingtonpost.com/politics/nra-tactics-erode-post-newtown-support-for-gun-control-measures/2013/04/05/fa932046-9d52-11e2-a941-a19bce7af755\\_story.html?utm\\_term=.f1715ddb7e3d](https://www.washingtonpost.com/politics/nra-tactics-erode-post-newtown-support-for-gun-control-measures/2013/04/05/fa932046-9d52-11e2-a941-a19bce7af755_story.html?utm_term=.f1715ddb7e3d)

Sen Mark Begich declared a "sea change" in the politics of gun control immediately after the school shooting in Newtown, Conn., telling his local newspaper that he would not hesitate to buck the powerful National Rifle Association. But in the months since, **the gun rights group has made itself impossible for the Alaska Democrat, and many other lawmakers, to resist. Begich has signed on as a co-sponsor of a bill, drafted in consultation with the NRA, that would change the way mental illness is reported in the background check system — a measure that critics say could make firearms more easily available to the mentally ill.** Over the past two weeks, while Congress has been in recess, Begich said he was approached repeatedly by constituents who echoed NRA views, telling him not to, in his words, "mess with our gun rights" or "ban anything." The NRA's recent successes on Capitol Hill — as well as a string of victories in state legislatures across the country — demonstrate the effectiveness of the group's strategy to overcome a post-Newtown tilt toward gun control. **The organization has drafted and circulated legislation, mobilized its members and continued to put pressure on politically vulnerable lawmakers. At the same time, groups attempting to promote stricter gun-control measures have faltered.**

## Weakening the ATF

### **Uniqueness: The most recent budget appropriations have increased ATF funding by \$35 million**

NA (U.S. House of Representatives - Committee on Appropriations). "Committee Releases Fiscal Year 2018 Commerce, Justice, Science Appropriations Bill." June 28, 2017. <https://appropriations.house.gov/news/documentsingle.aspx?DocumentID=394951>

Federal Bureau of Investigation (FBI) – The bill includes \$8.8 billion for FBI operations – an increase of \$48 million above the fiscal year 2017 enacted level. This funding maintains critical functions of the FBI, including anti-cybercrime, counterintelligence, counterterrorism, and violent crime reduction programs. Drug Enforcement Administration (DEA) – The DEA is funded at \$2.6 billion – \$98 million above the fiscal year 2017 enacted level and equal to the request. Within the DEA, priority is placed on anti-opioid and other illegal drug enforcement efforts. This includes enhancements for heroin enforcement, and additional resources to combat transnational organized crime and violent crimes. This also includes a \$37 million increase in the Diversion Control Program to enhance opioid diversion investigations and prosecutions. In addition, the bill provides \$526 million for the Organized Crime and Drug Enforcement Task Forces, a \$9 million increase over the current level. **Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) – The legislation contains \$1.3 billion for the ATF, \$35 million above the fiscal year 2017 enacted level. This funding will provide additional resources to reduce violent crime and expedite licensing applications.** The bill continues all legislative provisions carried in previous years to protect the Second Amendment rights of all Americans, and goes a step further to make four of these provisions permanent law. These four provisions relate to import applications on shotguns for sporting purposes, the importation of "curios and relics" firearms, the export of firearms to Canada, and a prohibition on "gun-walking," such as the disastrous "Fast and Furious" operation. Also included is a prohibition on forcing an unauthorized reporting and registration requirement on consumers purchasing multiple rifles or shotguns. Executive Office for Immigration Review (EOIR) – Funding for the EOIR is increased by \$64.5 million, for a total of \$505 million. This increase will provide for 65 additional immigration judge teams to process immigration reviews more quickly, and reduce the backlog of pending cases.

### **Gun rights advocates consistently and successfully threaten to defund the ATF. Passing a UBC will make defunding no longer a threat, but reality (Seitz-Wald - NBC News).**

Alex Seitz-Wald (NBC News). "ATF Unlikely to Crack Down on Rapid-Fire Bump Stocks." October 6, 2017.

<https://www.nbcnews.com/storyline/las-vegas-shooting/atf-unlikely-crack-down-rapid-fire-bump-stocks-n808441>

But bump stocks leave the mechanics of a gun untouched and the trigger is still technically activated on each shot, just at a much faster rate than is possible without the modifications. That leaves the ATF with little choice but to deem bump stocks legal under current law, said David Chipman, a former ATF agent. "It's a case where technology has overwhelmed the law," said Chipman, who now works for Americans for Responsible Solutions. Some experts said the ATF is unlikely to change its ruling. **The agency is under constant pressure from congressional gun-rights advocates, who regularly threaten to cut funding and have refused to confirm a director for years at a time.** The agency has been without a Senate-confirmed leader since 2015. "You have to

understand how cautious ATF is," said Chipman, who spent 25 years at the agency. "They're not an organization that has the political backing to be aggressive in their rulings. It's just, keep your head down. ... That's the culture." That's why even a growing number of Republicans have said the only way to deal with bump stocks is through new laws.

### **NRA will make it harder to trace guns used in crimes (Henigan - Huffington Post).**

Dennis Henigan (Huffington Post). "What Does The NRA Want? (And What To Do About It)." 11/22/16.

[https://www.huffingtonpost.com/dennis-a-henigan/what-does-the-nra-want- b\\_13135086.html](https://www.huffingtonpost.com/dennis-a-henigan/what-does-the-nra-want- b_13135086.html)

But the Tiahrt Amendments still allow law enforcement access to the trace database. The database recently was used in a report issued by New York Attorney General Eric Schneiderman showing that three out of every four guns traced to crime in New York State, during the period 2005-2010, originated with gun dealers in other states, primarily from states with weak gun laws, like Virginia, the Carolinas, Florida and Georgia. This pattern suggests that strong state gun laws, as in New York, make it harder for criminals to get guns, making it necessary for the illegal market in those states to be supplied by dealers in states with weak gun laws. This interstate movement of guns into crime also argues for stronger federal gun laws to prevent the states with weak gun laws from undercutting the strong laws of other states. Thus, **the gun lobby has more than enough reason to suppress the ATF data by even further limiting its use by law enforcement authorities. The NRA may push the Trump Administration to further restrict use of the crime gun trace data by simply changing ATF policy; or it may seek to expand the scope of the Tiahrt Amendments through an amended appropriations rider or other legislation.** Just as it has sought to suppress all CDC-funded research into gun violence, the gun lobby may seek to close all avenues to the use of ATF crime gun trace data to inform gun policy. Congressional Action In Congress, it is likely that the first item on the NRA's wish list will be national "concealed carry reciprocity" legislation, which would force states to recognize the concealed-carry permits of visitors from other states. Under this legislation, states could enforce their concealed-carry restrictions on their own residents, but not against visitors from other states with less restrictive laws. This would allow persons with concealed carry licenses from other states to carry concealed in Times Square, even if New York would never have allowed the same person to possess a gun, much less carry it concealed. In effect, states would be deprived of the authority to determine who the "good guys" are that should be allowed to carry concealed weapons, an extraordinary invasion of state prerogatives. Yet some of the strongest supporters of this idea in Congress are vociferous advocates of states' rights in countless other contexts. For these fair-weather federalists, state autonomy must give way to the overarching goal of more guns carried in more public places. Gun control forces have been able to block this legislation in past years. The gun lobby is likely to redouble its efforts to pass it now.

### **Impact: ATF necessary to enforce existing gun laws, work with local police on gun crime, and overall reduce violent crime in America (Parsons - Center for American Progress).**

Chelsea Parsons (Center for American Progress). "The Bureau and the Bureau." May 19, 2015.

<https://www.americanprogress.org/issues/guns-crime/reports/2015/05/19/111386/the-bureau-and-the-bureau/>

Highlighting the challenges that ATF faces is not just another idle exercise in criticizing the inefficient bureaucracy of the federal government.

The problem of gun violence in the United States is urgent: Every day in America, assailants using guns murder 33 people. **It is imperative**

**that the federal government takes action to enforce the laws designed to stem the tide of this**

**violence** and that it does more to ensure that guns do not end up in the hands of criminals and other dangerous individuals. ATF is the agency charged with that responsibility, and it is well past time for the administration and Congress to take a serious look at ATF and other federal law enforcement agencies to come up with a comprehensive plan to create a strong federal framework to combat gun violence and the illegal trafficking of firearms. While there have been remarkable reductions in violent crime across the country—driven in part by federal law enforcement's partnerships with local police—illegal gun access continues to contribute to murder rates in the United States that far outpace those in comparable countries. The problem of gun crime in the United States and the daily toll of gun deaths on our communities warrant something new—a large-scale rethinking of how the federal government should address gun violence and illegal firearms trafficking and what ATF's role should be in that effort. As reformers in Congress and the administration consider options for how to make ATF function better, it is important to recognize that the agency is composed of dedicated, hardworking agents and civilian staff who do many things very well. In some respects, **ATF has been a remarkably successful agency in recent decades. ATF agents as a group are exceptionally productive by traditional measures, especially when compared with agents at other federal law enforcement agencies. In 2013, ATF agents were remarkably productive in the development of cases for prosecution—outperforming Federal Bureau of Investigation, or FBI, agents 3-to-1—averaging 3.4 cases per agent referred to the U.S. Attorneys' Office for prosecution for every 1 case per FBI agent. ATF agents, more so than most others in federal law enforcement, also have a**



**strong reputation across the country for being assets and effective partners to local law enforcement agencies. ATF agents consistently offer real value and support to local police departments in their efforts to combat local gun crime. Furthermore, ATF has played a role in the overall decline in crime in recent years—the violent crime rate declined 19 percent between 2003 and 2012, and the murder rate declined 17 percent during that period—by taking thousands of violent criminals and gun and drug traffickers off the streets.** Between 2005 and 2012, ATF referred more than 13,000 cases involving more than 27,000 defendants suspected of firearms trafficking to the U.S. Attorneys’ Office for prosecution. Despite these areas of success, ATF has faced some serious challenges in its efforts to be the federal agency charged with enforcing the nation’s gun laws, combating gun crime, and regulating the firearms industry. This report seeks to offer recommendations for how to improve federal enforcement and regulation of guns that recognize and build on the formidable assets that ATF already has—but it does so while recognizing that the status quo is not enough. Although ATF has had many successes, its capabilities are inadequate in relation to the scope of the gun crime challenge in the United States. Therefore, this report does not focus on a series of piecemeal recommendations to improve ATF’s current operations. Prior evaluations, including ones written by authors of this report, make such recommendations; some of them have been acted upon, and others would certainly offer substantial benefits to the functionality and success of the agency. But this report finds that something bigger needs to happen to address the challenges that ATF faces.

## Recalls

**After universal background checks were passed in Colorado, the two senators that voted for the legislation were recalled because of it (Siegel – University of Colorado)**

Zachary Siegel (University of Colorado). RECALL ME MAYBE? THE CORROSIVE EFFECT OF RECALL ELECTIONS ON STATE LEGISLATIVE POLITICS. Published 11/14/14. [http://lawreview.colorado.edu/wp-content/uploads/2015/07/12.-86.1-Siegel\\_Final-updated.pdf](http://lawreview.colorado.edu/wp-content/uploads/2015/07/12.-86.1-Siegel_Final-updated.pdf).

**Colorado made political history in September 2013 when voters in two districts recalled their state senators from office.**<sup>2</sup> The votes marked the first time in Colorado’s 137-year history that a state representative was forced out of office prior to the end of his or her term in the legislature.<sup>3</sup> Although both recalls were lawful under the Colorado Constitution,<sup>4</sup> political analysts expressed concern about why the recalls were initiated.<sup>5</sup> **The targets of the recalls—Senate President John Morse and Senator Angela Giron—had not been accused of malfeasance, illegal activities, or misconduct while in office.**<sup>6</sup> Instead, the recall elections were inspired by the senators’ votes on **controversial legislation passed only six months earlier.**<sup>7</sup> In other words, **the recall elections were entirely politically-motivated. Specifically, Senator Morse’s and Senator Giron’s support for new gun legislation provoked the Colorado recalls.**<sup>8</sup> The **legislation was passed in response to the Aurora Theater shooting,**<sup>9</sup> **the massacre at Sandy Hook Elementary School,**<sup>10</sup> **and Colorado’s sordid history with gun violence.**<sup>11</sup> **The senators voted in favor of** three controversial bills in March 2013 that placed limitations on ammunition magazines, **required universal background checks,** and forced customers to pay the cost of background checks.<sup>12</sup> **Almost immediately after the votes, efforts to recall both senators began.**<sup>13</sup> **Just over three months after the gun legislation passed, the Colorado Secretary of State certified the signatures on the recall petition against Senator Morse, announcing that organizers had submitted a sufficient number of signatures to require a recall election.**<sup>14</sup> Less than a week later, the Secretary of State certified the signatures on the recall petition against Senator Giron.<sup>15</sup> Following an

**Same recall tactic tried in California and again in Colorado (Siegel – University of Colorado)**

Zachary Siegel (University of Colorado). RECALL ME MAYBE? THE CORROSIVE EFFECT OF RECALL ELECTIONS ON STATE LEGISLATIVE POLITICS. Published 11/14/14. [http://lawreview.colorado.edu/wp-content/uploads/2015/07/12.-86.1-Siegel\\_Final-updated.pdf](http://lawreview.colorado.edu/wp-content/uploads/2015/07/12.-86.1-Siegel_Final-updated.pdf).

**As political analysts, organizers, and politicians watch recall efforts succeed on multiple dimensions** (e.g., replacing incumbent legislators and shaping state and federal political discourse),<sup>102</sup> **they will push for additional deployment of the tactic. Just over a month after the successful recalls in Colorado, California**

**gun-rights advocates announced plans to target Democratic state legislators who had supported guncontrol legislation.**<sup>103</sup> And, in Colorado, voters in a third district initiated another recall effort **against Senator Evie Hadak for her support of the same gun legislation less than a month after the successful recalls of Morse and Giron.**<sup>104</sup> Contextualized by these new political dynamics, **recall is an increasingly viable option for opposition groups to respond to policies they disfavor.** Some political analysts now claim that “an era of recalls may be at hand,” leaving few legislators safe regardless of their political affiliation.<sup>105</sup> Colorado’s recall procedure, like those of eleven other states, leaves the door too open for politically-motivated efforts to oust an incumbent legislators before the end of his or her term in office. **The recalls of Morse and Giron in September 2013 illustrate the effectiveness of politically-motivated recall as a tool to quickly change the dynamics of state legislatures.** Although they were once reserved for the most contentious

Recalls increase polarization and decrease compromise (Siegel – University of Colorado)

Zachary Siegel (University of Colorado). RECALL ME MAYBE? THE CORROSIVE EFFECT OF RECALL ELECTIONS ON STATE LEGISLATIVE POLITICS. Published 11/14/14. [http://lawreview.colorado.edu/wp-content/uploads/2015/07/12.-86.1-Siegel\\_Final-updated.pdf](http://lawreview.colorado.edu/wp-content/uploads/2015/07/12.-86.1-Siegel_Final-updated.pdf).

**Recalls, however, make coalition building more difficult and strain inter-party relations.**<sup>135</sup> **The mere threat of a political recall makes it nearly impossible for legislators to behave as politicos, as any controversial vote could threaten a legislator’s job. If, for instance, a legislator makes a conscious decision to vote against constituent desires on one issue in an effort to compromise, an unhappy organization might initiate a recall.** The number of highly controversial political issues combined with new technology making recall easier to initiate further compounds this problem. **Politically-motivated recall, therefore, has the potential to force legislators to behave strictly as delegates,** thereby eliminating many of the benefits of politico theory. The American system of government is “premised on the notion that voters entrust their representatives to act with deliberation and a degree of independence.”<sup>136</sup> In fact, one might question why there are constitutionally-mandated term limits at all if legislators should not have some autonomy in office. If a legislator’s decisions should always accurately reflect the desires of his or her constituency, why not have new elections every year? Or—more drastically—after every vote? There is no question that this independence should be tempered by the opinions of the constituency a legislator represents. **However, if political recalls become a normal feature of state legislative politics, the degree of independent judgment legislators have at their disposal will significantly decrease and politicians will have a harder time achieving compromise. Ultimately, political recall threatens to reentrench the most frustrating aspects of the American political system: gridlock and polarization**

Increases the influence of special interests groups like the NRA (Siegel – University of Colorado)

Zachary Siegel (University of Colorado). RECALL ME MAYBE? THE CORROSIVE EFFECT OF RECALL ELECTIONS ON STATE LEGISLATIVE POLITICS. Published 11/14/14. [http://lawreview.colorado.edu/wp-content/uploads/2015/07/12.-86.1-Siegel\\_Final-updated.pdf](http://lawreview.colorado.edu/wp-content/uploads/2015/07/12.-86.1-Siegel_Final-updated.pdf).

Finally, **politically-motivated recalls increase the power of national groups in state legislative politics.** **Supporters of political recall may claim that the recalls are initiated because a legislator’s votes no longer accurately reflect the opinions of his or her constituency. However, the power of well-financed special interest groups often dominates the recall process.**<sup>153</sup> These groups, usually located outside the state where the recall will occur, overshadow the local electorate.<sup>154</sup> When Wisconsin Governor Scott Walker, a Republican, successfully defeated a recall election in 2012, more than half of the \$63.5 million dollars spent on both sides of the campaign came from outside the state.<sup>155</sup> This trend continued in the Colorado recalls:<sup>156</sup> of the \$540,000 raised in support of the recall, \$368,000, or 68 percent, came from donations outside of Colorado.<sup>157</sup> On the other side of the campaign, \$1.5 million of the \$3 million dollars raised came from outside of the state.<sup>158</sup> **A large portion of this money was used to fund TV advertisements, campaign literature, and to pay for the services of national consulting firms.**<sup>159</sup> **The astonishing influx of out-of-state funds in Wisconsin and Colorado exposes the non-local nature of the groups and individuals exerting the most influence over state legislative politics during recalls. In Colorado, for instance, the largest donors on both sides of**

**the recall campaign were national groups or individuals from outside the state.<sup>160</sup> Specifically, the National Rifle Association (NRA) contributed \$360,000—well** over half of the funds raised in support of the recall—while Michael Bloomberg, the former mayor of New York City, and Eli Broad, a California entrepreneur, gave a total of \$600,000 to defend the incumbent senators.<sup>161</sup> Although registered voters ultimately have the final say, outside money is important to the advertising and grassroots efforts necessary to initiate and defend recalls.<sup>162</sup> **Today, national and special interest groups exercise disproportionate control over the recall process relative to constituents. Compounding this problem, recalls are isolated in nature** (there are generally no other elections taking place in the same time period), **making national attention and financial support inherently easier to attract.**<sup>163</sup> **Most disturbingly, the influence of these groups undermines a representative’s ability to govern as a delegate; the winner of a recall election may reflect which special interest group spent more money or did a better job at getting out the vote, rather than an accurate image of constituents’ desires.**<sup>164</sup> **A recall initiated because of a representative’s “unfaithfulness” to his or her constituency may, therefore, produce a result that strays even further from the “true” desires of the constituency**

## Political Costs

**Democrats are leading by double digits (Swanson – Vox)**

Kelly Swanson (Vox). Democrats are leading by double digits in an early 2018 midterm poll. Published 10/17/17.

<https://www.vox.com/policy-and-politics/2017/10/17/16488350/democrats-leading-double-digits-early-2018-midterm-poll>.

**Republicans could be facing a tough election in the 2018 midterms, trailing Democrats by double digits in the generic ballot, according to a new CNN poll. The poll found 51 percent of voters support the Democratic Party while 37 percent support the GOP on the generic ballot, which asks voters which party they would support but not about specific candidates.** The poll was conducted from October 12 to 15 and has a sampling error of 3.5 percentage points. Republicans are struggling slightly more than Democrats with their own voters. Eighty-eight percent of self-identified Republicans said they’d vote for the Republican candidate and 8 percent said they’d vote for the Democrat, compared to 98 percent of Democrats who said they’d vote for the Democratic candidate. **Of course, the 2018 midterms are still a long way away — but the poll suggests that the GOP might have an uphill battle to hang on to its congressional majorities. Forecasting models suggest that Democrats would have a good chance of retaking the House if they run 5 points ahead of Republicans on the generic ballot.**

Uniqueness: Democrats are primed to take the majority in congress (This is my tag – This is my tag) Tom Williams (This is my tag). Congressional Democrats Crushing GOP In Fundraising. Accessed This is my tag. Published 10/26/17.

<http://talkingpointsmemo.com/dc/congressional-democrats-crushing-gop-in-fundraising>.

**Congressional Democrats are whipping their GOP counterparts in fundraising heading into the 2018 elections, a key sign that a wave election may be building.** In both the Senate and House, **Democrats are pulling money hand-over-fist in many of their most important races,** according to campaign finance reports recently filed with the Federal Election Commission. Many Republicans are struggling to keep up — including some key incumbents in both chambers. **That trend is causing heartburn for many Republicans, who worry their chances of losing the House are growing due to President Trump’s unpopularity and Republican voters’ frustration with their failure to**

**pass major legislation.** "It's a serious problem," former National Republican Congressional Committee Chairman Tom Cole (R-OK) told TPM. "It's a very rough cycle coming up. Nobody's had a good off year since 2002 and anybody that thinks the majority is not at risk or that they can't be beaten is kidding themselves." The chances they could lose the Senate too are looking less like an impossibility even though Democrats are defending many more vulnerable seats. Republican senators warn that they better get tax reform done to please their donors and base or face an even bleaker scenario following their failure to repeal Obamacare.

Uniqueness: Dems win the house in 18, it will cause a Russia investigation which is key to democracy but a lack of legislative wins is keeping the GOP at bay now.

Daily Kos 4/29/17 (Daily Kos, Established News and Politics Publisher. Citing a CNN poll, 538, and Amy Walter for the Cook Political Report. Democrats can take the House in 2018. April 29, 2017.

<https://www.dailykos.com/story/2017/04/29/1657359/-Democrats-can-take-the-House-in-2018>

A new poll from CNN/ORC has results that should make **Democrats optimistic about their chances of taking over the**

**House** of Representatives **in 2018**. Congress has an approval rating of only 24% compared to a 74% disapproval rating. Speaker of the House Paul Ryan has an unfavorability rating of 48% compared to 38% favorability. 55% of voters are more willing to vote for a candidate that opposes President Trump compared to 41% that prefer a President Trump supporter. 50% said they would vote for a Democrat compared to 41% that would vote for a Republican. As a Democrat candidate running against Mia Love (Utah CD4), this news excites me and should give every Democrat optimism moving forward. *This is a national poll and House seats are won on a district-by-district basis. Does this poll even tell us anything about how likely Democrats are to take the House when it wasn't conducted on a district-by-district basis? In fact, it does.* From Five Thirty Eight (emphasis mine): So if Democrats win the national House vote by a margin in the low- to mid-single digits, that may not be enough to take back the House. The median congressional district was 5.5 percentage points more Republican-leaning in the presidential race than the nation as a whole in 2016, meaning Democrats are essentially spotting the GOP 5.5 points in the battle for control of the House. And even that may be underestimating Republicans ability to win a majority of seats without a majority of the vote. Since 2012 (or when most states instituted the current House district lines), Republicans have won, on average, 51 percent of the two-party House vote and 55 percent of House seats. If that difference holds for 2018, Democrats would need to win the House popular vote by about 8 percentage points to win half the House seats. Temporarily try to ignore the disgusting fact that the district lines are drawn in such a way that Republicans can win 51% of the popular vote and actually pick up 55% of the actual seats. Instead focus on that last statement — If Democrats can manage to get an 8-point advantage in the House popular vote, they are likely to win a majority of seats. According to this latest poll, Democrats are sitting at a 9-point advantage. Democrats need to take 24 seats to win the House in 2018. There are 23 districts with a sitting Republican that voted for Hillary Clinton in 2016 (Utah's CD4 is not one of those).

Amy Walter of the Cook Political Report had this to say about 2018: In fact, **if you look back at the last four midterm elections where the party in the White House lost control of one or both houses of Congress, you see that they share the following traits in common: the president has approval ratings among his own partisans under 85 percent and approval ratings among independents in the 30's or low 40s.** ... Among independents, strong disapprovers outnumber strong approvers by more than 2-1 (45 percent to 18 percent). An angry voter is an active voter, which in a low-turnout election is bad news for the GOP. ...the current situation of Republican-infighting, a lack of legislative accomplishments and a President determined to keep stoking political divisions is a very dangerous path for the GOP. This can happen. *Democrats can overcome the gerrymandered district lines and win enough seats to gain control. There are serious questions over Trump's ties to Russia, the pillars of our democracy are crumbling, and the ruling party in this country is looking the other way so that they can focus on their agenda. If Democrats can take the House in 2018, real change can begin to happen. Democrats could demand subpoenas to assist in the investigation over whether a presidential candidate colluded with a foreign power in order to win an election. Democrats could introduce legislation to fight gerrymandering and make our government more representative of its voters.* If necessary, Democrats could begin impeachment proceedings.

Uniqueness: Democrats will take back congress now but it's super close — our model is predictive and historically accurate

Enten 6/5 – Harry, senior political writer and analyst for FiveThirtyEight, 2017 ("*Here's The Best Tool We Have For Understanding How The Midterms Are Shaping Up*," FiveThirtyEight, Available online at

<https://fivethirtyeight.com/features/heres-the-best-tool-we-have-for-understanding-how-the-midterms-are-shaping-up/>,

So what does the generic ballot show right now? That **Democrats are in a historically strong position, with a 44 percent to 37 percent lead over Republicans.** That is an *incredible gain* from the eve of the 2016 election, when our generic ballot estimate put Democrats up by only a *single point*, 45 percent to 44 percent.<sup>2</sup> Indeed, at no point during the summer or fall leading up to the 2016 election did Democrats have as large an advantage on the generic ballot as they do now, and the generic ballot was essentially tied by November. In other words, **the political environment seems to have become a lot worse for Republicans since last year's presidential election.** As I've written previously, **the generic ballot, even this early in a midterm cycle, can be quite predictive of the outcome of the following year's House elections.** Once you control for which party is in the White House, the generic ballot about *18 months before* a midterm election is *strongly correlated* (+.78) with the eventual House result — i.e., the share of votes cast for the president's party versus the share of votes cast for the opposition party. Here's all the generic ballot polling we have going back to 1942:<sup>3</sup> Generally, in the runup to the midterms, the party that doesn't control the White House (now, the Democrats) generally sees its position on the generic ballot improve — or remain stable. *Given the Democrats' current 7-point advantage, they'd be expected to win the 2018 national House vote by about 9 percentage points* (assuming, of course, that past trends hold and the forecast is perfect, which is very unlikely). But sometimes the political environment changes and *the party in the White House makes gains* on the generic ballot. Ahead of the 2002 midterms, for example, when George W. Bush was the president, the Democrats held a small lead at this point in the cycle, but Republicans took back the advantage after the Sept. 11 terror attacks. As we approach the 2018 midterms, expect the generic ballot to become even more predictive. For the 18 midterm elections that have taken place since 1946, I compared the final generic-ballot polling of the cycle by Gallup or the final polling average from RealClearPolitics<sup>4</sup> with the results of the national House vote and found that the final polling missed by an average of *only 2 percentage points*. That's about as accurate as the final national presidential polls before a presidential election.

Link: Author David Cole contextualizes this. He writes that in the 1990's efforts for stricter gun control: David Cole (The New York Review of Books). "The Terror of Our Guns." July 14, 2016.

<http://www.nybooks.com/articles/2016/07/14/terror-of-our-guns/>

Little has been done to address gun violence in the United States. Congress has not passed a gun control law since it sought to ban assault weapons in 1994, and that law proved largely ineffectual. It is remarkably difficult to define an "assault weapon." They are semiautomatic, which means they fire a new bullet with each trigger pull, while automatically reloading. But most guns made today are semiautomatic, so the ban on assault weapons focused on the cosmetic military appearance of certain guns, and was easily evaded by alterations in design. Moreover, while gun rights proponents are hard-pressed to offer a legitimate reason for civilians to own assault weapons, they are used in a very small proportion of gun crimes. Most crimes involve ordinary handguns. So the assault weapon ban did little if anything to advance gun safety and Congress let it lapse in 2004. The most tangible effect of the ban on assault weapons was to **set off a backlash against gun control by American voters in the 1994 midterms, in which the Democrats lost control of the House of Representatives for the first time in forty years. Having learned their lesson, most members of Congress have steered clear of gun control ever since. Meanwhile, the few states that have enacted relatively stringent gun control laws**, such as New York and California, reap little benefit as long as neighboring states have lax laws. Of the 8,793 guns recovered from crimes in New York in 2011, for example, 82 percent came from out of state. The costs of the right to bear arms are not limited to victims of gun violence. The inability of gun laws to keep guns off inner-city streets prompted one of New York City's most controversial policing tactics—the policy of aggressively stopping and frisking young black and Hispanic men in the city's high-crime areas. The police said the policy was driven by a desire to deter young men from carrying guns, as a means of reducing gun violence. Some argue that it may have worked, pointing to the fact that violent crime in New York City dropped precipitously while the policy was in place, even as it held steady in the rest of the state.<sup>1</sup> I have questioned that assessment in these pages, noting that between 2004 and 2012, police found guns in less than one percent of all stops; that crime began to fall long before the stop-and-frisk policy was instituted; and that general crime levels have not risen since the practice ceased.<sup>2</sup>

Impact: 2018 midterms are uniquely key to preserving the climate – GOP win allows them to pursue their agenda

Kahn 4-27-17 (Brian Kahn is a Senior Science Writer at Climate Central. He previously worked at the International Research Institute for Climate and Society and partnered with climate.gov to produce

multimedia stories, manage social media campaigns and develop version 2.0 of climate.gov. - *The Next March Is All About Climate Change* -<https://www.livescience.com/58874-peoples-climate-march.html>)

The **Trump** administration **has walked back** a number of **climate policies** enacted under President Obama **and proposed cutting** the budget of a number of **climate and energy programs**. A number of cabinet members have also expressed views far outside established climate science. The march is slated for Trump's 100th day in office. Organizers chose the date because the first 100 days is a measuring stick for the president's priorities. Executive orders aiming to roll back climate policies are among the few tangible goals Trump can point to. One goal of the march will be to remind the president that those rollbacks don't represent what the majority of Americans want when it comes to climate change. The march route will circle the White House, serving as a visual reminder to its occupants that the public is watching what happens within its gated grounds. The march is focused on politics, but driven by science that shows climate change impacts are becoming increasingly clear even as the time to stave off the worst impacts is running perilously short. It's the strongest link to the March for Science, which took place on Earth Day. "Last Saturday, the public stood up in vocal support of scientists and science," said Lucky Tran, who organized the March for Science and the 2014 iteration of the People's Climate March. "This Saturday, scientists will stand with the public to amplify the voices of frontline communities that are experiencing the devastating effects of climate change firsthand." The Washington, D.C. march and 300 satellite events are expected to draw as many as 150,000, according to Getsos. While the number of people turning out is important to send a message, organizers are focused on what comes next. "April 30 is more important than April 29," Getsos said. "One of the goals of this week is to get people energized and excited and in relationships so they are going back to their community to take on fights and campaigns around climate and climate justice." In some ways, that represents a continuation of the work that happened after the first People's Climate March in 2014. But it also reflects a growing reality that with the executive and legislative branches of the federal government currently led by Republicans, most of whom are opposed to climate regulations, organizers are going to have to turn to the local level over the next few years if they hope to score substantive climate victories. Getsos said the march, coupled with **pursuing local action, can serve** not just as a **springboard to making climate change a national issue in the 2018 midterms** and 2020 presidential election, but **also remind the world the U.S. isn't giving up completely on addressing climate change** in the interim. "It's important because **it will communicate that there is a strong and vibrant climate community in the U.S. no matter who the president is**, and we will hold them accountable," he said.

Impact: Battle over carbon emissions (Freidman – NYT)

Lisa Freidman (New York Times). E.P.A. Announces Repeal of Major Obama-Era Carbon Emissions Rule. Published 10/9/17. <https://www.nytimes.com/2017/10/09/climate/clean-power-plan.html>.

WASHINGTON — **The Environmental Protection Agency announced on Tuesday that Scott Pruitt, the chief of the agency, had signed a measure to repeal President Barack Obama's signature policy to curb greenhouse gas emissions from power plants, setting up a bitter fight over the future of America's efforts to tackle global warming.** Mr. Pruitt, who had signaled the move at an event with coal miners in eastern Kentucky on Monday, said in a news release that his predecessors had departed from regulatory norms in writing the Clean Power Plan, which was finalized in 2015 and would have pushed states to move away from coal in favor of sources of electricity that produce fewer carbon emissions. Describing the Obama-era regulation as the "so-called Clean Power Plan," the E.P.A. statement said that repealing the measure "will also facilitate the development of U.S. energy resources and reduce unnecessary regulatory burdens associated with the development of those resources." The repeal proposal, which will be filed in the Federal Register on Tuesday, fulfills a promise President Trump made to eradicate his predecessor's environmental legacy. Eliminating the Clean Power Plan makes it less likely that the United States can fulfill its promise as part of the Paris climate agreement to ratchet down emissions that are warming the planet and contributing to heat waves and sea-level rise. Mr. Trump has vowed to abandon that international accord. It also is a personal triumph for Mr. Pruitt, who as Oklahoma attorney general helped lead more than two dozen states in challenging the rule in the courts. In announcing the repeal, Mr. Pruitt made many of the same arguments that he had made for years to Congress and in lawsuits: that the Obama administration exceeded its legal authority in an effort to limit greenhouse gas emissions from power plants. (Last year, the Supreme Court blocked the rule from taking effect while courts assessed those lawsuits.) A leaked draft of the repeal proposal asserts that the country would save \$33 billion by not complying with the regulation and rejects the health benefits the Obama administration had calculated from the original rule. Continue reading the main story **RELATED COVERAGE** What Is the Clean Power Plan, and How Can Trump Repeal It? OCT. 10, 2017 Trump Takes a First Step Toward Scrapping Obama's Global Warming Policy OCT. 4, 2017 Trump Wants to Repeal Obama's Climate Plan. The Next Fight: Its Replacement. SEPT. 28, 2017 Scott Pruitt Is Carrying Out His E.P.A. Agenda in Secret, Critics Say AUG. 11, 2017 RECENT COMMENTS Paul Yates October 11, 2017 All Caesar's guest's arose from their recumbent attitude. "Ye gods! I shall see a burning California city; now I can finish the game,"... Patriot 1776 October 11, 2017 I think we need to change the name of the EPA to the EDA. the Environmental Destruction Agency is a more fitting term for what these evil... Lilou October 11, 2017 Clearly, the EPA's original mission has been aborted. "Callous", "Indifferent", "Contemptuous"; "Self-serving" -- this is the Trump/Pruitt...

SEE ALL COMMENTS Coal- and natural-gas-fired power plants are responsible for about one-third of America's carbon dioxide emissions.

### **When the Clean Power Plan was unveiled in 2015, it was expected to cut power sector emissions 32 percent by 2030,**

relative to 2005. While many states are already shifting away from coal power for economic reasons, experts say scrapping the rule could slow that transition. Environmental groups and several states plan to challenge the repeal proposal in federal courts, arguing against Mr. Pruitt's move on both scientific and economic grounds. Industry groups cheered the announcement, but have also indicated that they would prefer that Mr. Pruitt replace the Clean Power Plan with a new, more modest regulation on power plants in order to blunt any court challenges. The E.P.A. is still required to regulate greenhouse-gas emissions because of a 2009 legal opinion known as the endangerment finding. "We have always believed that there is a better way to approach greenhouse gas emissions reductions," Karen A. Harbert, the president of the Chamber of Commerce's Global Energy Institute, said in a statement. "We welcome the opportunity for business to be at the table with the E.P.A. and other stakeholders to develop an approach that lowers emissions, preserves America's energy advantage and respects the bounds of the Clean Air Act."

Impact: Air pollution causes 200,000 early deaths each year in the U.S. (Chu – MIT)

Jennifer Chu (MIT News). Air pollution causes 200,000 early deaths each year in the U.S. Published 8/29/13.

<http://news.mit.edu/2013/study-air-pollution-causes-200000-early-deaths-each-year-in-the-us-0829>.

Researchers from MIT's Laboratory for Aviation and the Environment have come out with some sobering new data on air pollution's impact on Americans' health. **The group tracked ground-level emissions from sources such as industrial smokestacks,**

**vehicle tailpipes, marine and rail operations, and commercial and residential heating throughout the United States, and found that such air pollution causes about 200,000 early deaths each year.** Emissions

from road transportation are the most significant contributor, causing 53,000 premature deaths, followed closely by power

generation, with 52,000. In a state-by-state analysis, the researchers found that California suffers the worst health impacts from air pollution, with about 21,000 early deaths annually, mostly attributed to road transportation and to commercial and residential emissions from heating and cooking. The researchers also mapped local emissions in 5,695 U.S. cities, finding the highest emissions-related mortality rate in Baltimore, where 130 out of every 100,000 residents likely die in a given year due to long-term exposure to air pollution. "In the past five to 10 years, the evidence linking air-pollution exposure to risk of early death has really solidified and gained scientific and political traction," says Steven Barrett, an assistant professor of aeronautics and astronautics at MIT. "There's a realization that air pollution is a major problem in any city, and there's a desire to do something about it."

**Climate policy is the key issue – the plan hurts dem turnout in the midterms**

Kyle Meng 11/18/16 assistant professor of environmental science and management and of economics at the University of California–Santa Barbara.

President Trump Might Be Exactly What the Climate Movement Needs He'll give them something concrete to fight

Trump's presidency may just provide the jolt the climate movement needs to move policy forward. Where do we go from here? Perhaps recent populist movements can provide a valuable lesson for climate policy. For much of the late 1990s and early 2000s, the climate movement focused on building a coalition between environmental groups and major companies in the electricity, oil, and manufacturing sectors, believing this to be key in unlocking national climate legislation. This led to the formation of the U.S. Climate Action Partnership, which provided a unified voice across industry and environmental groups on climate policy in the early days of Obama's presidency. But this top-down strategy, much like those for other issues of our time, overlooked the rising discontent resulting from decades of manufacturing contraction, middle-class wage stagnation, and increasing income inequality. Those forces ultimately killed national climate legislation in 2010 and have continued to gather strength, leading to Trump's presidential victory. It may be time for advocates of climate policy to focus more on connecting with people. This is a good time to do it—awareness about how climate change could affect people has grown since 2008. Even before last week's election result, climate change was increasingly becoming a part of the national debate on economic opportunity and inequality. The efforts of Bernie Sanders and groups like 350.org have shown that climate change can find populist momentum of its own. And it must find bipartisan support. Every major environmental legislation in U.S. history was enacted with bipartisan support following major threats to the environment. It is in both parties' interest to address this crisis. Today, that threat appears ever more immediate. The president-elect has said he wants to dismantle the EPA, an act that would threaten the progress made on clean air and water achieved across the country over the past four decades. His denial of the existence of climate change runs counter to recent record highs in global temperature and increasing evidence of the local economic impacts of climate change across the U.S. His decision to pull out of the Paris Agreement could incite international backlash with adverse U.S. economic consequences—for instance, it could cause France to impose a carbon tax on imported American goods. Such *moves by a Trump* administration could trigger broad populist support for climate policy that, to date, has yet to emerge. There are hints that this is already happening. In the week since Trump's election, many environmental organizations have received *record-breaking numbers of donations*. Many came from first-time donors; in fact, in just the past week, one group received gifts from as many new donors as it usually gets in an entire year.

Indeed, the passion shown in Sanders rallies does not appear to be withering. Rather, *it could gather strength in the coming months as people rally around Trump's anti-environmental policies*. Just as the Tea Party changed U.S. politics in 2010, *climate change can also be a defining issue, changing the political landscape for the 2018 midterm elections*. In that sense, 2016 can finally set the stage for the climate policy that has always been needed—stringent, lasting national climate legislation that puts the U.S. and the world on track to avoiding dangerous climate change.

Impact: democrats need to ensure filibuster to save healthcare (Waldman – The Week)

Paul Waldman (The Week). How much damage can Republicans do before 2018?. Published 3/14/17.

<http://theweek.com/articles/685623/how-much-damage-republicans-before-2018>.

Repealing the ACA could be just the start. Republicans could pass a major tax cut, boost military spending, and take a chainsaw to all the parts of government they don't like. Indeed, we're hearing that the Trump administration's budget will do just that, going for deep cuts in housing assistance, diplomacy, legal services for the poor, arts funding, and a whole raft of other items Republicans never liked in the first place. Defunding Planned Parenthood is an opening move — why not try to pass a bill making abortion illegal, either directly or by regulating abortion clinics out of existence? You never know what the Supreme Court might look like by the time the legal challenges work their way up. Paul Ryan already has his Medicare privatization plan written, so why not move it through Congress? And how about instead of just installing a climate denier as head of the Environmental Protection Agency, you eliminate the EPA altogether? One **[the] reason that [Repealing the ACA could]** such a legislative orgy **might not succeed is that the Democrats still have the filibuster in the Senate**, which means they can stop anything without a direct budgetary impact (bills that affect the budget can be passed through reconciliation, which only requires 50 votes). But if Republicans really thought this was an all-or-nothing moment, they could change Senate rules to eliminate the filibuster, then put all their legislation on a conveyor belt to the president's desk. Back in 2012, anti-tax activist Grover Norquist told Republicans that all they needed in a president was "a Republican with enough working digits to handle a pen" so he could sign the legislation Congress sent him. And that was a big reason why Republicans offered Donald Trump such loyalty in the 2016 election: Some may have had reservations about him, but he'd sign all those bills and advance their goals.

Impact: repeal would kill 45,000 people annually (Himmelstein – Washington Post)

David Himmelstein (The Washington Post). Repealing the Affordable Care Act will kill more than 43,000 people annually. Published 1/23/17.

[https://www.washingtonpost.com/posteverything/wp/2017/01/23/repealing-the-affordable-care-act-will-kill-more-than-43000-people-annually/?utm\\_term=.8c00c6296379](https://www.washingtonpost.com/posteverything/wp/2017/01/23/repealing-the-affordable-care-act-will-kill-more-than-43000-people-annually/?utm_term=.8c00c6296379).

**Now that President Trump is in the Oval Office, thousands of American lives that were previously protected by provisions of the Affordable Care Act are in danger**. For more than 30 years, we have studied how death rates are affected by changes in health-care coverage, and we're convinced that an ACA repeal could cause tens of thousands of deaths annually. The story is in the data: **The biggest and most definitive study of what happens to death rates when Medicaid coverage is expanded, published in the New England Journal of Medicine, found that for every 455 people who gained coverage across several states, one life was saved per year. Applying that figure to even a conservative estimate of 20 million losing coverage in the event of an ACA repeal yields an estimate of 43,956 deaths annually**. [Bernie Sanders's claim that '36,000 people will die yearly' if Obamacare is repealed] With Republicans' efforts to destroy the ACA now underway, several commentators have expressed something akin to cautious optimism about the effect of a potential repeal. The Washington Post's Glenn Kessler awarded Sen. Bernie Sanders (I-Vt.) four Pinocchios for claiming that 36,000 people a year will die if the ACA is repealed; Brookings Institution fellow Henry Aaron, meanwhile, predicted that Republicans probably will salvage much of the ACA's gains, and conservative writer Grover Norquist argued that the tax cuts associated with repeal would be a massive boon for the middle class. But such optimism is overblown. The first problem is that Republicans don't have a clear replacement plan. Kessler, for instance, chides Sanders for assuming that repeal would leave many millions uninsured, because Kessler presumes that the Republicans would replace the ACA with reforms that preserve coverage. But while repeal seems highly likely (indeed, it's already underway using a legislative vehicle that requires only 50 Senate votes), replacement (which would require 60 votes) is much less certain. Moreover, **even if a Republican replacement plan comes together, it's likely to** take a big backward step from the gains made by the ACA, **covering fewer people with much skimpier plans**.



# Political Capital

Democrats should use their political capital wisely (Malhotra – Harvard Business Review)

Deepak Malhotra (Harvard Business Review). How to Negotiate After a Staggering Defeat: A Playbook for Democrats. Published 11/16/17.

<https://hbr.org/2016/11/how-to-negotiate-after-a-staggering-defeat-a-playbook-for-democrats>.

I will start with five principles that are broadly applicable for difficult negotiations, and then provide specific guidance on how these apply to

Democrats negotiating their agenda under a Trump presidency. **Crucially, there are areas where Democrats have to accept short-term losses, areas where Democrats have much more leverage than they think, and areas where the thing to do is fight. It would be as self-defeating for Democrats to exhaust their limited political capital on lost causes as it would be for them to assume that they have no negotiation leverage at all.** Perhaps most self-defeating would be the view that Democrats should fight Trump and the Republicans on every issue.

Five Principles for Negotiating Against the Odds Know your weaknesses, but focus on theirs. Deal makers who walk into a negotiation consumed by their own weak position or weak alternatives get systematically worse outcomes than negotiators who walk into the room fully aware of their own weaknesses but focus on the weaknesses of the other side. It's important to know where you're vulnerable, but you shouldn't lose sight of the fact that there are limits to the other side's power as well and that they might have interests or objectives for which they need you. Shape the narrative. Democrats can accept the currently dominant narrative around why Trump beat Hillary Clinton: He better represents "real" America, and the country's elites were living in echo chambers and were too arrogant and disconnected from the average American. But an alternate narrative is that the popular vote shows that more people cast their votes for Clinton than for Trump — proof that a larger share of the voting public rejected Trump's vision for the country. Additionally, the results of most ballot measures across the U.S. show that the country continues to move in a progressive and liberal direction. It is perfectly OK for Republicans and Democrats to prefer different narratives — but which narrative you promote and which comes to pervade the social consciousness will have consequences for your ability to attract followers to your cause in the future and to forge winning coalitions. If you can create value, you have leverage. Most people think about power in terms of which side has deeper pockets, greater muscle, stronger allies, and more control over resources. All of these are important. But often the greatest source of leverage in negotiation is your ability to create value for the other side. If they have interests you can address or needs you can fulfill — or if there are problems only you can solve for them — you have leverage. The Democrats may control zero branches of government, but they have leverage for precisely this reason. As I will detail, Trump might need the help of Democrats on a surprisingly large number of important issues. Pick your battles. **When you have limited political capital, you can't afford to spread it**

**too thin. If you treat every fight as the defining battle, you will surely lose the war.** But before you can pick your battles, you have to get your house in order. Political parties are not monolithic — they comprise shifting coalitions of members who have differing priorities, all competing for attention and resources. This is problematic even in the best of times. When times are bad, it can be fatal. We've heard a lot about how the Democrats need new leadership. But more important, from a negotiation perspective, will be to make a concerted effort at defining the party's legislative and policy priorities for the next four years. If Democrats are pulling in different directions, they will misallocate their political assets and bring too little muscle to the table when an important deal is there for the making. "They win" does not equal "you lose." The battle for electoral votes is a zero-sum game, but governing is not. Despite differences on many dimensions, there are still numerous issues on which Democrats agree with the legislative agenda Trump has articulated. Moreover, even on many of the issues where there are competing visions regarding what is right for America, and where President-elect Trump will have considerable say, there is scope for Democrats to shape the outcome.

Mad od polcap tradeoff shi (Jacobs – NYU)

James Jacobs – 4 – of Constitutional Law and the Courts, New York University School of Law (James Jacobs, 2004, "Chapter 4: The Politics of the Brady Law," Can Gun Control Work?, Oxford University Press, p. 61-62, malia – 10/31/2017)

<https://books.google.com/books?id=Z1sSDAAAQBAJ&pg=PA59&lpg=PA59&dq=Chapter+4;+The+Politics+of+the+Brady+Law.%E2%80%9D+Can+Gun+Control+Work&source=bl&ots=Fzt8JpVLep&sig=v1c9yzK951a-uHQxZ54JemrzCl8&hl=en&sa=X&ved=0ahU>

[KFwjg2Jvy0ZvXAhWlxYMKHRy\\_AAO06AFILDAB#v=onepage&q=Chapter%204%3A%20The%20Politics%20of%20the%20Brady%20Law%2C%E2%80%9D%20Can%20Gun%20Control%20Work&f=false](http://www.washingtonpost.com/archive/local/2013/04/17/?hpid=hp%3A%20The%20Politics%20of%20the%20Brady%20Law%2C%E2%80%9D%20Can%20Gun%20Control%20Work&f=false)

The 1968 Gun Control Act passed in the wake of the national trauma caused by the assassinations of Robert F. Kennedy and Martin Luther King, Jr, and horrific rioting in cities across the United States. By contrast, **the Brady Law did not result from a cataclysmic event but from persistent lobbying by Handgun Control, Inc. (HCI), by far the most important gun control lobbying organization in American history. To be sure, HCI was able to build on a great deal of public pro-gun control sentiment.** including the support of leading print and electronic media and consistently large pro-Brady majorities in public opinion polls [see table 4.1). **Nevertheless, it took seven years, from the time it was first submitted to Congress, for the Brady Bill to become law.** It probably never would have happened had the Democrats not controlled both Houses of Congress and the White House between 1993 and 1995. Thus, on the one hand, the Brady Law could be cited for the proposition that reasonable, albeit modest, federal gun control is politically possible. On the other hand, **the tortuous road that the Brady Law's proponents had to traverse and the negative political fallout for the Democrats could be cited for the proposition that passage of even modest gun control takes monumental effort plus luck and imposes heavy political costs.**

Obama used his political capital on gun control (James – NPR)

Frank James (NPR). Obama Uses And Loses Political Capital On Gun Control. Published 4/13/17.

<http://www.npr.org/sections/itsallpolitics/2013/04/17/177655484/obama-uses-and-loses-political-capital-on-gun-control>.

The Senate's rejection of more robust gun purchase background checks was a stinging blow to President Obama that raised questions about his second-term agenda. **Expanding background checks had become a key part of Obama's post-Newtown push for tougher federal gun control laws.** And in recent weeks, the president had campaigned for overall gun control legislation — especially the bipartisan background-check compromise — with a sense of urgency. But neither the president's campaigning or plaintive personal appeals by family members of the Newtown victims, some of whom witnessed Wednesday's Senate vote in person, were able to push the Senate to cast the 60 votes needed to move the measure forward. At a news conference, an obviously angry Obama blamed the loss on what he called NRA distortions of the legislation's purpose: "The point is, those who care deeply about preventing more and more gun violence will have to be as passionate and as organized and as vocal as those who blocked these common-sense steps to help keep our kids safe. Ultimately, you outnumber those who argued the other way. But they're better organized, they're better financed, they've been at it longer and they make sure to stay focused on this one issue during election time." The amendment introduced by Sens. Joe Manchin, D-W.Va., and Pat Toomey, R-Pa., fell short in a 54-46 vote. Five red-state Democrats up for re-election voted with most of the Republicans against the measure. If Obama couldn't get an important win in a Democratic-controlled Senate on a measure that had overwhelming public support, according to polls, what's in store for other issues? **"He's using political capital, and when you use political capital this way and you lose, it hurts," said James Thurber, an American University political science professor and director of the school's Center for Presidential and Congressional Studies.** But, Thurber added: "There will be new policies, new events that will come that will help him. He isn't a total lame duck, even though it's his second term. He still has a lot of power in certain areas, and certainly in the area of immigration he's going to have some leverage in terms of helping to bring a bill through the Senate and the House." Still, Thurber says the administration bears some blame for not organizing its side well enough in the face of the well-funded and well-organized National Rifle Association. "He's gone above the heads of Congress. He's used grass roots," Thurber said. "I think he has not been effective, however, in building a coalition, particularly a coalition that reaches over to the other side — gun owners and NRA members. ... There's no contest in battling the NRA if you don't have a similar organization on the other side. The president doesn't have that organization and therefore, he's failed." Organizing for Action, the advocacy group Obama's 2012 campaign transformed into, was simply no match for the NRA. And neither was Obama's rhetoric. "You cannot simply deliver votes by giving speeches in this case," Thurber said.

(Collinson – CNN)

Stephen Collinson (CNN). Barack Obama's emotional evolution on gun control. Published 1/7/16.

<http://www.cnn.com/2016/01/05/politics/obama-gun-control-evolution-executive-order/index.html>.

That seemed to many critics as disdainful of lawful firearms owners themselves, a slip his foes have used again and again to warn the president is coming to get their guns. Obama also appeared to underestimate the potency of the gun lobby and National Rifle Association back then as well. **"What we have to do is get beyond the politics of this issue," Obama he said at a 2008 Democratic debate in Philadelphia.** Read: Will Obama's gun control moves face a legal challenge? **But when he took office, gun**

**control seemed far from his mind. With a financial crisis raging, and other priorities like health care reform demanding political capital, Obama was absent on the issue while Democrats controlled both chambers of Congress. And to be fair, there were few Democrats -- especially those in red states -- who would have welcomed tough votes on gun control.** But the President was forced to confront the consequences of gun violence before the eyes of the nation after shooting sprees at Fort Hood, Texas, in November 2009, and in a Tucson, Arizona, supermarket parking lot that left Congresswoman Gabrielle Giffords with brain damage and six people dead in January 2011.

**Research conducted by UC Davis found that the implementation of UBCs in Colorado and Washington had no effect on the amount of background checks conducted for gun sales. This research puts into question whether or not politicians should try to pass UBCs or if they should try to pass more effective “permit to purchase” laws (Beckett - The Guardian).**

Lois Beckett (The Guardian). “Gun laws that cost millions had little effect because they weren't enforced.” October 13, 2017.

<https://www.theguardian.com/us-news/2017/oct/13/gun-laws-that-cost-two-state-lawmakers-their-seats-had-little-effect-study-finds> HS.

The fact that private gun sales have long been totally unregulated and undocumented – the very reason that the new laws were passed – does make enforcement difficult, he said. **The new research also raises the question of whether gun violence**

**prevention advocates would save more lives if they chose to fight for a slightly tougher law, which requires background checks to be conducted by a law enforcement agency which then provides a permit to purchase a gun. Research evaluations of these “permit to purchase” laws in Missouri and**

**Connecticut found much stronger results in preventing gun murders than the evaluation of universal background check laws alone found.** The new study, published in Injury Prevention, a medical journal, did not attempt to analyze

whether the new background check laws in Delaware, Colorado and Washington had any effect on gun violence or gun crime. Instead, it asked a simpler question: did a law requiring more background checks actually result in more background checks being conducted? In Delaware, a small state on the liberal east coast, the answer was yes. Delaware saw a 25% increase in background checks for handguns and a 34% increase in background checks for long guns, the study found. In **Colorado and Washington**, both western states that have large rural, more conservative areas, the answer was no. Both states **showed modest increases in the number of background checks**

**conducted on certain kinds of private gun sales, according to other data sets, showing that some people did appear to be complying with the new laws. But neither state saw an increase in the number of overall background checks compared with the number researchers would have expected to see without the law.**

**(I): Need comprehensive/effective policy not small scale legislation that doesn't work (Rostron – U. Maryland)**

Allen Rostron (Maryland Law Review). Incrementalism, Comprehensive Rationality, and the Future of Gun Control. Published 2008.

<http://digitalcommons.law.umaryland.edu/cgi/viewcontent.cgi?article=3324&context=mlr>.

What good is half an eye? Is half a loaf better than none? These questions must be carefully considered if the United States is to make progress toward more effective policymaking, or even a more reasoned, constructive debate about guns. As illustrated by the recent major controversies concerning guns, from Hurricane Katrina to Virginia Tech, **regulation of guns has too often been done in a piecemeal,**

**incomplete way that has undermined its effectiveness and left no one content. While an incremental approach may be an effective or even ideal way to deal with many other problems, it will continue to**

**pose serious problems when applied to the regulation of guns.** People on every side of the gun control debate must take into account the possibility that policies partially but not completely addressing a targeted problem may achieve the worst results,

whether it is gun control advocates pushing for creation of “gun free zones” too easily undermined by the ubiquity of firearms throughout the remainder of society, or gun rights advocates purporting to support moderate controls like background checks but insisting on preserving limitations and loopholes destined to doom the enterprise. Giving up is not the answer. After every high-profile shooting, some critics of gun control efforts insist that nothing could have been done to prevent the attack. For example, while supporting improvements to the background check system after the Virginia Tech shootings, the NRA repeatedly emphasized that in its view “no piece of legislation will stop a madman bent on committing horrific crimes.”<sup>367</sup> As Tulane law professor Stephen Griffin observed on a blog just a few hours after the shootings at Virginia Tech, the phrase “you can't prevent something like this” is “surely one of the most demoralizing and misleading memes ever released into the

public sphere.”<sup>368</sup> “If it is reasonable to act to prevent terrorism,” Griffin wrote, “it is reasonable to make every effort to make sure that nothing like this ever happens again.”<sup>369</sup> Indeed, Americans surely would have reacted with disgust if Congress had responded to the terrorist attacks on September 11, 2001, by announcing that it would not be doing anything to try to make the nation safer because no piece of legislation will stop madmen bent on committing horrific crimes against us. Reasonable efforts should be made to reduce gun violence, but those efforts should push toward a comprehensive and cohesive pattern of controls, rather than a crazy quilt of inconsistent and incomplete measures. Suddenly grabbing guns in the midst of a crisis, as New Orleans police announced they would do during Hurricane Katrina, is an overreaching reaction too late and too haphazard to achieve any significant benefits. Trying to carve out a small haven with extremely restrictive gun laws, as in the District of Columbia, will be frustrated to a substantial extent by the easy availability of guns from surrounding areas with weaker laws. Gaps in coverage and implementation will prevent potentially sound policies like background check requirements from fully achieving their objectives, as the Virginia Tech shootings tragically demonstrated. **After years of incremental development of regulations on guns, America needs to make a leap forward toward a comprehensive approach that will do more to keep guns out of the wrong hands.**

A study by the Justice Department showed that just 1.7 percent of criminals who used guns in the commission of a crime obtained their gun from a gun show. By extending the background checks to catch such a small percentage of transactions, politicians risk inflaming and alienating millions of voters who might otherwise be open to voting for them (Carville).

James Carville (Author/Political Commentator). “Take It Back: Our Party, Our Country, Our Future” (p. 49). Simon & Schuster.  
<https://www.amazon.com/Take-Back-Party-Country-Future/dp/B008SM4DLY>

Here’s how the National Rifle Association states its public position: “For years NRA has said that the best way to fight illegal gun use is to enforce the laws already on the books, not pass more laws.”<sup>26</sup> Keep in mind that “the laws already on the books” were all opposed by the NRA. But now, rather than calling for the repeal of the Clinton-era gun laws, the NRA implicitly praises them. Why? Because they know they don’t have the votes to repeal them. They also know those laws are popular—and they work. Since the Brady Bill took effect in 1994, it has kept guns out of the hands of eight hundred thousand felons, fugitives, and wife-beaters, without burdening a single decent, law-abiding American.<sup>27</sup> So rather than rail against the Clinton gun-control laws—rather than continue fighting a battle they lost a decade ago—the NRA wisely says it supports those laws. Just as there aren’t enough votes to repeal any existing gun laws, there aren’t enough votes to pass any new ones. **The most talked-about new gun-control law is to close the gun-show loophole. Sponsored by Senators Joe Lieberman (D-CT) and John McCain (R-AZ), the bill would require that people who buy guns at gun shows pass the same background check required for purchases made in stores. Okay. Sounds reasonable. But what is the political cost-benefit analysis? A study by the Clinton Justice Department showed that just 1.7 percent of criminals who used guns in the commission of a crime obtained their gun from a gun show.<sup>28</sup> By extending the Brady Bill to catch such a small percentage of transactions, Democrats risk inflaming and alienating millions of voters who might otherwise be open to voting Democratic.** But once guns are in the mix, once someone believes his gun rights are threatened, he shuts down.

## Criminalization

### General

**UBC bills are so broad that they would turn most gun owners into criminals (Kopel - CATO Institute).**

David B. Kopel (CATO Institute Policy Analysis). “The Costs and Consequences of Gun Control.” December 1, 2015.  
<https://object.cato.org/sites/cato.org/files/pubs/pdf/pa784.pdf> HS.

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.** Magazine bans are acts of futility because the extant supply is enormous. Today, magazines of up to 20 rounds for handguns, and 30 rounds for rifles, are factory standard, not high-capacity, for many of the most commonly owned firearms. These magazines are popular with law-abiding Americans for the same reason they are so popular with law enforcement: because they are often the best choice for lawful defense of one’s self and others.

<https://www.thenation.com/article/race-gun-control-and-unintended-consequences/>

But the misguided idea that good teachers with guns will stop bad guys with guns is not the only possible gun control measure that could negatively impact people of color. The more restrictive gun control laws about to be passed in New York, for example, expand the number of assault weapons that will be banned in the state. Biden’s task force is likely to also push for an assault weapon ban. The evidence does seem pretty clear that fewer guns lead to less violence. But we can’t forget about the **impact expanded criminalization could have as it’s implemented.** The founder of Prison Culture, **a blog focused on eradicating youth incarceration,** took to Twitter shortly after the Sandy Hook shooting to warn against this problem. “I live in a city where black and brown kids some of whom I work with are currently locked up on ‘gun charges.’ **These laws disproportionately impact and target the ‘usual suspects’ which happen to be the archetype ‘criminalblackman.’ As long our criminal legal system is racist and classist and heterosexist, it will be the marginalized who will be locked up,**” the user said over a number of tweets. After all, as my *Nation* colleague Rick Perlstein explained last week, it was fear of gun-toting Black Panthers that led to some of the first strict gun control laws.

<https://www.armedwithreason.com/why-are-they-punishing-me-gun-control-pragmatism-not-punishment/>

Essentially, **we should not have laws that ‘criminalize’ an activity that is only potentially harmful. Gun control regulations such as lock-box requirements or waiting periods, are apparently unique in this respect in that they “only harm law-abiding gun owners while doing nothing against gun criminals, since their actions are already prohibited by our laws against harmful behavior (rape, murder, etc.)”**

<https://www.armedwithreason.com/why-are-they-punishing-me-gun-control-pragmatism-not-punishment/>

**Gun advocates view gun control as “punishment” largely because they believe it doesn’t work; if they did, they would be far more reticent to argue that “criminals don’t follow laws.”** After all, I rarely hear people argue that “drunk driving” laws punish law-abiding citizens who can responsibly drink and drive.

## Racial

**In order to enforce compliance to UBCs there needs to be involvement from law enforcement. This is problematic because it creates more pretext for over policing, driven by selective enforcement against minorities, which will only entrench the inequality in the police system (Gourevitch - Salon).**

Gourevitch 15, Alex. "Gun Control's Racist Reality: The Liberal Argument against Giving Police More Power." Salon. N.p., 24 June 2015. Web. 01 Jan. 2016. <[http://www.salon.com/2015/06/24/gun\\_controls\\_racist\\_reality\\_the\\_liberal\\_argument\\_against\\_giving\\_police\\_more\\_power/](http://www.salon.com/2015/06/24/gun_controls_racist_reality_the_liberal_argument_against_giving_police_more_power/)>.

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." 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**. 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**. 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.

### **Empirics confirm—stricter gun laws would be more disastrous than the war on drugs for people of color (Blanks - CATO Institute).**

Jonathan Blanks (Research Associate in Cato’s Project on Criminal Justice and Managing Editor of PoliceMisconduct.net). “Gun Control Will Not Save America from Racism,” Vice, 22 June 2015, <http://www.vice.com/read/gun-control-will-not-save-america-from-racism-622>)

The desire to do “something” after a tragedy is normal. Indeed, politicians often count on public outcry to enact new legislation. In his statement responding to the attack on Emanuel African Methodist Episcopal Church last Thursday, President Barack Obama made the familiar allusion to gun control. “We don’t have all the facts, but we do know that, once again, innocent people were killed in part because someone who wanted to inflict harm had no trouble getting their hands on a gun,” he said. 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.

### **Enforcement of UBC will disproportionately harm minorities and criminalize them.**

Thomas Finn. “Obama-Era Gun Control Legislation Fuels Stigma Against Disability and Disorder.” *UCSD Guardian*. 6 Mar. 2017. Web. 22 Oct. 2017.

<http://ucsdguardian.org/2017/03/06/obama-era-gun-control-legislation-fuels-misconception-of-people-with-disabilities-and-disorders-as-thre-ats/>

**Enforcement of gun control laws today still tends to disproportionately impact minorities.** For example, according to research by Jeffrey Fagan at Columbia University Law School, **90 percent of the hundreds of thousands of New Yorkers stopped and frisked in 2012 were black or Latino, even though it was more likely to find guns on white people.** Based on research from the Vera Institute of Justice, this double standard also applies to criminalization of racial minorities for drug crimes, which, alongside over-representative conviction, recidivism and incarceration rates, suggests that **America’s criminal justice system stacks its War on Drugs against racial minorities every step of the way. When we decide who can own guns based on criminal records, but convict and imprison certain racial groups disproportionate to others, we disarm and disenfranchise American citizens using the same systemic biases.**

### **Stricter gun laws only perpetrate racism because laws only get stricter when black people start having the same rights as white people.**

Loyce Gayo. “Campus carry fuels white privilege, criminalization of Black people.” *Dailytexanonline.com*. 6 Oct. 2015. Web. 22 Oct. 2017.

<http://www.dailytexanonline.com/2015/10/06/campus-carry-fuels-white-privilege-criminalization-of-black-people/>

**“Gun laws started changing in California when Black people started to carry arms,”** said Edmund Gordon, chair of the African and African Diaspora studies department. “I am sure if [Black people] were disproportionately exercising concealed carry, they would quickly pass laws against that.” These racist perceptions have not left America’s conscience and still plague us today. The death of John Crawford III, a 22-year-old who was gunned down in a Wal-Mart for carrying a toy BB gun, and the brutal shooting of Tamir Rice, a 12-year-old who was shot and killed by police for playing with his toy gun, have shown how Black bodies, regardless of age, can be criminalized. “The

denigration of Black people comes out of the act of slavery and the notion that Black people are still less important," Gordon said. "The lives of Black people, in general, matter a lot less than the lives of white people in this society. We are more disposable." The polarizing discussion on race as it pertains to gun control is a critical element to the campus carry debate. **It is crucial to consider how the aftermath of this legislation can potentially perpetuate the criminalization of Black students.** Campus carry does not consider the safety of students of color. **Based on the historical precedent of Black people framed as dangerous, the new gun policy will endanger Black students who choose to exercise their new rights.**

**Minorities are also less likely to be able to purchase a gun under UBC than their white counterparts.**

Lott, John R.. "Do Democrats want to disarm minorities?." *Fox News*. 30 Jul. 2016. Web. 22 Oct. 2017.

<http://www.foxnews.com/opinion/2016/07/30/do-democrats-want-to-disarm-minorities.html>

Instead of additional background checks and creating problems for more law-abiding citizens, let's acknowledge and fix the broken system that we already have. Virtually everyone who fails a background check is someone who is legally eligible to buy a gun. **Law-abiding minorities, particularly blacks, are the ones most likely to be stopped from buying guns [with additional background checks].** Hillary Clinton claims that background checks have stopped 2.4 million dangerous or prohibited people from buying a gun. But what she ought to say is that there were 2.4 million "initial denials." These initial denials are akin to being stopped from flying **because your [their] name is similar that of someone on the No Fly list.** This happened five times to the late Sen. Ted Kennedy. By Hillary Clinton's method of counting, five terrorists were stopped from flying. About 96 percent of "initial denials" are dropped after the first two stages of review. Many more are dropped during the three remaining stages. Bill Clinton, George W. Bush, and President Obama have all been criticized for not prosecuting prohibited purchasers. In 2010 (the year of the last full, annual report on the Brady Act), 76,152 denials resulted in only forty-nine federal prosecutions. State prosecutions were also few in number. But there wasn't really any failure to prosecute. The vast majority of these denials were not real cases. Sharing a name and birthdate with a felon isn't the same thing as actually being a felon. Certain racial groups will encounter this problem more often than others. With some 40 percent of Vietnamese people bearing the name Nguyen, the problem of duplicate names is very likely to exist among people with this national heritage. **Hispanics are more likely to share names with other Hispanics, and the same is true of blacks. Also, because 30% of black males are forbidden from buying guns because of their criminal records, law-abiding black males are especially likely to have their names confused with those of prohibited people.** For many of these 2.4 million people, a mistaken denial might be a mere inconvenience. But some people really do have an urgent need to protect themselves from stalkers or enemies.

**Gun control is another way of taking away minority power by disarming them.**

David Horowitz. "The Racism of Gun Control." *Frontpage Mag*. 3 Mar. 2013. Web. 22 Oct. 2017 .

<http://www.frontpagemag.com/fpm/179750/racism-gun-control-matthew-vadum>

**Throughout American history gun control has been used to disarm those without political power, leaving inner-city blacks and poor people in crime-ridden neighborhoods helpless at the hands of criminals. Today, gun control, enacted under the guise of public safety, is being used to disarm**

**citizens.** This has the effect, intended or not, of removing the check on tyrannical government that an armed populace provides. Providing this counter-balance to government power is the primary purpose of the Second Amendment. Niger Innis, spokesman for the Congress of Racial Equality (CORE), doesn't buy the public safety argument pushed by anti-gun politicians. "For black Americans, we know that **gun control** has ultimately been about people control," he said. "It **sprouts from racist soil**; be it after the, or during the infamous Dred Scott case where black man's humanity was not recognized." (A helpful timeline tracking 1640 to 1995 shows the history of legislative efforts to keep firearms out of the hands of black Americans.) Figuratively standing on the corpses of the 26 people murdered by Adam Lanza at Sandy Hook Elementary School in Newtown, Conn., Democrats and leftist groups have been cynically parading shooting victims and their relatives before legislative panels across America. One of the more odious proposals left-wingers are promoting is universal background checks which could be tantamount to gun registration.



## Ableism

**Disarms people with disabilities who are 10 times more likely to be the victims of violence than commit an act of violence.**

Thomas Finn. "Obama-Era Gun Control Legislation Fuels Stigma Against Disability and Disorder." *UCSD Guardian*. 6 Mar. 2017. Web. 22 Oct. 2017.

<http://ucsdguardian.org/2017/03/06/obama-era-gun-control-legislation-fuels-misconception-of-people-with-disabilities-and-disorders-as-threats/>

**Background checks** typically appear as “common sense” requirements in gun control plans, but they rely on the assumption that this country has a fair criminal justice system and a working understanding of mental health. Aside from criminal background, these checks **usually also involve psychiatric records**. Unfortunately, mental illness has filled a boogeyman role in gun control rhetoric on both sides, where proponents and opponents alike can blame shootings, violence, and crime on mentally ill people with firearms. In reality, **the U.S. Department of Health and Human Services reports that one in five Americans have experienced a mental health issue. People with serious mental illness are actually less likely to commit violence than anyone else, yet are 10 times more likely to be victims of violence.** As the national discourse doubles down undue blame on people with mental disabilities or illnesses, gun control measures designed to block their civil rights become more extreme and short-sighted.

## Unconstitutional

**A UBC is too broad and infringes on the second amendment rights of responsible gun owners (Kopel - CATO Institute).**

David B. Kopel (CATO Institute Policy Analysis). “The Costs and Consequences of Gun Control.” December 1, 2015.

<https://object.cato.org/sites/cato.org/files/pubs/pdf/pa784.pdf> HS.

Here is the pertinent provision: “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.”<sup>29</sup> **This is not “gun control” in the constitutionally legitimate**

**sense—reasonable laws that protect public safety without interfering with the responsible ownership and use of firearms. To the contrary, such grotesquely overbroad laws have the effect of turning almost every gun owner into a felon by outlawing the ordinary, innocent, and safety-enhancing ways in which firearms in the United States are “transferred” millions of times every year.** While S. 649 has a few

exceptions to the ban on transfers, not one of them apply to the situations described above: ■ One can make a “bona-fide gift” (but not a three-hour loan) to certain close family members, not including aunts, uncles, nieces, nephews, in-laws, or civil union partners. ■ One can let someone else borrow a gun for up to seven days, but only within the curtilage of one’s house. Not on the open space one owns, and even a spouse cannot borrow a gun for eight days. ■ One can leave a firearm to another in a written will. But on one’s deathbed, it would be unlawful to leave a gun to one’s best friend. ■ One can share a gun at a shooting range (but only if the shooting range is owned by a corporation, not on public lands, and not at a shooting range on one’s own property). ■ One can share a gun at a shooting match, but only if the match is operated by a non-profit corporation or the government—not a match organized by the National Rifle Association, and not a match organized by a firearms manufacturer. ■ One can share a gun while out hunting in the field, but back at the hunting camp, it would be illegal to clean someone else’s gun.<sup>30</sup>

**Even if there was no Second Amendment, the arbitrary rules of the various exemptions would make Senator Reid’s bill of very dubious constitutionality. As interpreted by the courts, due process requires that all laws have a legitimate purpose and at least a rational connection to that purpose.<sup>3</sup>**

**In *Printz v. US Justice Thomas* suggested that background checks on intrastate sale or possession of firearms might be unconstitutional (Kopel - CATO Institute).**

David B. Kopel (CATO Institute Policy Analysis). “The Costs and Consequences of Gun Control.” December 1, 2015.

<https://object.cato.org/sites/cato.org/files/pubs/pdf/pa784.pdf> HS.

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.<sup>20</sup> **In Printz v. United States (1997), Justice Clarence Thomas suggested that a mandatory federal check on “purely intrastate sale or possession of firearms” might violate the Second Amendment.**<sup>21</sup> **That view is supported by the Supreme Court’s 2008 ruling in District of Columbia v. Heller. In Heller, the Court provided a list of “long-standing laws” that were “presumptively lawful” gun controls.**<sup>22</sup> The inclusion of each item on the list, as an exception to the right to keep and bear arms, provides guidance about the scope of the right itself. For example, the Court affirmed “prohibitions on the possession of firearms by felons and the mentally ill.” Felons and the mentally ill are exceptions to the general rule that individual Americans have a right to possess arms. The exception only makes sense if the general rule stands. After all, if no one has a right to possess arms, then there is no need for a special rule that felons and the mentally ill may be barred from possessing arms.

## Federal Gun Registry Bad

### **Uniqueness and Link: Impossible to force the background check without a federal registry**

**Kopel 15** David B. Kopel [research director at the Independence Institute and is an associate policy analyst with the Cato Institute], 12-1-2015 “The Costs and Consequences of Gun Control,” Cato Institute //DF

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.<sup>16</sup> **For FFLs, enforcement of record-keeping is routine.** They are required to keep records of every gun which enters or leaves their inventory.<sup>17</sup> 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.<sup>18</sup> 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.<sup>19</sup> **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.<sup>20</sup>

### **IL: might violate the Second Amendment**

**Kopel 15** David B. Kopel [research director at the Independence Institute and is an associate policy analyst with the Cato Institute], 12-1-2015 “The Costs and Consequences of Gun Control,” Cato Institute //DF

In Printz v. United States (1997), Justice Clarence Thomas suggested that **a mandatory federal check on “purely intrastate sale or possession of firearms” might violate the Second Amendment.**<sup>21</sup> **That view is supported by the Supreme Court’s 2008 ruling in District of Columbia v. Heller.** In Heller, the Court provided a list of “long-standing laws” that were “presumptively lawful” gun controls.<sup>22</sup> The inclusion of each item on the list, as an exception to the right to keep and bear arms, provides guidance about the scope of the right itself. For example, the Court affirmed “prohibitions on the possession of firearms by felons and

the mentally ill." Felons and the mentally ill are exceptions to the general rule that individual Americans have a right to possess arms. The exception only makes sense if the general rule stands. After all, if no one has a right to possess arms, then there is no need for a special rule that felons and the mentally ill may be barred from possessing arms.

### **A federal gun registry is a prerequisite to government led genocide (Faria - Foundation for Economic Education).**

Miguel A. Faria Jr., 01, 3-1-2001, National Gun Registration: The Road to Tyranny, No Publication, <https://fee.org/articles/national-gun-registration-the-road-to-tyranny/>, 10-19-2017, (NK)

The Canadian experience itself is instructive. Lorne Gunter, in the Edmonton Journal (October 13, 2000), reveals that the Canadian Outreach program to register all gun owners is falling short. The campaign not only has failed to register the expected 1.4 million gun owners (only one-third, 486,000, has complied), but it has also exceeded the projected price tag. "The latest estimates project the cost of the registry from December 1998 through March 2001 at \$600 million, seven times the original estimate of \$85 million," Gunter wrote. Americans, and now Canadians, have pointed out that rather than helping track criminals and their guns as claimed, registration of firearms is dangerous to the liberties of law-abiding citizens, and as we shall see, counterproductive with respect to criminals. **Gun Registration and Tyranny Unbeknownst to many Americans**, who have seen and experienced mostly the goodness of America, gun registration **is the gateway to civilian disarmament, which often precedes genocide**. In the monumental book *Lethal Laws\** we learn that **authoritarian governments that conducted genocide and mass killings of their own populations first disarmed their citizens**. The recipe for accomplishing this goal was: demonizing of guns, registration, banning and confiscation, and finally total civilian disarmament. Enslavement of the people then followed with limited resistance, **[Such] as in Nazi Germany, the Soviet Union, Red China, Cuba, and other totalitarian regimes of the twentieth century**. When presented with these deadly chronicles and the perilous historic sequence, Americans often opine that it cannot happen here. As to the dangers of licensing of gun owners and registration of firearms, they frequently retort, "If you don't have anything to hide, then you don't have anything to fear!" Followed by, "I see nothing wrong with gun registration because we have to do something; there are just too many guns out there that fall into the wrong hands." These naïve attitudes ignore the penchant of governments to accrue power at the expense of the liberties of individuals. Civilian disarmament is not only harmful to one's freedom but also counterproductive in achieving safety. That has been further attested by University of Hawaii Professor R. J. Rummel's *Death by Government* (1994) and Stéphane Courtois's edited volume, *The Black Book of Communism* (1999). These books make it clear that authoritarianism and totalitarianism are dangerous to the health of humanity. During the twentieth century, more than 100 million people were killed by their own governments bent on destroying liberty and building socialism and collectivism. I can personally testify that **when Cubans lost their guns in 1959 they also lost their ability to regain freedom**. Thus today, Cubans on the other side of the Florida Strait remain enslaved in what was supposed to have been the dream of a socialist utopia, the ultimate Caribbean Worker's Paradise. What they ended up with was the nightmare of a police state in a communist island prison.

### **A Federal gun registry was the first step in the Nazi's rise to power in Germany (Halbrook - National Review).**

Stephen P. Halbrook, 13, 12-2-2013, How the Nazis Used Gun Control, National Review, <http://www.nationalreview.com/article/365103/how-nazis-used-gun-control-stephen-p-halbrook>, 10-20-2017, (NK)

**The perennial gun-control debate in America did not begin here. The same arguments for and against were made in the 1920s in the chaos of Germany's Weimar Republic, which opted for gun registration.**

Law-abiding persons complied with the law, but the Communists and Nazis committing acts of political violence did not. In 1931, Weimar authorities discovered plans for a Nazi takeover in which Jews would be denied food and persons refusing to surrender their guns within 24 hours would be executed. They were written by Werner Best, a future Gestapo official. In reaction to such threats, **the government authorized the registration of all firearms** and the confiscation thereof, **if required for "public safety."** **The interior minister warned that the records must not fall into the hands of any extremist group. In 1933, the ultimate extremist group, led by Adolf Hitler, seized power and used the records to identify, disarm, and attack political opponents and Jews. Constitutional rights were suspended, and mass searches for and seizures of guns** and dissident publications **ensued**. Police revoked gun licenses of Social Democrats and others who were not "politically reliable." **During the five years** of repression **that followed, society was "cleansed"** by the National Socialist

regime. Undesirables were placed in camps where labor made them "free," and normal rights of citizenship were taken from Jews. The Gestapo banned independent gun clubs and arrested their leaders. Gestapo counsel Werner Best issued a directive to the police forbidding issuance of firearm permits to Jews.

## Self Defense

### #1 Reason why people want guns

**Swift 13** Art Swift., 4-13-2013, "Personal Safety Top Reason Americans Own Guns Today," Gallup, <http://news.gallup.com/poll/165605/personal-safety-top-reason-americans-own-guns-today.aspx> //DF

WASHINGTON, D.C. -- President Barack Obama has made strengthening gun control one of his top priorities this year, focusing on expanding background checks and a partial assault weapons ban. Gallup finds that those who already own firearms mention personal safety/protection most frequently as a reason for ownership (60%), followed by hunting, at 36%. Americans who say they personally own a gun were asked this open-ended question in Gallup's Oct. 3-6 annual Crime poll. These 309 gun owners were allowed to provide up to three reasons they own guns. After personal safety and hunting, general mentions of recreation or sport are third (13%) among the reasons gun owners chose to own a firearm, with 8% citing target shooting. Only 5% of American gun owners cite "Second Amendment rights," despite its frequent use as an argument against gun control. Three percent say they own a gun related to their line of work in the police or military. Collecting guns as a hobby and euthanizing sick animals or pest control had few mentions. Gallup asked gun owners in 2000 and 2005 whether they owned a gun for each of three explicit reasons: for protection, for target shooting, or for hunting. The responses then were mostly similar to those found today, particularly if recreation is combined with hunting. While not strictly comparable, the 2000 and 2005 surveys show that the desire to own a gun for protection is not a new phenomenon resulting from recent U.S. mass shootings. Personal protection is the top reason Americans own a gun, as was true in 2000 and 2005. This, rather than views on the Second Amendment, may explain why moving toward greater gun control, as Obama and many Democrats have sought to do, is so difficult. Those who own firearms for protection may feel that their own personal safety is a vital need on which they do not wish to compromise.

### Takes guns out of people who need them for self defense in high crime areas

Bandler. "Obama To Gun Owners: I Don't Want To Disarm You. Here Are 5 Indicators He's Lying.." Daily Wire. 3 Jun. 2016. Web. 23 Oct. 2017. <<http://www.dailywire.com/news/6297/obama-gun-owners-i-dont-want-disarm-you-here-are-5-aaron-bandler>> // NS

One of Obama's executive actions on gun control included universal background checks, which according to Lott drives up the price of transferring guns, including a \$60 increase in Washington state, \$80 in New York and \$125 in Washington, D.C."These fees can put guns out of the reach of those who are the most likely victims of violent crimes: poor people living in high-crime, urban areas," writes Lott. There's also Operation Choke Point, which the Department of Justice has defended by saying that they're targeting illegal businesses by restricting their ability to milk the financial system. However, a number of owners of stores that sell firearms have alleged that they were victims of Operation Choke Point, which include:

## Overviews

## Black Market

**Wintemute 13** Garen Wintemute [Baker–Teret Chair in Violence Prevention and Professor of Emergency Medicine, the University of California, Davis], 2013, "Background Checks for Firearm Transfers," Violence Prevention Research Program, University of California, Davis, <http://www.ucdmc.ucdavis.edu/vprp/CBC%20White%20Paper%20Final%20Report%20022013.pdf> //DF

These data are old, and the number of observations is small. But there are other similar estimates suggesting that this approximately 60/40 split between the primary and secondary markets is accurate. Cook and colleagues<sup>7</sup> note a Los Angeles Times poll from 1992 in which 59% of persons in Southern California who had purchased a firearm recently had done so from a store. They cite other surveys going back to the 1970s that reported similar results. Most recently, in the 2004 National Firearms Survey,<sup>10</sup> 55% of 566 firearm owners reported that their most recent acquisition had been from a store; another 8% reported purchasing their firearm from a licensed seller at a gun show (Unpublished data, National Firearms Survey). Even in the late 1960s, at the time Congress was debating the Gun Control Act, at least 25% of all firearm acquisitions occurred through the private-party transfers that would be exempted from the terms of the Act.<sup>11</sup> Cook and colleagues<sup>7</sup> point out that, as for other commodities, there are a legal market and an illegal market for firearms. The movement of firearms from the legal to the illegal market is the illegal market's chief source of supply. Firearm trafficking is the intentional diversion of firearms from the legal to the illegal market. Finally, in considering how firearms become available for use in crime, it is useful to consider point sources and diffuse sources of those firearms.<sup>8</sup> **Point sources are the venues linked to many known crime-involved firearms, usually licensed retailers.**<sup>12</sup> **Private-party sellers are generally among the diffuse sources that supply firearms for criminal use through many small-volume transactions between individuals, dispersed in time and place. Diffuse sources,** taken together, **are the leading proximate source of crime-involved firearms** (more on this below).

**Universal Background checks close some legal pathways for criminals to get guns, such as gun shows or internet sales. However, Sieberg at Binghamton University explains that while most law-abiding citizens have an elastic demand for guns, criminals have an inelastic demand for guns, since for them, weapons are tools of the trade. As a result, they will be more willing to pay higher prices for guns. Black marketeers, recognizing this fact, can gain by providing guns illegally. Now there is a mutual demand for guns among black market suppliers and criminals, which increases the size of the black market.**

**A black market worsens gun crime for two reasons.**

**First, guns sold on the black market cannot be traced.**

Schatz 15 Bryan Schatz, 5-14-2015, "When homemade, untraceable, military-style semi-automatic rifles go bad," Mother Jones, <http://www.motherjones.com/politics/2015/05/homemade-untraceable-assault-weapons/> //DF

**To get around the background check requirement, home builders buy "unfinished lower receivers"** (also known as ULRs or "80 percent lower receivers" because they're 80 percent complete). For AKs, these amount to pre-drilled metal platforms that must be bent into shape to become operational. When it comes to the law, it's just a hunk of metal until it's bent, and so long as you bend the receiver yourself to finish the gun, you don't have to stamp in a serial number or pass any background checks. Though building at home is largely considered a gun hobbyist's pastime, a Fusion investigation last year revealed that these guns are increasingly being used in violent crimes. **Since parts kits and unfinished lower receivers can be purchased without background checks, they leave little to no paper trail. As far as law enforcement is concerned, the finished weapons don't even exist.** From the Fusion investigation: It's impossible to know how many weapons built with unfinished receivers there are, since they're not regulated, but two vendors, Dimitri Karras of Ares Armor in California, and another based in Florida, told Fusion they expect to sell around 75,000 unfinished receivers this year. An agent from the California Department of Justice told Fusion that the growth in unfinished receivers in the last two years is unlike anything he's seen in more than a dozen years on the job. The **California** Department of Justice and ATF agents in California—**the epicenter of the homemade gun industry, likely because of its stringent gun laws**—told Fusion that they **were finding more and more of these guns at crime scenes and in the hands of organized crime.**

**Second, black markets are inherently violent. Sieberg explains:**

**because gun control creates the incentives for the formation of a black market, the laws could be contributing to more crime in a way similar to effects of the infamous alcohol Prohibition in the U.S.**

Katri K. Sieberg (Studies in Economic Theory/Department of Political Science at Binghamton University). "Criminal Dilemmas: Understanding and Preventing Crime." 2005. H.S.

This analysis extends to our concern about gun control. Using gun control, the government effectively sets a quantity that is lower than the market-clearing amount. This action can be expected to result in shortages, causing many to be willing to pay more in order to obtain the desired goods. Many critics have pointed out that gun laws are able to restrict only legal access to guns.<sup>361</sup> Accordingly, black marketeers, recognizing this fact, can gain by providing guns illegally, and citizens can gain by purchasing them. Some illegal sources include sale by legal owners, theft from legal owners, smuggling from foreign manufactures, and manufacture by illegal gunsmiths in the U.S.<sup>362</sup> The situation becomes one in which going outside of the rules creates "mutually advantageous trade". Neither the criminal nor the buyer has an incentive to assist the government. Thus, it is more difficult for the government to stop gun distribution. This behavior can be explained by using standard supply and demand graphs found in the financial pages of a newspaper. The crossing of the lines in the graph indicates the equilibrium quantity,  $Q_0$ , and the corresponding price,  $P_0$ . These are the prices and quantities that will result if the market is allowed to function without restriction. In the graph we see that at the market-clearing price, where supply equals demand, the price is  $P_0$  and the quantity is  $Q_0$ . But now suppose the supply is restricted to  $Q_s$ . Here, the same graph shows that the price that people are willing to pay will be higher. Similarly to what we noted from the apartment example in Manhattan, as supply becomes restricted, people will pay more for the desired good. In the graph, we see that customers are willing to pay  $P_j$  for guns, whereas suppliers are willing to sell them at a lower price,  $P_s$ . The demand for the product, and willingness to pay will create an incentive for some to supply more guns on the black market, at a high price.

6.3.5.1 Buyers Just as an increased price for a particular type of car restricts the demand for the product, economics suggests that an increased price of (and difficulty in obtaining) guns will drive people out of the firearms market. Who remains interested in purchasing a weapon? If we assume that a gun is a necessary "tool of the trade" for a criminal, the answer is apparent. Indeed, critics such as Polsby and Brennan claim that the extent of a shortage has fewer effects upon criminal purchase of handguns than one might expect. They state that a difference between law-abiding and criminal demands for guns is that most law-abiding citizens have a relatively elastic demand for handguns; stated in other words, they are sensitive to price changes. If there is a large rise in the price of guns, then many law-abiding people will choose not to buy a gun. They state that criminals, on the other hand, have relatively inelastic demands for handguns. This assertion means that they will be more willing to pay higher prices for handguns.<sup>363</sup> To better explain this point, assume that the demand for a product - guns in this case - is elastic. If the supply of guns decreases (shifts to the left) the price for handguns will rise slightly and the quantity demanded will fall significantly. If demand is inelastic then the price will rise much higher for a given decrease in demand, and the quantity demanded will fall only slightly. If criminals have an inelastic demand for firearms, then they will obtain more of these weapons than law-abiding people. This can result in a precarious situation in which the 'balance of power,' seen here as access to firearms, rests in favor of the criminals.<sup>364</sup> This concern has support in the literature. Polsby and Brennan compare the issue to international relations. Thus, it appears that gun control laws will have the effect not of disarming criminals, but rather increasing the ratio of firearms-holding criminals to non-criminals. Unilateral disarmament does not have a good reputation in international affairs, because such a tactic on occasion has invited aggression by the better-armed party. What reason do we have to suppose that domestic unilateral disarmament would be more successful?<sup>365</sup> If we agree with the above argument, then gun laws are not entirely successful in reducing criminal possession of firearms. They are mainly successful in reducing the number of law-abiding citizens who have access to these weapons. This fact can produce a disturbing ratio of armed criminals to similarly armed law-abiding citizenry. Additionally, because gun control creates the incentives for the formation of a black market, the laws could be contributing to more crime in a way similar to effects of the infamous alcohol Prohibition in the U.S. By creating a situation in which it is mutually advantageous for groups to break the law, the government may be reducing an important aspect in crime prevention and enforcement, the self-interest of individuals in avoiding crime and in aiding enforcement.

# Response to AFF

## R/T Reducing Access

### R/T Link– Gun Shows

#### **Non-unique: most sales at gun shows are done by licensed retailers who already have to conduct background checks**

**Wintemute 13** Garen Wintemute [Baker–Teret Chair in Violence Prevention and Professor of Emergency Medicine, the University of California, Davis], 2013, "Background Checks for Firearm Transfers," Violence Prevention Research Program, University of California, Davis, <http://www.ucdmc.ucdavis.edu/vprp/CBC%20White%20Paper%20Final%20Report%20022013.pdf> //DF

Most transfers at gun shows probably involve licensed retailers. ATF estimates that 50% to 75% of firearm sellers who rent table space at gun shows are licensed retailers.<sup>16</sup> The author's estimate of only 30% was based on observational data and almost certainly low.<sup>20</sup> The underestimate results from the fact that many licensed retailers at gun shows do not identify themselves as such—at least not until consummating a sale— though they are required to do so. The largest and most active vendors at gun shows are almost always licensed retailers.<sup>21</sup> Again, unpublished data from the National Firearms Survey agree.<sup>10</sup> Of respondents who purchased firearms at gun shows, more than 75% had bought them from licensed retailers. Licensed retailers are also probably the primary source of firearms acquired at gun shows that are later used in crime. The one peer-reviewed study of gun shows as sources of crime-involved firearms developed data from 314 ATF trafficking investigations involving gun shows.<sup>19</sup> While an unlicensed seller was the main subject in most of the investigations (54.1%), two thirds of the trafficked firearms were linked to investigations in which the main suspect was (or had been) a licensed retailer. These retailer cases involved an average of 452 firearms apiece and 33,445 firearms in total; those centered on unlicensed sellers involved an average of 112 firearms each and 15,551 firearms altogether.

#### **Impact mitigator: most gun sales don't occur at the shows**

**Wintemute 13** Garen Wintemute [Baker–Teret Chair in Violence Prevention and Professor of Emergency Medicine, the University of California, Davis], 2013, "Background Checks for Firearm Transfers," Violence Prevention Research Program, University of California, Davis, <http://www.ucdmc.ucdavis.edu/vprp/CBC%20White%20Paper%20Final%20Report%20022013.pdf> //DF

Gun shows account for a relatively small proportion of firearm transfers. The best published information on this point comes from the National Survey of Private Ownership of Firearms, discussed earlier.<sup>9</sup> In that survey, firearm owners were asked where they had obtained their most recently-acquired firearm. Four percent of the fire- arms had been acquired at gun shows. Unpublished data from the National Firearms Survey<sup>10</sup> yield a similar result; of 566 firearm owners, 9% acquired their most recent firearms at a gun show. California's records of handgun sales for 1998 through 2007 indicate that 2.7% of sales occurred at gun shows, but under-reporting is likely.<sup>2</sup>

**Empirically in Texas, gun shows are not associated with increased homicides in the weeks after the show. This in a world where gun shows do not have to run background checks. It may be the case that guns are bad, but the gun show loophole doesn't contribute to the harms of guns (Duggan - University of Maryland).**

Mark Duggan (University of Maryland, Department of Economics/National Bureau of Economic Research). "THE EFFECT OF GUN SHOWS ON GUN-RELATED DEATHS: EVIDENCE FROM CALIFORNIA AND TEXAS." <http://www.nber.org/papers/w14371.pdf> HS.

But **our results provide little evidence of a gun show-induced increase in mortality in Texas. In fact, we find that in the two weeks following a gun show, the average number of gun homicides declines in the area surrounding the gun show. Aggregating across all gun shows in the state, we find that there are approximately 16 fewer gun homicides resulting from the 200 gun shows in the average year.** In the sections below, we discuss several possible explanations for this counterintuitive finding. However, it is important to keep in mind that while these results are statistically significant, they are quite small – representing just one percent of all homicides in Texas in the average year. **We find no evidence of an effect on suicides or non-gun homicides in Texas.**

## R/T The Majority of People Support Gun Control

**Only 47% of people in a Pew Research poll were mad when a UBC bill didn't pass. When UBC gets attention people start disliking it (Reeve - The Atlantic).**

Elsbeth Reeve (The Atlantic). "Americans Aren't That Mad Gun Control Failed." April 24, 2013.

<https://www.theatlantic.com/politics/archive/2013/04/americans-arent-mad-gun-control-failed/315965/>

**After senators filibustered a gun background checks bill,** President Obama gave an angry speech, promising that "we can still bring about meaningful changes that reduce gun violence so long as the American people don't give up on it." But according to **a new Washington Post/ Pew Research Center poll, the American people are kind of over it. Less than a majority -- 47 percent -- say they are "angry" or "disappointed" that gun legislation failed to pass** after the Sandy Hook Elementary School shooting in Newtown, Conn. That is a lot less than the frequently-cited 90 percent who supported the substance of the bill, universal background checks. **A large minority, 39 percent, say they're "relieved" or "happy" that the bill did not advance.** But a closer look at that 47 percent — yes, it's that number again — who are disappointed or angry shows why it's going to be difficult to turn even that much outrage into electoral consequences for filibustering senators. First, who's mad about the bill's failure? According to the poll, 67 percent of Democrats said they are "angry." They are also postgrads (31 percent), followed by people in the Northeast (26 percent). A fifth of women say they're angry. And then take a look at who's on the other side and "very happy" the legislation died: 29 percent of Republicans, 28 percent of people from the West, and 26 percent of independents and white people without a college education.

**The Senate gives outsized influence to states with populations that don't support gun control.**

**National numbers are less important than state constituency numbers (Koger - University of Miami).**

Gregory Koger (The University of Miami). "Representation, Gun Control, and the Senate: Why Background Checks Failed."

<http://poli-sci.utah.edu/documents/koger-representation.pdf> HS.

**The equal representation of states in the U.S. Senate leads to tremendous inequalities in the representation of citizens** (Lee and Oppenheimer 1999). In a sense, **the opinion of a voter in Wyoming—the least populous state—have 65 times more influence than a voter in California.** This disparity is manifest in distributive politics (Lee and Oppenheimer 1999, 158-222), but also on policy issues that vary with state population. **Firearm regulation is one such issue; state population density correlates highly with household gun ownership ( $r = -.7413$ ) and state-level public opinion on gun control ( $r = .7295$ ).**<sup>15</sup>

**1- Although polls might show popular support, when statewide initiatives are in place there isn't popular support 2- When polls ask about specific legislation there isn't much support (Lott - The Hill).**

John Lott Jr (The Hill). "Background checks do not diminish crime rates, but can increase them." 10/5/17.

<http://thehill.com/opinion/criminal-justice/353893-background-checks-do-not-diminish-crime-rates-but-can-increase-them> HS.

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. **Kristof**



**claims, "Four out of five Americans support this measure." Politifact rates as "true" the statement that "90 percent of Americans support background checks for all gun sales." Yet that isn't how people have voted. When Bloomberg got universal background check initiatives onto the ballots of Maine and Nevada, he lost in Maine by four points, and won in Nevada by just 0.8 percent. 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.

**Polls don't account for transfers of guns -> people only support UBCs for gun sales not transfers (Kopel - CATO Institute).**

David B. Kopel (CATO Institute Policy Analysis). "The Costs and Consequences of Gun Control." December 1, 2015.

<https://object.cato.org/sites/cato.org/files/pubs/pdf/pa784.pdf> HS.

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. **Proposals concerning universal background checks have fairly strong support in public opinion polls, but those polls are premised on the idea that the check would be applied to the actual sale of firearms. To the contrary, in proposed legislation, the requirement for government authorization (via a background check and paperwork identical to buying a gun) would apply to far more than gun sales. The proposals apply to all firearms "transfers."**<sup>28</sup> **A "transfer" might be showing a new gun to a friend and letting him handle the gun for a few minutes.** For example, Senate bill S.649 (2013), introduced by Sen. Harry Reid (D-NV), goes far beyond controlling the actual sale of firearms. Consider a case in which a woman buys a common revolver at age 25, and keeps it her entire life. She never sells the gun. But over her lifetime, she may engage in dozens of firearms transfers:

Cummings, Mike. "Gun control misperceptions: Q&A with Yale researcher Benjamin Miller." *YaleNews*. 27 Jan. 2016. Web. 22 Oct. 2017.

<https://news.yale.edu/2016/01/27/gun-control-misperceptions-qa-yale-researcher-benjamin-miller>

Yale researchers Peter Aronow, assistant professor of political science, and Benjamin Miller, a third-year Ph.D. candidate in the Department of Political Science, have studied this apparent disconnect between public opinion and Congress on passing gun control legislation. In a nationally representative survey of 1,384 people, Aronow and Miller found evidence that widespread misperceptions about existing federal gun laws could be hindering efforts to pass tougher gun control legislation. They found that **while a large majority supports strong gun control laws, many people believe such laws already exist and that new legislation is unnecessary. For example, 41% of respondents believed that federal law already requires universal background checks for gun purchases,** which is not the case. Their findings were recently published in the British medical journal *The Lancet*, which also cited their work in an editorial on gun violence.

## R/T 40% Sales W/ Out Background Check

**The study finding that is outdated; but even so, the study actually puts the number closer to 20%**

**Gorman 15** Sean Gorman, 10-15-2015, "McAuliffe says 40 percent of U.S. gun sales escape background checks," @politifact,

<http://www.politifact.com/virginia/statements/2015/nov/02/terry-mcauliffe/mcauliffe-says-40-percent-gun-sales-escape-backgro/> //DF

McAuliffe's statement misses a key distinction in the study: **The research looked at all gun transactions** - including when a gun was obtained as a gift or as an inheritance - and not **just being "sold,"** as the governor said. The Fact Checker at The Washington Post in 2013 asked one of the co-authors of the study, Jens Ludwig of the University of Chicago, to crunch the 1994 data just looking at sales. Ludwig replied that **14 percent to 22 percent of guns were purchased without a background check. The 1994 data,** we also should note, **did not have a category for online sales,** as McAuliffe's statement suggests. Earlier this year, we asked the other co-author of the report, Philip Cook of Duke University, what percentage of guns currently are sold without a background check. In

response, he sent us an op-ed that he and Ludwig wrote in the National Review after the December 2012 shootings at Sandy Hook Elementary School in Newtown, Conn. - a time when the 40 percent figure was circulating again. "We've been following the give-and-take with some interest because our research is the original source of the 40-percent statistic," they wrote. "Our views may come as a surprise: First, we don't know the current percentage - nor does anyone else." The lack of current data is due largely because federal funding for gun studies dried up two decades ago. President Barack Obama issued a memorandum in 2013 directing the Centers for Disease Control and Prevention to re-examine gun violence.

### **The data was before the background check system even came into place**

**Kopel 15** David B. Kopel [research director at the Independence Institute and is an associate policy analyst with the Cato Institute], 12-1-2015 "The Costs and Consequences of Gun Control," Cato Institute //DF

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."<sup>14</sup> 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.

### **More recent estimates put the number at around 22%**

**Miller 17** Matthew Miller [Northeastern University], 2-21-2017, "Firearm Acquisition Without Background Checks," Annals of Internal Medicine, <http://annals.org/aim/article/2595892/firearm-acquisition-without-background-checks-results-national-survey> //DF

Our finding that 22% (CI, 16% to 27%) of gun owners who recently acquired firearms did so without a background check is lower than the 1994 estimate of "about" 40% (8), which was based on a survey with 2568 respondents (789 gun owners, 251 of whom acquired a firearm within 2 years of the survey) and a 1.4% margin of error for the full sample. No CIs around the 40% statistic were reported. The apparent decline in firearm acquisition without background checks over the past 2 decades, based on comparing our findings with those from the 1994 survey, cannot be attributed to differences in the period assessed (both surveys focused on the 2 years before the survey). Our survey asked respondents explicitly about background checks and permits or licenses to purchase, and the 1994 survey asked respondents whether their last acquisition was through a federally licensed firearms dealer. However, the differences in how the 2 surveys assessed background check status also seem unlikely to explain the apparent decline in the proportion of gun owners who reported not having undergone a background check for recent acquisitions. In the 1994 survey, for example, some respondents were not sure whether the source was a federally licensed firearms dealer, and others indicated that the source was a federally licensed firearms dealer but then reported that the transaction was a trade rather than a cash sale or that the source was an acquaintance or a family member (8). Regardless of which of these cases were included or excluded, the proportion without a background check ranged from 36% to 43%. Likewise, sensitivity analyses in our survey produced similar estimates regardless of whether we imputed background check status for respondents who indicated "no opinion/don't know" to the background check question, as in our primary analyses, or eliminated these respondents from analyses altogether. Even when we generated upper and lower bounds for our point estimates by assigning all such respondents to either having had or not having had a background check, estimates of the proportion of gun owners who did not have a background check ranged only from 18% to 26%. Lastly, results within our 2015 survey are consistent with a decline since 1994: 31% (CI, 25% to 34%) of current gun owners who obtained their last firearm between 2 and 5 years before our survey and 57% (CI, 53% to 62%) whose last acquisition was more than 5 years before our survey reported completing the transaction without a background check. One reason background checks have become more common in recent years is that compared with gun owners who acquired their most recent firearm several years ago, those who acquired a gun more recently are more likely to have purchased their firearm from a store (where background checks are required by federal law), as Table 2 indicates. Another factor may be that several states have enacted background check regulations for the private sale of firearms. Consistent with the goals of these state-level regulations, we found that 26% (CI, 5% to 47%) of gun owners who lived in a state regulating private sales and who purchased firearms from a private seller in the past 2 years did so without a background check, compared with 57% (CI, 40% to 75%) of those who lived in states that adhered to federal requirements alone.

## R/T Illegal Guns

### **Most gun crimes are committed by people who don't own the guns they're using**

**Ingraham 16** Christopher Ingraham, 7-27-2016, "New evidence confirms what gun rights advocates have said for a long time about crime," Washington Post,

[https://www.washingtonpost.com/news/wonk/wp/2016/07/27/new-evidence-confirms-what-gun-rights-advocates-have-been-saying-for-a-long-time-about-crime/?utm\\_term=.a73ed5154a6d](https://www.washingtonpost.com/news/wonk/wp/2016/07/27/new-evidence-confirms-what-gun-rights-advocates-have-been-saying-for-a-long-time-about-crime/?utm_term=.a73ed5154a6d) //DF

They found that in approximately 8 out of 10 cases, the perpetrator was not a lawful gun owner but rather in illegal possession of a weapon that belonged to someone else. The researchers were primarily interested in how these guns made their way from a legal purchase — at a firearm dealer or via a private sale — to the scene of the crime. "All guns start out as legal guns," Fabio said in an interview. But a "huge number of them" move into illegal hands. "As a public-health person, I'd like to be able to figure out that path," he added. More than 30 percent of the guns that ended up at crime scenes had been stolen, according to Fabio's research. But more than 40 percent of those stolen guns weren't reported by the owners as stolen until after police contacted them when the gun was used in a crime. One of the more concerning findings in the study was that for the majority of guns recovered (62 percent), "the place where the owner lost possession of the firearm was unknown." "We have a lot of people with a lot of guns," Fabio said, referencing statistics on the large number of guns in circulation. "And some of them aren't keeping track of them for different reasons — maybe because they have a lot of them and they don't use them that often." A number of factors could lead to legal firearms entering the black market. Owners could misplace them, or they could be stolen — either through carelessness on the owner's part (leaving a gun in an unlocked car, for instance) or determination on the part of thieves. It's also likely that many guns on the black market got there via straw purchases — where a person purchases a gun from a dealer without disclosing that they're buying it for someone else. This is illegal under federal law. One potential sign that straw purchasing is a factor in the Pittsburgh data: Forty-four percent of the gun owners who were identified in 2008 did not respond to police attempts to contact them. The top-line finding of the study — that the overwhelming majority of gun crimes aren't committed by lawful gun owners — reinforces a common refrain among gun rights advocacy groups. They argue that since criminals don't follow laws, new regulations on gun ownership would only serve to burden lawful owners while doing little to combat crime.

## R/T Mass Shootings

### **UBCs won't solve for mass shootings (Buchanan - NY Times).**

**Buchanan 17** Larry Buchanan, 10-5-2017, "How They Got Their Guns," No Publication,

[https://www.nytimes.com/interactive/2015/10/03/us/how-mass-shooters-got-their-guns.html?\\_r=0](https://www.nytimes.com/interactive/2015/10/03/us/how-mass-shooters-got-their-guns.html?_r=0) //DF

**A vast majority of guns used in 17 recent mass shootings, including guns believed to be used in the Las Vegas shooting, were bought legally and with a federal background check.** At least eight gunmen had criminal histories or documented mental health problems that did not prevent them from obtaining their weapons.

# R/T UBCs Empirically Work

**When UBCs were implemented in New York State there was no causal reduction in firearm homicides. Moreover, there was an increase in the proportion of robberies and aggravated assaults that include firearms after UBCs were implemented showing that UBCs did not prevent criminals from obtaining firearms (Jacobs - NYU Law School).**

James B. Jacobs (NYU Law School). "Universal Background Checking – New York State's SAFE Act." April 2016.

[http://lsr.nellco.org/cgi/viewcontent.cgi?article=1563&context=nyu\\_plltwp](http://lsr.nellco.org/cgi/viewcontent.cgi?article=1563&context=nyu_plltwp) HS.

Evaluating the impact of the SAFE Act's universal background checking for firearms purchasers presents a significant challenge. Some analysts have compared firearm homicides and suicides for a few years before and after enactment of a particular gun control.<sup>67</sup> This methodology is by no means conclusive. There are many other variables likely to contribute to or mask changes in the number and rate of firearm homicides and suicides. Nevertheless, **pre and post-SAFE Act crime data do not make a strong case for the SAFE Act's efficacy. Table I shows that firearm and non-firearm homicides both declined in 2013 and 2014, in line with the state's two-decade decline in homicide levels.**<sup>68</sup> The percentage of firearm homicides as a fraction of all homicides has fallen slightly since 2013, but in line, with the downward trend since 2009. Table 2 shows that both total suicides and firearm suicides decreased slightly after passage of the SAFE Act.<sup>69</sup> There is no reason why the SAFE Act would have had a depressing effect on non-firearm suicide. **Moreover, both firearm and non-firearm suicide increased again in 2014, contradicting the hypothesis that the SAFE Act reduced suicides by keeping guns out of the hands of suicidal individuals.** The proportion of firearm-related violent crimes has not been steadily decreasing.<sup>70</sup> **In fact the proportion of robberies and aggravated assaults, which are firearm-related, has increased since the passage of the SAFE Act, indicating that universal background checking has not prevented criminals from obtaining firearms.**

## **Connecticut and Maryland examples are both flawed**

**Kurtzleben 16** Danielle Kurtzleben, 1-9-2016, "Research Suggests Gun Background Checks Work, But They're Not Everything," NPR.org,

<http://www.npr.org/2016/01/09/462252799/research-suggests-gun-background-checks-work-but-theyre-not-everything> //DF

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. Those are some huge results — one expert called the Missouri study "the strongest evidence that background checks really matter," as The New Republic reported — but as with lots of social-science research, there's some fuzziness as to what the results mean. One caveat is that **these studies aren't about background checks alone. Instead, they're about permit-to-purchase laws**, under which people had to go to local law enforcement to get a permit and, therefore, a background check. **That difference might have impacted the results**, explained Daniel Webster, a co-author on both studies. He said that **being forced to get a permit from law enforcement might do more to deter a straw purchaser, for example, than getting a check at a nearby store.** Furthermore, he added that **because so many factors influence gun violence in different ways, it's hard to say how much the effects seen in Connecticut and Missouri would also happen in other states.** In addition, a stand your ground law enacted in Missouri in 2007 may have affected the results.

## **The ATF Could never enforce UBC's because they have literally no money (Berlow – Mother Jones)**

Alan Berlow, 13, 02, 11x-2013 How the NRA Hobbled the ATF, Mother Jones,

<http://www.motherjones.com/politics/2013/02/atf-gun-laws-nra/>, 10-29-2017, (NK) **The ATF employs about 5,000 men**

**and women, approximately the same number of staff it had a decade ago**; about half are special agents assigned to conduct criminal investigations. **That’s a force about the size of the Harris County, Texas, Sheriff’s Department**. In a **letter** to Vice President Joe Biden’s gun violence commission, 108 academic researchers complained that the ATF’s funding was “stagnating” while the budgets of law enforcement agencies such as the FBI had seen “dramatic expansions.” Since 1972, the Drug Enforcement Administration’s staff has more than doubled, while the FBI’s is up by two-thirds. **The ATF’s current budget of \$1.15 billion is little changed from the \$900 million it received 10 years ago**

**UBC’s will always be impossible to enforce, because many states are largely unwilling to comply with the most basic things such as supplying the NCIS with mental health records (Berlow – Mother Jones)** Alan Berlow, 13, 02-11-2013 How the NRA Hobbled the ATF, Mother Jones, <http://www.motherjones.com/politics/2013/02/atf-gun-laws-nra/>, 10-29-2017, (NK) Richard Feldman, a former NRA lobbyist and president of a gun-rights group called the Independent Firearm Owners Association, insists that the gun show loophole could be closed at little cost by requiring show operators—rather than individual dealers—to conduct NICS checks on all gun sales. Alternatively, unlicensed dealers might be required to run their checks through licensed dealers, for a small fee. That would eliminate the incentive criminals have to buy from unlicensed gun show dealers. **The [NICS] current system of background checks is also hampered by ongoing problems with data collection. Missing from the NICS system are millions of state and federal records that would disqualify prospective buyers—including mental health and drug abuse records, and case histories of accused felons. A report by the Government Accountability Office found that 17 states have provided fewer than 10 mental health records to the database between 2004 and 2011. As a result, thousands of prohibited buyers slip through the cracks every year. In 2010, about 3,000 such cases were identified.** The president’s gun violence plan calls for additional funding to help states compile mental health and other records and get them into the system.

**Since the laws for straw trafficking are very unclear, this will always be a loophole that is somewhat easy to access (Berlow – Mother Jones)** Alan Berlow, 13, 02-11-2013, How the NRA Hobbled the ATF, Mother Jones, <http://www.motherjones.com/politics/2013/02/atf-gun-laws-nra/>, 10-29-2017, (NK) Legal experts and former ATF officials have long argued that **the legal tools available to the agency are weak**—for instance, **there is no comprehensive federal firearms trafficking statute**. As a result, **“ATF must use a wide variety of other statutes to combat firearms trafficking,”** said a Nov. 2010 Department of Justice Inspector General report. **“However, cases brought under these statutes are difficult to prove and do not carry stringent penalties—particularly for straw purchasers of guns.”** The president’s plan to reduce gun violence recognizes that **“there is no explicit law against straw purchasing, so straw purchasers and others who traffic guns can often only be prosecuted for paperwork violations.”** The president has called on Congress to pass new gun trafficking laws with serious penalties—and a bipartisan group of four House members introduced such legislation recently—but the prospects for passage are far from clear, given the politics. For now, ATF agents are left with those paperwork violations. And **since they are difficult to prosecute and don’t draw heavy sentences, the IG reported, US attorneys are less likely to go after these cases.** A Justice Department review of straw buyer sentences between 2004 and 2009 found that they averaged only 12 months. Following complaints from several US attorneys in 2011, the US Sentencing Commission approved guidelines that allow judges to increase sentences for straw purchases by up to five years.

## R/T Social Movements

### Passage of a gun law does not at all necessitate further gun laws – ex. The failed follow-up to the Brady Bill

As soon as the Brady Law went into effect, gun control advocates sought further federal gun controls through Senators Howard Metzenbaum (D- Ohio), Edward Kennedy (D-Mass.), Bill Bradley (D-N.J.), Frank Lautenberg (D-N.J.), Barbara Boxer (D-Cal.), Claiborne Pell (D-R.I.), and John Chafee (R-R.I.) introduced the Gun Violence Prevention Act of 1994 (popularly called “Brady II”).<sup>44</sup> It would have made it illegal “for any person to sell, deliver, or otherwise transfer a handgun to an individual who is not [an FFL] unless the transferor verifies that the transferee possesses a valid state handgun license.”<sup>45</sup> Brady II stipulated a number of minimum standards for state handgun licensing schemes, including that licensees be at least twenty-one, firearms-eligible under federal, state and local law, and have completed a firearms safety course.<sup>46</sup> A firearms seller, whether an FFL or private seller, would have to verify that the transferee has a valid state handgun license by examining the handgun license and a valid photo identification.<sup>47</sup> The transferor would then be required to contact the CLEO of the state that issued the handgun license to confirm that it was still valid.<sup>48</sup> Then, in order for the handgun to be transferred, the transferor would provide a state handgun registration form to the CLEO in that jurisdiction.<sup>49</sup> Brady II did not achieve a floor vote in either the House or Senate.<sup>50</sup> Under the Brady Law, private sellers (non-FFLs) were not required to initiate background checks.<sup>51</sup> On April 20, 1999 the Columbine High School massacre in Colorado was perpetrated by two high school students, who acquired their guns via an older friend who purchased them at a gun show. The massacre prompted<sup>52</sup> Senator Lautenberg to introduce the Gun Show Accountability Bill, which would have extended purchaser background checking to private firearm (handguns and long guns) transactions, any part of which takes place at a gun show.<sup>53</sup> This would have applied to a transaction first discussed at a gun show, but consummated some time later, e.g. at the seller’s home.<sup>54</sup> Lautenberg’s bill failed to attain a Senate vote.<sup>55</sup>

## R/T Suicides

### 1. Non-unique: most people who commit suicides with guns already pass background checks (Swanson – NCBI)

Jeffrey Swanson (NCBI). Gun Violence, Mental Illness, And Laws That Prohibit Gun Possession: Evidence From Two Florida Counties. Published 12/13/16. <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC5154170/>.

**Do legal restrictions from possessing guns and background checks, as currently implemented, prevent suicide? Here the findings are important, if disappointing. The large majority (72 percent) of gun suicides in the study involved people who were legally able to obtain a gun. This suggests that the prohibiting criteria do not apply to many people likely to die from suicide. One reason is that people who are clinically evaluated during a suicidal mental health crisis typically are released without a (gun-disqualifying) involuntary civil commitment. The study found that the majority of gun-eligible people who died from suicide had records of (one or more) previous short-term involuntary holds that were not reportable legal events.** This represents an important opportunity for prevention. Prohibiting guns from people

involuntarily detained in short-term holds, at least temporarily, is a feasible policy reform that does not unduly infringe on Second Amendment rights—and it could save lives. Future research should evaluate directly whether applying gun-access restrictions to all involuntarily detained psychiatric patients would meaningfully reduce the incidence of gun-related suicide and violent crime in this population at risk.<sup>27</sup> Without waiting for the results of such research, Florida has subsequently amended its laws to extend firearms restrictions to people subjected to short-term involuntary holds under the Baker Act.

## 2. Link Mitigator: most records aren't in the database

**Jacobs 17** James Jacobs [Warren E. Burger Professor of Law at New York University School of Law and the director of the Center for Research in Crime and Justice. Zoe Fuhr is a research fellow at the Center for Research in Crime and Justice], 5-2017, "The Potential and Limitations of Universal Background Checking for Gun Purchasers," NEW YORK UNIVERSITY SCHOOL OF LAW, <https://ssrn.com/abstract=2965717> //DF NICS background checking is not effective in identifying persons too dangerous to possess a firearm due to mental illness. The Brady Law prohibits purchase of firearms by a person who has ever been civilly committed to a mental hospital or been adjudicated as mentally defective.<sup>157</sup> As indicators of dangerousness due to mental illness, these categories are both over and under-inclusive. Involuntary mental hospital commitments have decreased precipitously over the past several decades. The inpatient population decreased from 550,000 in the mid 1950s to 30,000 in 1990.<sup>158</sup> Adjudications of persons as mentally defective are rare, mostly triggered by a family's desire to establish a guardianship over a (usually elderly) person who might otherwise dissipate his or her resources.<sup>159</sup> Moreover, states have been very reluctant to submit even these names to NICS, citing state privacy laws.<sup>160</sup> Despite the George W. Bush Administration's attempt to encourage states to submit to NICS the names of persons who have been civilly committed or adjudicated mentally defective,<sup>161</sup> in 2011 **twenty-three states and the District of Columbia submitted fewer than one hundred names to NICS.**<sup>162</sup> **Seventeen states submitted fewer than ten names; four states submitted none.**<sup>163</sup>

## UBC's will always be impossible to enforce, because many states are largely unwilling to comply with the most basic things such as supplying the NCIS with mental health records

**(Berlow – Mother Jones)** Alan Berlow, 13, 02-11-2013 How the NRA Hobbled the ATF, Mother Jones, <http://www.motherjones.com/politics/2013/02/atf-gun-laws-nra/>, 10-29-2017, (NK) Richard Feldman, a former NRA lobbyist and president of a gun-rights group called the Independent Firearm Owners Association, insists that the gun show loophole could be closed at little cost by requiring show operators—rather than individual dealers—to conduct NICS checks on all gun sales. Alternatively, unlicensed dealers might be required to run their checks through licensed dealers, for a small fee. That would eliminate the incentive criminals have to buy from unlicensed gun show dealers. **The [NICS] current system of background checks is also hampered by ongoing problems with data collection. Missing from the NICS system are millions of state and federal records that would disqualify prospective buyers—including mental health and drug abuse records, and case histories of accused felons. A report by the Government Accountability Office found that 17 states have provided fewer than 10 mental health records to the database between 2004 and 2011.** As a result, **thousands of prohibited buyers slip through the cracks every year. In 2010, about 3,000 such cases were identified.** The president's gun violence plan calls for additional funding to help states compile mental health and other records and get them into the system.

## 2. Link Mitigator: just turn to other methods (Spitzer – SUNY)

Robert J. Spitzer (SUNY). The Politics of Gun Control. Published 10/19/17.

<https://play.google.com/books/reader?printsec=frontcover&output=reader&id=qZY6DwAAQBAJ&pg=GBS.PP1>

**In the comparative study of suicide rates in King County, Washington, and in the Vancouver metropolitan area in Canada, the comparative suicide rate reflected the displacement principle; that is, with guns less available in Canada, those committing suicide turned to other means.** The sole exception to this trend was the fifteen-to-twenty-four age group, where the 1.38 times greater suicide rate among the American group was attributable almost entirely to the presence of handguns. The Journal of the American Medical Association reported that the odds of suicide-prone adolescents actually succeeding increase seventy-five times when guns are present in the home. A study published in 2002 examined suicide rates of young African Americans (ages fifteen to twenty-four) from 1979 to 1997 and observed a quadrupling of that rate up to 1994, when rates then began to drop off. The study concluded that a contributing factor to this pattern was gun availability among a population where impulse-based action was high. <sup>53</sup> A 2004 study comparing eighteen states that had "child access prevention" (CAP) laws, making it a crime to store firearms in such a way that they are accessible to young people, found that the suicide rate among the young was 8.3 percent lower than in states not having such laws. Homes where guns are properly stored and locked away have lower firearm deaths, including suicides, than those where guns are present but not properly stored. <sup>54</sup>

# Indict: Lancet Study

## Gun violence researchers have say that the study is flawed (Beckett - The Guardian).

Lois Beckett (The Guardian). "Gun control study's dramatic results 'implausible', say leading researchers." March 10, 2016.

<https://www.theguardian.com/us-news/2016/mar/10/gun-control-study-flawed-researchers>

Implementing three state gun control laws at the federal level could reduce the rate of American gun deaths by more than 90%, a new study has found. But **leading gun violence researchers have called that result "implausible", and said the study's design is so flawed that some of its findings are not believable.** The paper, published in the British medical journal The Lancet and written by researchers at Boston University, Columbia University and the University of Bern in Switzerland, found that one of the three most effective gun policies were laws requiring ballistic imaging or microstamping, which help law enforcement identify guns used in crimes. **Experts noted that the laws, which were on the books in only three states, were not actually being implemented in practice. That "would be the biggest red flag, obviously, when they're finding huge effects of a law that doesn't exist", Daniel Webster, the director of the Johns Hopkins Center for Gun Policy and Research, said. He called the paper's approach "just not good science".** While some of the paper's findings are interesting, it's "highly questionable" whether other results "are an accurate reflection of reality", David Hemenway, a leading gun violence researcher at Harvard's school of public health, wrote in a comment published along with the paper. Bindu Kalesan, the paper's lead author, defended its findings as important contributions to an extremely complex and difficult area of research. The criticisms of the paper were "expected", she wrote. When it comes to American gun laws, she said, "there are so many layers to this. Every time I remove one layer, there's another layer." For instance, looking at whether the state laws that the study evaluated were actually being implemented was "another layer" beyond what the researchers chose to examine, she said. While further research is needed, she said, "what we've offered is a strong direction that we can go in". Kalesan, the director of the Evans Center for Translational Epidemiology and Comparative Effectiveness Research at Boston University Medical School, said the aim of the paper was to advance the troubled public policy debate on guns in America by sorting through the different state-level gun laws and identifying the few that had the greatest potential to reduce gun deaths. The paper compared 25 different state gun laws and concluded that nine of them were associated with reduced gun death rates. According to the study, the three state laws "most strongly associated with reduced overall firearm mortality" were universal background checks for gun purchases, background checks for ammunition purchases and "identification requirements for firearms", such as ballistic fingerprinting and microstamping. "If a law for universal background checks was implemented federal, overall firearm mortality could reduce from 10.35 to 4.46 per 100,000," a 57% reduction, the paper concluded. Implementing all three laws at the federal level "could reduce national overall firearm mortality to 0.16 per 100,000". **Other researchers who have published major evaluations of American gun laws said it was implausible that implementing three relatively modest gun restrictions could have such a huge impact on gun deaths. "We've seen much more dramatic interventions in Britain and Australia and places like that, and even they did not get those kinds of results," said Phil Cook, a public policy expert at Duke University who was one of the authors of a major study on the effectiveness of the nation's current federal background check law.** Jeffrey Swanson, a Duke professor who researches the relationship between mental health and violence, said the study's results left him "queasy". Gun violence is simply too complicated, with too many different causes, to be fixed so easily, he said. However Swanson and Webster agreed that they expected universal background check laws to help reduce gun deaths. That finding "may be real", Swanson said. Kalesan, the lead author, contested the idea that the dramatic drop in gun violence from three laws was implausible. "Considering that there are as many guns in this country as there are residents, it is plausible that background checks for ammunition purpose may in fact markedly reduce the gun death rate," she wrote in an email. **She also noted that the researchers expected the effect would be a long-term one, "and thus will take several years to occur". The main problem with the Lancet study, other researchers said, was that it attempted to determine the effectiveness of state laws by comparing gun death rates of different states with different sets of laws. The study controlled for a handful of factors, including unemployment rates and levels of gun ownership in different states. It did not control for levels of poverty, race or how urban or rural a state was, all factors crucial to understanding levels of gun violence, other researchers said. "There are too many things that make states different from one another, that explain their different rates of homicide or suicide, than the couple of variables that they look at," Webster said.** Kalesan, the paper's lead



author, said they had purposefully built a “parsimonious model” and that controlling for poverty, for instance, was not essential since they were already controlling for unemployment, a similar social factor. Other researchers said comparisons across states were simply too messy to isolate the effects of state gun laws, and that a better way to determine the effectiveness of gun laws was to look at changes in gun death rates over time, particularly before and after a given law was passed. In his comment published with the Lancet paper, Hemenway noted that some of the paper’s general findings mirrored the results of previous research.

## Indict: Lott

**Lott is a stinky guy.**

Thinkprogress, 16, 8-12-2016, The GOP’s favorite gun “academic” is a fraud, No Publication, <https://thinkprogress.org/debunking-john-lott-5456e83cf326/>, 10-30-2017, (NK)

But **Lott’s recent successes belie a far more shadowy past. A little over a decade ago, he was disgraced and his career was in tatters. Not only was Lott’s assertion that more guns leads to more safety formally repudiated by a National Research Council panel, but he had also been caught pushing studies with severe statistical errors on numerous occasions. An investigation uncovered that he had almost certainly fabricated an entire survey on defensive gun use.** And a blogger revealed that Mary Rosh, an online commentator claiming to be a former student of Lott’s who would frequently post about how amazing he was, was in fact John Lott himself. He was all but excommunicated from academia. Despite his ethical failings, Lott rose from the ashes in the wake of the 2012 mass shooting at Sandy Hook Elementary School to once more become a prominent voice in the gun debate. **Perhaps unaware of Lott’s previous transgressions, or believing he had turned a new page by founding the Crime Prevention Research Center (CPRC), many in the media who were desperate for an authoritative, pro-gun academic voice seized on Lott’s credentials and provided him with a new platform.** In the past few years, Lott and his organization have been cited by dozens of media outlets as an authority on gun violence statistics, including the Washington Post, the Wall Street Journal, LA Times, Politifact, CBS, CNN, Fox News, and many others. However, **the media’s newfound faith in John Lott is deeply misguided. Rather than turn a new page, Lott has instead returned to his old playbook and used his platform to deceive the public. Our own multi-year investigation into Lott and his organization has uncovered a startling array of new ethical violations, ranging from the profoundly bizarre to the outright fraudulent.**