

Brady Campaign
& Brady Center



To Prevent Gun Violence



THE PRIVATE SECTOR'S ROLE IN REDUCING THE GUN VIOLENCE EPIDEMIC IN AMERICA

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UNDER CURRENT FEDERAL LAW, A 19-YEAR-OLD CAN WALK INTO ALMOST ANY GUN STORE, EVEN ONE NOTORIOUS FOR SELLING THOUSANDS OF GUNS LATER RECOVERED AT CRIME SCENES, AND BUY DOZENS OF AR-15'S ALONG WITH "BUMP STOCK" ACCESSORIES TO CONVERT THEM INTO THE FUNCTIONAL EQUIVALENT OF MACHINE GUNS.

The sale might take as little as 20 minutes, and in most states, the gun store isn't even legally required to notify law enforcement. Gun dealers are only required by law to report multiple *handgun* sales, with few exceptions.¹ Or consider this: under existing federal law, if that teen's background check takes more than three business days to complete, the gun store can legally hand over the guns without knowing whether the teen (or any person regardless of age) is a felon, a domestic abuser, or a fugitive from justice.

At Brady, we are working to fix the gaps in our nation's gun laws. We are also encouraged by the private sector's recent efforts to reduce the danger posed by those gaps in federal and state law. This report highlights what companies have already done to step into the breach and reduce gun violence in America, largely, but not exclusively, in the aftermath of the Parkland school massacre. It then describes other actions that companies, including those in the gun industry and those that partially own, finance, or advise them, can take.

KEY POINTS: HOW THE PRIVATE SECTOR CAN REDUCE GUN VIOLENCE IN AMERICA

1

A few gun sellers have embraced policies to help keep guns away from dangerous people and close existing gaps in federal and state law. But the vast majority of gun-related companies have not yet taken these voluntary steps.

2

Banks and investors are using their leverage in unprecedented ways to make gun companies act more responsibly.

3

Brady has specific recommendations for gun makers and gun sellers, all entirely consistent with Second Amendment rights. These recommendations are enshrined in Brady's Gun Dealer Code of Conduct.

4

Financial firms and other service providers, such as lawyers and accountants, should require the gun companies they do business with to adopt these sensible reforms.

CORPORATE AMERICA STEPS UP

PRIVATE ENTERPRISES IN AMERICA HAVE LONG BEEN AN IMPORTANT PART OF ENCOURAGING, SUPPORTING, AND ENACTING SIGNIFICANT SOCIAL CHANGE.

As companies have taken positions on climate change, anti-discrimination, anti-harassment, family leave, and other socially responsible causes, it has helped to both place these issues in the forefront of the media and pressure other public and private industry members to adopt the same policies. In recent months, corporate attention has turned to America's gun violence problem as a recognized public health epidemic that kills 96 Americans and injures another 200 or more each day. Indeed, since 1968, more Americans have died from gun violence than the sum total of all service members killed in every war combined in United States history.² An increasing amount of business leaders, investors, and corporate board members are not only cognizant of the toll of gun violence, but are also determined to lead by example. Dick's Sporting Goods, Citigroup, Bank of America, Kroger's, and L.L. Bean, among others, have announced policies that address this uniquely American problem.

Their actions generally address one or more of the following areas to prevent gun violence:

1 TYPES OF GUNS SOLD.

Aurora. Sandy Hook. San Bernardino. Pulse. Sutherland Springs. Las Vegas. Parkland. For how different these mass shootings were, they all have one thing in common: the shooters chose assault weapons. Shooters are purposefully outfitting themselves

with the latest and best military-grade weapons and accessories because they know the same facts we do: 155% more people are shot and 47% more die in shooting incidents where assault weapons or high capacity magazines are used.³ Assault weapons are the weapon behind the death of one out of every five law enforcement officers killed in the line of duty by guns.⁴

It wasn't always this way. For 10 years, from 1994-2004, the manufacture, purchase, and possession of assault weapons or high capacity magazines by civilians was against federal law, unless you lawfully owned one at the time the law went into effect. Evidence shows that regulating these guns worked. A comparison of gun massacres during the 10-year ban with the decade after it ended is proof of the effectiveness of this policy: between 1994 and 2004, 89 people died in 12 gun massacres; from 2004 to 2014, over 300 died in 34 incidents.⁵ This represents a staggering 183 percent increase in massacres and a 239 percent increase in fatalities. Assault weapons and high capacity magazines are uniquely lethal. They have aptly been described by decorated combat veterans as weapons of war being used in places of peace.

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Today, purchasing, possessing, or transferring assault weapons and high capacity magazines is legal under federal law. However, seven states and the District of Columbia prohibit the sale or possession of assault weapons, and two other states regulate elements of such possession or purchase.⁶ These state and District laws vary slightly, but all work to prevent these assault weapons from being readily available to civilians. Additionally, eight states and the District of Columbia have banned high capacity magazines, although like assault weapon laws, these regulations slightly differ.⁷ While the Supreme Court case *Heller v. District of Columbia* recognized the right of law-abiding citizens to own a gun in the home for self-protection, courts have consistently upheld state and local assault weapon and high capacity magazine bans as constitutional.

Against this legal backdrop, some companies have taken matters into their own hands by voluntarily refusing to sell assault weapons to their customers.

In the aftermath of the Sandy Hook Elementary School shooting, where the perpetrator used a Bushmaster AR-15 assault rifle, Dick's Sporting Goods suspended the sale of certain types of semi-automatic assault weapons, yet later sold them at the company's Field & Stream stores. Two weeks after the shooting at Marjory Stoneman Douglas High School in Parkland, Florida, Dick's announced it would halt sales of all assault weapons at its 35 Field & Stream stores, and would no longer sell high capacity magazines.⁸ Shortly afterwards, the company went even further by announcing that rather than returning the unsold guns to their manufacturers, it would destroy the firearms and accessories "in accordance with federal guidelines and regulations."⁹

Walmart, another major gun retailer, ended its sale of assault rifles in mid-2015, citing low customer demand for weapons of this nature at their stores.¹⁰ Likewise, REI has suspended orders of certain products where the manufacturer is affiliated with a company making assault rifles.¹¹

And it's not just retailers that are making significant changes to their policies on assault weapons. In the aftermath of the Parkland shooting, Bank of America announced it had engaged in "intense conversations" with gun manufacturers, and determined it would cease lending to any companies that make assault weapons for civilian purposes.¹² Additionally, payment processing companies facilitating transactions like PayPal, Square, Stripe, and Apple Pay have all pledged to disallow their services for any firearm sales.¹³

When a product known as a bump stock was used in the Route 91 Country Music Festival massacre in Las Vegas on October 1, 2017 to murder 58 individuals and injure hundreds more, these accessories were thrust into the media spotlight. Bump stocks are attachments for semi-automatic assault rifles that enable them to accelerate fire to the functional equivalent of an automatic machine gun. Retailers were selling bump stocks for a few hundred dollars before the Vegas shooting. Cabela's (a popular outdoor supply store and seller of firearms) and Walmart stopped selling the accessory, and Dick's Sporting Goods assured its customers that it has not, and will not, sell bump stocks to their customers.¹⁴ As of April 17, the main manufacturer of bump stocks has stopped taking orders.¹⁵

2 LEGAL AGE FOR PURCHASING GUNS.

Under federal law dating back to 1968, you must be 21 years of age to purchase a handgun from a licensed gun shop, but an 18-year-old can legally buy a long gun (including a semi-automatic assault rifle) from the same store. Some states have stricter laws for the purchase of long guns — for instance, Illinois requires an individual to be at least 21 years old to purchase any gun, no matter its make or characteristics.

Since Parkland, calls for states and the federal government to raise the age for purchase of a rifle to 21 have been intense. At one point, it seemed even President Trump threw his support behind raising

the minimum age, though he rolled back those statements just a few weeks later, after meeting with Wayne LaPierre of the National Rifle Association.¹⁶ Florida Senator Marco Rubio supported barring anyone under 21 from being able to purchase rifles,¹⁷ and less than a month after the Parkland shooting, former NRA darling Gov. Rick Scott (R-FL) signed a bill into law that raised the age from 18 to 21 for all gun purchases. The NRA sued Florida almost immediately over this new law.¹⁸ Gov. Phil Scott (R-VT) — who earned an “A” rating from the NRA in his 2016 campaign — signed a bill into law requiring all gun buyers to be at least 21, unless they’ve taken a safety course.¹⁹ Legislation in other states is pending.

Companies are proactively developing stronger policies about the sale of guns to older teens. Notably, Dick’s Sporting Goods and Walmart, two

The most recent statistics show that about one in five guns are sold by private sellers, thus avoiding a background check.

large gun and ammunition retailers, both announced that they would change store policy and refuse to sell a gun to anyone under the age of 21.²⁰ Kroger Supermarkets (which sells guns at its Fred Meyer stores in 4 states) and L.L. Bean (which sells guns for hunting at its flagship store in Maine) followed suit just days later.²¹ In a major move, Citigroup, one of America’s “big four” banks implemented new gun reform policies, including requiring new customers who are gun sellers to agree not to sell guns to anyone under 21.²² Similarly, BlackRock, the world’s largest global investment management company, sent written questions to the gun makers and sellers

whose stock it owns, asking whether they have policies on minimum ages to buy guns. BlackRock owns about 16% of Sturm Ruger and 10.5% of American Outdoor Brands, the parent company of Smith & Wesson.²³

3 BACKGROUND CHECKS.

The Brady law, passed in 1993, established the federal background check system, a process designed to enforce the 1968 laws regulating who may legally purchase and possess guns in the United States. Certain categories of people like felons, fugitives, and domestic violence abusers are unable to legally purchase or possess guns. Since the Brady law went into effect, over 3 million unlawful purchases have been blocked.²⁴ Gun murders fell an astonishing 32 percent from 1993 to 2006, and rates of gun homicide remain well below its peak of 6.21 homicides per 100,000 people in 1993.²⁵ Today, 97 percent of the American public supports conducting a background check on every gun sale.²⁶ Despite this, and the proven success of Brady background checks, the system’s effectiveness is still stymied by gaps.

The Brady law was crafted at a time when Internet sales and sales at gun shows by private sellers did not account for a substantial portion of the gun market. Today, they do. The most recent statistics show that about one in five guns are sold by private sellers, thus avoiding a background check.²⁷ Gun manufacturers and sellers can encourage buyers to complete transactions via a licensed dealer, and all gun sellers can ensure they are conducting thorough background checks that adhere to federal and state law.

Another dangerous gap in the background check system is called the “Charleston loophole” — so named because the perpetrator of the 2015 Charleston, SC church shooting was able to obtain his gun in this manner. The “Charleston loophole” allows a federally licensed gun dealer to sell a gun to a customer without a completed background check if a check takes more than three business days. In other words, federal law prioritizes the right for

anyone to purchase a gun over the public's right to ensure that purchasers of guns are legally allowed to own them.

Unfortunately, this gap still persists in federal law and most states, with tragic consequences. In 2016, over 300,000 guns were sold before the background check was completed, despite the fact that if a background check takes longer than three business days to be resolved, the purchaser is twenty times more likely than the average purchaser to be barred from buying a gun.²⁸ Recognizing this problem, Citigroup now requires its customers who are gun retailers to have a completed background check before finalizing a gun sale.²⁹ BlackRock's questions to gun makers and sellers include questions like: "What are your policies and practices for determining to whom you will sell firearms? ... Do you require background checks and what is the rigor of those background checks?"³⁰

4 SECURING THE SUPPLY CHAIN.

Gun dealers are the best and final defense against the diversion of guns to criminal markets. The vast majority of dealers take this responsibility seriously. Unfortunately, a small percentage of gun dealers shirk their obligations, and sell guns to those who may not or should not have them. Based on the most recent federal data available, we know that about 90 percent of the guns that are recovered in crime in this country come from just 5 percent of gun dealers.

Recently, investment firms have taken steps to address this issue, demanding answers from gun

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manufacturers and retailers they own or work with. BlackRock, as part of its comprehensive strategy to mitigate gun violence in America, contacted publicly-traded gun manufacturers and retailers to discuss business practices affecting the supply chain. It asked (among other questions detailed earlier in this report) what steps are taken to support safe and responsible use of their products, if manufacturers monitor (or require disclosures from) retail stores regarding how many guns sold from that establishment are later used in crime, and what strategies they use for keeping track of how products are sold to civilians.³¹

Not long thereafter, Wall Street giant State Street Global Advisors stepped forward. State Street, which owns about two percent of both Sturm Ruger and American Outdoor Brand Corporation (the new name for Smith & Wesson) announced plans to engage with gun manufacturers, including "seek[ing] greater transparency from them on the ways that they will support the safe and responsible use of their products."³²

5 ADVOCATING PUBLICLY FOR LEGAL REFORM.

In addition to the concrete actions corporations are taking to reform their own policies or require more accountability from the gun industry, some businesses are taking extra steps and putting pressure on Congress to pass meaningful gun reforms. In its announcement of store-wide reforms, Dick's Sporting Goods implored elected officials to take action on a wide range of gun violence prevention policies including banning assault weapons, high capacity magazines, and bump stocks; raising the age to purchase all guns to 21; requiring a background check on every gun sale; and fixing the gaps in the federal background check system.³³ After that announcement, the company went one step further, hiring a lobbying group to take their message into the halls of Congress.³⁴ Along the same vein, State Street and BlackRock have pledged to monitor the actions of the gun industry and their actions to influence legislation or "other advocacy efforts."³⁵

WHAT ELSE CORPORATE AMERICA SHOULD DO

BRADY APPLAUDS THE CORPORATIONS THAT HAVE ALREADY TAKEN ACTION. WE URGE OTHER COMPANIES TO FOLLOW SUIT.

As exciting as these development are, there is much more corporate America can do to keep guns out of dangerous hands while simultaneously respecting Second Amendment rights. Companies that provide services to gun makers and sellers — like bankers, accountants, and lawyers — as well as institutional shareholders, can help save lives in America by requiring that their gun clients adhere to common-sense policies.

Gun Dealers

There are approximately 65,000 retail gun stores in America. Under federal law, they are licensed by the Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF). The ATF serves as the front line to stop the diversion of guns from the legal market to the illegal market.

Most gun dealers operate responsibly, but a small fraction flaunt the law and show little regard for community safety. Those dealers should reform their practices to prevent negligent sales, or face the reality of being put out of business. The conduct of bad dealers is egregious, including a licensed gun dealer who was caught just weeks ago selling illegal machine guns — without even conducting a background check — to an undercover ATF agent.³⁶ Gun dealers themselves can and should adopt business practices that prevent gun sales to criminals and other dangerous individuals. For example, gun dealers should:

1. Conduct pre-employment background checks on their employees;
2. Train their employees to recognize the signs of illegal gun trafficking and train employees in suicide prevention tactics;
3. Wait until a background check comes back clean before finishing a gun sale;
4. Monitor their inventory closely, as more than 12,000 guns were “lost” from gun dealers’ inventories in 2017 alone;³⁷ and
5. Cooperate with law enforcement agencies in conducting investigations.

Brady has developed a [Gun Dealer Code of Conduct](#) with these (and other) recommendations for gun dealers. We urge publicly-traded gun dealers, such as Walmart, EZ Pawn, Big 5, and Camping World, to adopt these common-sense policies and procedures. Their shareholders can and should ask management of those companies what they are doing to stop the diversion of guns to the criminal market, including whether they have adopted the Brady Code of Conduct. We also urge privately-held gun dealers to adopt the Code of Conduct.

In addition to adopting sensible business practices, gun dealers should be transparent about their track records when it comes to selling guns used in crimes. We call on gun dealers to release data, on a store-by-store basis, showing how many crime guns are traced back to them each year via law enforcement investigations. The gun dealers already have that information, and making it public would be virtually costless — as simple as posting the data on their Facebook pages. Most gun dealers will report few or zero crime gun traces. Those with dozens or hundreds should explain why so many of their guns are subsequently recovered at crime scenes.

In addition, gun dealers are inspected from time-to-time by the ATF. When dealers fail those inspections, the ATF takes one of three steps: revoking the license, summoning the dealer to a “warning conference,” or sending the dealer a “warning letter.” Dealers should make inspection reports and warnings from the ATF public. Finally, they should report on their efforts to reduce gun deaths, including how they encourage safe storage practices by their customers.

Both privately-held and publicly-traded gun dealers can be influenced by other companies, such as the banks that lend them money and handle their deposit accounts, the lawyers and accountants that advise them, the insurance companies³⁸ that cover them, and the employees who work for them. If these influencers make adoption of responsible business practices and transparency about track records a condition of working with gun dealers, that will encourage gun dealers to adopt these practices, which in turn will save lives.

Gun Makers

Some gun makers are publicly-traded, including Ruger and Smith & Wesson. Those owners are starting to demand reforms, including shareholders approving a resolution at Ruger’s May 2018 annual meeting calling on Ruger’s board to issue a gun safety report about the company. Since the vast majority of shareholder resolutions do not pass, this was a notable victory. A similar resolution will be considered at Smith & Wesson’s annual meeting in September.

There is more that gun makers can and should do. With respect to the dealers they supply, gun makers should:

- Monitor purchasing patterns for indicators of gun trafficking, similar to actions taken by pharmaceutical companies that monitor pharmacies for suspicious conduct indicating drug trafficking;
- Require reports on the number of crime guns traced to them; and
- Require gun dealers to inform them if they fail an ATF inspection, defined as receiving a warning letter, being summoned to a warning conference, or having its license revoked.

We also call on gun makers to be more transparent in several areas:

- Report on their efforts to secure their supply chain and only supply responsible gun dealers;
- Report on their investment in “smart gun” technology that prevents a gun from being fired by anyone other than the authorized user;
- Report on their efforts to reduce gun violence, including educating gun owners about safety and providing safe storage solutions;
- Report on their lobbying activities related to background checks and other topics; and
- Report on their factual basis for advertisements that suggest guns are effective for personal protection compared to risks associated with gun ownership.

It is likely that future shareholder resolutions will call on publicly-traded gun companies to take these sort of actions. Corporations have an opportunity to make real progress without being so coerced.

CONCLUSION

Gun violence is a public health epidemic in America. Solving it requires a multi-faceted approach, from local and national politicians, from law enforcement, from communities, and from corporate America. We are heartened by the corporate sphere’s recent actions, including by Dick’s Sporting Goods, BlackRock, Citi, and so many others. We call upon gun makers and sellers to adopt sensible practices, and we call on those who work with those companies to consider how they can wield their influence to make us all safer and reduce gun deaths in America.

ENDNOTES

1 Starting in 2011, the ATF required gun dealers in Texas, New Mexico, Arizona, and California (states that border Mexico) to report when two or more rifles with certain characteristics are transferred to one person within 5 days in an attempt to prevent gun trafficking to Mexico. This regulation applies to guns that are semi-automatic, have a caliber larger than .22, and can accept detachable magazines. In addition, Maryland prohibits a person from purchasing more than one assault weapon in a 30-day period and New York City limits an individual to purchasing one handgun and one long gun every 90 days.

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3 Everytown for Gun Safety, "Analysis of Recent Mass Shootings," (2015), available at <https://everytownresearch.org/documents/2015/04/analysis-of-recent-mass-shootings.pdf> (last accessed May 2018).

4 Violence Policy Center, "New Data Shows One in Five Law Enforcement Officers Slain in the Line of Duty Felled by an Assault Weapon," May 16, 2016, available at <http://www.vpc.org/press/new-data-shows-one-in-five-law-enforcement-officers-slain-in-the-line-of-duty-felled-by-an-assault-weapon/>.

5 A gun massacre is defined as an incident resulting in 6 or more deaths. Louis Klarevas, *Rampage Nation*, Amherst: Prometheus Books, 2016. Print.

6 The states that currently ban assault weapons are: California, Connecticut, Hawaii, Maryland, Massachusetts, New Jersey, and New York.

7 The states that currently ban high capacity magazines are: California, Colorado, Connecticut, Hawaii, Maryland, Massachusetts, New Jersey, and New York. Additionally, a new Vermont law signed by the Governor in April, bans the sale or purchase of high capacity magazines effective October 1, 2018.

8 Dick's Sporting Goods, "Media Statement," Feb. 28, 2018, available at <http://pressroom.dicks.com/press-information/media-statements.aspx?camp=sns::20180227>.

9 Stephanie Ritenbaugh, "Dick's Sporting Goods Will Destroy Assault-Style Rifles Pulled From Shelves," *Pittsburgh Post-Gazette*, Apr. 9, 2018, available at <http://www.post-gazette.com/business/money/2018/04/09/Dicks-Sporting-Goods-Pittsburgh-destroy-dispose-assault-rifles-guns-pulled-off-shelves/stories/201804060151>.

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14 Dick's Sporting Goods, "Media Statement."

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**Brady Campaign
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