



Statement for the Record from Amnesty International USA
Commerce, Justice, Science, Appropriations Subcommittee
Hearing on Gun Violence Prevention and Enforcement
March 13, 2019

Chairwoman Nita Lowey
Commerce, Justice, Science Subcommittee
US House of Representatives

Ranking Member Kay Granger
Commerce, Justice, Science Subcommittee
US House of Representatives

Dear Chairwoman Lowey, Ranking Member Granger and Members of the Subcommittee:

On behalf of our two million members and supporters in the United States, Amnesty International USA (“AIUSA”) hereby submits this statement for the record in connection with the above-referenced hearing before the Commerce Justice Science Subcommittee. Amnesty International is an international human rights organization founded in 1961 with seven million members and supporters and national and regional offices in over 70 countries. We respectfully request that this statement be included as part of the official hearing record.

In 2017, an average of 108 individuals died per day from firearm related deaths in the United States. In 2017, 39,773 people died by gun violence. More than 130,000 additional people suffered non-fatal firearm injuries. Gun violence in the United States affects people nationwide whether they live in a city, suburb, or rural community, but often in dissimilar and disparate ways. Firearm homicides disproportionately impact communities of color and data suggests that the rate of gun homicides has increased in recent years. At the same time, country has the highest absolute and highest per capita rates of gun ownership in the world.¹

Despite this the United States government has not taken effective action by failing to:

- sufficiently restrict access to firearms for those most at risk of abusing them, through
- establish a uniform system to track firearm owners
- implement violence reduction, prevention or protection measures where gun violence persists
- adequately address gun violence as a public health issue and,
- invest in research on the impact of firearms in the US to inform effective policy solutions

Amnesty International believes that gun violence in the United States is a human rights crisis. Under international human rights law, if a state does not exercise adequate control over the purchase, possession and use of arms by private actors in the face of clear evidence of persistent firearms violence, they could be considered to have breached their due diligence obligations. The United States government has failed to implement a comprehensive, uniform and coordinated system of gun safety laws and regulations particularly in light of the large number of firearms in circulation, which perpetuates unrelenting and potentially avoidable violence, leaving individuals susceptible to injury and death from firearms.²

We believe Congress must play a leadership role in helping the United States address gun violence. Last month this chamber made critical progress by passing H.R. 8 and H.R. 1112, two pieces of legislation aimed at strengthening and

¹ In the Line of Fire: Human Rights and the US Gun Violence Crisis, Amnesty International USA September 12, 2018 pg. 8

² In the line of Fire, page 10

enhancing background check procedures prior to the sale or transfer of firearms. However, much more needs to be done and it is our hope that this Committee will try to shape an agenda for the future by taking on ending gun violence as a priority through funding as well as legislation.

Today, we will focus our comments on gun violence prevention and law enforcement.

Background Checks

Ask:

Robustly fund the National Instant Criminal Background Check System (NICS) in order to allow the system to implement the more comprehensive and rigorous background checks called for in H.R. 8 and H.R. 1112 and call upon the Senate to pass S.42 (the Background Check Expansion Act)

Rationale:

Federal law does not currently require universal comprehensive background checks with each and every transfer or purchase of a firearm in the U.S. As a result, studies have shown that 22% of all firearm acquisitions are conducted without any background check. Even when a background check is required, it may not be adequately comprehensive or accurate because relevant records are often not properly and/or rapidly submitted for inclusion in state and federal databases.

The House of Representatives made history in February when it passed H.R. 8 and H.R. 1112 and while passage by the Senate is the next step in the legislative process, the House of Representatives must provide the resources necessary to make robust background checks meaningful and effective.

Training, Licensing and Registration of Firearms

Ask:

Congress should pass legislation requiring that firearms may only be obtained for purchase or transfer with a valid firearm license and credible justification for ownership and use.

Rationale:

The U.S. has a patchwork of inconsistent and inadequate federal and state laws governing training, licensing, and registration of firearms. A common feature of the licensing process in most countries around the world is a requirement to have a credible justification for owning a weapon, effectively introducing need-based ownership criteria. As a result, the U.S. has failed to take all measures necessary to prevent and protect against firearms being owned or accessed by individuals who do not have a credible justification for their ownership, possession or use. Federal law does not require the training, licensing, or registration of individuals who possess or use a firearm. In fact, U.S. law expressly prohibits the creation of a national registry of most firearms.

Ask:

Congress should ensure that provisions such as section 536 in the FY19 CJS Appropriations, which bars ATF from issuing demand letters to federal firearms dealers in Arizona, California, New Mexico and Texas to receive records of sales of certain semi-automatic rifles, are not included in the FY20 Appropriation.

Rationale

Restrictions such as Section 536 hinder ATF's ability to prevent international guns trafficking. According to Giffords, between 2009 to 2014, 70 percent of the 105,000 guns traced from Mexico originated in the United States. Over the past five years, ATF received over 40,000 reports of multiple sales involving 90,000 rifles; as a result, over 300

investigations have been opened and over 370 defendants have been recommended for prosecution.³ ATF must have the mandate and resources to enforce the law and protect individuals.

Carrying Firearms in Public

Ask:

Congress should enact legislation prohibiting the carrying of firearms in public, whether open or concealed, unless there is credible justification for doing so. Congress should also reject legislation that would override existing state laws where safeguards and processes are in place to curtail misuse related to concealed carrying of firearms.

Rationale:

Individuals can lawfully carry concealed firearms in public in every state in the United States and can lawfully openly carry firearms in public in most states. However, there is no nationwide uniformity in laws governing the carrying of firearms in public and in some states, there are no laws at all: 12 states allow individuals to carry concealed weapons in public without any license or permit and 31 states allow the carrying of a handgun in public without any license or permit. Open carrying of firearms in public, in some form, is currently allowed in 45 states. In only seven states are you required to provide a credible justification or demonstrated need to carry a concealed firearm. All 50 states and Washington, D.C. allow for some form of concealed carrying of firearms in public. Worryingly, in some states, permit systems are ineffective, resulting in permits being issued to individuals who are legally prohibited from possessing firearms, including people convicted of felonies, with outstanding criminal warrants, with domestic violence injunctions and others at risk of misusing a firearm.

Of further concern are recent efforts to enact federal legislation which would override existing state laws where safeguards and processes are in place to curtail misuse related to concealed carrying of firearms.

Lost & Stolen Firearms

Ask:

Congress should enact legislation requiring all lost and stolen firearms be immediately reported to local law enforcement officials.

Rationale:

Lost and stolen guns fuel the underground illicit gun market, allowing prohibited purchasers and others to obtain guns used to carry out violent crimes. They not only facilitate human rights violations, but also hamper the ability to hold those responsible to account; a stolen firearm is difficult to trace, preventing law enforcement from promptly identifying potential suspects and thus impeding their investigation.

Reporting of lost or stolen firearms by private individuals and unlicensed dealers is not mandatory under federal law and therefore there is no precise data for the number of firearms lost or stolen in the United States. In our 2018 report, Amnesty International found that, according to the Federal Bureau of Investigation (FBI), an estimated 1.2 million firearms were stolen from private individuals between 2005 and 2010. More recent data estimates that approximately 300,000 firearms are stolen annually from private individuals. The FBI reported that approximately 22,000 firearms were stolen from gun stores between 2012 and 2015. These numbers are significant and do not include the substantial number of firearms lost or stolen each year that are not reported.

³ As Nation Marks Police Week, Giffords Urges House Appropriations Committee to do More to Support Federal Law Enforcement Agencies, Reduce Gun Violence, May 17, 2018

There are no laws requiring gun owners to report lost or stolen firearms to law enforcement in 39 states, and only four states in the U.S. require gun owners to secure their weapons to prevent potential theft or loss of their firearms.

Semi-Automatic Assault Weapons, Large Capacity Magazines and Dangerous Accessories

Ask:

Congress should pass legislation banning the sale, transfer, and possession of semi-automatic assault rifles, semi-automatic shotguns, and semi-automatic submachine guns, as well as large capacity magazines and other dangerous devices. Congress should also ensure that provisions facilitating the importation of shotguns with little to no government oversight, such as section 529 of the FY19 CJS Appropriations, are not included in the FY20 Appropriation.

Rationale:

Mass shooting incidents around the country have demonstrated that shooters armed with semi-automatic weapons with large-capacity magazines can kill many people in a matter of minutes and pose a significant threat to public safety. Firearms and ammunition which represent a high level of risk to public safety and are likely to cause excessive or unintended injury must be prohibited for use by private individuals. These would include at a minimum: assault weapon and semi-automatic weapons, including accessories/modifications for semi-automatic weapons which allow rapid firing functions akin to those of fully automatic firearms; and large-capacity magazines. Currently the federal government does not regulate assault weapons, large-capacity magazines and dangerous accessories which increase the lethality of firearms and they are regulated by only a handful of states. As such, there remains no universal or uniform national framework governing the possession, use or inventory of these weapons.

On December 18 2018, the Trump administration issued a [regulation](#) banning bump stocks and other devices with similar characteristics. Congress must work with the Administration to permanently ban these devices.

Address Gun Violence as a Public Health Crisis and Invest in Research to Identify Strategies to Reduce Gun Violence

Ask:

Congress should acknowledge firearm violence is a public health issue, repeal the Dickey Amendment and robustly fund evidence-based research, including by the Centers for Disease Control and Prevention (CDC) and others, on causes and effects of gun violence in order to research and develop viable strategies for gun violence prevention and to inform policy making aimed at reducing firearm related deaths and injuries.

Rationale:

The significant impact of firearms on those living in the United States is irrefutable and yet, for more than 20 years, federal legislation known as the Dickey Amendment has worked to restrict federal funding for firearm research through publicly-funded entities. These restrictions have had a substantial negative effect on gun violence research and, for over two decades, researchers, policy makers, and experts have been inadequately resourced to fill huge gaps in knowledge about the causes, consequences, and prevention of gun violence in the U.S. The U.S. has also failed to fund research and the development of all potential mechanisms of firearms safety to inform evidence-based policy-making aimed at reducing firearms violence, and/or to allow the

release of identifying information regarding firearm acquisition, possession and use, for purposes of conducting further firearm research on gun violence prevention policies.

Gun Violence in the U.S. and its Impact on Individuals and Communities

Ask:

Congress must strengthen and enhance existing laws, invest in evidence-based violence reduction programs, ensure adequate access to health care for gun violence survivors and fund research to inform solutions to preventing gun violence, in order to protect individuals and communities impacted by gun violence.

The U.S. has either signed or ratified several international human rights conventions that guarantee human rights impacted by gun violence.¹ Therefore, the U.S. has a legal obligation to respect, protect and fulfill the human rights set out in these treaties and to exercise due diligence by taking measures to combat actual or foreseeable threats to these rights, including the right to life. In the context of firearms, this obligation also includes reducing and preventing violent acts against individuals and communities, addressing discriminatory violence, violence against children, gender-based violence, and the use of firearms in suicides and accidental deaths. The U.S. is obliged to exercise due diligence to prevent, punish, investigate and redress harm caused by private individuals and should pay particular attention to those most at risk, be they individuals or marginalized communities.

Rationale:

No part of U.S. society is unaffected by gun violence, and yet some individuals and groups are disproportionately at risk of being impacted. Failure to implement adequate policies and measures to address access to firearms by private individuals has far-reaching consequences, particularly for those living in urban minority communities, children, those suffering from domestic abuse, individuals who may be at risk of self-harm, and survivors of gun violence.

Urban Gun Violence

Ask:

Congress should study and fund successful state based gun violence prevention and intervention [programs](#) to reduce the high levels of firearm violence in low-income and minority communities, recognizing the long-term socio-economic impact of gun violence. This should include long term adequately-funded, evidence-based projects tailored towards specific social, economic and cultural contexts, and working in partnership with the affected communities.

Rationale:

Urban firearm violence, and specifically firearm homicide, disproportionately impacts minority communities and particularly young black men. For example, while African Americans represented approximately 13% of the U.S. population in 2017, they made up 58.5% of gun homicides nationwide and a black male aged 15-34 was more than 10 times more likely to die from firearm homicide than a white male of the same age group. In fact, firearm homicide was the leading cause of death for black men and boys ages 15-34 in 2017.

The causes of gun violence in communities of color are multi-faceted and there are deep-seated issues around poverty, discrimination, and economic, social and cultural rights that require further research and analysis in order to inform additional recommendations. Much of the gun violence in urban communities is attributed to gang activity. It is clear that gang members are likely to own guns with many claiming to own more than one, and that armed gang members exert control over the streets in their self-designated territories, retaliate against rival gangs in other territories, and often endanger the lives of uninvolved people who are caught in the

crossfire. Firearms used in violent crimes across the U.S., including those used in communities of color have often been trafficked, or deviated out of the legal commerce stream and into the illegal market. Most gang killings remain unsolved and unprosecuted, resulting in impunity for the perpetrators, and feeding the cycle of gun violence. Reducing access to firearms is a key element in reducing gun violence in these communities.

Where patterns of firearms possession and use lead to chronic insecurity, States' obligations are to protect life and ensure security for all through human rights-compliant law enforcement; community interventions and tightening regulations on firearms possession and use.

The solutions to urban firearm violence in the United States must include legislation which disrupts the illegal firearm market as well as violence intervention and reduction initiatives. In fact, several federal and state-funded initiatives have proven effective in decreasing gun violence. Most importantly, they have been able to combat and reduce gun violence while simultaneously offering life-altering opportunities for individuals living in high-crime neighborhoods. Unfortunately, despite the success and numerous available models for these programs, lack of funding and lack of political will have prevented sustained and adequate implementation of these initiatives.

Children

Ask:

Congress should pass legislation to reduce the impact of firearm violence on children such as, at a minimum, safe storage and Child Access Prevention laws ("CAP laws") which work to protect children from injuring themselves and others, by requiring gun owners to keep guns locked up and unloaded, with ammunition stored in a locked location separate from the firearm.

Rationale:

In 2016, 1,637 children died from firearm-related violence in the United States. Gun violence impacts children across the USA whether through unintentional or intentional violence, or as a mechanism for self-harm. This is due, at least in part, to the fact that an estimated 4.6 million children live in households with loaded and unlocked firearms. Children all over the country are also at risk of gun violence in their schools.

High rates of gun ownership, weak gun violence prevention laws and readily available (often unsupervised) firearms, make U.S. children much more vulnerable to death through gun violence than children in other high-income countries. To this end, U.S. states with the highest rates of gun ownership also have the highest rates of gun death, including among children.

Domestic Violence

Ask: Congress should amend the current federal framework of firearms regulation addressing firearm possession in the domestic violence context by closing all loopholes related to dating partners and adding misdemeanor and other stalking offenses as triggers prohibiting firearm possession and use.

Rationale:

Those suffering from domestic abuse and stalking, most of which are women, are also highly susceptible to gun violence. Between 2003 and 2014, more than half of all women murdered in the United States were killed by current or former intimate partners. And over half of these women were murdered by an intimate partner with a gun.

The current federal framework of firearms regulation addressing firearm possession in the domestic violence context does not extend protections to individuals who are not “the spouse of the person, a former spouse of the person, an individual who is a parent of a child of the person, and an individual who cohabitates or has cohabited with the person.” Loopholes in this framework permit dating partners, those convicted of misdemeanor stalking, and those subject to temporary or permanent restraining orders to purchase and possess firearms, without offering any protection to individuals who may be at risk of gun violence from a domestic abuser or stalker, including women and those in the LGBTI community.

Unfortunately, even where protections and firearm-related safeguards exist to protect those experiencing domestic abuse, they are often not enforced or even enforceable. For example, the current federal framework does not provide any procedure or mechanism for the removal or surrender of firearms when a permanent restraining/protective order is issued. Similarly, 35 states and Washington D.C. prohibit firearm possession by persons subject to a domestic violence related restraining order, but only 27 of those states and Washington, D.C. also explicitly require or authorize relinquishment of firearms. The United States should close these loopholes and establish regulations to ensure that domestic abusers cannot purchase or possess firearms.

Access to Firearms for Individuals Who May Present a Risk of Harm to Themselves or Others

Ask:

Congress should pass legislation that reduces access to firearms for individuals who may present a risk of harm to themselves or others, including instituting adequate waiting periods for all firearms and ammunition purchases and ensuring that health workers are able to discuss all factors impacting their patients’ health, well-being and safety, including the possession, use and storage of firearms where relevant and should consider adopting procedures such as Extreme Risk Protection Orders (ERPOs) which provide for the temporary removal of access to firearms for individuals who may present a risk of harm to themselves or others.

Rationale:

In 2016, 22,938 people in the U.S. died from suicide by firearm – more than 62 a day. It is critical to examine access to firearms by those individuals who may present a recognizable risk of harm to themselves or others. Numerous mechanisms exist through which a state could take steps to reduce the likelihood that an individual at risk of harm could be prevented from accessing a firearm. These include instituting waiting periods for all individuals prior to firearm acquisition, counseling by health care and other professionals who offer guidance to individuals in crisis, and implementation of procedures through which firearms may be temporarily removed from the possession of these at-risk individuals.

Problematic correlations are often drawn between gun violence and mental health in public debates, wrongly implying that persons with psychosocial disabilities and those with mental health conditions are automatically prone to violence. These correlations and assertions ignore the range of possible mental health diagnoses and how mental health conditions might manifest differently for different individuals, depending on their particular circumstances. Furthermore, such assertions are unsupported by facts. A better framework for evaluating access to firearms is to take into account the broad range of factors that might contribute to an individual being at recognizable risk of self-harm or harming others.

Gunshot Survivors

Ask:

Congress should work to provide access to healthcare services for gunshot survivors including access to affordable, necessary long-term health interventions, rehabilitation services, mental health care, and long-term pain management. Congress should also ensure that health-related costs, including payments for medicines and health services, do not act as a deterrent for survivors of gun-related violence to access necessary care, do not cause undue or catastrophic financial burdens to gunshot survivors and their families and that services should be provided to support independent living for those disabled by gunshot injuries.

Rationale:

Gun violence is often characterized by those who have died from firearm-related injuries, but far more people are shot and survive, and for many, the cost of survival is high. According to the Centers for Disease Control and Prevention, over 130,000,000 people were shot and injured by firearms in 2017. This means that more than 300 people were shot every day and survived – at least long enough to get to the hospital. For many gunshot survivors, the mental, physical, emotional, familial, and financial consequences of their injuries shape their lives, irrevocably. The toll that gun violence exacts on victims, family members and the medical services is a public health crisis of astonishing proportion – with remarkably little government response, given the life-long effects on many survivors.

In the Universal Declaration of Human Rights, proclaimed by the UN General Assembly in 1948, member states including the United States pledged to achieve “the observance of human rights and fundamental freedoms.” Included among those rights are health and medical care. Although it is not constitutionally protected, the U.S. does have international obligations regarding the right to health under the ICCPR, ICERD, and ICESCR. In 2016, the UN High Commissioner for Human Rights, when evaluating human rights and the regulation of civilian acquisition, possession and use of firearms, noted that: “Alongside preventive measures, states must provide victims of firearms violence with effective measures of protection and reparation, including access to adequate health care to ensure that they have the best possible chances of survival and rehabilitation.”

Killing more than 38,000 men, women and children across the U.S. every year, gun violence is a human rights crisis that demands immediate attention. We ask that you take into consideration the human rights implications of gun violence and create domestic mechanisms that will allow the U.S. to meet its human rights obligations to prevent the loss of life, whether it be when a person is walking down the street, in their home, at school, attending a concert, or worshipping with their faith community. Every person has the right to live, to safety and security, and the right to be free from discrimination. These human rights must not be compromised.

In summary, AIUSA strongly urges you to act to ensure that addressing gun violence and ensuring Public Safety is not a partisan issue; it is a human rights issue. AIUSA requests that further action be taken to enact laws and policies and to fund resources that address the myriad of challenges posed by gun violence in the United States, and to protect human rights.

For more information, including all references and sources, please see Amnesty International’s report *In the Line of Fire: Human Rights and the U.S. Gun Violence Crisis*,ⁱⁱ or contact Adotei Akwei at aakwei@aiusa.org or (202)

Respectfully,

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ⁱ International Covenant on Civil and Political Rights, Dec. 16, 1966, S. Treaty Doc. No. 95-20, 6 I.L.M. 368 (1967), 999 U.N.T.S. 171; International Convention on the Elimination of All Forms of Racial Discrimination, Mar. 7, 1966, 660 U.N.T.S. 195; Convention on the Elimination of All Forms of Discrimination Against Women, Dec. 18, 1979, 1249 U.N.T.S. 13; Convention on the Rights of the Child, Nov. 20, 1989, 1577 U.N.T.S. 3; International Covenant on Economic, Social and Cultural Rights, Dec. 16, 1966, S. Treaty Doc. No. 95-19, 6 I.L.M. 360 (1967), 993 U.N.T.S. 3.

ⁱ UN Human Rights Committee, General Comment

ⁱⁱ Amnesty International, *In the Line of Fire: Human Rights and the U.S. Gun Violence Crisis* (September 2018), available at https://www.amnestyusa.org/wp-content/uploads/2018/09/Gun-Report-Full_16.pdf.