

ACCESS DENIED

HOW THE GUN LOBBY

IS DEPRIVING POLICE, POLICY MAKERS, AND

THE PUBLIC OF

THE DATA WE NEED

TO

PREVENT GUN VIOLENCE

a report by

MAYORS AGAINST
ILLEGAL GUNS



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EXECUTIVE SUMMARY

“In God we trust,” the saying goes, “all others bring data.” The free flow of information is central to the American idea. It fuels our economy, keeps our elected officials accountable, and guides our public policy choices.

But not always. Since the 1990s, the Washington gun lobby has led an aggressive effort to limit what we know about firearms. And it has largely succeeded.

Americans murder each other with guns at a rate nearly 20 times higher than people in other high-income countries.¹ Among a group of 32 comparable nations, the United States accounts for 30 percent of the population, but 90 percent of the gun homicides.

Despite this epidemic, the federal government conducts almost no scientific research on how criminals get and misuse guns, or what policies are effective at stopping them. Law enforcement officials are prohibited from sharing their analyses of crime gun trace data with policymakers and the press. And military leaders and pediatricians have been barred from discussing the subject with those under their command or care.

This report describes the many ways in which the Washington gun lobby has kept the country in the dark about gun violence, and the dire consequences for public health and public safety.

SCIENTISTS

The U.S. Centers for Disease Control and Prevention (CDC) leads the world in research on how violence affects public health, and how to stop it. But it conducts almost no research on the role of firearms in killing nearly 32,000 Americans every year.²

When the CDC began studying gun violence in the early 1990s, the Washington gun lobby launched a serious campaign to persuade Congress to block its funding. In 1996, the effort culminated in an amendment backed by the National Rifle Association (NRA) that explicitly forbade the agency from research that could be used to “advocate or promote gun control.”

In the years since, CDC funding for firearm injury prevention has fallen 96 percent. In 2012, the Centers devoted \$100,000 of its \$5.6 billion budget to the subject.³

Major public research funding for gun violence prevention is estimated at \$2 million annually. By contrast, in 2011, the National Institutes of Health devoted \$21 million to the study of headaches.⁴

Many academics are dependent on public support for their research. While some scholarship on firearms continues in the fields of public health and criminology, it is not nearly enough. The decline in federal research funding has driven many experts to abandon the field and kept young researchers from taking it up.

As a result, peer-reviewed research on gun violence has sharply declined. A review conducted by Mayors Against Illegal Guns showed that academic publishing on firearm violence fell by 60 percent between 1996 and 2010.

LAW ENFORCEMENT

Data is the currency of modern law enforcement. With the right information, police can identify crime patterns and craft strategies to stop them. Without it, they are in the dark.

The U.S. Department of Justice was once a world leader on research into how guns find their way into dangerous hands. As recently as the 1990s, the Department published critical reports that shed new light on firearms trafficking patterns and helped law enforcement at all levels detect and deter crime.

In the decades since, the Department has failed to update these seminal studies or conduct new ones, at least publicly. Long after the internet fundamentally changed the marketplace for firearms, our gun laws are informed by data that are as much as twenty years out of date.

The National Institute of Justice, the principal research arm of the Justice Department, has seen its firearms portfolio wither on the vine. Between 1993 and 1999, it funded 32 gun-related studies.⁵ It has not funded a single public study on firearms during the Obama Administration.

Police departments also need data to fight crime effectively. In 2006, for example, New York City analyzed “trace data” for guns found at crime scenes to identify the dealers who first sold them. The City investigated and sued 27 of those dealers. Twenty-four dealers settled and the court subsequently monitored their sales practices. As a result, the share of guns sold by those dealers that were recovered in New York City crimes dropped by 84 percent.⁶

Far from facilitating the use of data to fight crime, the Washington gun lobby has fought for years to take this tool away.

Beginning in 2003, the National Rifle Association persuaded Congress to impose restrictions on how cities and elected officials can use and share the information they gather about guns used in crimes. These so-called “Tiahrt Amendments” also bar the Bureau of Alcohol, Tobacco, Firearms & Explosives (ATF) from using an electronic database to organize the millions of records it holds, forcing the agency charged with enforcing gun laws in the Information Age to use a paper-based filing system.

The gun lobby has also made repeated attempts to eliminate ATF's program to track bulk sales of assault weapons by dealers in the four states that border Mexico, a vital part of the U.S. efforts to curb the flow of assault weapons to drug gangs.

In several states, the NRA has resisted efforts by mayors to require gun owners to report when their firearms are lost or stolen. At least 1.4 million firearms went missing between 2005 and 2010 — a major avenue from the legitimate market into the criminal market.⁷

MILITARY LEADERS AND DOCTORS

The NRA's lobbyists have written federal and state laws that bar military commanders and physicians from asking questions that can prevent accidents and suicides.

The last decade brought an epidemic of suicide among active-duty service members, with suicides exceeding combat deaths in Afghanistan. The majority of military suicides are committed with guns.⁸

In 2010, the gun lobby's congressional allies inserted language into a defense funding bill that prohibited commanding officers from discussing firearm ownership with troops under their command. The same provision barred mental health counselors from talking with severely depressed service members about the risks posed by guns in their private possession.

In December 2012, mayors, retired flag officers, suicide prevention advocates, and the Department of Defense led a successful effort to reverse this gag order.

The gun lobby has also worked to pass state laws that prohibit doctors from discussing firearms with their patients.

A U.S. District Court judge struck down a Florida law of this kind, saying that it was intended "to restrict a practitioner's ability to provide truthful, non-misleading information to a patient."⁹ Governor Rick Scott, an NRA ally, vowed to appeal the decision.¹⁰

The gun lobby also inserted into President Obama's health care reform law a provision forbidding federal health programs from collecting or disclosing information about firearm ownership.

RECOMMENDATIONS

The federal government must revive research on firearms and remove restrictions on the use of information that can reduce crime and save lives.

Elected officials should take the following steps:

- Remove “policy riders” on federal appropriations bills that limit firearms research at the CDC and NIH and provide appropriate funding to study the role of firearms on public health.
- Fully fund the National Violent Death Reporting System and expand it to all 50 states to improve our understanding of the role firearms play in fatalities.
- Reconstitute the research program on gun trafficking at the National Institute of Justice to update and expand our understanding of the market for illegal guns.
- Resume the publication of Justice Department reports on illegal gun markets and trafficking patterns.
- Rescind the Tiahrt Amendments.
- Expand the bulk sale reporting program for assault weapons to include all 50 states.

introduction

ON DECEMBER 14, 2012, AFTER MURDERING

his mother and before taking his own life, a young man armed with two handguns and an assault weapon executed 20 elementary school children and six adults at Sandy Hook Elementary School in Newtown, Connecticut. The slaughter was almost unprecedented in its scale and its horror — even in the United States, where about 12,000 people are murdered with guns every year.

THE NATION REELED. And then it began looking for answers.

Why do Americans use firearms to murder each other 20 times as often as the people of other developed nations? What is triggering the violent impulses in so many troubled young people? Would more guns make us safer, or would they merely increase our risk? How do so many dangerous people slip through the cracks in our laws — and can anything be done to stop them?

These questions have answers, and we can find them. But doing so requires data. And as elected officials grapple for a policy response before the next gunman strikes, they are realizing how little information we have to work with.

That didn't happen by accident. For more than a generation, the National Rifle Association's Washington lobbyists have endeavored to keep us in the dark.

In Washington and in state capitols across the country, the gun lobby has helped pass laws that restrict the collection and sharing of information related to guns and gun violence. By drawing a veil over that data, they have stopped scientists from conducting research, stopped law enforcement from investigating crimes, and stopped Americans from holding their leaders accountable.

At the same time, the federal government has abdicated its responsibilities, shutting down basic firearms research at key agencies and all but inviting the gun lobby to dictate our collective understanding of the causes and effects of gun violence.

The problem extends beyond negligence to aggressive interference. In recent years, legislators backed by the gun lobby have passed laws to stop doctors and military commanders from asking the people in their care the most basic questions about guns.

Some of the questions we can't answer are startlingly simple. For example, Americans rely almost entirely on background checks to keep guns out of dangerous hands. And yet, we do not know clearly how many buyers avoid these checks by purchasing them through private sales — though it likely approaches 50 percent. The federal research on this important topic was conducted more than two decades ago, before the internet fundamentally altered the market for firearms, legal and illegal alike.

The National Research Council's 2004 report *Firearms and Violence*, a landmark assessment of the state of knowledge in the field, put it this way: "The inadequacy of data on gun ownership and use is among the most critical barriers to a better understanding of gun violence. [...] If policy makers are to have a solid empirical and research base for decisions about firearms and violence, the federal government needs to support a systematic program of data collection and research that specifically addresses that issue."¹¹

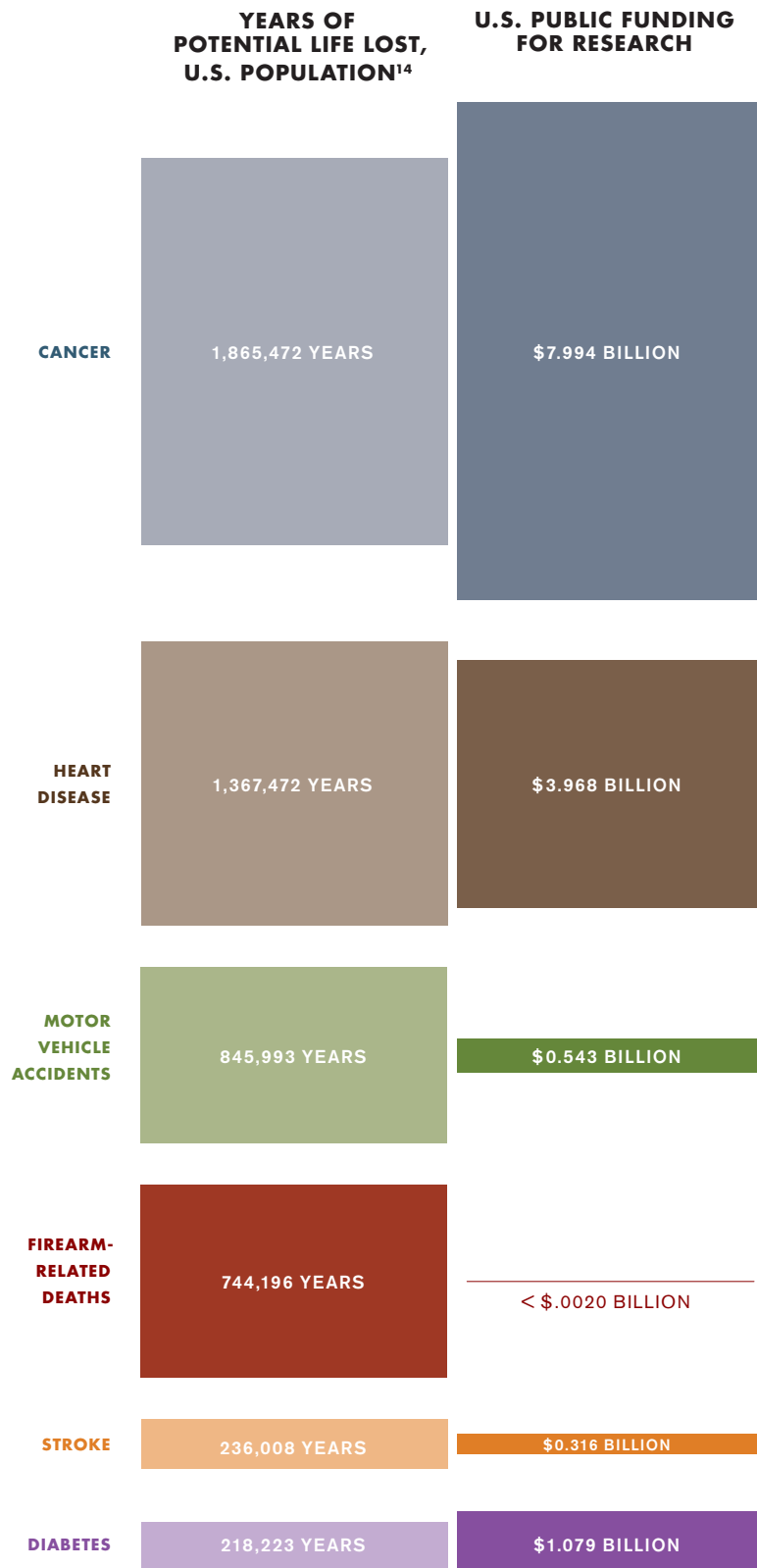
This report assesses how we got here, and how we can do better.

part 1

SUPPRESSING SCIENCE

Each year the federal government spends billions of dollars on public health research, and it does so because the findings improve and lengthen the lives of millions of Americans. Federal research institutions expand our understanding of common illnesses such as heart disease and cancer. But their research into the causes of injuries is no less valuable. In fact, injuries — from falls to poisonings to car accidents — are the leading cause of death for Americans age 1 to 44 and represent an estimated \$406 billion loss to the country every year.¹² Focused research on injury prevention informs changes in policy and practice — in engineering, education, and law enforcement — that increase public safety and reduce the occurrence of injury, and returns on this investment can be enormous.

One example of this is the automobile. Motor vehicle accidents have long been the leading cause of injury deaths in the U.S., and the Federal Highway Administration and the National Highway Traffic Safety Administration have reacted by putting billions of dollars into safety research. As a result, they have been able to recommend changes in the design of cars and roadways, the laws that govern their use, and the way those laws are enforced. And the result has been a profound decline in traffic accident deaths, saving an estimated 328,551 lives between 1960 and 2002 [see sidebar on page 13].¹³



The epidemic of firearm deaths in the U.S. merits a comparable investment in research and prevention. 31,672 people were killed with guns in 2010 — about two-thirds the victim of suicide, one-third the victim of homicide, and 2 percent the victims of unintentional injury. Taken together, this firearm-related mortality is the country’s fifth leading cause of years of potential life lost — the estimated years of life an average person would have lived had they not died prematurely. This burden of firearm-related injuries is even more striking when America is compared with other countries. Of the 32 nations in the Organization for Economic Co-operation and Development (OECD) with per capita annual income higher than \$15,000, the U.S. accounts for 30 percent of the population but 90 percent of the firearm homicides.

But, in recent years, the federal government has subjected gun violence and gun crime to minimal research. Public funding for research on gun violence is estimated to be less than \$2 million dollars per year¹⁵ — or less than a hundredth of what is allocated to motor-vehicle accident safety, even though traffic accidents and firearms account for a similar number of American deaths each year. For another comparison, in 2011 the National Institutes of Health allocated \$21 million research dollars — more than ten times the amount spent on gun-violence research — to headaches.

CUTTING OFF FUNDING FOR FIREARM INJURY RESEARCH AT THE CDC

The natural place for firearm-related injury research to take place is the Centers for Disease Control and Prevention (CDC), a federal agency that works to protect the health of Americans through the prevention of disease, injury, and disability. It does this by monitoring the population’s health, detecting and investigating factors harmful to health, and conducting research to enhance strategies to prevent or reduce the influence of those factors. Within the CDC, the National Center for Injury Prevention and Control (NCIPC) focuses solely on injuries, and its Division of Violence Prevention is dedicated specifically to investigating and addressing the large share of injuries that are defined as violent — intentional injuries inflicted by one person on another, or on him or herself. It is the largest organization in the world focused on the prevention of violence from a public health perspective.

In the U.S., the majority of violent injury deaths involve firearms.¹⁹ But the Division of Violence

Prevention no longer conducts substantive research on firearms because in the early 1990s, Washington gun lobbyists led a campaign against the CDC and ultimately passed legislation that effectively ended the agency's research on gun violence.

The NCIPC opened in 1992, and gun lobbyists immediately began fighting to shut it down. That year, NRA Research Coordinator Paul Blackman accused CDC researchers of “blatantly antiscientific research” and called on the NIH Office of Scientific Inquiry to investigate them; the office reviewed their work and did not pursue the matter.²⁰ Then in October 1995, ten senators — all of whom had earned top-marks from the NRA — signed a letter asking that the NCIPC as a whole be eliminated.²¹

The campaign culminated in 1996. That summer, Arkansas Congressman Jay Dickey, who described himself as “the NRA’s point person in Congress,” introduced an amendment to strip the CDC of their entire budget for firearm injury research. In a series of hearings of the House Appropriations Committee, he cross-examined CDC scientists about their research on the relationship between firearms and violence. On the floor of the House, he asserted to his colleagues that gun violence was “obviously not a public health threat,” and suggested that the CDC’s research was merely an attempt “to raise emotional sympathy for those people who are for gun control.”²²

By a vote of 158-263 on July 11, the House refused to remove Dickey’s amendment from the final spending bill,²³ and President Clinton signed it into law on September 30th.²⁴ It cut \$2.6 million from the Injury Center’s budget, precisely the amount spent on firearm-related research the year before, and explicitly forbade the CDC from using any of its funding “to advocate or promote gun control.” Legislators rarely, if ever, direct federal researchers in such an explicit manner. And because the CDC — like all publicly funded research agencies — had strict procedural controls for selecting research and was already forbidden from engaging in political advocacy, the rider was also duplicative and unnecessary. But the message sent to the CDC was clear: Further research on firearms would endanger the agency’s funding as a whole.

After passage of the amendment, CDC research on gun violence steadily declined. CDC funding for firearm injury prevention activities had averaged \$2.5 million between 1993-1996, but dropped by 95 percent over the next fifteen years. By 2012, out of a total budget of more than \$5.5 billion, the CDC was devoting less than \$100,000 annually to firearm-related research.

Research Pays Off: The Case of Motor Vehicles

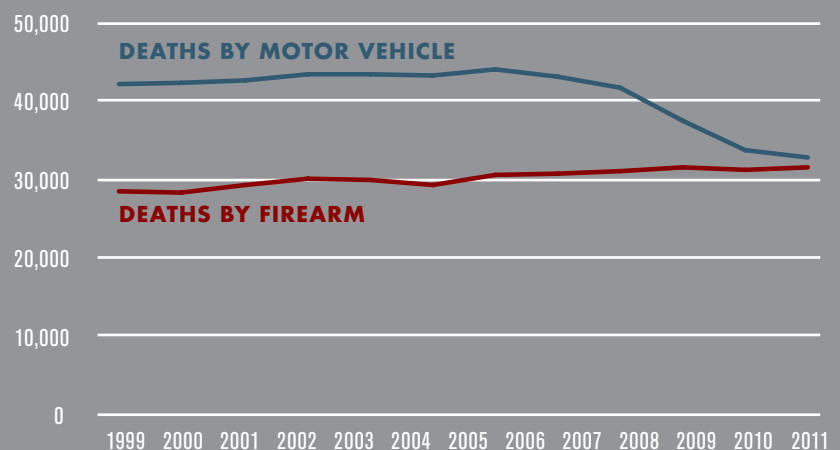
Motor vehicle accidents have long been the leading cause of injury death in the U.S., but both the National Highway Traffic Safety Administration (NHTSA) and the Federal Highway Administration (FHWA) made a strong and sustained investment in safety research, producing a radical decline in the incidence of traffic deaths, which are now on course to fall below the number of firearm deaths for the first time. Their investment in data-collection systems has also played a critical role in this decline.

NHTSA safety programs rely on data “to effectively allocate Federal resources to best save lives.”¹⁶ Similar to years past, their FY2013 budget request included \$188 million for Vehicle Safety Research and \$150 million for Highway Safety Research and Development, which includes support for crash data collection through their state-of-the-art Fatality Analysis Reporting System (FARS).¹⁷ FARS collects a comprehensive data set of the circumstances of every fatal accident that took place on a public roadway since 1975, and it informs decisions about new technologies to develop and roadways to redesign.

The FHWA is responsible for safety on the nation’s highway system. For FY2013, it requested \$293 million to establish the Highway Safety Data Improvement Program.¹⁸ The objective of this program is to implement data collection and mapping processes in each state, to enable the identification of problem spots on roadways, and to then direct limited resources to correct them.

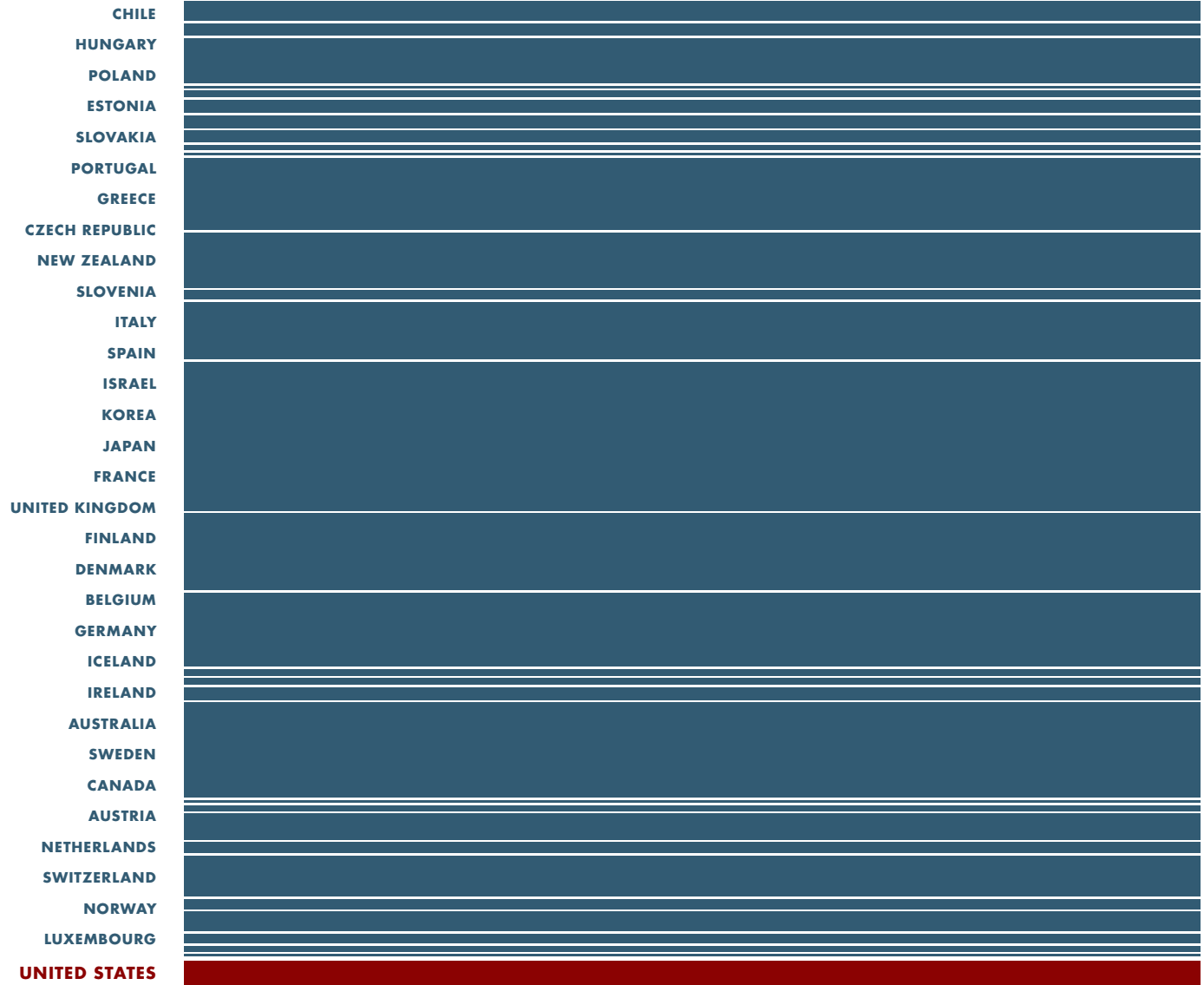
This public investment in road and vehicle safety has yielded results. Since 1994, motor vehicle fatalities have fallen by 36 percent when controlling for the number of miles traveled, representing tens of thousands of lives saved. Firearm deaths, in contrast, have continued to increase steadily over the same period. The expenditure on automobile safety research is more than a hundred times greater than corresponding research conducted on firearm deaths.

FATALITIES DUE TO GUNS AND MOTOR VEHICLES IN THE U.S.

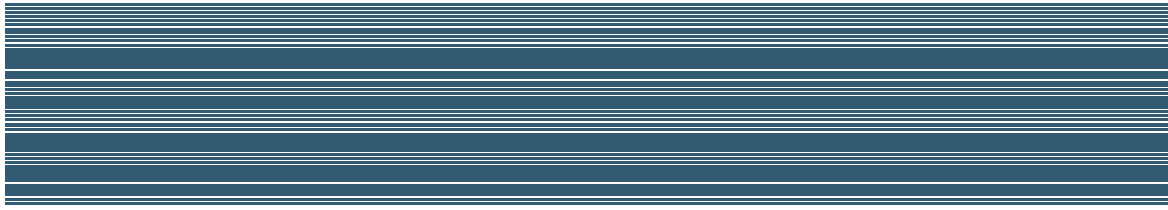


SOURCE: CDC

POPULATION SIZE AND



FIREARM HOMICIDES

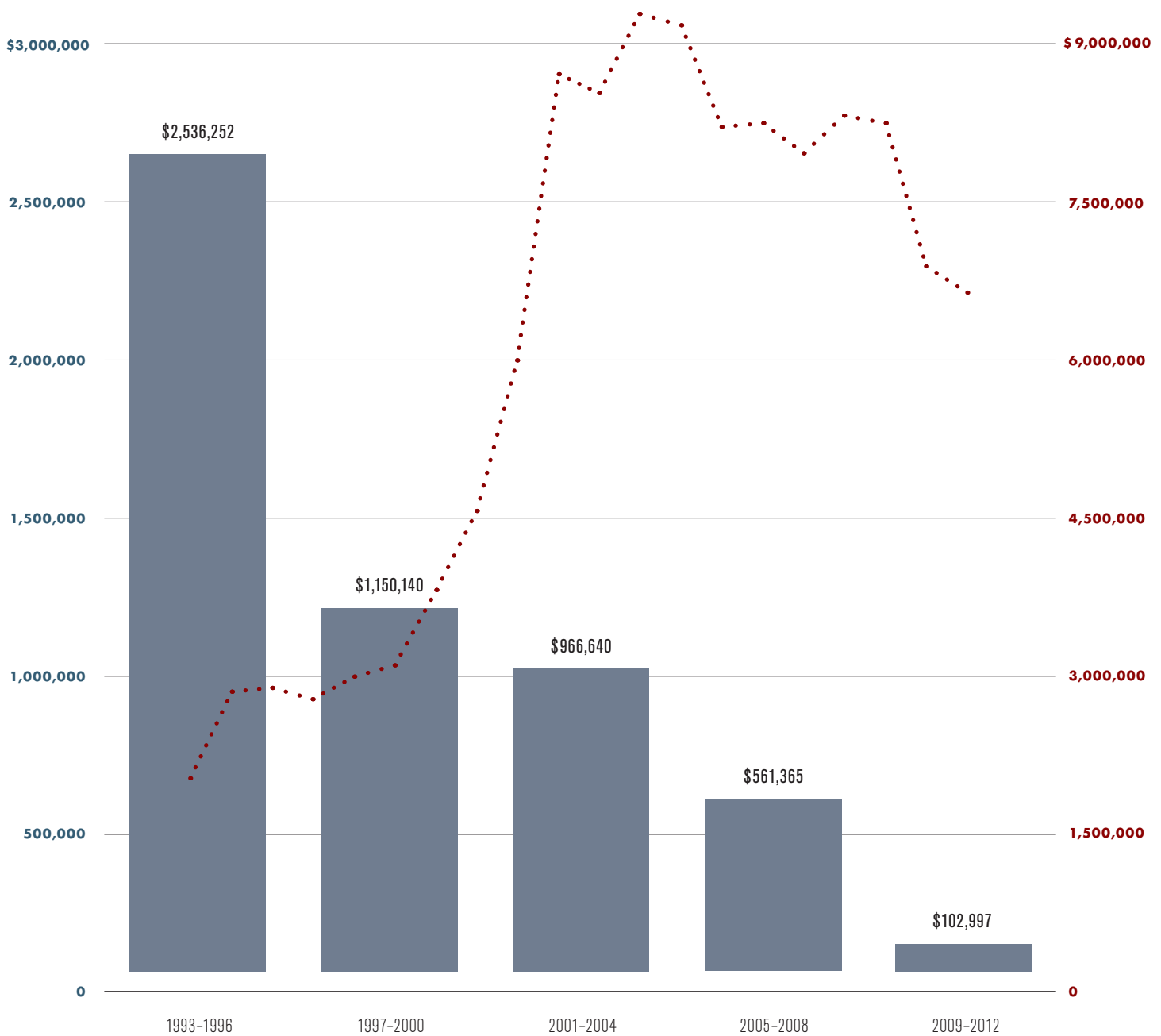


Of the 32 countries in the Organization for Economic Co-operation and Development (OECD) with per capita annual income higher than \$15,000, the U.S. accounts for 30% of the population but 90% of the firearm homicides.

AVERAGE ANNUAL FUNDING FOR FIREARM INJURY PREVENTION ACTIVITIES AT THE NATIONAL CENTER FOR INJURY PREVENTION AND CONTROL AT THE CDC
(2012 DOLLARS)

AVERAGE ANNUAL FUNDING

CDC BUDGET AUTHORITY



SOURCE: CDC

A CHILLING EFFECT ON RESEARCH

According to former directors of the NCIPC and researchers who worked there, the Dickey Amendment fundamentally altered the climate of the CDC and initiated a broad decline in firearm-related research. Mark Rosenberg, who directed the NCIPC from 1994 to 1999, described the atmosphere of fear it cultivated at the center. “We were not doing advocacy — we were in the business of applying science to serious problems — but when they put the language into congressional appropriations, it scared people.”²⁵ The Division of Violence Prevention included the word “firearm” in their basic research solicitation — the ROI Grant Program Announcements — from at least 1995-2001, but has not included the word since.

The chilling effect also extended beyond the CDC to the researchers seeking funding from it. Perceiving that the CDC was less willing to fund firearms-related projects, researchers became less likely to submit grant applications for that type of work. “There was a general sense in the community that firearms were less likely to be funded, and there was probably some deterrent effect from the sense that people had that we weren’t doing firearm injury,” says Sue Binder, who succeeded Rosenberg as the Center’s director.²⁶

Even today, firearm-related research at the CDC is perceived as a threat to the agency as a whole. Long-time researcher James Mercy says: “People within the Division of Violence Prevention and the Injury Center and among CDC leadership broadly understand that being too out-front on firearm injuries increases the threat to our budget — our budget on violence, our budget on injury, and the budget of the CDC more broadly.”²⁷

UNDERFUNDING DATA-COLLECTION SYSTEMS

The suppression of firearm-related research at the CDC has also jeopardized systems that collect invaluable, long-term data on firearms and violence. While the collection of comprehensive data about motor-vehicle accidents has helped guide interventions to reduce traffic fatalities [see sidebar on page 13], similar techniques have not been employed to study and prevent gun violence.

Previously, firearm-related questions had been included on a national CDC survey²⁸ to provide state-level data on the prevalence of risk behaviors related to guns and gun safety. State-level data is important because decisions about injury prevention programs are made by state Departments of Health, and this information helps them tailor approaches to the needs of the local population. But with funding scarce and no appetite for further controversy, the CDC allowed the questions to drop from the survey. The last time a firearm-related question was included was 2004.

The CDC has also developed a data collection system — the National Violent Death Reporting System (NVDRS) — that could revolutionize research on violent injury. But unlike the fully-funded Fatality Analysis Reporting System [see sidebar on page 13], which provides the necessary data to inform major design and technology decisions in automobile safety, NVDRS has never been fully funded, leaving criminologists and public health researchers reliant on data that are fragmented and incomplete.

Currently, firearm homicides are recorded by the CDC and the FBI using two separate systems — the CDC uses medical-examiner data and the FBI uses local law enforcement data — each with distinct advantages and flaws. The CDC’s National Vital Statistics System catches a higher percentage of all firearm deaths but fails to capture details about their circumstances such as the type of weapon used or the inciting factors. In contrast, the FBI’s Supplementary Homicide Reports include details on the perpetrator and murder weapon but are more likely to be missing records because the FBI relies on police departments to voluntarily submit their homicide data on an annual basis. So whereas the CDC recorded 11,078 homicides committed with firearms in 2010,²⁹ the FBI recorded only 8,874,³⁰ and does not, for example, contain any Supplementary Homicide Reports from the state of Florida.³¹

NVDRS combines these two streams of data, as well as that of other sources, to create a single, more complete set of records containing health-related data from the CDC and crime-related details of the FBI data, where available. NVDRS “allows preventive medicine physicians and officials to gain a

much better understanding of the circumstances that surround violent death,” says Paul Bonta of the American College of Preventive Medicine. He chairs the National Violence Prevention Network, a group of organizations that has been advocating for an expansion of NVDRS since its inception. “It’s through that understanding that they’re better able to target their prevention programs.”³²

In its ten years of existence, NVDRS has only been implemented in 18 states, with just two of them added in the last seven years. The stagnation is due entirely to lack of funding. “CDC’s funds are allocated through the appropriation process,” CDC health communications specialist Courtney Lenard wrote to Mayors Against Illegal Guns in an email. “More states have applied than we have been able to fund but the Division of Violence Prevention lacks the resources to add more states at this time.”

DECLINE OF UNIVERSITY RESEARCH

The federal government’s decline in research on firearms would not be so damaging if independent researchers increased their output to take up the slack. But the decline in federal research has undermined overall knowledge-creation because scholars are highly dependent on federal grants to support their research.

Academics working in the field describe how constricted federal funding for firearm research has discouraged research in the area. Art Kellermann, now the director of RAND Health, published many pivotal studies on firearms and violence in the 1980s and 1990s, but he says there are only a handful of researchers in the field today, just as when he began as a fellow in 1983. “And there are very few people if any coming up behind them because there’s no place to fund that work, to be candid.”³³

A bibliometric analysis of academic literature on firearms and violence provides quantitative evidence to confirm these anecdotal accounts. To assess trends in the quantity of academic research on the relationship between guns, criminality, and violence, Mayors Against Illegal Guns measured the volume of pertinent articles published annually between 1960 and 2011.

The annual volume of academic publications on the relationships between firearms and crime or violence rose markedly between 1980 and the mid-1990s. But that is where it peaked: the share of academic research on firearms fell by 60% from 1996 to 2010, and has never recovered. This rise and fall in the volume of publications matches the growth of interest in firearm injury and criminality as problems that could be subjected to social science, followed by the campaign against the CDC deterring such work.

LISTENING TO THE FACTS

On July 27, 2012, former NCIPC director Dr. Mark Rosenberg and former-Congressman Jay Dickey co-wrote an op-ed in *The Washington Post*.³⁴ They had first met sixteen years earlier, when Congressman

Dickey had interrogated Rosenberg in a House Appropriations Committee meeting, and it was Dickey's amendment that stripped Rosenberg's center of its funding for firearm research. Yet the two men had never stopped listening to one another — in fact, they had slowly become friends — and over time their views had shifted profoundly.

Gun violence is tragic, but it is not senseless, they wrote in their 2012 op-ed. "Like motor vehicle injuries, violence exists in a cause-and-effect world; things happen for predictable reasons. By studying the causes of a tragic — but not senseless — event, we can help prevent another."

"We were on opposite sides of the heated battle 16 years ago," they continued, "but we are in strong agreement now that

scientific research should be conducted into preventing firearm injuries and that ways to prevent firearm deaths can be found without encroaching on the rights of legitimate gun owners."

Jay Dickey remains a strong supporter of gun rights — and a lifetime member of the NRA — and still believes that gun ownership makes Americans safer. "I believe in that more strongly than Mark," he told *Mayors Against Illegal Guns* in an interview, "but it's not really relevant to trying to find a solution."

"Listen to the facts: it's like rain coming down," he said. "It's a constant factor in our society that we're losing people through gun violence. Now maybe we can't do anything about it, but we ought to at least know more about it from an objective standpoint."

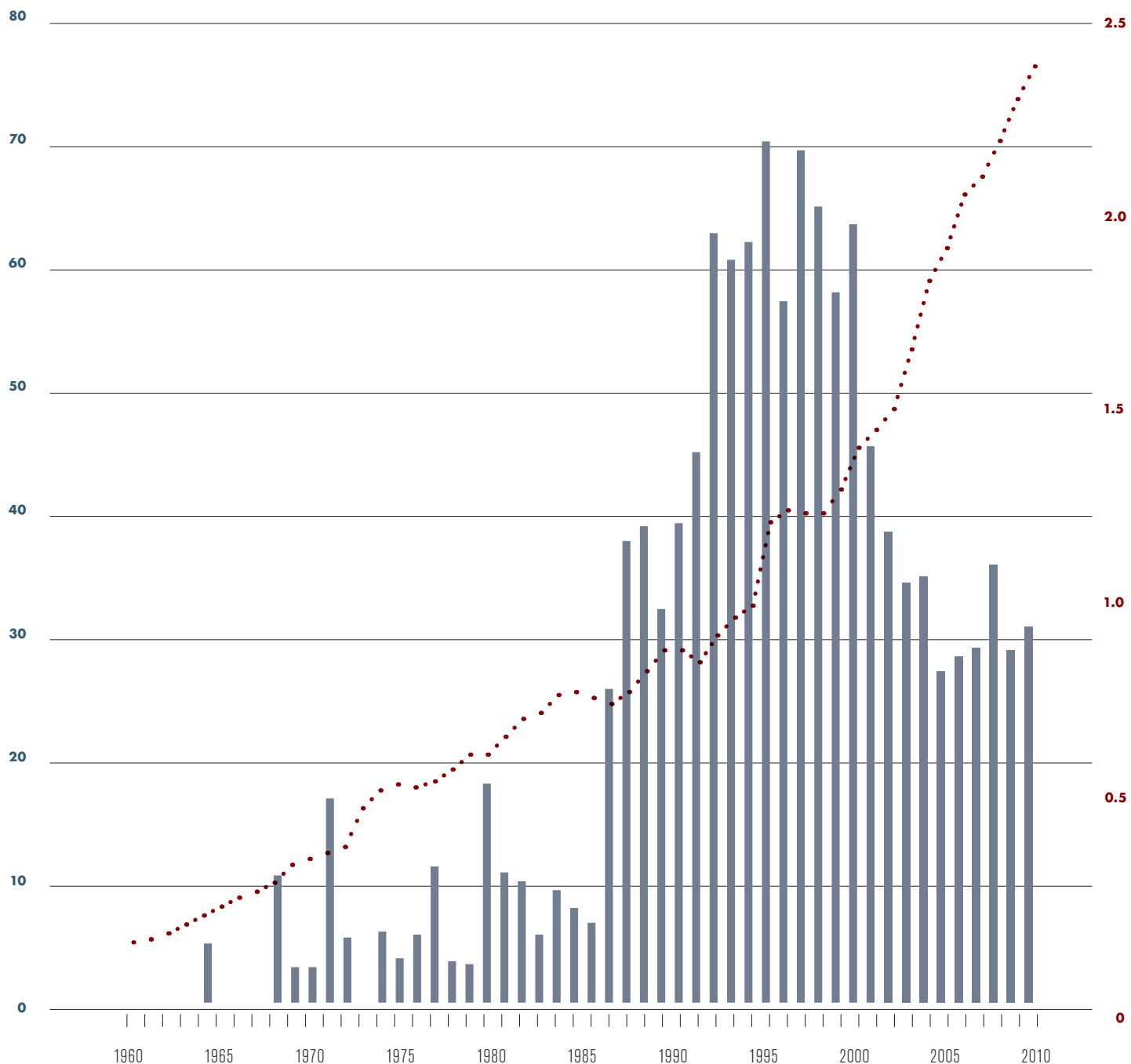
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FORMER CONGRESSMAN JAY DICKEY (R-AR), 2012

ACADEMIC PUBLICATIONS ON FIREARMS AND VIOLENCE

PUBLICATIONS ABOUT FIREARMS AND VIOLENCE (PER MILLION PUBLICATIONS)

TOTAL ACADEMIC PUBLICATIONS (MILLIONS)



FOR METHODOLOGY, SEE APPENDIX 2

part 2

BLINDFOLDING LAW ENFORCEMENT

The gun lobby's campaign to restrict access to information about guns isn't limited to scientists. It also hampers criminologists and law enforcement, who are equally reliant on access to and analysis of good data.

With the right information, police can identify patterns in crime and craft appropriate strategies to combat them. Yet the Washington gun lobby has led efforts to prevent law enforcement from fully utilizing crime gun trace data; effectively monitoring and enforcing existing laws; cracking down on illegal gun trafficking across the border; and discouraging corrupt gun dealers from selling guns to criminals in cities across the U.S.

At the same time, the U.S. Department of Justice has stopped analyzing and publishing the data it collects on gun trafficking patterns, the types of guns used by criminals, and the most common ways guns are trafficked from lawful commerce to the illegal market.

THE DISAPPEARANCE OF JUSTICE DEPARTMENT RESEARCH

The Department of Justice has unique access to criminal justice data that are critical for understanding how criminals acquire and use guns, and as recently as the 1990s, several agencies within the Department published critical reports that shed new light on gun trafficking patterns that helped law enforcement detect and deter crime. The Bureau of Justice Statistics (BJS) collected survey data in the prison system, last released in 2004, that illustrated how firearm offenders obtain guns. The Bureau of Alcohol, Tobacco, Firearms and Explosive (ATF) compiled crime gun trace data that illuminated the channels that gun traffickers use to move guns from the legal to the illegal market. And the National Institute of Justice (NIJ), the principal research arm of the Justice Department, used to be a world leader on research about firearms ownership and illegal trafficking patterns. But over the last

decade, publication of firearm-related research at Justice Department agencies has largely ceased, in part due to political pressures.

Between 1997 and 2000, ATF led the Youth Crime Gun Interdiction Initiative (YCGII), a program designed to increase the use of firearms tracing in cities across the country and to learn more about how to prevent youths from obtaining guns. YCGII issued four annual reports, using analyses of ATF data on traced crime guns to produce detailed portraits of the illegal gun markets in 55 major American cities.

In June 2000, ATF published *Following the Gun*, an exhaustive report documenting all of the firearms trafficking investigations initiated by the agency between July 1996 and December 1998. The report provided evidence of the important roles played by corrupt gun dealers, straw purchasers, unlicensed sellers, and theft as channels for illegal trafficking, and it demonstrated the

effectiveness of firearms tracing as an investigative tool. The report also underscored the difficulties that secondhand gun sales pose for law enforcement since they are not subject to a background check and leave no paper trail to follow.

ATF continues to aggregate and analyze trace data from guns recovered at crime scenes, but it has not publicly released information with the detail of the YCGII reports in more than a decade. And in the dozen years since the publication of *Following The Gun*, there have been no further public documents that adequately characterize ATF’s gun trafficking investigations.

As the research division of the DOJ, the National Institute of Justice is well-positioned to advance our understanding of crime and develop law enforcement strategies to prevent the illegal acquisition and use of firearms, and in previous decades it sponsored pivotal studies on guns. In 1986, NIJ sponsored a landmark survey of imprisoned felons about their firearms acquisition and use.³⁵

In 1994, the NIJ sponsored the National Survey of the Private Ownership of Firearms (NSPOF), which generated detailed information on the prevalence of gun ownership, the contours of the legal markets for guns, and the attitudes and behaviors of gun owners. At the time it was “the most comprehensive information to-date on America’s private stock of firearms.”³⁶ But none of these important findings have ever been updated. The picture of the firearms market that was produced by the NSPOF — with approximately 60 percent of guns sold by licensed dealers and 40 percent sold informally, without background checks, between private citizens — continues to shape discussions of today’s background check system even though that finding is nearly two decades out-of-date.

Firearms research at the NIJ has steadily dwindled over the past fifteen years, even as its budget has dramatically increased from \$45 million in 1995 to \$237 million in 2010. NIJ has devoted \$20-30 million dollars a year to social science research, but the share of funding devoted to firearms — never large

SHARE OF NIJ SOCIAL SCIENCE RESEARCH ON FIREARMS



SOURCE: NIJ

in the first place — fell from 3 percent in 1995 to zero a dozen years later. According to an evaluation by the National Academies Press, between 1993 and 1999 the NIJ sponsored 32 studies addressing firearms and violence, totaling approximately \$8 million.³⁷ Since 2007, NIJ has not funded a single firearms-related study.

Lois Mock, a long-time program manager at NIJ who oversaw firearms research until her retirement in 2008, has acknowledged that politics influenced the NIJ's resource allocation. In an interview with *Mayors Against Illegal Guns*, Mock said that while the Institute did fund an extensive program of firearms violence research for more than 25 years, political considerations were part of the decision-making process because of the special sensitivity of gun issues in the public debate. “I was very satisfied with the research we had done, but there was research we couldn't do because of political reasons. Or because data wasn't available — purposely not available.”³⁸

Tectonic changes have occurred in the years since NIJ and ATF issued their critical firearms reports. In 1994, the computerized gun background check system had not yet been created. Few people had heard of the internet, while today millions of Americans use it to buy and sell firearms. And while only 20 states issued concealed weapons permits on a shall-issue or unrestricted basis in 1994, 41 do so today. These major technological, economic, and political changes have reshaped the way guns are bought and sold in the U.S., and yet U.S. firearms policy is still based on data collected before they occurred.

USING DATA TO CRACK DOWN ON TRAFFICKING

The gun lobby supports enforcing our nation's gun laws. But law enforcement need data to effectively fight crime, and the gun lobby has fought for years to take this tool away.

When someone buys a gun from a licensed dealer, they must fill out an ATF Form 4473 with basic personal information, which links the purchaser to the serial number of the gun. If a gun is recovered at a crime scene or from a criminal, law enforcement can use the

serial number and other characteristics of the gun to “trace” it to the person who first purchased it in a licensed sale. This trace data does not necessarily lead back to a criminal trafficker — often it does not — but it provides law enforcement an invaluable starting point for their investigation, as the original buyer may provide evidence crucial to solving the crime.

In the aggregate, trace data can be used to paint a national picture and map the channels through which criminals acquire guns. Improved understanding of these illegal channels allows law enforcement to intervene and prevent guns from getting into criminal hands in the first place.

In 1994, ATF made the comprehensive tracing of all crime guns an agency objective, and President Clinton's Youth Crime Gun Interdiction Initiative (YCGII) provided funding to do so.³⁹ Between 1993 and 1999, the number of guns submitted to ATF for tracing each year tripled to 154,000 guns,⁴⁰ and the accumulation of data began to change law enforcement practices.

In the late 1990s, an ATF analysis of trace data first established that crime guns were not sold in even proportion by all gun dealers. Instead, sales of crime guns were highly concentrated among a small number of corrupt dealers: 1 percent of gun dealers were responsible for nearly 60 percent of crime gun traces.⁴¹ The authors of the study recognized that trace data could be used to target enforcement efforts to crack down on corrupt dealers: “These patterns do suggest that there are FFLs who should be subject to more frequent compliance inspections, and this information then can be an important component in developing a focused firearms enforcement strategy.”

Prompted by these findings, then-Treasury Secretary Lawrence Summers announced “intensive inspections” of the 1,012 gun stores with high numbers of sales of crime guns. These inspections revealed high rates of negligence and malfeasance among the stores supplying large numbers of crime guns. More than half of these dealers had significant problems in complying with record-keeping: 20 percent had irresolvable discrepancies in their inventory, with 16 licensees missing more than 200 guns. Two

percent of the dealers were immediately recommended for license revocation.⁴²

Identifying at-risk dealers is a proven tool in detecting criminal activity and intervening to stop it. In 2006, New York City investigated 50 out-of-state dealers that trace data and other evidence suggested were supplying the city's crime guns. Teams of undercover investigators subjected each dealer to an integrity test, in which they tried to make an illegal straw purchase that was clearly on behalf of a prohibited purchaser. One-third of the dealers obeyed the law and terminated the transaction, but two-thirds did not.

New York City ultimately sued 27 of the dealers, who had together sold more than 800 of the crime guns recovered in the city between 1994 and 2001. Twenty-four of the dealers settled or defaulted, allowing the City to craft a unique remedy for preventing future violations of the law: the appointment of a special master who was granted broad powers to monitor the dealers and train their personnel to detect and prevent straw purchases.⁴³ The impact was immediate and profound. The number of guns recovered at New York City crime scenes that had originated at the dealers' stores fell by 84 percent.⁴⁴ Trace data made this intervention — and the measure of its impact — possible.

RESTRICTING ACCESS TO TRACE DATA

Despite the success stories of using trace data to deter gun crimes, the Washington gun lobby has fought to limit access to and use of trace data, thereby shielding corrupt gun dealers from liability for illegal gun trafficking.

In July 2003, then-Congressman Todd Tiahrt from Kansas surprised his colleagues with an eight-point amendment to the Justice Department's annual appropriations bill. Over the objections of the committee chairman, who protested that he had not been able to review the provisions, the amendment squeaked to passage 31-30. Rep. Tiahrt later explained that the NRA had helped him draft the legislation: “I wanted to make sure I was fulfilling the needs of my friends who are firearms dealers,” and NRA officials “were helpful in making sure I had my bases covered.”⁴⁹ Over the course of his career, he

Chronology of Restrictions on Crime Gun Trace Data

1968: The Gun Control Act of 1968 requires licensed dealers to begin collecting personal data on the buyer whenever they sell a gun.

1995: An analysis of ATF data shows that sales of crime guns are highly concentrated: one percent of FFLs are responsible for nearly sixty percent of crime gun traces.⁴⁵

2000: The Treasury Department uses trace data to identify a thousand stores with the most numerous sales of crime guns. Subsequent inspections show that more than half of them suffer from significant record-keeping problems, 20 percent have irresolvable discrepancies in their inventory, and 2 percent are recommended immediately for license revocation.⁴⁶

APRIL 25, 2002: A U.S. Court of Appeals rules that arguments against the release of trace data are “far-fetched hypothetical scenarios.”⁴⁷

JULY 2002: A report by the General Accounting Office concludes that the same-day destruction of records will affect public safety and reduce the effectiveness of the nation’s gun background check system.⁴⁸

JANUARY 23, 2004: Rep. Tiahrt’s amendment to the FY04 appropriations bill expands restrictions on trace data to prohibit disclosure of the data to the public, prevent ATF from doing inventory checks of gun dealers, and require same-day destruction of approved NICS checks.

DECEMBER 8, 2004: The House Appropriations Committee further expands the Tiahrt Amendments, preventing law enforcement from sharing trace data outside of their jurisdiction, and prohibiting the subpoena of trace data for most state license revocation, civil lawsuit, and other administrative proceedings.

NOVEMBER 22, 2005: The Tiahrt Amendments are further expanded, barring the use of trace data as evidence in court.

DECEMBER 26, 2007: Congress relaxes several provisions of the Tiahrt Amendments, allowing ATF to publicly release statistical reports and law enforcement agencies to share trace data with each other once they have it. The other restrictions are unchanged.

DECEMBER 16, 2009: President Obama’s proposed FY10 budget removes restrictions that prevented law enforcement from accessing trace data to search for criminal networks and patterns in gun trafficking.

JAN 3, 2010: In an investigation of the shootings of six police officers, *The Milwaukee Journal Sentinel* uses trace data to show that local gun store Badger Guns sold all six of the guns that were used. In 2005, the dealer sold 537 guns later recovered at crime scenes, more than any other store in the nation.

JUNE 21, 2011: Because the Tiahrt Amendments prohibit ATF from releasing trace data to members of Congress, even those conducting oversight, Congressman Darrell Issa and Senator Charles Grassley are forced to request trace data from the Mexican government when investigating Operation Fast & Furious, instead of from ATF.

FEBRUARY 2012: Johns Hopkins researchers show that imposition of the Tiahrt Amendments was associated with a 203 percent increase in the number of firearms sold by Badger Guns that were later recovered at crime scenes.

received \$77,350 in campaign contributions from the NRA.⁵⁰

The “Tiahrt Amendments,” as they came to be known after subsequent expansions in 2004 and 2005, restricted the use of trace data in multiple ways which together impede law enforcement’s ability to investigate crimes and weaken ATF’s ability to monitor dealers and punish them for illegal activity.

The original restrictions hindered criminal investigations by prohibiting law enforcement from accessing trace data from outside their own local jurisdiction. ATF’s National Tracing Center reported that it could not provide trace information to third-party law enforcement agencies even after the originating agency had granted permission to share it.⁵¹ This made it impossible for law enforcement to identify sources of crime guns unless they originated in their own locality. “Without this critical information,” said the County Prosecutors Association of New Jersey, “it is difficult to see how effective crime gun interdiction and crime suppression programs can be maintained.”⁵²

The Tiahrt Amendments also mandated that the FBI destroy all data collected during approved NICS background checks within 24 hours. Without this data, it is nearly impossible to identify corrupt gun dealers who subsequently falsify their records or to identify “straw purchasers” who buy guns legally and then divert them to criminals. Congress enacted this provision despite opposition from the FBI as well as a 2002 report by the General Accounting Office, which had concluded that the same-day destruction of records would negatively affect public safety and reduce the effectiveness of the nation’s gun background check system.⁵³

Furthermore, the Tiahrt Amendments prohibited ATF from requiring dealers to inspect their inventory more than once per year. Regular inventory inspections would help identify corrupt dealers who divert guns to criminals and then obscure their crimes by falsely claiming the guns have been lost. By comparison, pharmacies are required to perform a biannual physical inventory of all controlled substances. Instead, ATF typically bears the administrative burden of checking the dealer’s inventory and reconciling it with the dealer’s sales records. As such, the Agency

is typically able to inspect only about 20 percent of dealers per year. These inspections are critical to reducing the tens of thousands of guns that go missing or are stolen each year, a large percentage of which are later found at crime scenes. In 2010 alone, 2,200 inspected dealers were missing nearly 90,000 guns from their inventories.

The Tiahrt Amendments also prohibited state and local law enforcement from using trace data in dealer license revocation proceedings or in civil litigation against corrupt gun dealers, making it that much harder to shut them down.

Perhaps most catastrophically for public research, the Tiahrt Amendments prevented

academics and policymakers from advancing our understanding of the criminal gun market. They sealed off trace data from public access by local governments and prevented the publication of reports using trace data to analyze the flow of crime guns nationally. This restriction makes it much harder for cities to identify the dealers that are the top sources of crime guns and hold them accountable through compliance programs or lawsuits like the one filed by New York City.

In 2004, the Associated Press described the Tiahrt Amendments as “a concession to the gun lobby,”⁵⁴ and Arizona Senator John McCain described them as an attack on the Freedom of Information Act: “We cannot have

a government that operates in secret and refuses to release information that shows where criminals have obtained a gun.”⁵⁵

In 2007, Mayors Against Illegal Guns successfully mobilized opposition to the Tiahrt Amendments. Eleven national law enforcement associations, 23 state or regional law enforcement associations, and 238 state and local law enforcement executives joined them in calling for repeal.

Legislators ultimately relaxed the language in several important ways. ATF is once again allowed to publicly release limited statistical reports using aggregate gun trace data to analyze firearm trafficking.

THE TIAHRT AMENDMENTS

2004 2005 2006 2007 2008 2009 2010 2011 2012 2013

1/23/04: ATF prohibited from disclosing trace data to the public, either as raw data or in aggregate form. (PL 108-199)

12/26/07: ATF permitted to release annual statistical reports on production and manufacturing, and aggregate data regarding firearms trafficking, firearm misuse, and felons. (PL 110-161)

They still may not share the data in raw form.

1/23/04: ATF prohibited from requiring FFLs to maintain a physical inventory. (PL 108-199)

This is still prohibited.

1/23/04: Approved NICS background checks must be destroyed within 24 hours. (PL 108-199)

They still must be destroyed.

12/8/04: Law enforcement access to trace data is limited to data for use in connection with a criminal investigation/prosecution; and limited to data relevant to the geographic jurisdiction of the entity requesting it. They cannot disclose data to the public, nor can they share it with other law enforcement entities. (PL 108-447)

12/26/07: Geographic jurisdiction restriction removed – law enforcement may now access any trace data in connection with and for use in a criminal investigation or prosecution. (PL 110-161)

12/26/07: Law enforcement given permission to share trace data among themselves. (PL 110-161)

12/16/09: Restriction removed that law enforcement may only receive trace data in connection with a criminal investigation or prosecution. (PL 111-117)

They still may not publicly disclose the data.

12/8/04: Trace data cannot be subpoenaed for any state license revocation, civil lawsuit, or other administrative proceeding, unless filed by ATF. (PL 108-447)

This still cannot be subpoenaed.

11/22/05: Trace data is inadmissible in evidence. (PL 109-108)

This is still inadmissible.

“WE CANNOT HAVE A GOVERNMENT THAT OPERATES IN SECRET AND REFUSES TO RELEASE INFORMATION THAT SHOWS WHERE CRIMINALS HAVE OBTAINED A GUN.”

SEN. JOHN MCCAIN, (R-AZ)

And law enforcement agencies and prosecutors are again authorized to share with each other any trace data they acquire in connection with their criminal investigations.

But the rest of the provisions continue to stand, despite calls for their repeal by mayors and many Congressional leaders. In 2009, 22 members of the New York Congressional delegation called for their removal. As Rep. Peter King said at the time, “Repealing the Tiahrt amendment will remove the obstacles to crime investigations and provide our law enforcement officers with the tools they need to keep illegal guns off our streets and out of the hands of criminals.”⁵⁶

A 2012 analysis provides evidence that the Tiahrt Amendments made it easier for criminals to get guns. Researchers at Johns Hopkins University measured the number of guns recovered by the Milwaukee Police Department and traced by the ATF between 1996 and 2006 to determine the Tiahrt Amendments’ effect on the supply of firearms to local criminals.⁵⁷

The researchers observed that after the Tiahrt Amendments stripped ATF of much of its authority for regulating gun dealers, the number of guns recovered at crime scenes soon after sale by dealers (which is a key indicator of gun trafficking) increased markedly. This was particularly true for Badger Guns, the largest gun dealer in Milwaukee, which had previously been known as a leading source of crime guns. Controlling for other factors, the Tiahrt Amendments were associated with 60 additional guns diverted to criminals by Badger Guns each year—a 203 percent increase. In 2005, Badger sold 537 guns later recovered at crime scenes, more than any other store in the nation.

UNDERMINING THE TRACKING OF ASSAULT WEAPONS TO MEXICO

The gun lobby has also opposed an ATF program to collect information about bulk sales of assault weapons by dealers in the four states that border Mexico, despite the fact that thousands of these weapons sold in the U.S. end up at crime scenes in Mexico and tracking bulk sales is a vital tool in efforts to curb the flow of southbound weapons.⁵⁸

According to both U.S. and Mexican officials, large numbers of assault weapons from the U.S. civilian gun market fuel the drug cartel violence in Mexico that has killed nearly 47,000 people since 2006.⁵⁹ Mexican law prohibits civilian possession of assault weapons, but ATF officials report that assault weapons, particularly the AR-15 .223 caliber and AK-47 7.62 caliber rifles, are the “weapons of choice” for the Mexican drug cartels.⁶⁰ Assault weapons make up an increasing share of the guns recovered from crime scenes in Mexico, climbing from 20 percent in 2004 to 48 percent in 2009.⁶¹ And a majority of these guns come from the U.S.: of the 29,284 guns recovered in Mexico by U.S. authorities and submitted for tracing in 2009-2010, 20,504 (70%) passed through the U.S. at some point.⁶²

To increase ATF’s ability to identify U.S.-Mexico gun trafficking patterns and improve investigative leads, the Office of the Inspector General in the Department of Justice⁶³ specifically recommended that ATF ask gun dealers to report transactions in which a buyer purchases multiple assault weapons within a five-day period.⁶⁴ Bulk purchases can be indicative of trafficking,⁶⁵ and federal law already requires gun dealers to submit a comparable report when they sell multiple handguns to the same buyer within a five-day period.⁶⁶ ATF estimates that filling out a bulk sales report takes dealers no longer than 12 minutes. This program resembles in many ways the Prescription Drug Monitoring Programs that President George W. Bush established in 2002 to monitor the trafficking of addictive prescription drugs [see sidebar on page 25].

In July 2011, the Justice Department approved a new “long gun reporting rule,” requiring gun dealers in the four border states (Arizona, California, New Mexico, and Texas) to report to ATF when an individual buys more than one long gun within five business days.⁶⁷ In the following eight months, gun dealers submitted 3,000 multiple-sale reports covering transactions of 7,300 rifles. ATF opened more than 120 investigations based on the reports, and prosecution was recommended for more than 100 defendants on firearms-related charges.⁶⁸ The long gun reporting program is “a huge tool” for ATF, said Supervisory Special Agent Peter Forcelli, explaining that it “gives us a head start to investigate potentially unlawful sales. It is just another investigative tool like fingerprints.”⁶⁹

Nevertheless, the gun lobby has fought the program since its inception. The NRA and the National Shooting Sports Foundation, a gun industry trade association, filed lawsuits against the ATF to enjoin the rule, asserting that the agency had exceeded its rule-making authority.⁷⁰ Announcing his support for the lawsuit, the NRA’s chief lobbyist Chris Cox stated: “It will not affect drug cartels, and it won’t prevent violence along our borders. It will only divert scarce law enforcement resources from legitimate criminal investigations and squander them on policing law-abiding retailers.”⁷¹ As NRA Executive Vice President Wayne LaPierre said, the bulk sale reporting rule is “an attempt to inch President Obama’s (anti-gun) agenda down the road... I think it’s a nose in the tent.”⁷² Both lawsuits were dismissed in January 2012. As U.S. District Judge Rosemary Collyer, a President George W. Bush appointee, wrote: “Congress has effected a delicate balance between ATF’s regulation of firearms and the right to privacy held by lawful firearms owners. [The long gun reporting rule] did not disturb that balance.”⁷³

While the gun lobby tried to stop the program in the courts, its allies in Congress have repeatedly tried to eliminate the program through the appropriations process. In early 2011, Rep. Dan Boren of Oklahoma and Rep. Danny Rehberg of Montana offered an amendment to the FY2011 Continuing Appropriations Act to block funding for the reporting rule even before it went into effect.⁷⁴ The House passed the provision, but it was stripped

The Importance of Data Collection: Prescription Drug Monitoring Programs

Like firearm deaths, prescription drug overdoses are the result of negligent or criminal misuse of powerful consumer products. Unlike firearm deaths, they are being addressed by law enforcement and policymakers through rigorous data collection.

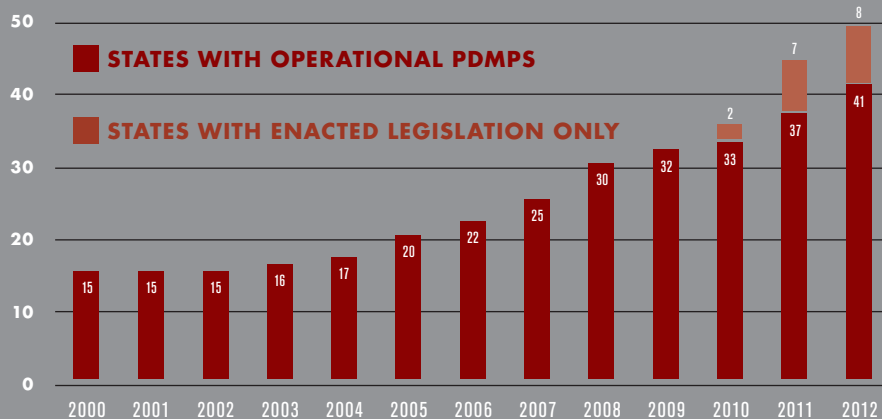
Drug-related poisonings have increased dramatically over the last decade; in 2008, they were the second-leading cause of injury death in the U.S. The majority of these deaths involved highly addictive narcotic pain relievers, which patients may misuse and prescribers may fail to dispense responsibly. Since 2002, the Department of Justice has fostered state-based Prescription Drug Monitoring Programs (PDMPs) to enable regulators and law enforcement to collect and analyze prescription data. The stated intention of these programs is to “prevent and reduce misuse and abuse of prescription drugs and to aid in investigations of pharmaceutical crime.”⁷⁵

PDMPs collect information about prescribing, dispensing, and using those medications classified as federally controlled substances. Programs differ, but in most states, regulatory and law enforcement agencies can access these data in order to identify doctors and patients that are prescribing or obtaining drugs in quantities suggestive of misuse or trafficking. Health care professionals may also access data when writing or dispensing a prescription in order to ensure that the patient has not recently obtained additional drugs from other practitioners. Stripped of personal identifiers, PDMP data may also be made available for research, policy-making, and educational purposes.⁷⁶

Data collected by PDMPs assist investigators in curbing abuses and improve the efficiency of investigations. States without PDMPs were more likely to experience higher rates of controlled substance distribution.⁷⁷ Individual studies have found that PDMPs also improve clinically appropriate prescribing behavior among practitioners and reduce “doctor shopping” by patients.

Only 16 states had PDMPs in 2002, but as of June 2012 the number of states with operational PDMPs has climbed to 41. Eight of the remaining states have enacted legislation to establish them, and legislation is pending in the final state, Missouri. Over the same period the annual rate of increase in drug-related poisonings fell from 25 percent to 2 percent, and the number of deaths has plateaued.

STATES WITH PRESCRIPTION DRUG MONITORING PROGRAMS (PDMPs)



SOURCE: OFFICE OF NATIONAL DRUG CONTROL POLICY

during negotiations with the Senate. Rep. Rehberg then inserted a prohibition on long gun reporting in the FY2012 Commerce, Justice, Science Appropriations Bill during committee markup, but it was dropped from the bill during the House-Senate conference discussions later that year. In 2012, Rep. Rehberg attached yet another comparable amendment to the FY 2013 Commerce, Justice, Science Appropriations Bill,⁷⁸ which passed out of the House Committee, but did not become law in 2012 because Congress never enacted a final bill funding these agencies. As of 2012, the NRA had given Sen. Boren \$16,850 and Rep. Rehberg \$34,660 in campaign contributions over the course of their careers.⁷⁹

For now, the program to track bulk sales of assault weapons by dealers in Arizona, California, New Mexico, and Texas remains in effect.

OPPOSING LOCAL EFFORTS TO PASS LOST-AND-STOLEN REPORTING LAWS

Lost and stolen guns account for a large share of firearms trafficking. According to Justice Department data, over 1.4 million guns were stolen between 2005 and 2010, and the vast majority were never recovered.⁸⁰ Reporting a lost or stolen gun to law enforcement may help police return it to its owner or stop the thieves. Reporting lost and stolen guns also prevents traffickers and straw purchasers from evading responsibility by falsely claiming that a crime gun was lost or stolen from them. And reporting a lost or stolen weapon protects its legal owner from wrongful incrimination should the gun be recovered at a crime scene.

Federal law requires FFLs to report lost and stolen guns, but this requirement does not apply to other gun owners. Several states have passed laws requiring gun owners to report lost and stolen guns to local law enforcement, and the International Association of Chiefs of Police recommends that state and local governments mandate the reporting of lost and stolen firearms.⁸¹

In addition to deterring and penalizing individual crimes, lost-and-stolen reporting laws help generate data for better policymaking. Just as requiring drivers to report serious car accidents provides policymakers with data to help improve traffic safety, requiring gun

owners to report the loss or theft of weapons would provide law enforcement with aggregate data to highlight trafficking patterns and help craft better strategies to shut down major trafficking channels.

But the gun lobby has opposed these laws at every turn. In Connecticut, a lost-and-stolen reporting bill was blocked in 2006, which State Senator Andrew McDonald “blamed [on] the National Rifle Association and other gun lobbyists for ‘descending on the Capitol’ before the vote.”⁸² Only after elections swept pro-NRA members from the legislature in 2007 could the legislature pass a lost-and-stolen law.

In 2008, the NRA labeled a Baltimore lost-and-stolen ordinance “frivolous”⁸³ and argued that it “victimizes lawful gun owners for the actions of criminals.”⁸⁴ The NRA flatly called a 2012 Virginia lost-and-stolen law “anti-gun”⁸⁵ — even though the law does not restrict the ownership or possession of guns in any way. The NRA employed similar rhetoric when opposing lost-and-stolen bills under consideration in Hawaii, California, and New Jersey.

In Pennsylvania, 30 municipalities worked with law enforcement over the course of two years to craft local lost-or-stolen ordinances. In response, the NRA filed costly and time-consuming lawsuits against the municipalities to enjoin the ordinances, all of which were dismissed for lack of standing. The NRA then advanced a bill in the state legislature that would give the gun lobby new standing to sue the cities and entitle it to large punitive damages if it won.⁸⁶ Under the bill, anyone who successfully sues a municipality over a gun ordinance may seek reimbursement for double their actual damages and legal costs, even if the municipality repeals the ordinance before the ruling is made, and triple the damages if they await the ruling.⁸⁷ The proposed law has not been passed by the Pennsylvania legislature.

“[THE LONG GUN REPORTING PROGRAM] IS A HUGE TOOL FOR ATF. [IT] GIVES US A HEAD START TO INVESTIGATE POTENTIALLY UNLAWFUL SALES. IT IS JUST ANOTHER INVESTIGATIVE TOOL LIKE FINGERPRINTS.”

**PETER FORCELLI
SUPERVISORY SPECIAL AGENT**

part 3

RESTRICTING SPEECH ABOUT GUNS

In the last few years, the gun lobby has opened a new front in its fight to suppress data about firearms: restricting speech.

In Washington and state capitols, the NRA is going well beyond limiting what the public is allowed to know about guns. It now seeks to limit the questions we are allowed to ask. The gun lobby's new targets: military commanders, doctors, and health insurers.

AN EPIDEMIC OF MILITARY SUICIDES

As Defense Secretary Leon Panetta has observed, the U.S. military is facing a suicide epidemic.⁸⁸ In 2012, service members on active duty killed themselves at the rate of almost one a day, an all-time high that has eclipsed the number of combat deaths in Afghanistan.⁸⁹

When service members take their own lives, they are likely to use a gun. Nearly two-thirds, or 62 percent,⁹⁰ of military suicides involve firearms — 11 percent more than the general population.⁹¹ And in 72 percent of cases, the guns troops use are ones they own themselves and keep at home, not those issued to them by the military.

Military leaders have found that asking at-risk troops if they have guns at home, and temporarily removing them if necessary, can reduce the likelihood that a service member kill him- or herself. A 2011 RAND study prepared for the Secretary of Defense called this an essential component of suicide prevention.⁹² As Brigadier General Jonathan Woodson said in 2012, “In many circumstances, awareness of risk means removing firearms from those who we believe are at risk of harming themselves or others.”⁹³

Retired General Peter Chiarelli, a former Army Vice Chief of Staff, explained: “The majority of [suicides] have two things in common: Alcohol and a gun. That’s just the way it is. And when you have somebody that you in fact feel is high risk, I don’t believe it’s unreasonable to tell that individual that it would not be a good idea to have a weapon around the house.”⁹⁴

Nevertheless, in 2010, Oklahoma Senator James Inhofe inserted NRA-backed

language⁹⁵ into the National Defense Authorization Act (NDAA) forbidding military officials and civilian Defense Department employees from collecting information about service members’ privately owned firearms.⁹⁶ Senator Inhofe, who has received \$51,050 in campaign contributions from the NRA,⁹⁷ claimed that the provision protected the constitutional rights of troops and their families “by prohibiting the Department of Defense from

unfortunately, they’re going to do it, regardless of what laws there are or what questions are asked.”¹⁰⁰

When asked about the policy by an Air Force veteran in February 2012, NRA President David Keene told her that troops “have to deal with their problems, not with the group of tools that they have...If you have depression and depression creates a suicidal situation if you don’t have a gun, you’ll use something else.

And there are a million ways to commit suicide.”¹⁰¹

Suicide prevention experts and military authorities disagreed. In an October 2011 report, the Center for a New American Security recommended that Congress eliminate the NDAA prohibition on asking troops about firearms they privately own.¹⁰² The following year, the American Foundation for Suicide Prevention also urged Congress to rescind the NDAA restriction on discussing personally-owned weapons “so that unit leaders can suggest to service members exhibiting high-risk behavior, acting erratically, or struggling with depression that they use gun locks or temporarily store their guns at the unit armory.”¹⁰³

Retired flag officers also argued that the gag order interfered with the duty of officers, both commissioned and non-commissioned, to keep the men and women under their command safe. In a November 2012 letter to Congress, twelve retired admirals and generals — including retired Army Chief of

Staff Gen. Dennis J. Reimer and retired surgeons general for the Army, Air Force, and Navy — called the measure an “extreme” prohibition that “defies common sense and dangerously interferes with commanding officers’ Title X obligation to ensure the health, welfare, morale and well-being of the troops under their command.”¹⁰⁴ Army Lt. Gen. (Ret) James M. Dubik, who commanded the Multi-National Security Transition Command in Iraq in 2007 and 2008, argued that the law “unnecessarily hamper[ed] a

“THE MAJORITY OF [SUICIDES] HAVE TWO THINGS IN COMMON: ALCOHOL AND A GUN. THAT’S JUST THE WAY IT IS. AND WHEN YOU HAVE SOMEBODY THAT YOU IN FACT FEEL IS HIGH RISK, I DON’T BELIEVE IT’S UNREASONABLE TO TELL THAT INDIVIDUAL THAT IT WOULD NOT BE A GOOD IDEA TO HAVE A WEAPON AROUND THE HOUSE.”

**RETIRED GENERAL PETER CHIARELLI,
FORMER ARMY VICE CHIEF OF STAFF**

requiring further registration of privately owned weapons beyond what is already required by state and federal law.”⁹⁸

The NRA hailed the new restriction in a press release that described attempts by commanders and civilian doctors to separate troubled service members from their guns as an exercise of “arbitrary authority.”⁹⁹ The group’s spokesman dismissed military objections, saying that “If you have someone who’s determined to do themselves harm,

commander from taking all possible practical steps for preventing suicide.¹⁰⁵ And Brigadier General (Ret) Stephen Xenakis, a former senior Army psychiatrist, told *The Washington Post* that he “hear[s] all the time that commanders and clinicians feel their hands are tied,” and the gag order provision “was so contradictory to the intent of the suicide prevention.”¹⁰⁶

In December 2012, after intense lobbying by retired flag officers, mayors, and mental health experts, Congress passed a measure introduced by Massachusetts Senator John Kerry and Georgia Congressman Hank Johnson that effectively lifted the gag order. The provision amended the FY 2013 National Defense Authorization Act to allow commanding officers and civilian health professionals who work for the Department of Defense to ask service members about the firearms they privately own if they have reasonable grounds to believe they are at risk of harming themselves or others.¹⁰⁷

BARRING QUESTIONS BY DOCTORS AND INSURERS

The gun lobby has also taken aim at a new target: doctors.

As a matter of routine, doctors talk to their patients about a wide range of potential health risks, including whether they own swimming pools, what household chemicals they keep, whether they use drugs or alcohol, and whether they have firearms in the home.

The American Academy of Pediatrics, Academy of Family Physicians, Eastern Association for the Surgery of Trauma, and American College of Physicians have all recommended that physicians counsel patients about firearm injury prevention.¹⁰⁸ And a majority of gun-owning parents feel it is appropriate for pediatricians to ask about the presence of firearms in the home and to advise them about safe storage.¹⁰⁹

Nevertheless, in 2011, the Florida legislature passed the Firearm Owners’ Privacy Act at the urging of the NRA. The bill prohibited doctors from talking to their patients about firearms.¹¹⁰ According to the gun lobby, the gag order was needed to protect gun owners from harassment and discrimination by health care providers. “We take our children to pediatricians for medical care, not moral judgments, not privacy intrusions,” said Florida lobbyist and former NRA president Marion Hammer.¹¹¹

“WHAT IS CURIOUS ABOUT THIS LAW — AND WHAT MAKES IT DIFFERENT FROM SO MANY OTHER LAWS INVOLVING PRACTITIONERS’ SPEECH — IS THAT IT AIMS TO RESTRICT A PRACTITIONER’S ABILITY TO PROVIDE TRUTHFUL, NON-MISLEADING INFORMATION TO A PATIENT, WHETHER RELEVANT OR NOT AT THE TIME OF THE CONSULT WITH THE PATIENT.”

**U.S. DISTRICT COURT JUDGE
ROSEMARIE COLLYER**

A group of physicians and physician associations challenged the law in federal court, calling it an infringement of their First Amendment right to free speech.¹¹² U.S. District Court Judge Rosemarie Collyer agreed, saying it violated the rights of both doctors and their patients. “What is curious about this law — and what makes it different from so many other laws involving practitioners’ speech,” she wrote, “is that it aims to restrict a practitioner’s ability to provide truthful, non-misleading information

to a patient, whether relevant or not at the time of the consult with the patient.”¹¹³

The state — with vocal support from Florida Governor Rick Scott — has asked the Eleventh Circuit Court of Appeals to reverse the decision.¹¹⁴

The NRA’s Washington lobbyists also succeeded in inserting a provision in the Affordable Care Act (ACA) that may hinder federal healthcare providers’ ability to address firearm-related injuries and restrict insurers’ ability to include gun ownership data in their assessment of risk and formulation of rates.

The provision forbids federal wellness and prevention programs from collecting or disclosing information related to a patient’s possession of a firearm.¹¹⁵ Like the gag order imposed on military commanders, this broad restriction can limit physicians’ ability to openly discuss firearm safety with their patients.

Gun Owners of America, a gun rights group, claimed credit for persuading Senate Majority Leader Harry Reid to add the language to the bill and “saving gun owners from bureaucratic mischief.”¹¹⁶

The same section of the Affordable Care Act also forbids private insurers participating in the federal government’s new insurance exchanges from increasing premium rates, denying discounts, or denying health insurance coverage based on a person’s firearm or ammunition possession or storage.¹¹⁷ As a result, the insurance industry is effectively prohibited from taking firearm-related factors into account when assessing risk and establishing rates.

RECOMMENDATIONS

For nearly two decades, the U.S. has failed to make progress in reducing gun violence and gun crime because it has refused to look at them, to research them, and to talk about them. To make progress in the future, the federal government must revive research on firearms and remove restrictions on the use of information that can reduce crime and save lives.

Elected officials should take the following steps:

- Remove “policy riders” on federal appropriations bills that limit firearms research at the CDC and NIH and provide appropriate funding to study the role of firearms on public health.
- Fully fund the National Violent Death Reporting System and expand it to all 50 states to improve our understanding of the role firearms play in fatalities.
- Reconstitute the research program on gun trafficking at the National Institute of Justice to update and expand our understanding of the market for illegal guns.
- Resume the publication of Justice Department reports on illegal gun markets and trafficking patterns.
- Rescind the Tiahrt Amendments.
- Expand the bulk sale reporting program for assault weapons to include all 50 states.

APPENDIX 1: TIMELINE

- 1983** CDC established Violence Epidemiology Branch to focus on violence prevention / 12,040 Americans are murdered with guns
- 1985** Surgeon General's Workshop on Violence and Public Health
- 1986** NIJ sponsors prison survey (Wright and Rossi)
- 1990** "Violence and abusive behavior" is included as a priority area in Health People 2000, the national health-promotion strategy
- 1991** 17,746 Americans are murdered with guns (the most in any year ever)
- 1992** CDC founds the Injury Center (NCIPC)
- 1994** NIJ conducts the NSPOF survey ("Guns in America"), which finds that 40% of gun sales take place between private individuals
- 1995** Ten NRA-endorsed Senators sign a letter requesting elimination of the NCIPC in its entirety
- 1996** Congress passes Dickey Amendment, stripping CDC of funding for firearms research
- 1997** ATF publishes first YCGII report
- 1999** Electronic background check system is established
- 2000** ATF publishes "Following the Gun" / 10,801 Americans are murdered with guns (the lowest number in the last thirty years)
- 2001** The CDC uses the word "firearm" in the R01 Grant Program Announcement for the last time
- 2002** ATF publishes YCGII report for the last time
- 2003** Congress passes the first Tiahrt Amendment, stripping law enforcement of their ability to share data with one another
- 2004** The CDC's includes firearm-related questions in the BRFSS survey for the last time
- 2005** National Academy of Science publishes *Firearms and Violence*, which says effective policymaking will depend on better data and more research
- 2006** The last year in which firearm research was funded by the NIJ
- 2007** CDC estimates violence costs U.S. \$70 billion per year in lost productivity / Mayors Against Illegal Guns successfully fights for relaxation of Tiahrt Amendments
- 2009** CDC funding for firearms research falls to 4 percent of 1993-1996 levels
- 2010** NRA-backed legislators attempt to defund long gun reporting rule / NRA inserts military gag order into FY 2011 National Defense Authorization Act / 11,078 Americans are murdered with guns (most recent available data)
- 2011** Firearm deaths set to surpass traffic related deaths for the first time ever / NRA gags Florida doctors
- 2012** NRA sues PA cities for trying to pass lost-or-stolen reporting laws
- 2013** NHTSA and FHWA request \$500 million for traffic safety research / NIJ, CDC, and NIH collectively request \$0 for firearms research

APPENDIX 2: BIBLIOMETRIC ANALYSIS METHODOLOGY

Mayors Against Illegal Guns conducted a bibliometric analysis of peer-reviewed research literature to measure trends in the volume of publications about firearms and violence.

Mayors Against Illegal Guns analyzed the contents of the SciVerse SCOPUS database, the world's largest abstract and citation database of peer-reviewed research literature. At the time of the analysis it contained 47 million citations from more than 18,500 peer-reviewed journals dating back as far as 1923.

To identify relevant articles with a high degree of sensitivity, a search was constructed for articles written in English and published between 1961 and 2011 that contained in their title, abstract, or keywords at least one term related to firearms and one term related to ramifications on crime, violence, or safety.

Two researchers then independently coded the citations captured by the search based on their content. Articles that did not capture some aspect of the relationship between firearms and violence, crime, or safety in the United States were excluded. In cases where they researchers coded an article discordantly, the citation was re-coded by a third researcher.

The original search captured 4,279 citations. 1,375 (32%) were published in journals from which 10 or more citations had been captured by the search. 2,588 (60%) came from journals from which 3 or more citations had been captured by the search.

After manual coding, 1,539 citations were found to meet the inclusion criteria.

Firearm-related search terms:

gun
firearm
shotgun
handgun

Crime, violence, and safety-related search terms:

violence
murder
homicide
assault
crime
criminal
felon
death
suicide
lethal
risk
safe
defense
shooting
ownership

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