



TESTIMONY OF

**CHIEF ART ACEVEDO
CHIEF OF POLICE
HOUSTON, TEXAS**

**PRESIDENT
MAJOR CITIES CHIEFS ASSOCIATION**

BEFORE THE

COMMITTEE ON THE JUDICIARY

UNITED STATES HOUSE OF REPRESENTATIVES

“Preventing Gun Violence: A Call to Action”

February 6th, 2019



Chairman Nadler, Ranking Member Collins and Members of the Committee

Thank you, Chairman Nadler, Ranking Member Collins, and distinguished Members of Congress.

I speak to you today both as a Police Chief in Houston, and President of the Major Cities Chiefs Association – representing all the largest police departments in the Nation – where gun violence takes its greatest toll. I am also honored to speak for the US Conference of Mayors and to attach their membership resolution. Mayors and Chiefs have formed an unprecedented alliance to stop gun violence. On June 8th, I was with the U.S. Conference of Mayors in Boston when they joined the Major Cities Chiefs in adopting our policy statement, submitted with this testimony. We salute Houston Mayor Sylvester Turner and U.S.C.M. President Steve Benjamin, of Columbia, SC, for their strong stand on sensible gun policies.

Last Sunday, I was deeply honored to see that the Washington Post used my own words in their editorial on gun violence. While I am humbled, I am also proud to speak for so many who have suffered and their police - who have taken an oath to protect them from harm. I am honored to say that what the Post quoted is why I am here today.... I said, **“We are not asking for prayers – we are asking for leadership.”**

Gun violence and mass murders in America have reached an unprecedented level of epic horror. The women and men Police Chiefs lead see the brutal ugliness of gun violence every day, and the suffering of victims and their families who ask, “how could this happen?” Families, churches, schools and neighborhoods are flowing with the tears shed by the loved ones of victims senselessly ripped away by gun violence.

Many Americans continue to fall victim to daily gun violence and mass murders, indicative of the fact NICS, the Nationals Instant Check System, is broken and seriously flawed.

- **Charleston, SC:** 9 killed, 1 Injured (*June 2015*)
- **Broward County, FL:** 5 Killed, 6 Injured (*January 2017*)
- **Schofield/Rothschild, WI:** 5 Killed (*March 2017*)



- **Cincinnati, OH:** 2 Killed, 16 Injured (*March 2017*)
- **San Bernardino, CA:** 3 Killed, 1 Injured (*April 2017*)
- **Fresno, CA:** 4 Killed (*April 2017*)
- **Lincoln County, MS:** 8 Killed, 1 Injured (*May 2017*)
- **Orlando, FL:** 6 Killed (*June 2017*)
- **Sandy, UT:** 3 Killed, 2 Injured (*June 2017*)
- **Easton Township, PA:** 4 Killed (*June 2017*)
- **Alexandria, VA:** 1 Killed, 6 Injured (*June 2017*)
- **San Francisco, CA:** 4 Killed, 5 Injured (*June 2017*)
- **Little Rock, AK:** 28 Injured (*July 2017*)
- **Clovis, NM:** 2 Killed, 4 Injured (*August 2017*)
- **Plano, TX:** 9 Killed, 1 Injured (*September 2017*)
- **Antioch, TN:** 1 Killed, 8 Injured (*September 2017*)
- **Las Vegas NV:** 59 Killed, 851 Injured (*October 2017*)
- **Sutherland Springs, TX:** 27 Killed, 20 Injured (*November 2017*)
- **Tehama County, CA:** 6 Killed, 12 Injured (*November 2017*)
- **Aztec, NM:** 3 Killed (*December 2017*)
- **Highlands Ranch, CO:** 2 Killed, 6 Injured (*December 2017*)
- **Benton, KY:** 2 Killed, 16 Injured (*January 2018*)
- **Parkland, FL:** 17 Killed, 17 Injured (*February 2018*)
- **Yountville, CA:** 5 Killed (*March 2018*)
- **Nashville, TN:** 4 Killed, 2 Injured (*April 2018*)
- **Santa Fe, TX:** 10 Killed, 14 Injured (*May 2018*)
- **Scottsdale, AZ:** 7 Killed (*May 2018*)
- **Trenton, NJ:** 1 Killed, 22 Injured (*June 2018*)
- **Annapolis, MD:** 5 Killed, 2 Injured (*June 2018*)
- **Jacksonville, FL:** 3 Killed, 9 Injured (*August 2018*)
- **Aberdeen, MD:** 4 Killed, 3 Injured (*September 2018*)
- **Cincinnati, OH:** 4 Killed, 2 Injured (*September 2018*)
- **Florence, SC:** 1 Killed, 7 Injured (*October 2018*)
- **Louisville, KY:** 2 Killed (*October 2018*)
- **Pittsburgh, PA:** 11 Killed, 6 Injured (*October 2018*)
- **Tallahassee, FL:** 3 Killed, 5 Injured (*November 2018*)
- **Thousand Oaks, CA:** 13 Killed, 25+ Injured (*November 2018*)
- **Robbins, IL:** 1 Killed, 4 Injured (*November 2018*)
- **Chicago, IL:** 4 Killed (*November 2018*)
- **Sebring, FL:** 5 Killed (*January 2019*)
- **Ascension Parish, LA:** 5 Killed (*January 2019*)



As the Chief of Police in Houston, I see first-hand the bloodshed and death from gun violence. Certainly major cities experience most gun violence from street crime, but mass murders by disturbed persons can occur anywhere. Horrible events in Texas, California, Florida, Virginia, Connecticut, Colorado, Pennsylvania, South Carolina, Nevada and beyond, serve as grim reminders that we have not done enough to prevent gun violence in America. Gaps and loopholes in the system make it easy for criminals and the dangerously mentally ill to gain access to guns. As a nation we need to greatly strengthen our vetting process for purchasing firearms and work together to provide for a more secure America. We best protect the 2nd Amendment by insuring we do everything we can to keep firearms in the hands of law-abiding Americans of sound-mind.

Together, we can develop policies that can save countless lives that are senselessly taken by assailants who are prohibited from purchasing firearms but slip through the cracks because the information never got into the NICS database. Even if the information had been properly recorded, the shooter could have easily purchased that weapon privately, at a gun show, or on-line.

Universal Background Check

The Universal Background Check is the first and essential step toward comprehensive reform of gun laws. Without this essential element, there can be no lasting impact on gun violence – because without this legislation, guns will continue to be sold to those who are not permitted to possess a firearm. Make no mistake, we seek the adoption of H.R. 8 and we commend Representative Mike Thompson and his more than 200 colleagues who are sponsoring this long overdue legislation.

There can be no doubt that background checks required by the Brady Law have been very successful at combatting gun violence and preventing firearms from landing in the hands of those who are disqualified.

Approximately 2 million people were blocked from obtaining a firearm between 1994 and 2018 because of a failed background check^{1 2}. Additionally, of the 7 million NICS background checks processed, nearly 104,000 persons were denied³. According to a 2016 study, stronger gun policies are associated with decreased rates of firearm homicide, even after adjusting for demographic and sociological factors. Laws that strengthen background checks and permit-to-purchased seems to decrease firearm rates⁴.

¹ <https://bjs.gov/content/pub/pdf/bcft99.pdf>

² https://www.fbi.gov/file-repository/federal_denials.pdf/view

³ <https://www.fbi.gov/file-repository/2017-nics-operations-report.pdf/view>

⁴ Lee, Lois & Fleegler, Eric & Farrell, Caitlin & Avakame, Elorm & Srinivasan, Saranya & Hemenway, David & Monuteaux, Michael. (2016). Firearm Laws and Firearm Homicides: A Systematic Review. JAMA internal medicine. 177. 10.1001/jamainternmed.2016.7051.



NICS Default Approvals – the Charleston Murders

The tragic mass shooting at Emanuel African Methodist Episcopal Church in Charleston, S.C., which left 9 innocent people dead, help to expose a weakness in our gun laws. An obscure provision in the current law allows a federally licensed gun dealer to sell a firearm to a customer if the background check is not completed within three business days of the request being filed by the dealer. Approximately 90 percent of requests receive an immediate return on a firearms transfer,⁵ but those checks that take longer than 3-days increase the likelihood that the purchaser is prohibited by a factor of 9, according to data released by the FBI.⁶

Background check statistics give us insight into the daily consequences of a default proceed purchase, which is putting guns in the hands of persons determined by law to be too dangerous to possess firearms, and risks thousands of lives every year as a result. Over the 10-year period between 2008 and 2017 over 35,000 firearms transfers were completed to prohibited persons because of the Charleston Loophole according to the FBI.⁷ While all referrals are investigated by the NICS section and Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF), often a transfer cannot be determined because definitive data is unavailable. In 2017 alone 6,004 scenarios were referred to ATF, but 1,140 delayed denials for prohibited persons could not be determined to have been completed.⁸

ATF is severely under-resourced for this task, currently maintaining fewer agents than the Broward County Sheriff's Office, and a 2017 report by the Washington State Statistical Analysis Center found gun retrieval is "both dangerous and time consuming."⁹

By extending the timeframe for NICS to complete a thorough investigation of a potential purchaser, we ensure that the background check system works as intended, to save lives by preventing dangerous individuals from purchasing guns.

Gun Show Loophole

Currently, Federal law requires Federal Firearms License (FFL) dealers to perform background checks on all buyers. However, unlicensed private persons who sell firearms at gun shows or to other private persons are not required to conduct background checks. This loophole in our system facilitates criminals and the dangerously mentally ill to purchase firearms outside of the regular NICS clearance process.

⁵ <https://www.fbi.gov/file-repository/2017-nics-operations-report.pdf/view>

⁶ <https://www.documentcloud.org/documents/3722150-Blueprint-for-Federal-Action-on-Illegal-Guns.html#document/p15/a353800>

⁷ <https://www.fbi.gov/services/cjis/nics>

⁸ <https://www.fbi.gov/file-repository/2017-nics-operations-report.pdf/view>

⁹ http://sac.ofm.wa.gov/sites/default/files/public/pdf/firearm_background_check_gap_analysis.pdf



Going forward, unlicensed private persons *and* firearms dealers should be required to conduct background checks through a Federal Firearms Licensee for both gun show purchases and individual sales or transfers. Universal background check legislation to eliminate the Gun Show Loophole must be pursued.

Mental Health Records

Next week will mark the one-year anniversary of the 17 tragic deaths in Parkland, Florida. Sadly, that was not an isolated mass murder. It was but one of many. Two months later I was speeding south from Houston to the same horrific violence at a school, where 10 died by gunfire. These cases show how disturbed persons gain access to guns, either because it was not reported to the FBI or current law does not provide for such reports.

Parkland, FL: 17 murdered and 17 wounded by a shooter who had a long and well documented history of mental illness and violent behavior.

Santa Fe, TX: Ten murdered and two wounded by a disturbed young man who should not have been permitted to possess a firearm.

Recent tragedies have taught us that failure to examine mental health status represents an enormous gap in the current process. We implore you to examine how current mental health records may be incorporated into the NICS. The assailants in Aurora, CO; Tucson, AZ; Virginia Tech; and Newtown, CT; and Jacksonville, FL *all* had documented and lengthy histories of severe mental instability.

Required Reporting: Twelve years ago, in 2007, the Virginia Tech massacre of 32 students by a disturbed young man who passed two background checks because the information had never been reported to the FBI. More than a decade later, little progress has been made to require States to entire required information in a timely manner¹⁰. Five years ago, a study showed that 12 States had submitted fewer than 100 mental health record each.¹¹

Expanded Reporting: Congress should examine the type and extent of reporting to determine if additional records should be required for mental health and domestic abuse. Current law would not have stopped the Parkland shooter a year ago because his behavior and illness did

¹⁰ A Virginia special justice declared Mr. Cho to be “an imminent danger” to himself as a result of mental illness on December 14, 2005, and directed Mr. Cho to seek outpatient treatment.

¹¹Mayors Against Illegal Guns, *Twenty Years After US Requires Gun Background Checks, New FBI Data Shows Information Gaps Still Allow Criminals to Get Firearms* (Nov. 21, 2013), at <http://www.demandaction.org/detail/2013-11-twenty-years-after-us-requires-gun-background-checks>.



not meet the requirements of current law. Some States have wisely gone beyond the very limited requirements of Federal law and now require much more extensive reporting.

Red Flag Laws

Following the tragedy in Parkland, states looked more closely at laws that permit a court to take guns away from those who have been shown to be dangerous. Legislation was introduced in the last Congress to establish this process in the Federal Courts and Major Cites Chiefs strongly supported those bills in the House and the Senate.¹²

A new study concluded that 59% of mass shootings between 1900 and 2017 were carried out by people either diagnosed with a mental disorder or showed signs of a serious mental health illness prior to the attack¹³. Cops deal with mentally ill persons every day, but we cannot do anything to stop them from buying or possessing guns unless or until Congress acts to follow the lead of states and adopt “Red Flag” laws.

Persons with a history of violent behavior, especially domestic violence, may be legally eligible to purchase a gun during a period when they are extremely dangerous. A court order to temporarily take the gun, and a process to reinstate, should be part of our national policy. At least 13 States now have such laws, 8 of which were enacted over the course of the year since Parkland. A number of our member cities like the Seattle Police have well established programs to get guns out of a volatile and dangerous setting.

Fugitive Prohibited Purchases

While it was clearly the intent of Congress to prohibit gun purchases by fugitives from justice, a recent legal opinion by the Department of Justice has reversed what was intended. After many years of internal debate between Federal agency legal counsel, it was determined that the NICS database of prohibited persons should be purged of fugitives and thus, more that 500,000 wanted persons are now able to buy guns.

We appeal to Congress for swift and decisive action to correct this flaw and restore the prohibition on firearm purchases by fugitives who are a threat to public safety – as that was the intent of Congress.

Straw Purchase Buyers

Another glaring failure in current legislation is the ease with which persons may be recruited to buy firearms for prohibited persons. Most often these are convicted felons such as drug traffickers who may purchase a wide array of guns simply by paying for the intermediary. The Major Cities Chiefs has repeatedly supported legislation that would make straw purchases a new federal offense.

¹²HR2598 and S.1212

¹³ Duwe, G. (2007). *Mass Murder in the United States: A History*. Jefferson, NC: McFarland & Company.



Major Cities Chiefs support the establishment harsher penalties and aggressively prosecute straw purchasers, who are responsible for putting a substantial number of guns used in criminal acts. More aggressive prosecution with strong penalties would hold them accountable and act as a deterrent.

Concealed Weapons

Each State has carefully crafted its own laws relating to concealed weapons. While Congress has heretofore respected the Constitutional sovereignty of the States, we oppose legislation that would undermine the authority of State laws relating to carrying of weapons. We strongly urge Congress to reject misguided and impractical proposals for reciprocity. As police officers could not be expected to recognize legitimate or forged permits from thousands of jurisdictions, it would be impossible to determine which persons are authorized to carry a concealed weapon. For these reasons, we strongly oppose the proposals for CCW reciprocity.

Silencers

Legalizing the widespread availability of silencers on our city streets is not in the interest of public safety. Like machine guns, there is a Federal application process for obtaining silencers – and it works well. There is no reason to strike it down and allow gang members and felons to buy silencers. Moreover, silencers would render gunshot locator technology ineffective. There is simply no legitimate justification for a measure that would further endanger the public.

Bump stocks

Another common-sense measure is a ban on “bump stocks” and similar accessories that replicate fully automatic weapons fire. Such features result in a number of shots fired that causes the carnage we witnessed in Las Vegas. Like other law enforcement officials, I have studied the Las Vegas slaughter and concluded that there is no reasonable sporting or hunting purpose served by deadly devices that simulate military weapons capabilities. I was seated next to the ATF Director at a recent meeting of Major Cities Chiefs when he advised the Chiefs that new legislation will be required.

The Trump Administration has instituted a ban on Bump stocks, however legal challenges render the ban unenforceable for the foreseeable future. Legislation from congress to formally ban bump stocks would provide the Department of Justice, and ATF, the unequivocal authority needed to eliminate this dangerous firearm modification.

The Way Forward

Chairman Nadler, Ranking Member Collins and members of the committee, we look to you for leadership at a time when it is needed more than ever before. Like those of us who wear a badge, members of Congress share our solemn duty to protect the public. The tragedies we have cited today should be recognized by Congress as cries for help from past and future innocent victims of gun violence.



Firearms safety policy is not a zero sum proposition. We urge you to let common sense guide you as you pursue the development of public policies that balance the long-ago adopted 2nd Amendment rights of our fellow Americans, with the need to combat the scourge of daily gun violence throughout our nation, which constitutes what is arguably one of the greatest public health epidemics facing the nation we love and serve.

Chiefs of Police and Sheriffs join these victims in asking you to act now to prevent more death and bloodshed. We implore you to consider multiple steps and measures to curb the ongoing threat of gun violence. The Universal Background Check, expanded mental health provisions and “Red Flag” legislation are measures that we know will work. The time is now to make the NICS process *universal* without the gaps and loopholes that defeat the purpose for which it was intended.

We have invited members of the Committee to join us next week for a roundtable here in Washington D.C. to discuss how Chiefs and Sheriffs can help to advance this needed legislation. Chiefs from every major urban area will be gathered here to begin a campaign to get this legislation passed. To do anything less is a disservice to the public we serve and the communities we have taken an oath to protect.

On behalf of Major Cities Chiefs, the U.S. Conference of Mayors, and the City of Houston, we thank you for your courage and leadership on this issue.



Firearms Violence Policy

Adopted by Membership Vote

The Major Cities Chiefs Association has been a strong advocate for sensible gun policy for many years and has taken these positions on key issues.

Legislative Positions

- Adopt Universal Background Checks for all gun sales and close both gun show and internet loopholes
- Strengthen NICS definitions of prohibited purchasers to cover all appropriate domestic violence cases, with strict judicial procedures for appeal and reinstatement
- Support “Red Flag” legislation and regulations to preclude gun purchases by mentally disturbed persons with histories of violent behavior
- Ban “bump-stock” devices that replicate fully automatic weapons fire
- Maintain ATF regulations and restrictions regarding silencers
- Reinstate the assault weapons ban and encourage stiffer penalties for illegal guns
- Ban high capacity magazines (10+ rounds)
- Ban internet ammo sales, require in-person transactions, records of sales and licensing of ammo vendors
- Oppose legislation that would require States to recognize any and all concealed carry permits
- Oppose legislation that further erodes ATF authority
- Prevent known terrorists from purchasing firearms and/or ammunition

Policy Statements

- Establish a strong system for universal background checks to cover all firearms purchases, with no exceptions.
- Strengthen the national criminal instant background check system. The background check system does not have complete data and measures should be undertaken to ensure comprehensive reporting. Mental health information, for example, is inadequate, inconsistent and incomplete. The NICS system must be improved.
- Encourage aggressive federal prosecution of violent offenders using guns. Conviction in Federal Court generally results in stronger sanctions, removes the offenders from the streets and serves as a deterrent.



- Encourage mandatory reporting of all purchases, transfers and stolen firearms. This measure would assist law enforcement agencies with identification, criminal investigations and recovery of stolen firearms.
- Establish harsher penalties and aggressively prosecute straw purchasers, who are responsible for putting a substantial number of guns used in criminal acts. More aggressive prosecution with strong penalties would hold them accountable and act as a deterrent.
- Support and strengthen the authorities of ATF, rather than to restrict and handicap enforcement of gun laws.



MAJOR CITIES CHIEFS ASSOCIATION

Legislation Supported by Major Cities Chiefs

- **Fix NICS HR4477; S2135** (Adds new reporting requirements and procedures to toughen process and prevent mistakes) **Passed as an amendment to spending bill.**
- **Gun Violence Restraining Orders HR2598, S1212** (Establishes process to obtain court orders barring gun purchases by dangerous persons)
- **Stop Gun Purchases by Mentally Disturbed Persons HR4142** (Changes Definitions in NICS and supports school violence and gun violence studies/training)
- **Ban Bump Stocks HR3947, S1916** (Defines and lists stocks of the type used in Las Vegas to be banned)
- **NICS Denial Notification HR4471, S2492** (Notice to police of attempted/rejected gun purchases)
- **Assault Weapons Ban/Ban on High Capacity magazines HR 5087**(Lists and defines military-style semi-auto weapons, limits to 10 rounds)
- **Strengthening the Ban on Straw Purchases HR5134, S1185** (Clarifies and stiffens penalties)
- **Expanding Background Checks to Private Sales S2009** (Transfers and sales between individuals)
- **Gun Violence Prevention and Safe Communities Act HR5103,** (Imposes a tax on guns and ammo to fund new programs)
- **Universal Background Checks HR4240** (Closes gun show and internet loopholes, grants and incentives to strengthen NICS)

Legislation Opposed by Major Cities Chiefs

- **Concealed Carry Reciprocity** (Requires States to recognize permits issued in any jurisdiction, even when contrary to a State's laws)
- **Legalization of Silencers** (Abolishes current Federal restrictions on sales, possession and use of silencers)



THE UNITED STATES CONFERENCE OF MAYORS

Submitted by:
The Honorable Stephen K. Benjamin, Mayor of Columbia

MAYORS AND POLICE CHIEFS TOGETHER IN SUPPORT OF SENSIBLE GUN POLICY

WHEREAS, The U.S. Conference of Mayors and the Major Cities Chiefs Association have worked together for many years on critical issues that affect the safety and wellbeing of our cities and our residents; and

WHEREAS, in April 2018 mayors and police chiefs, including top leaders from both the U.S. Conference of Mayors and Major Cities Chiefs Association, met together to discuss a range of public safety issues, including strategies to prevent gun violence; and

WHEREAS, both organizations have similar, comprehensive bodies of policy in support of sensible gun policies in this country,

NOW, THEREFORE, BE IT RESOLVED that The U.S. Conference of Mayors formally adopts the gun policies of the Major Cities Chiefs Association and calls on the Administration and Congress to:

- Adopt universal background checks for all gun sales and close both gun show and internet loopholes;
- Strengthen NICS definitions of prohibited purchasers to cover all appropriate domestic violence cases, with strict judicial procedures for appeal and reinstatement;
- Support “Red Flag” legislation and regulations to preclude gun purchases by mentally disturbed persons with histories of violent behavior;
- Ban “bump-stock” devices that replicate fully automatic weapons fire;
- Maintain ATF regulations and restrictions regarding silencers;
- Reinstate the assault weapons ban and encourage stiffer penalties for illegal guns
- Ban high capacity magazines, those with 10+ rounds;
- Ban internet ammo sales, require in-person transactions, records of sales and licensing of ammo vendors;
- Oppose legislation that would require states to recognize any and all concealed carry permits;
- Oppose legislation that further erodes ATF authority; and
- Prevent known terrorists from purchasing firearms and/or ammunition; and

BE IT FURTHER RESOLVED that The U.S. Conference of Mayors formally adopts the gun policy statements of the Major Cities Chiefs Association, which call on the Administration and Congress to:

- Establish a strong system for universal background checks to cover all firearms purchases, with no exceptions;



THE UNITED STATES CONFERENCE OF MAYORS

- Strengthen the national criminal instant background check system to ensure that it has complete data and comprehensive reporting, including the reporting of mental health information, which has been inadequate, inconsistent and incomplete;
- Encourage aggressive federal prosecution of violent offenders using guns since conviction in federal court generally results in stronger sanctions, removes the offenders from the streets and serves as a deterrent;
- Encourage mandatory reporting of all purchases, transfers and stolen firearms to assist law enforcement agencies with identification, criminal investigations and recovery of stolen firearms;
- Establish harsher penalties and aggressively prosecute straw purchasers, who are responsible for a substantial number of guns used in criminal acts, as more aggressive prosecution with strong penalties would hold them accountable and act as a deterrent;
- Use court orders to prevent the purchase of firearms by persons who pose a threat to public safety; and
- Support and strengthen ATF's authorities, rather than restricting and handicapping the enforcement of gun laws; and

BE IT FURTHER RESOLVED that The U.S. Conference of Mayors pledges to continue to work in concert with the Major Cities Chiefs Association to see these sensible gun policies enacted into law to reduce the scourge of gun violence in our cities and throughout our nation.