

MEMORANDUM

TO Interested Parties

FROM Robin Lloyd, Director of Government Affairs

DATE December 4, 2018

RE Policy Recommendations to Reduce Gun Violence for the 116th Congress

During the 115th Congress alone, the United States experienced tragic shootings in Alexandria, Las Vegas, Sutherland Springs, Parkland, Santa Fe, Pittsburgh, and Thousand Oaks, just to name a few. In recent years, the number of gun deaths and injuries has [increased](#), with [more than 121,000 people shot in 2015 and more than 155,000 people shot in 2016](#).

The public recognizes that these levels of gun violence are unacceptable: [7 in 10 Americans want stronger gun laws](#). An overwhelming majority of Americans—[97%](#)—are in favor of universal background checks. [87%](#) believe that gun violence is a public health issue, and [76%](#) support the Centers for Disease Control and Prevention (CDC) funding research on gun violence.

In the states, this support has led to meaningful change. In 2018, [27 states passed 67 new gun safety laws](#); among those, 11 states passed legislation to keep guns away from domestic abusers, six enacted laws to improve background checks, and eight passed measures to fund urban violence reduction programs. The state laws with the greatest momentum in 2018 were extreme risk protection order (ERPO) laws, which allow law enforcement or family members to temporarily remove firearms from individuals in crisis. Eight governors—[including five Republicans](#)—signed these bills into law.

Still, both state legislatures and Congress must take further action in order to address our nation's gun violence epidemic and save lives. In addition to passing the legislation outlined below, Giffords urges Congress to exercise its oversight authority over federal agencies responsible for enforcing gun laws and to be wary of efforts to roll back our nation's gun laws. Congressional committees should proactively seek testimony and information from the Department of Justice, Bureau of Alcohol Tobacco, Firearms, and Explosives (ATF), and the Federal Bureau of Investigation (FBI) about resources needed to better implement and enforce existing gun laws.

CONGRESS SHOULD IMMEDIATELY ACT ON THE FOLLOWING POLICIES:

UNIVERSAL BACKGROUND CHECKS

[Universal background checks](#) would ensure that people prohibited from purchasing firearms cannot do so through an unregulated sale from an unlicensed or online seller, at a gun show, or through a private sale between individuals. Closing this background check loophole is critical to [making sure criminals and other dangerous people cannot easily access firearms](#). A [universal background check requirement for all gun transfers](#)—with reasonable exceptions for hunting, self-defense, and family—is the strongest policy solution to prevent prohibited individuals from getting their hands on guns. Background checks are proven to save lives: States that require a background check on every handgun sale experience [38% fewer gun homicides of women by intimate partners](#), [53% fewer law enforcement officers shot and killed](#), and [53% fewer firearm suicides](#).

FEDERAL GUN VIOLENCE RESEARCH

Gun violence is a public health crisis and must be addressed as such. But in order to truly address a public health problem, we must first fully understand it. The solution is simple: legislators serious about protecting their constituents from gun violence should [invest in federal research at the Centers for Disease Control and Prevention \(CDC\)](#). Leaders have made clear that at this juncture, only a lack of funding constrains the CDC from performing this lifesaving research. Earlier this year, [Health and Human Services Secretary Alex Azar](#) acknowledged that his agency is not legally prohibited from studying gun violence—a sentiment echoed by the FY18 omnibus bill. In October 2018, [CDC Director Robert Redfield stated](#) that the CDC has no restrictions on potential research, and should money be appropriated by Congress, the CDC will move forward with gun violence research.

ADDITIONAL POLICIES TO CONSIDER:

ENACT EXTREME RISK PROTECTION ORDERS

[Extreme risk protection order \(ERPO\) laws](#) enable family members or law enforcement to petition a court for a temporary order prohibiting a person from purchasing or possessing firearms. These orders are sought when the individual demonstrates behaviors that indicate they may pose a danger to themselves or others. ERPO laws are designed to help people in crisis—like shooter in Parkland, Florida, who classmates, teachers, family members, and law enforcement officers noticed was exhibiting dangerous behaviors. ERPO laws are proven to save lives: [in Connecticut](#), for every 10–20 orders issued, one life was saved. Thirteen states have now enacted some form of an extreme risk law, including California, Connecticut, Delaware, Florida, Illinois, Indiana, Maryland, Massachusetts, New Jersey, Oregon, Rhode Island, Vermont, and Washington.

PREVENT DOMESTIC ABUSERS FROM ACCESSING FIREARMS

Domestic violence and firearms are a deadly combination. A woman is five times more likely to die in a domestic violence situation if her abuser has access to a firearm. Current federal law prohibits abusers who have been convicted of domestic violence misdemeanors and abusers subject to certain domestic violence protective orders from purchasing or possessing guns. However, federal laws do not apply to many abusers who victimize non-spousal partners or a family member other than a partner or child, such as a non-cohabiting boyfriend. Federal firearm prohibitions also do not apply to individuals convicted of misdemeanor stalking, despite the fact that felony stalking charges are often pled down to this level. Congress should enact legislation to [prevent abusive dating partners and convicted stalkers from purchasing and possessing firearms](#).

FUND EVIDENCE-BASED VIOLENCE INTERVENTION PROGRAMS

Gun violence disproportionately impacts communities of color. From 2012 to 2016, African American children and teens were [nearly 15 times as likely](#) to be shot to death as their white peers. In that same time frame, [Hispanic children and teens](#) and [Native American children and teens](#) were both three times as likely to be shot to death as their white peers. In many cities heavily impacted by interpersonal gun violence, such violence is driven by a very small subset of the community, and a handful of strategies have proven to be successful at breaking cycles of violence. One such strategy, [community-based violence intervention programs](#), deploys targeted services for high-risk individuals with clear and swift consequences from law enforcement for those who continue to perpetrate violence. Another type of violence intervention program, street outreach programs, treat violence as a communicable disease and work to disrupt its transmission among members of the community. Lastly, hospital-based violence intervention programs allow hospitals to provide counseling, case management, and social services to patients recovering from gunshot wounds. To be successful, these strategies require consistent funding, which Congress should swiftly provide.

PREVENT GUN TRAFFICKING

Every year, tens of thousands of guns are diverted from legal to illegal markets through unregulated gun sales, straw purchases, gun traffickers who falsely claim their guns were lost or stolen, and corrupt gun dealers who sell guns off the books to traffickers. Deadly weapons are too easily purchased in states with weak gun safety laws and trafficked to states with stronger gun laws, where they end up in the hands of people unable to pass a background check and are often ultimately used in violent crimes. While straw purchases are currently prohibited under federal law, they are often treated as a mere paperwork violation and go unchecked. Congress should pass a [clear statute prohibiting the diversion of guns into the illegal market](#) to ensure gun trafficking is treated as the serious and dangerous offense it is.

Congress should also require gun stores to report multiple sales of all firearms, not just handguns, to law enforcement. Under [current law](#), federally licensed firearms dealers must provide a report to ATF any time a person buys more than one pistol within five consecutive business days. This provision should be expanded to all firearms to provide law enforcement with the opportunity to investigate individuals with potentially dangerous intent.

REGULATE ASSAULT WEAPONS AND LARGE CAPACITY MAGAZINES

Assault weapons are designed to maximize the number of people shot in the shortest amount of time. The danger posed by these weapons is substantially increased by detachable large capacity ammunition magazines, which allow the shooter to fire a large number of rounds in a row and quickly reload. As a result, these weapons are often the weapon of choice for mass shooters. It should not be easier to purchase an assault rifle than it is to purchase a handgun. Under current federal law, an individual must be 21 to purchase a handgun from a gun dealer, but only 18 to purchase an assault weapon. The Parkland shooting showed us what's at stake if we fail to close this loophole. Americans are demanding action on assault weapons: [78% of voters support a ban on assault weapons](#) and [77% support raising the minimum purchase age to 21](#).

[The expired Federal Assault Weapons Ban of 1994](#) banned the future production of assault weapons but did not address the weapons already in circulation. Today, an estimated 15 million assault rifles are currently in circulation, and any legislative solutions must apply to them. [Regulating semiautomatic assault weapons under the National Firearms Act](#) (NFA)—the same way that gun silencers and machine guns are regulated—allows law-abiding gun owners to legally possess these firearms, while also addressing the public safety concerns of the public and law enforcement. Congress must also limit the future manufacture and sale of assault weapons to reduce the easy availability of such weapons.

[Large capacity magazines](#), typically defined as magazines holding more than 10 rounds of ammunition, significantly increase a shooter's ability to injure and kill large numbers of people quickly because they enable the individual to fire repeatedly without needing to reload. The time required to reload a weapon can be critical in enabling victims to escape and law enforcement or others to intervene. Large capacity magazines have been used frequently in mass shootings. Congress should consider a ban on large capacity magazines, which would reduce the potential lethality of any firearm that can accept a magazine, including a firearm that is not an assault weapon. [70% of voters](#) support a ban on large capacity magazines.

TREAT BUMP STOCKS LIKE MACHINE GUNS

A gun does not have to be fully automatic in order to act like an automatic firearm. In October 2017, a gunman in Las Vegas used a firearm accessory called a "bump stock" to fire more than 1,100 rounds of ammunition in 11 minutes, killing 58 people and injuring over 500. Despite calls for Congress to act and confirmation by the acting ATF director that a

[legislative solution would be the best route](#), over a year after the Las Vegas massacre, bump stocks remain unregulated and legal to purchase. Regulating bump stocks has broad support: [Eight in ten Americans](#), including 77% of Republicans, support banning these dangerous devices, as do [nearly three-fourths of voters in gun-owning households](#). The Department of Justice is currently considering a new rule to regulate bump stocks like machine guns; however, such regulation is likely to become tied up in litigation after being finalized. As a result, swift congressional action is critical to ensuring these dangerous items do not fall into the wrong hands.

REPEAL GUN INDUSTRY IMMUNITY

The [Protection of Lawful Commerce in Arms Act \(PLCAA\) provides broad immunity to gun manufacturers and dealers in federal and state court](#). Enacted in 2005, PLCAA prevents plaintiffs from filing lawsuits against gun manufacturers or dealers in cases where these parties have been negligent and there has been “criminal or unlawful misuse” of a firearm or ammunition. Such immunity is unique to the gun industry and removes any incentive for manufacturers to innovate and adopt new gun safety practices. In other industries, civil liability has historically played an important role in injury prevention” lawsuits against the tobacco industry forced cigarette manufacturers to adopt new ways to market their products to prevent youth smoking, and lawsuits against car manufacturers have forced the industry to adopt better safety measures to reduce automobile deaths. Congress should pass legislation repealing PLCAA and place the firearm industry on equal ground with other American industries.

IMPLEMENT CHILD ACCESS PREVENTION LAWS

Research shows that easily accessible firearms in the home are associated with an increased risk of suicide, as well as unintentional injuries and deaths, among children and young people. More than [two-thirds](#) of students who used guns to commit “targeted violence” against their school acquired the gun or guns used in their attacks from their own home or that of a relative. [Child access prevention laws](#) hold adults liable when minors gain access to negligently stored firearms or when parents or guardians directly provide a firearm to a minor. With [4.6 million American children](#) living in homes with loaded, unlocked guns, it is critical that Congress pass legislation to encourage states to enact child access prevention laws and discourage unsafe storage of firearms.

ENACT PERMIT-TO-PURCHASE REQUIREMENTS FOR HANDGUNS

[Permit-to-purchase laws](#) require an individual to obtain a license or permit from law enforcement before purchasing a gun. These laws have been enacted in ten states thus far, and are proven to make communities safer by reducing firearm homicides and keeping guns out of the hands of prohibited individuals. In states which have had effective handgun purchaser licensing laws on the books for decades, like Connecticut, Massachusetts, New Jersey, and New York, the vast majority of crime guns originate in other states, indicating that gun traffickers seek guns elsewhere. After Connecticut’s implementation of a

permit-to-purchase law, gun homicides decreased 40% between 1996 and 2005. Conversely, when Missouri repealed its permit-to-purchase system in 2007, gun homicides increased by 25%. The evidence is clear: Congress should encourage more states to implement this lifesaving policy.

ENSURE THE COMPLETION OF ALL BACKGROUND CHECKS

Background checks on firearms sales and transfers help keep firearms out of the hands of people who shouldn't have them. The National Instant Criminal Background Check System (NICS) consists of a set of databases maintained by the FBI and used to conduct background checks on sales and transfers at federally licensed dealers. Though [most background checks are processed within minutes](#), occasionally a NICS examiner will need time to conduct more research if records indicate the buyer may have a possible firearms prohibition. If the firearms dealer has not been notified by the NICS examiner within three business days that the sale would violate federal or state laws, the dealer must determine if he or she will proceed with the sale. When [firearms sales proceed by default](#) because the FBI is not able to complete the background check within the three-day timeframe, ineligible people can purchase guns, like the shooter who murdered nine people in a church in Charleston, South Carolina in 2015. In 2000, the [FBI said the three-day window should be extended](#) to give examiners more time to investigate; in March of 2018, [FBI Deputy Director David Bowdich agreed](#) that "it would make sense" to extend the window to ensure fewer guns are sold to prohibited purchasers. Congress should pass legislation close this "Charleston loophole" to prohibit firearms dealers from selling a firearm before a background check is completed.

ALERT LAW ENFORCEMENT OF ATTEMPTED PROHIBITED PURCHASES

When felons and other prohibited people lie on the form when buying a gun, not only are they violating federal gun laws, they may also be planning violent crimes. Current law does not, however, ensure that state or local law enforcement are made aware of these situations. [Bipartisan legislation](#) was [introduced in both chambers](#) in the 115th Congress to ensure state and local law enforcement are notified when prohibited individuals attempt to purchase a firearm. Prompt notification of local law enforcement can help ensure the prohibited purchaser does not attempt to access firearms in other ways, like through an unregulated private sale or over the internet.

STRENGTHEN OVERSIGHT OF FIREARMS DEALERS

Proper oversight of [gun dealers](#) is essential to reducing firearms trafficking. Gun dealers supply the majority of guns sold to the public, including guns eventually recovered in crimes, but they are subject to few federal regulations and weak enforcement of these regulations. The Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF) is responsible for inspecting gun dealers, but ATF is often under-resourced and unable to provide adequate oversight. In many cases, dealers that are found to be in violation of the law [often have their penalties reduced](#). As a consequence, corrupt gun dealers represent a major source of guns

trafficked to dangerous individuals and criminals, either directly or through straw purchasers (who buy guns for individuals who are prohibited from buying them) and gun traffickers (who purchase guns to resell on the black market). Guns lost or stolen from dealers who fail to responsibly secure their inventories are also a major source of guns on the black market. Congress should pass legislation to increase ATF inspections of gun dealers and strengthen penalties for corrupt gun dealers.

SET FEDERAL LAW ENFORCEMENT AGENCIES UP FOR SUCCESS

The ATF and FBI can only perform their intended functions if they have the resources to do so, but both agencies have been under-resourced over the past several years. The FBI maintains the NICS system and is responsible for meeting increasing demand for background checks. [2016 saw the highest number](#) of background checks ever, with 2017 not far behind. ATF, the agency primarily responsible for the investigation and prevention of federal firearms offenses, consistently receives insufficient funding to carry out its duties. In 2017, [nearly 135,000 federally licensed firearms dealers](#) were operating in the United States, which ATF is responsible for regularly inspecting. But with [a small workforce](#)—ATF is smaller than the Broward County, Florida, sheriff's office—and not enough funding, this can be an impossible task. In March 2018, [Acting Director Tom Brandon described ATF](#) as "\$20 million in the hole," but noted that with more resources, the agency "could do more."

But even with the appropriate resources, the ability of federal law enforcement officers to do their jobs effectively will remain hindered by restrictive budget riders known collectively as the Tiahrt Amendments. These riders hamstringing ATF's ability to trace crime guns by [prohibiting the use of searchable databases](#) and banning the consolidation of gun sales records maintained by federally licensed firearm dealers, (FFLs). A prohibition on the release of crime gun trace data to the public prohibits researchers from clearly identifying trafficking patterns, while another rider forbids ATF from requiring FFLs to take a physical inventory, making it easier for dealers to avoid accountability for proper record-keeping and timely reporting of lost and stolen guns. By placing such restrictions on federal agencies, Congress significantly weakens law enforcement's abilities to enforce gun laws, prevent gun crime, and keep communities safe. [Acting Director Brandon referred to these restrictions](#) as "not optimum, but it's the law." This is a law that Congress should repeal.

DEVELOP GUN SAFETY TECHNOLOGY

[Gun safety technology](#) includes personalized guns and accessories such as gun safes, trigger locks, and retrofit kits that prevent firearms from being fired by unauthorized users. These innovations have the potential to reduce gun suicides and unintentional shootings, especially among children, as well as gun thefts. Nearly 7,000 children in the United States receive medical treatment for gun-related injuries each year. Personalized guns and accessories let owners control who can access their gun. The technology that gives owners this control includes biometric security methods, like fingerprint sensors, and radio-frequency identification (RFID) technology, which uses radio waves to identify objects.

Personalized accessories, like a fingerprint trigger lock, add an extra layer of security to gun safes or locks. When used with traditional guns, they offer a similar level of security to personalized guns. Congress can encourage the development of these potentially lifesaving technologies by providing research and development tax credits and grants for gun safety technology.

ABOUT GIFFORDS

Giffords is a nonprofit organization dedicated to saving lives from gun violence. Led by former Congresswoman Gabrielle Giffords and her husband, Navy combat veteran and retired NASA astronaut Captain Mark Kelly, Giffords inspires the courage of people from all walks of life to make America safer.