

**Testimony of Adam Skaggs, Chief Counsel and Policy Director
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**U.S. House Judiciary Subcommittee on Crime, Terrorism, and Homeland Security
An Unending Crisis: Essential Steps to Reducing Gun Violence and Mass Shootings
May 20, 2021**

Thank you, Chairwoman Jackson Lee, and members of the Committee for the opportunity to testify here today. My name is Adam Skaggs, and I am Chief Counsel and Policy Director at Giffords Law Center to Prevent Gun Violence. Giffords Law Center was formed more than 25 years ago after a mass shooting at a San Francisco law firm and renamed for former Congresswoman Gabby Giffords after joining forces with the organization she leads.

In 2020, communities suffered not only from COVID-19 and its financial aftermath, but also from gun violence, a co-occurring public health crisis that surged in all its forms. We are only five months into 2021, and dozens of communities across the country have witnessed deadly shootings. In Indianapolis, eight people were shot and killed at a FedEx facility. In Boulder, ten people, including a law enforcement officer, were shot and killed at a grocery store. In Atlanta, nine people were shot, eight of whom were killed, at three spas. In Rock Hill, South Carolina, six people were shot and killed at a home. And those are just four examples of the more than 100 mass shootings that have happened so far this year.¹ Meanwhile, many cities across the country have experienced spikes in the daily gun homicides that usually don't make national headlines, with over a dozen cities reporting increases of 50% or more.² Suicides have increased dramatically in communities from Philadelphia to Chicago.³ And domestic violence has also intensified, with many localities reporting more calls to hotlines and police.⁴

Yet these troubling trends are so commonplace that they have come to almost seem normal. Day after day, gun violence that gets little national attention claims far too many American lives and ravages countless American communities, especially communities of color. The spikes in gun violence over the last year disproportionately impacted the nation's most under-resourced,

¹ Daniel Victor and Derrick Bryson Taylor, "A Partial List of Mass Shootings in the United States in 2021.," *The New York Times*, May 10, 2021, <https://www.nytimes.com/article/mass-shootings-2021.html>.

² Champe Barton et al., "A Historic Surge in Gun Violence Compounds the Traumas of 2020," *The Trace*, December 21, 2020, https://www.thetrace.org/2020/12/shootings-data-philadelphia-cleveland-chicago-gun-violence/?fbclid=IwAR2HPjq48HuOqjahYCpbUWG9UMCGW69_B1-CYVqoHsNMEipIR7aK-cdTnQ.

³ See e.g., William Wan, "For months, he helped his son keep suicidal thoughts at bay. Then came the pandemic.," *The Washington Post*, November 23, 2020, <https://www.washingtonpost.com/health/2020/11/23/covid-pandemic-rise-suicides/>.

⁴ Justin Nix & Tara N. Richards, "The immediate and long-term effects of COVID-19 stay-at-home orders on domestic violence calls for service across six U.S. jurisdictions," *Police Practice and Research*, (January 2021).

low-income neighborhoods, which even before the pandemic, suffered a daily toll of gun violence that too often went unrecognized. Let me be clear: Gun violence is a racial justice issue. Black and Brown men make up about 75% of all gun homicide victims. From 2015 to 2019, Black children and teens were nearly 13 times as likely to be shot and killed in a gun homicide as their white peers. In that same time frame, Hispanic children and teens were nearly three times as likely and Native American children and teens were more than twice as likely to be shot and killed in a gun homicide as their white peers. Those who survive gun violence are likely to experience it again: in studies of urban hospitals, researchers found that up to 45% of patients treated for injuries like gunshots were violently reinjured within five years.⁵

We cannot allow this violence to continue for the next generation. Proposed gun law reforms, many of which have been introduced in this Congress and which enjoy widespread public support, would make a critical difference. These proposals are a crucial part of a public health approach that is focused on prevention, proportional to the seriousness of the issue, and based on data and research. And despite what the gun lobby may argue, there is no constitutional impediment to passing lifesaving gun laws. Courts across the country have ruled, repeatedly, that the Second Amendment does not stand in the way of passing stronger gun laws. The US Supreme Court itself has made clear that “the right secured by the Second Amendment is not unlimited” and has never protected “a right to keep and carry any weapon whatsoever in any manner whatsoever and for whatever purpose.”⁶ The only thing standing in the way of laws that will prevent needless injuries and death—and that enjoy the support of overwhelming numbers of Americans—is the absence of political will to act. I urge this Subcommittee, the Judiciary Committee, and the House of Representatives to finally provide our nation with the safety that all Americans deserve.

Although there are many policies that Congress should consider to address our nation’s gun violence crisis, I will focus the rest of my testimony on some of the most pressing.

Extreme Risk Protection Orders

All too often, law enforcement or family members learns that certain individuals pose a real threat of harming themselves or others. A common thread in many mass shootings is that one or more of the shooter’s family members saw serious warning signs even before any violence occurred.⁷ Extreme risk laws give families and law enforcement a way to intervene when someone is in crisis. But in too many states, families and law enforcement lack this lifesaving tool. Congress should support states’ efforts to pass and implement extreme risk legislation of the kind that has been enacted in red and blue states across the country, especially since the tragic shooting at Marjory Stoneman Douglas High School in Parkland, Florida, in 2018.

⁵ J. Purtle, et al., “Hospital-based violence intervention programs save lives and money,” *J. Trauma Acute Care Surg.* 75, no. 2 (August 2013): 331–333.

⁶ *District of Columbia v. Heller*, 554 U.S. 570, 626 (2008).

⁷ See US Department of Justice, Federal Bureau of Investigation, “A Study of the Pre-Attack Behaviors of Active Shooters in the United States,” June 2018, <https://www.fbi.gov/file-repository/pre-attack-behaviors-of-active-shooters-in-us-2000-2013.pdf/view>.

Extreme risk protection order (ERPO) laws create a mechanism to temporarily remove guns and prevent the purchase of new firearms if a court finds that someone poses a real risk to themselves or others. These laws, which exist in some form in 19 states and the District of Columbia, save lives while ensuring due process for those who pose a serious threat. In fact, researchers have determined that in Connecticut, for every 10 to 20 orders issued, one life was saved.⁸ Other studies have demonstrated the effectiveness of extreme risk laws in Indiana and California.

ERPO laws are a critical tool in helping to prevent gun suicides, which represent around 60% of gun deaths. Guns are used in only 5% of suicide attempts but are responsible for over 50% of all suicide deaths, because suicides attempted with guns are fatal 85% of the time, far more often than suicides attempted by other means.⁹ Put simply, people are more likely to die by suicide if they have easy access to firearms, and far less likely to die by suicide if they do not. For many individuals, this may mean the difference between life and death: nine out of 10 people who survive a suicide attempt do not die by suicide at a later date.¹⁰

In 2020, Giffords Law Center published a first-of-its-kind analysis that details how Florida's extreme risk law was used to prevent gun violence in Broward County, home of the deadly 2018 massacre at Marjory Stoneman Douglas High School.¹¹ We leveraged Florida's strong public records law to obtain and review case files for every ERPO sought or obtained during the first year the law was in effect. The analysis found that time after time, Broward County law enforcement used the state's extreme risk law to quickly and safely disarm individuals who made serious, credible threats of violence against themselves, family members, or public places. In the first year after the law went into effect, law enforcement filed 255 unique petitions for ERPOs in Broward County. Many of the individuals subject to these orders threatened multiple, overlapping forms of serious violence. More than half the cases (55%) involved a respondent threatening homicides, and 48% of cases involved threats of suicide. Almost one in five cases involved a respondent threatening to carry out a mass shooting in a public place.

Florida's extreme risk law was used to remove firearm access from, among others:

- A man who threatened to shoot or strangle his neighbor over an argument
- A man who threatened to commit a school shooting

⁸ Jeffrey W. Swanson, et al., "Implementation and Effectiveness of Connecticut's Risk-Based Gun Removal Law: Does it Prevent Suicides?," *Law and Contemporary Problems* 80, no. 2 (2017): 179-208.

⁹ Giffords Law Center to Prevent Gun Violence, "Confronting the Inevitability Myth: How Data-Driven Gun Policies Save Lives from Suicide," September 2018: 8, 25, https://giffords.org/wp-content/uploads/2018/09/Giffords-Law-Center-Confronting-The-Inevitability-Myth_9.3.18.pdf.

¹⁰ David Owens, Judith Horrocks, and Allan House, "Fatal and Non-fatal Repetition of Self-harm: Systematic Review," *The British Journal of Psychiatry* 181, no. 3 (2002): 193-199.

¹¹ Giffords Law Center to Prevent Gun Violence, "Preventing the Next Parkland: A Case Study of Broward County's Use and Implementation of Florida's Extreme Risk Law," Feb. 7, 2020, <https://giffords.org/lawcenter/report/preventing-the-next-parkland-a-case-study-of-broward-countys-use-and-implementation-of-floridas-extreme-risk-law/>.

- A teenager struggling with depression who told officers he wanted to shoot himself with his father's gun
- A woman experiencing delusions who unintentionally shot herself

In the vast majority of cases (87%), final orders were granted. In total, 412 firearms were seized or surrendered using ERPOs in Broward County in the first year of the law's existence.¹²

Congress can and must do more to support state extreme risk laws. These laws have been enacted in states with broad bipartisan support, and in the last two Congresses, there has been bipartisan support for legislation that would provide grants to states that have enacted such legislation or would provide a procedure to seek an extreme risk order from a federal court. I urge this Congress to prioritize H.R. 2377, the Federal Extreme Risk Protection Order Act sponsored by Congresswoman Lucy McBath, as well as Congressman Salud Carbajal's forthcoming Extreme Risk Protection Order Act.

Ghost Guns

Next, I want to address a serious loophole in our nation's gun laws that allows people who would fail a background check to easily purchase guns. These individuals are increasingly turning to so-called "ghost guns"—homemade, untraceable firearms—to circumvent both federal and state gun laws. Ghost guns, which encompass firearms assembled from kits that include unfinished parts and those made with 3D printers, lack serial numbers and are therefore untraceable by law enforcement. When they are made with 3D printers, these guns are often undetectable by metal detectors.

The parts used to assemble ghost guns are sold by dozens of online retailers and are widely available at gun shows and retail gun stores. Frequently, they are sold in kits containing every part needed to assemble fully functioning firearms with little effort. Ghost gun sellers are exploiting the fact that the Bureau of Alcohol, Tobacco, Firearms & Explosives (ATF) until recently did not treat the key part of a firearm—the frame or receiver—as a firearm if it was not entirely finished. Even if all a buyer needed to do to finish the frame or receiver was drill a few holes with a common household drill, and even if that could be completed in just minutes, ATF did not consider these components to be "firearms." As such, sellers of unfinished receivers and ghost gun kits were not required to run background checks and were not required to put serial numbers on their products. As a result, law enforcement cannot trace the chain of custody of these guns if they are recovered in crimes.

Because these DIY weapons can't be traced by law enforcement, they have become the weapons of choice for criminal gun traffickers, what one law enforcement official called "the new frontier" of illegal gun trafficking. And, as a result, they make up a growing share of crime guns: in California, one in three firearms recovered by ATF is a ghost gun;¹³ in Los Angeles, the share

¹² *Ibid.*

¹³ Alain Stephens, "Ghost Guns Are Everywhere in California," *The Trace*, May 17, 2019, <https://www.thetrace.org/2019/05/ghost-gun-california-crime/>.

is even higher, at 40%.¹⁴ The number of ghost guns recovered at crime scenes and reported to ATF has increased steadily and substantially in recent years, from fewer than 2,000 in 2016 and just over 2,500 in 2017 to more than 7,000 in 2019 and nearly 9,000 in 2020. With several ghost gun sellers saying that ghost guns have been flying off their shelves during the pandemic, there is every reason to believe that law enforcement will recover even more ghost guns this year, as they continue contributing to escalating levels of gun violence across the country.

Allowing this clear and present danger to continue makes no sense. Think about it: if a minor or a convicted domestic abuser walks into a gun store and tries to buy a pistol or AR-15, they will fail a background check and the sale will be denied. But if they instead buy a kit with all the parts they need to build the same pistol or AR-15, the existing regulatory approach says they are not buying a “firearm.” The store won’t run a background check and the prohibited purchaser will walk out with everything they need to build a gun that’s functionally indistinguishable from the pistol or rifle a background check would deny them. They can then build the gun in about an hour—or as one ghost gun retailer boasts, in as little as 15 minutes. If you can put together Ikea furniture, you can put together a ghost gun. And you would never claim that the couch you bought from Ikea isn’t a couch because it came in a kit and required you to screw a few pieces together.

Untraceable guns can also be created using 3D-printing technology. Computer code now exists, and has been distributed over the internet, that allows anyone with a 3D printer to produce firearm components, including lower receivers for AR-15s. Although receivers manufactured with 3D printers are made of plastic, firearms built from them can be just as deadly. An assault rifle assembled using a 3D-printed lower receiver can fire over six hundred rounds—three times the number fired in the Pulse nightclub shooting that left 49 dead and 53 wounded.

Fortunately, ATF has proposed a rule reversing its position and ensuring that the key part of a firearm—the frame or receiver—is treated as a firearm by law. This proposed rule would more broadly define the term “frame or receiver” so that the partially finished frames or receivers used to build ghost guns are regulated as firearms. Nevertheless, Congress must also act on H.R. 3088, introduced by Congressman David Cicilline, to ensure that all firearms carry a serial number that makes them traceable by law enforcement. Congress should also enact H.R. 1447 sponsored by Congresswoman Madeleine Dean, to ensure that metal detectors can detect guns, as well as Congressman Ted Deutch’s bill to prohibit the online distribution of code for 3D firearms. The Second Amendment does not give Americans the right to own untraceable, undetectable firearms,¹⁵ and Congress should act accordingly.

Gun Industry Immunity

In order to encourage the gun industry to pursue more responsible and safer business practices, Congress should ensure that irresponsible and dangerous industry actors can be held

¹⁴ ABC7.com, “City of Los Angeles suing maker of 'ghost gun' parts,” February 18, 2021, <https://abc7.com/ghost-gun-polymer80-kit-with-no-serial-number/10348449/>.

¹⁵ *E.g., United States v. Marzzarella*, 614 F.3d 85 (3d Cir. 2010) (rejecting Second Amendment challenge to federal law forbidding the possession of a firearm with an obliterated serial number).

accountable. Lawsuits against the tobacco industry in the 1990s forced it to stop marketing tobacco products to children. Suits against automobile manufacturers led that industry to adopt stronger safety standards. And litigation against bad actors in the pharmaceutical industry has been a critical tool in addressing the nation's ongoing opioid crisis. But gun dealers, importers, and manufacturers enjoy special protection from civil liability that doesn't apply to any other industry.

After a series of lawsuits in the 1990s began to hold particularly reckless gun businesses liable, the gun lobby convinced Congress to pass and President Bush to sign the Protection of Lawful Commerce in Arms Act in 2005.¹⁶ Given that nearly 40,000 Americans lose their lives to gun violence each year, this was a major coup for an industry worth an estimated \$28 billion. This law gives gun manufacturers and sellers unprecedented nationwide immunity from lawsuits. As a result, the industry can ignore the incentive that civil litigation normally provides for private businesses to avoid causing harm to the public.

PLCAA has slammed the courthouse doors shut for the thousands of gun violence victims whose deaths and injuries could have been prevented if the gun industry had behaved in a more responsible manner. This law's broad language presents a serious obstacle to victims in cases where a gun dealer's negligent business practices have put guns in the hands of gun traffickers and other criminals. PLCAA's narrowly worded exceptions do not apply in many cases where a gun business has acted with reckless disregard for public safety, meaning that victims are shut out from seeking justice. This Congress has the chance to right this wrong by passing legislation to repeal PLCAA, such as H.R. 2814, sponsored by Congressman Adam Schiff.

Assault Weapons and Large-Capacity Magazines

While the gun industry should be treated equally to all other industries, not all guns are created equal. Semi-automatic assault rifles offer a particularly lethal combination: rifle ammunition capable of penetrating bullet-proof vests, coupled with the capability to accept detachable magazines that can hold as many as 100 rounds. This lethality has made semi-automatic assault weapons the weapons of choice for shooters who carry out horrific public attacks. Studies show that the federal assault weapons ban, in effect from 1994 to 2004, resulted in a marked decrease in the use of assault weapons and large-capacity magazines in crime.¹⁷ While the ban was in effect, mass shooting fatalities were 70% less likely to occur.¹⁸

The key feature of an assault weapon is a detachable large-capacity magazine. Because shooters with weapons equipped with large-capacity magazines can fire at large numbers of

¹⁶ Protection of Lawful Commerce in Arms Act, Pub. L. No. 109-92, 119 Stat. 2095 (2004).

¹⁷ Mark Gius, "The Impact of State and Federal Assault Weapons Bans on Public Mass Shootings," *Applied Economics Letters* 22, no. 4 (2015): 281–284; Arindrajit Dube, Oeindrila Dube, and Omar García-Ponce, "Cross-border Spillover: US Gun Laws and Violence in Mexico," *American Political Science Review* 107, no. 3 (2013): 397–417.

¹⁸ Charles DiMaggio, et al., "Changes in US Mass Shooting Deaths Associated with the 1994–2004 Federal Assault Weapons Ban: Analysis of Open-source Data," *Journal of Trauma and Acute Care Surgery* 86, no. 1 (2019): 11–19.

people without stopping to reload, those in the line of fire do not have a chance to escape, law enforcement does not have the chance to intervene, and the number of lives shattered by senseless acts of gun violence increases dramatically. In Tucson, when Giffords' founder, former Congresswoman Gabby Giffords, was shot, a courageous bystander was able to intervene and stop the rampage when the shooter paused to reload.

Because assault weapons and large-capacity magazines enable mass shooters to inflict significant carnage, several states have restricted access to them. Courts have upheld these restrictions when challenges to bans on assault weapons and/or large-capacity magazines were challenged here in the District of Columbia¹⁹ as well as in Vermont,²⁰ Massachusetts,²¹ New York,²² Connecticut,²³ New Jersey,²⁴ Maryland,²⁵ Colorado,²⁶ California,²⁷ and Illinois.²⁸

Congress must do more to restrict access to these deadly devices. We are glad Congressman Cicilline has reintroduced his bill, H.R. 1808, to restrict these weapons.

At the very least, Congress must ensure that a teenager cannot easily purchase these exceptionally lethal firearms. Congress set the minimum age to buy a handgun at 21 but allows an 18-year-old to buy an AR-15. That is how the teenage shooter in Parkland, Florida, was able to legally buy a semi-automatic assault rifle and use it to kill 17 people. Since that tragic day, four states have closed this gap and ensured that residents cannot buy an AR-15 or AK-47 before they are old enough to buy a handgun—or even a beer. Elected officials on both sides of the aisle agree we must raise the minimum age to purchase these weapons of war. Rep. Anthony Brown recently introduced H.R. 3015 to do just that, and I call on Congress to take this commonsense step forward.

Armor-Piercing Handguns

Too often we hear about mass shootings committed with AR-15 or AK-47 style assault rifles, but now the gun industry is manufacturing AR-15 style handguns that fire the same rounds. These weapons pose a serious risk to law enforcement because they are designed to fire rifle

¹⁹ *Heller v. District of Columbia* (“*Heller II*”), 670 F.3d 1244, 1260-64 (D.C. Cir. 2011) (upholding the District of Columbia’s ban on assault weapons and large capacity ammunition magazines after applying intermediate scrutiny).

²⁰ *Vermont v. Misch*, No. 2019-266 (Vt. 2021).

²¹ *Worman v. Healey*, 922 F.3d 26 (1st Cir. 2019).

²² *New York State Rifle & Pistol Ass’n v. Cuomo*, 804 F.3d 242 (2d Cir. 2015) (New York and Connecticut laws prohibiting possession of semiautomatic assault weapons and large-capacity magazines do not violate the Second Amendment).

²³ *Id.*

²⁴ *Ass’n of N.J. Rifle and Pistol Clubs v. Grewal*, No. 19-3142 (3d Circuit 2020).

²⁵ *Kolbe v. Hogan*, 849 F.3d 114 (4th Cir. 2017) (en banc) (Maryland’s assault weapons ban does not violate the Second Amendment).

²⁶ *Colo. Outfitters Ass’n v. Hickenlooper*, 24 F. Supp. 3d 1050 (D. Colo. 2014).

²⁷ *People v. James*, 174 Cal. App. 4th 662, 676-77 (2009) (upholding California’s ban on assault weapons and .50 caliber rifles).

²⁸ *Friedman v. City of Highland Park*, 784 F.3d 406 (7th Cir. 2015) (upholding local ordinance prohibiting assault weapons and large capacity ammunition magazines).

ammunition that can penetrate the body armor worn by police, but they are small enough to conceal.

Current law treats these weapons like regular handguns, rather than rifles, because they are not designed to be fired from the shoulder. However, particularly when equipped with accessories that allow them to be shouldered, they are as dangerous as short-barreled rifles, which are regulated under the National Firearms Act.²⁹ The NFA, enacted in 1934, was the first federal regulation of the manufacture and transfer of firearms. To possess NFA firearms, individuals must undergo a background check process that includes the submission of photo identification and fingerprints and requires the registration of the firearm with ATF. They must also pay a \$200 transfer tax. Because of this comprehensive system of regulation, weapons governed by the NFA are rarely used in crimes.

On the other hand, handguns that fire rifle rounds with the ability to penetrate body armor are increasingly being used in crime. On February 11, 2019, a shooter killed a police officer with an AK-47 style assault pistol during an enforcement operation. On August 4, 2019, a mass shooter killed nine people and injured 17 in Dayton, Ohio, using an AR-15 style assault pistol. And on March 22, 2021, a gunman killed 10 people at a grocery store in Boulder, Colorado, using an AR-15-style pistol equipped with a stabilizing arm brace. Congress must take action to ensure these dangerous weapons are properly regulated. That's why I am grateful to Congresswoman Val Demings for introducing H.R. 2466, legislation that would regulate armor-piercing, concealable weapons under the National Firearms Act.

Safe Storage

Guns in homes pose a clear safety risk, particularly to children. Research has shown that there is an increased risk of suicide, unintentional injury, and death for children and young people when firearms are easy to access in the home.³⁰ Between 70–90% of guns used in youth suicides, unintentional shootings among children, and school shootings perpetrated by shooters under the age of 18 are acquired from the home or the homes of relatives or friends.³¹ Simple practices, such as locking guns in a gun safe or cabinet or using safety devices such as trigger or cable locks, can mean the difference between life and death for a child. Child access prevention (CAP) laws hold adults liable when minors gain access to negligently stored firearms or when parents or guardians directly provide a firearm to a minor.

²⁹ 26 U.S.C. Chptr. 53.

³⁰ David C. Grossman, et al., "Gun Storage Practices and Risk of Youth Suicide and Unintentional Firearm Injuries," *JAMA* 293, no. 6 (2005): 707–714. See also, Daniel W. Webster, Jon S. Vernick, April M. Zeoli, and Jennifer A. Manganello, "Association Between Youth-focused Firearm Laws and Youth Suicides," *JAMA* 292, no. 5 (2004): 594–601.

³¹ Renee M. Johnson, et al., "Who Are the Owners of Firearms Used in Adolescent Suicides?," *Suicide and Life-threatening Behavior* 40, no. 6 (2010): 609-611; John Woodrow Cox and Steven Rich, "The Gun is Not in the Closet," *The Washington Post*, August 1, 2018, <https://wapo.st/2M2HSH6>. See also, Bryan Vossekuil, et al., "The Final Report and Findings of the Safe School Initiative: Implications for the Prevention of School Attacks in the United States," US Secret Service and US Department of Education, July 2004, <https://www2.ed.gov/admins/lead/safety/preventingattacksreport.pdf>; Tawnell D. Hobbs, "Most Guns Used in School Shootings Come From Home," *The Wall Street Journal*, April 5, 2018, <https://on.wsj.com/2Eydv2f>.

Numerous studies over the past 20 years have found that child access prevention laws can reduce suicide and unintentional gun deaths and injuries among children and teens by up to 54%, with the greatest reductions occurring in states that require safe storage of firearms.³² With 4.6 million American children living in homes with loaded, unlocked guns,³³ it is critical that Congress pass legislation to encourage states to enact child access prevention laws and discourage unsafe storage of firearms.

Improperly stored firearms are also fueling an epidemic of gun thefts across the country. Stolen guns may be diverted to the underground market and are often used in crime. Gun owners who do not safely store their firearms are significantly more likely to have their guns stolen.³⁴

We are grateful to Chairwoman Jackson Lee for introducing H.R. 130, the Kimberly Vaughan Firearm Safe Storage Act, which requires firearms to be stored locked and unloaded in homes where minors or prohibited persons reside, and Congresswoman Rosa DeLauro for introducing H.R. 748, Ethan's Law, legislation that would help states pass child access prevention laws and require gun owners to safely store firearms in their home.

Hate Crimes

Violent extremists and hate groups often use firearms as tools of violence and intimidation.³⁵ Between 2010 and 2014, roughly 43,000 hate crimes involving the use or threatened use of a gun were committed in the United States.³⁶ Mass shootings at spas in Atlanta, Georgia; a gay nightclub in Orlando, Florida; a historic African-American church in Charleston, South Carolina; a Sikh temple in Oak Creek, Wisconsin; the Tree of Life synagogue in Pittsburgh, Pennsylvania; and a Walmart in El Paso, Texas, were among the deadliest hate crimes ever committed in the United States, and among the deadliest mass shootings in our nation's history.

This problem is getting worse. 2019 marked the highest level of reported hate crimes in over a decade. According to the FBI, 2019 also saw notably more violent acts of hate than previous

³² Emma C. Hamilton, et al., "Variability of Child Access Prevention Laws and Pediatric Firearm Injuries," *Journal of Trauma and Acute Care Surgery* 84, no. 4 (2018): 613–619. See also, Peter Cummings, David C. Grossman, Frederick P. Rivara, and Thomas D. Koepsell, "State Gun Safe Storage Laws and Child Mortality Due to Firearms," *JAMA* 278, no. 13 (1997): 1084–1086; Daniel W. Webster, Jon S. Vernick, April M. Zeoli, and Jennifer A. Manganello, "Association Between Youth-focused Firearm Laws and Youth Suicides," *JAMA* 292, no. 5 (2004): 594–601; Jeffrey DeSimone, Sara Markowitz, and Jing Xu, "Child Access Prevention Laws and Nonfatal Gun Injuries," *Southern Economic Journal* 80, no. 1 (2013): 5–25.

³³ Deborah Azrael, Joanna Cohen, Carmel Salhi, and Matthew Miller, "Firearm Storage in Gun-owning Households with Children: Results of a 2015 National Survey," *Journal of Urban Health* 95, no. 3 (2018): 295–304.

³⁴ David Hemenway, Deborah Azrael, and Matthew Miller, "Whose Guns are Stolen? The Epidemiology of Gun Theft Victims," *Injury Epidemiology* 4, no. 1 (2017).

³⁵ See Giffords Law Center to Prevent Gun Violence, "How America's Gun Laws Fuel Armed Hate," March 15, 2021, <https://giffords.org/lawcenter/report/how-americas-gun-laws-fuel-armed-hate/>

³⁶ Center for American Progress, "Hate and Guns: A Terrifying Combination," February 2016, <https://cdn.americanprogress.org/wp-content/uploads/2016/02/23104301/HateCrimes-report.pdf>.

years.³⁷ In 2020, the Asian Pacific Islander community was increasingly targeted for hate crimes throughout the pandemic. Similarly, there were reports of acts of hate perpetrated against Black Americans in conjunction with protests seeking police reform and racial justice. Federal law does not prohibit perpetrators of hate crimes from possessing firearms if they plead down their crimes to misdemeanors. In the last Congress, Congressman David Cicilline introduced H.R. 2708 to close this loophole. I urge this Congress to take up and pass such a bill.

Community Violence

Congress should also act to address gun violence in the communities where its costs are felt most acutely. As noted above, gun violence disproportionately impacts communities of color. This violence is driven by a very small subset of the community and is geographically concentrated in urban neighborhoods. A handful of strategies, if implemented properly, have a proven record of success at reducing this violence by intervening with these individuals.³⁸

Evidence-based community-based violence intervention programs include group violence intervention, which deploys a strong message and targeted services for high-risk individuals, with clear and swift consequences from law enforcement for those who continue to perpetrate violence. These programs have been associated with reductions in homicide of 30–60%. A second strategy, used in street outreach programs, treats violence as a communicable disease and works to disrupt its transmission among members of the community. Lastly, hospital-based violence intervention programs enable hospitals to provide counseling, case management, and social services to patients recovering from gunshot wounds. Patients who receive hospital-based violence intervention services are four times less likely to be convicted of a violent crime and four times less likely to be violently injured again.³⁹ Through the use of these strategies, since 2012, the City of Oakland, California, cut its annual shootings and homicides nearly in half.⁴⁰

With gun violence costing this country \$280 billion a year,⁴¹ these programs are capable of saving both lives and money. But these strategies all require consistent and reliable funding in order to be successful, and many struggled to stay afloat in 2020. Earlier this year, President Joe Biden proposed a historic \$5 billion investment into community violence prevention and intervention programs as a part of the administration’s job’s plan. Congress should approve this proposal, dramatically increasing federal dollars for community violence intervention and

³⁷ “Hate Crimes,” Federal Bureau of Investigation, last accessed January 14, 2021, <https://www.fbi.gov/investigate/civil-rights/hate-crimes>.

³⁸ See Giffords Law Center to Prevent Gun Violence, “Healing Communities in Crisis: Lifesaving Solutions to the Urban Gun Violence Epidemic,” March 2016, <https://giffords.org/wp-content/uploads/2019/01/Healing-Communities-in-Crisis.pdf>.

³⁹ Tina L. Cheng, et al., “Effectiveness of a Mentor-Implemented, Violence Prevention Intervention for Assault-Injured Youths Presenting to the Emergency Department: Results of a Randomized Trial,” *Pediatrics* 122, no. 5 (2008): 938–946.

⁴⁰ Giffords Law Center to Prevent Gun Violence, “A Case Study in Hope: Lessons from Oakland’s Remarkable Reduction in Gun Violence,” April 2019, <https://giffords.org/wp-content/uploads/2019/05/Giffords-Law-Center-A-Case-Study-in-Hope.pdf>.

⁴¹ Everytown, “The Economic Cost of Gun Violence,” February 2021, <https://everytownresearch.org/report/the-economic-cost-of-gun-violence/#lost-quality-of-life>.

prevention strategies, which may be funded through the Departments of Justice and Health and Human Services.

Last session, Congressman Steven Horsford introduced H.R. 4836, the Break the Cycle of Violence Act, which would invest \$90 million each year for ten years in programs using these strategies. In addition, several major federal funding streams—the Victims of Crime Act, the Edward Byrne Memorial Justice Assistance Grant, and Project Safe Neighborhoods—can be used to fund them.⁴² Congress should encourage this use of funding by requiring substantial percentages be used to reduce violent crime in the most impacted communities through evidence-based, community-focused programs that rely less on prosecutions and corrections. Congress should also create an Office on Community Violence to direct federal grants to the expansion of these programs in localities disproportionately impacted by community violence, to build the country’s technical assistance capacity, and to disseminate best practices.

Over the long term, these investments will pay for themselves: community violence intervention programs can save taxpayers \$7 for every dollar invested.⁴³

Research Funding

Congress’s investment in gun violence prevention must also include a commitment to fully understand the American gun violence epidemic. This requires research. But in 1996, Congress cancelled dedicated federal funding for gun violence research that had previously been allocated to the Centers for Disease Control and Prevention (CDC). For more than 20 years, federal investment in gun violence research remained virtually nonexistent at the nation’s primary health protection agency, despite gun deaths increasing to levels not seen in decades. Finally, in 2019, Congress appropriated \$25 million for gun violence research, with \$12.5 million going to CDC and \$12.5 million going to the National Institutes of Health (NIH), which was continued through 2021. This historic allocation conveyed to public health institutions that not only was research into gun violence allowed—it was necessary. But this is just a start. We must continue and increase this funding in order to make up for lost time so that we can learn how best to protect American families and communities from the devastation of gun violence.

Gun Trafficking

Congress must also do more to address gun trafficking. Notably, no clear and effective federal law prohibits gun trafficking. This blatant omission means that law enforcement agencies rarely

⁴² See Giffords Law Center to Prevent Gun Violence, “America at a Crossroads: Reimagining Federal Funding to End Community Violence,” December 2020, <https://giffords.org/lawcenter/report/america-at-a-crossroads-reimagining-federal-funding-to-end-community-violence/>.

⁴³ Patricia E. Campie, et al., “Massachusetts Safe and Successful Youth Initiative, Benefit-to-Cost Analysis of Springfield and Boston Sites,” American Institutes for Research and WestEd, Nov. 26, 2014, <http://www.air.org/sites/default/files/downloads/report/Benefit%20to%20Cost%20Analysis%20of%20Boston%20and%20Springfield%20SSYI%20Programs.pdf>. See also Michael Sierra-Arevalo, Yanick Charette, and Andrew V. Papachristos, “Evaluating the Effect of Project Longevity on Group-Involved Shootings and Homicides in New Haven, CT,” working paper, Institution for Social and Policy Studies, 2015, https://isps.yale.edu/sites/default/files/publication/2015/10/sierra-arevalo_charette_papachristos_projectlongevityassessment_isps15-024_1.pdf.

focus their efforts on those individuals who put guns into the wrong hands. Closing the background check loophole would begin to address this problem, but federal law must directly address gun trafficking. Earlier this year, Congresswoman Robin Kelly introduced H.R. 2280 to do just that.

In addition, current law does require federally licensed firearms dealers to provide a report to the ATF any time a person buys more than one pistol within five consecutive business days, which can indicate a trafficker at work.⁴⁴ This provision should be expanded to all firearms to provide law enforcement with the opportunity to investigate individuals with potentially dangerous intent.

Gun Dealers

Congress should also ensure that ATF is empowered and adequately funded to enforce our nation's gun laws. While most gun dealers operate responsibly, a small number of irresponsible gun dealers supply an overwhelming number of guns used in crimes. Gun dealers need a license from ATF to operate, but ATF lacks the resources and authority to effectively oversee dealers and shut them down when they behave irresponsibly.

ATF is prohibited from conducting more than one unannounced inspection of each dealer per year⁴⁵—but even without this restriction, ATF would still lack the resources to conduct sufficient inspections. In fact, a 2013 report by the Office of the Inspector General found that 58% of dealers had not been inspected within the past five years, due in part to a lack of resources.⁴⁶ This problem has not been solved in the years since: in 2019, ATF inspected only about 10% of federal firearm licensees. Fewer than half of the businesses inspected were found to be in full compliance with federal firearms laws.⁴⁷

ATF is only authorized to revoke the license of a dealer who has “willfully” violated the law,⁴⁸ and ATF’s authority to temporarily suspend a gun dealer’s license is strictly limited. In 2017, ATF took administrative action against 3,531 firearms licensees, but only revoked or denied the renewal of 43 licenses.⁴⁹ This means that dealers are often allowed to stay in business despite careless or reckless practices that have allowed criminals access to guns—even after law enforcement learns about those dangerous business practices.

⁴⁴ 18 U.S.C. § 923(g)(3)(A).

⁴⁵ 18 U.S.C. § 923(g)(1)(B).

⁴⁶ US Department of Justice, Office of the Inspector General, Evaluation and Inspections Division, “Review of ATF’s Federal Firearms Licensee Inspection Program,” April 2013: ii, <http://www.justice.gov/oig/reports/2013/e1305.pdf>.

⁴⁷ US Department of Justice, Bureau of Alcohol, Tobacco, Firearms & Explosives, “Fact Sheet - Facts and Figures for Fiscal Year 2019,” June 2020, <https://www.atf.gov/resource-center/fact-sheet/fact-sheet-facts-and-figures-fiscal-year-2019>.

⁴⁸ 18 U.S.C. § 923(e).

⁴⁹ US Department of Justice, Bureau of Alcohol, Tobacco, Firearms & Explosives, “Fact Sheet - Facts and Figures for Fiscal Year 2019,” June 2020, <https://www.atf.gov/resource-center/fact-sheet/fact-sheet-facts-and-figures-fiscal-year-2019>.

ATF is also specifically prohibited from requiring firearm dealers to conduct inventories of their businesses.⁵⁰ The Bureau's lack of authority to ensure that firearms dealers utilize this common business practice means that, absent state or local regulation, dealers are not required to confirm whether firearms have gone missing. Gun stores are also under no legal obligation to use basic security measures to safeguard their inventories. Over 13,000 guns were reported either lost or stolen from federal firearms licensees in 2020 alone.⁵¹

To keep American communities safe, gun stores whose irresponsible business practices put guns in the hands of criminals should not be allowed to stay in business. ATF should have the resources and authority necessary to provide proper oversight and revoke licenses from bad actors. In past Congresses, bills have been introduced in both the House and the Senate that would strengthen ATF's authority and reduce these problems, including H.R. 939, the SECURE Firearm Storage Act, from Congressman Brad Schneider.

The Second Amendment

As this testimony makes clear, there are numerous ways that Congress can, and should, strengthen our gun laws to make our country safer and save lives from gun violence. By way of conclusion, I want to stress the point that I made when I began, that neither the Second Amendment nor any other part of the Constitution prevents Congress from enacting the legislation I have endorsed. All of these proposals stand on firm constitutional ground, and none of them violate the Second Amendment.

In the landmark 2008 case *District of Columbia v. Heller*, the Supreme Court held that the Second Amendment protects an individual right of law-abiding citizens to own guns for self-defense. Writing for the Court's majority, the late Justice Antonin Scalia also made crystal clear that the right is neither absolute nor unlimited, and does not override basic public safety concerns.⁵² The *Heller* decision expressly said that the Second Amendment was not a "right to keep and carry any weapons whatsoever in any manner whatsoever and for whatever purpose," and stated that a range of laws are fully consistent with the Second Amendment, including laws prohibiting gun possession by people convicted of felonies and people with serious mental health histories, laws prohibiting guns in sensitive places like schools and government buildings, and laws placing conditions on gun sales—conditions like background checks. The Court noted that nothing in the Second Amendment prohibits the government from regulating firearm storage to prevent accidents and made clear that Congress and the states can prohibit civilian possession of dangerous weapons of war like the M16.

Heller's explicit recognition that a broad range of gun laws are fully consistent with the Second Amendment is in keeping with more than 200 years of American history. Since the founding of our country, gun rights have always coexisted with gun regulations, and the need to protect

⁵⁰ Consolidated and Further Continuing Appropriations Act 2013, 113 Pub. L. No. 6, 127 Stat. 198 (2013).

⁵¹ US Department of Justice, Bureau of Alcohol, Tobacco, Firearms & Explosives, "Federal Firearms Licensee (FFL) Theft/Loss Report" 2018, <https://www.atf.gov/resource-center/docs/report/theftdatausa2017pdf/download>.

⁵² 554 U.S. 570 (2008).

public safety has always gone hand-in-hand with Americans' right to own guns. Indeed, early American gun laws were, in many cases, much *more* restrictive than 21st century laws, and went much further than any of the actions I have urged Congress to take today. That is why, for more than 200 years before *Heller* and in the decade that followed that decision, federal and state courts across the country have, again and again, upheld strong gun laws that keep our communities safe.

Last month, the Supreme Court announced that it will hear a new Second Amendment case, brought by New York residents who were denied permits to carry concealed weapons in public. It should not be a hard case: *Heller* used an originalist approach that relied on historical sources to define the scope of the Second Amendment right, and *Heller* itself acknowledged that “the majority of the 19th-century courts to consider the question held that *prohibitions* on carrying concealed weapons were lawful under the Second Amendment,” and New York does not prohibit concealed carry, it merely requires a permit to do so. In any event, given the narrow question currently before the Supreme Court, whatever decision the Court eventually issues will not call into question the constitutionality of any of the policies I have urged Congress to enact today, all of which are, and will remain, on firm constitutional ground.

Progress in the House of Representatives

Lastly, I want to acknowledge some of the progress made by the House of Representatives this year. Efforts to strengthen gun laws have long focused on background checks, and for good reason. After the Virginia Tech massacre in 2007 and again after the Sutherland Springs shooting in 2018, we saw members of both parties come together to address the records that were missing from the National Instant Criminal Background Check System (NICS) which allowed the shooters to purchase the guns used to commit those atrocities.⁵³ Yet this effort has proven to be far too little to stem the tide of gun violence in this country. It is still far too easy for people who want to do harm to get their hands on guns.

More than 90% of the American public supports closing the dangerous and deadly loophole in federal gun laws that exempts unlicensed sellers from having to perform a background check. I am grateful to Congressman Mike Thompson for introducing H.R. 8 to close this glaring loophole in the 117th Congress and am grateful to the bipartisan group of legislators in the House that passed it.

I am also grateful to Majority Whip James Clyburn for introducing H.R. 1446 to provide the FBI with additional time to ensure that background checks are completed. Federal law allows gun dealers to transfer guns after three business days, even if the FBI is still processing the background check.⁵⁴ This loophole allowed the shooter who murdered nine Black worshippers in a church in Charleston, South Carolina, to obtain his gun, even though he wasn't legally entitled to buy it. Approximately 3,000 to 4,000 guns per year are transferred this way and then later have to be reacquired when the FBI determines after the three-day window has closed that

⁵³ NICS Improvement Amendments Act of 2007, Pub. L. No. 110-180, 121 Stat. 2559 (2008); Fix NICS Act of 2018, Pub. L. No. 115-141, Division S, Title VI, 132 Stat. 1132, (2018).

⁵⁴ 18 U.S.C. § 922(t)(1)(B)(ii).

the person should not have passed the background check.⁵⁵ The Charleston loophole threatens local communities by enabling guns to fall into the hands of people prohibited from owning them. The Senate should pass this legislation as well.

While closing the loopholes in our federal background check system is a critical first step, we must also do more to strengthen the laws that prohibit individuals who have committed domestic abuse from possessing firearms. Nearly 600 women are shot and killed by intimate partners every year—an average of one woman every 16 hours.⁵⁶ More than one in three women in the United States have experienced sexual violence, physical violence, and/or stalking by an intimate partner in their lifetimes,⁵⁷ making it critical that policymakers take steps to remove firearms from domestic violence situations.

Guns and domestic violence are a deadly mix: the presence of a gun in a domestic violence situation makes it five times more likely the victim will die,⁵⁸ while domestic violence assaults involving a gun are 12 times more likely to end in death than assaults with other weapons or physical harm.⁵⁹

Current federal law does not prohibit gun possession by people who have assaulted dating partners they haven't lived with or people convicted of misdemeanor stalking. That's why I am grateful to Chairwoman Jackson Lee and the bipartisan group of members who voted to pass H.R. 1620, the Violence Against Women Reauthorization Act, and close these loopholes. People convicted of abusing dating partners and stalking should not have access to guns.

While the House of Representatives and many states have taken action to pass gun safety laws supported by most Americans and consistent with the Constitution, there are some states that are doing just the opposite. For example, the Texas legislature is currently debating HB 1927, which would weaken current law by allowing citizens to carry loaded, concealed handguns in public without any background check or training whatsoever. Other dangerous provisions in the bill would allow people with demonstrated histories of violence to carry hidden loaded guns outside of the home. The Texas legislature has been advancing this bill despite opposition from law enforcement. This is a clear example of why our leaders must prioritize public safety over special interests. The strongest way to do so is through federal action.

⁵⁵ US Department of Justice, Federal Bureau of Investigation, Criminal Justice Information Services Division, "National Instant Criminal Background Check System (NICS) Operations Reports," available at <https://www.fbi.gov/services/cjis/nics>.

⁵⁶ Jennifer Mascia, "Once Every 16 Hours, an American Woman Is Fatally Shot by a Current or Former Romantic Partner," *The Trace*, February 9, 2016, <https://www.thetrace.org/2016/02/women-domestic-violence-death-statistics/>.

⁵⁷ Centers for Disease Control and Prevention, National Center for Injury Prevention and Control, "National Intimate Partner and Sexual Violence Survey: 2015 Data Brief – Updated Release," November 2018: 8, <https://www.cdc.gov/violenceprevention/pdf/2015data-brief508.pdf>.

⁵⁸ Jacquelyn C. Campbell et al., "Risk Factors for Femicide in Abusive Relationships: Results from a Multisite Case Control Study," *Am. J. Pub. Health* 93, no. 7 (July 2003): 1089, 1092.

⁵⁹ Linda E. Saltzman et al., "Weapon Involvement and Injury Outcomes in Family and Intimate Assaults," *JAMA* 267, no. 22 (1992): 3043-3047.

Our gun violence crisis is a uniquely American problem. It's a problem that plagues our country in countless different ways and exacts a devastating toll on our communities. But it's a problem with solutions. While no one single law will stop all gun violence, we know strong gun laws save lives. We know that allowing children to grow up safe from violence is not a partisan issue—or at least it shouldn't be.

We have seen important progress in recent years. That progress must be the expectation, not the exception. So today, I ask all members of this committee and Congress as a whole to recommit themselves to making progress and taking action to reduce gun violence in this country. Thank you again, Madam Chair, and I look forward to taking your questions.