

Guns, Policy, and Politics: An Examination of Potential Firearm Legislation Initiatives for the

State of Tennessee

By

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Introduction

Firearm Mortality in the United States

Firearm violence has been a widespread and costly public health epidemic in the United States during the last few decades. Since the late 1990s, firearms have been responsible for approximately 30,000 deaths per year (Wintemute, 2015) and injuries from firearms have come at a tremendous societal cost, estimated at \$174.1 billion in 2010 alone (T. Miller, 2013). To put the number of yearly deaths due to firearms into perspective, approximately the same number of people die each year from motor vehicle traffic accidents as do from firearms. Between 2003 and 2012, more people died due to firearms in the United States than the combined American casualties during World War II (Wintemute, 2015) and in 2015, firearm-related injury was reported as the third leading cause of injury death in the United States (Resnick et al., 2017). While the mortality rate from motor vehicle accidents has fallen by approximately 33% since the late 1990's, the mortality rate from firearms has stayed relatively constant during the same period - approximately 9.9 deaths per 100,000 individuals (Wintemute, 2015). Despite a steady vehicular mortality rate over the last 20 years, the rate of nonfatal firearm injuries has actually increased from 22.1 to 26.7 per 100,000 in the last decade (Kalesan et al., 2017).

The health and social impact of firearms are much greater than simply counting the number of deaths attributable to firearms each year. The presence and threat of firearms can have adverse effects on entire communities, even though a majority of inhabitants have not directly experienced firearm violence. For example, in a study conducted by a team from the Yale School of Public Health conducted surveys in six low-income neighborhoods in New Haven, Connecticut, a sizeable minority of surveyed residents were affected by violence. Not

only did 29% having family members or friends harmed by violence and 185 having family members or friends killed, but a majority of residents (73%) heard gunshots in their neighborhood (Santilli et al., 2017). The impact of firearm violence in the United States reaches much further than the 30,000 people who die due to guns each year, and it is for this reason that firearm violence needs to be treated as a public health epidemic.

Public Opinion and Mass Shootings

Though firearm mortality has been an ever-present problem in the United States for decades, mass shootings in Newtown, Connecticut, Las Vegas, Nevada, Parkland, Florida, and most recently, Virginia Beach, Virginia, have re-invigorated the conversation about gun control across the country. In a nationwide survey following the mass shooting in Newtown, a majority of Americans favored 27 of 31 various firearm policy measures (Barry, McGinty, Vernick, & Webster, 2013). Even a majority of surveyed National Rifle Association (NRA) members supported measures such as universal background checks (74%), and prohibiting gun ownership for 10 years following the violation of a domestic-violence related restraining order (62%). In March of 2018, approximately 200,000 people attended the March for Our Lives rally in Washington D.C. advocating for stricter gun control to limit future school shootings (CBS News, 2018). It is clear that citizens across the country are highly concerned about mass shootings in the United States.

While much of the national conversation about gun violence revolves around and has been catalyzed by the horrific events mentioned above, mass shootings only account for a small fraction of overall gun deaths (Fox & DeLateur, 2014). Over 60% of firearm deaths are attributable to suicide (M. Miller, Azrael, & Barber, 2012). According to the FBI, an average of

11.4 active shooter scenarios per year occurred between 2000 and 2013 (Blair & Schweit, 2013). Contrary to popular belief, mass shootings have not been increasing in frequency over the last several decades (Fox & DeLateur, 2014). In fact, firearm homicide overall accounts for only a minority of firearm deaths; the majority of firearm deaths are by suicide.

Firearms, Suicide, and Mental Health

Because suicides constitute more than half of firearm deaths, mental illness has been offered as a main cause of firearm mortality in the United States. Additionally, supporters of gun rights often implicate mental illness as the cause of mass shootings. At the 2018 Conservative Political Action Conference (CPAC), Wayne LaPierre, the executive vice president and CEO of the NRA, referenced the “failure of America’s mental system” as a cause of mass shootings (C-SPAN, 2018). When passing legislation in 2013, New York Governor Andrew Cuomo stated that, “people who have mental health issues should not have guns...they could hurt themselves, they could hurt other people,” (Kaplan & Hakim, 2013). Despite focus on mental health as a means to limiting gun violence, epidemiological studies show that the vast majority of those who are “mentally ill” are never violent (Swanson, McGinty, Fazel, & Mays, 2015). At the population level, only 3-5% of crimes in the US are committed by people with mental illness and fewer than 5% of gun-related killings in the US during the first decade of the 21st century involved someone who was “mentally ill” (Metzl & MacLeish, 2014).

Firearms and Tennessee

Tennessee in particular has a problem with gun violence, ranking 14th in the country in terms of total firearm deaths, 9th in the country for firearm homicides, and 8th in the country for unintentional firearm deaths (Safe Tennessee Project, 2017a). Since 2011, the Tennessee state house, senate, and governorship have all been controlled by the Republican party. In that time, the conservative legislature has relaxed firearm restrictions in the state, allowing for firearms to be carried in public parks and in bars (as long as the carrier has not been drinking). Following the events in Parkland, as well as a mass shooting in a Nashville Waffle House, several bipartisan measures passed in the state legislature, including a bill that allows school districts to pay off-duty law enforcement officers to serve as armed guards at schools (The Associated Press, 2018). Other measures, however, such as the banning of “bump-stocks” which simulate the firing frequency of automatic weapons, have been delayed by the state legislature. There is clearly a desire by some in the Tennessee legislature for firearm laws to be passed, though it is unclear what measures can be taken that would reduce gun violence or what measures could be feasible in the current political climate of Tennessee with Republicans holding strong majorities in both the state House and Senate.

My goal of this thesis is to investigate four firearm policy measures that have been tried in other states but are not laws in Tennessee. The following policies will be evaluated: universal background checks, “assault weapons” bans, permit-to-purchase laws, and safe storage/child protection laws. I will attempt to outline national debates regarding these policies using popular media and statements from gun control and gun advocacy groups. I will then examine how these same policies are enacted and implemented in other states to determine if they were effective in decreasing gun violence. Following these evaluations, I will give policy recommendations that

consider both effectiveness at reducing firearm mortality and politically feasible in the state of Tennessee.

Methods

My interest in firearm policy began in the summer of 2016 following the mass shooting at Pulse Nightclub in Orlando, Florida. Like after many mass shootings, discussions about gun control quickly followed suit. As a college student working at my local pool during summer break, I was able to follow these debates more closely. With no homework during the evenings, I was able to consume many articles about firearm policy. What became of my extracurricular research on guns and gun control were two lessons: (1) there is a lot of misinformation put forth by Democrats and Republicans and (2) the issue of gun control has become hyper-polarized with red (i.e. Republican controlled) and blue (i.e. Democrat controlled) states taking to the extremes in terms of firearm policy.

Having learned these lessons, I was interested in how my home state of North Carolina, historically a “red state”, handled firearm policy. Surprisingly, I learned that, though North Carolina is a southern state that had voted to elect Donald Trump, there were several “gun control” policies that North Carolina had in place that its neighbors did not. Notably, North Carolina is one of only four states that requires a permit to purchase a handgun. Additionally, North Carolina has safe storage laws that harshly penalize gun owners whose children injure themselves with a firearm. Both of these laws seemed to be aimed at reducing firearm mortality while preserving the Second Amendment rights of its citizens. When compared to its neighbor, Tennessee, it appeared that North Carolina was taking a much more active role in reducing gun violence. During a time of heated political discourse, North Carolina seemed to be a model state

for other southern, conservative states to follow. My motivation for this thesis was to find policies that would be effective and feasible in Tennessee while keeping in mind the model case of North Carolina.

Policy proposals and discussions surrounding them are inherently political because it takes the work of politicians and legislators to push them through the legislative process. Because politicians are heavily influenced by what they believe their constituency desires, it is important to pay attention to the public discourse surrounding particular issues. Additionally, policy decisions should be grounded in quantitative data so that legislation is based upon factual evidence. In order to completely detail the four policy proposals, it was necessary to describe popular arguments for and against each policy prior to the review of the academic literature on the effects of such policy. For these reasons, I chose to use a scoping literature review as the methodology to approach both the popular rhetorical analysis as well as the peer-reviewed research. According to Mays et al, a scoping review has “[the] aim to map *rapidly* the key concepts underpinning a research area and the main sources and types of evidence available,” (Mays, Roberts, & Popay, 2001). For each section, I used a representative sample of 3-5 sources to articulate popular arguments for and against, as well as the peer-reviewed literature on each firearm policy.

Framing each literature review with popular arguments for and against each policy, as well as political feasibility analysis (Webber, 1986) which incorporates an analysis of the mobilization and support for a particular policy, informed my recommendations as to whether I determined it appropriate or not for the state of Tennessee to adopt these policies. Following each section outlining the arguments for and against each policy, I concluded by highlighting how the arguments made by pro-gun or pro-gun control advocates were framed. This analysis

was informed by the concept of “issue framing” (Saris & Sniderman, 2018) and was intended to connect similar arguments from various advocacy groups together.

To articulate the arguments in favor of each firearm policy, I examined materials developed by gun-control advocacy organizations such as Everytown for Gun Safety, Moms Demand Action for Gun Sense in America, The Brady Campaign, and the Giffords Law Center to Prevent Gun Violence. Because my analysis centered on recommendations for the state of Tennessee, I also sought sources from the Safe Tennessee Project to obtain Tennessee-specific arguments. I searched policy-centered arguments from these groups for each of the four policies analyzed below: universal background checks, assault weapons bans, permit-to-purchase laws, and safe storage laws. To round out my search, I also searched for editorials from news outlets such as the *New York Times* and the *Washington Post* to review arguments from contributors and experts who advocate for such policy reforms. These are two of the most popular publications in the country, and their articles surrounding firearm legislation are highly influential. For each policy, I chose 3-5 sources that were representative of the strongest or most common arguments in favor of legislative intervention.

I used a similar strategy to articulate the arguments against each firearm policy. I examined materials by gun advocacy groups such as the National Rifle Association and Gun Owners of America for their policy-specific arguments against the four legislative proposals that I analyzed. I also searched for editorials from news outlets such as *Reason Magazine*, *The Wall Street Journal*, and the *New York Times* for editorials outlining arguments against universal background checks, assault weapons bans, permit-to-purchase laws, and safe storage laws.

Following the distillation of arguments for and against each policy from advocacy groups and news media, I conducted a scoping review of studies that investigated the effects of each of

the proposals investigated. I used the search terms “analysis of...” and “effects of...” prior to each of the four policies in Google Scholar and PubMed: “universal background checks,” “assault weapons bans,” “permit-to-purchase laws,” and “safe storage laws.” Journals such as the *American Journal of Public Health*, *American Journal of Preventative Medicine*, and the *Journal of the American Medical Association* (JAMA) all served as primary source material for articles on the effects of firearm violence and on firearm legislation. I obtained 3-5 peer-reviewed studies on the effects of each policy that were localized to particular states or metropolitan areas so that they could reflect the effects of state legislation on firearm violence.

My recommendations aimed to incorporate the arguments from gun control advocates and gun rights advocates, the peer-reviewed literature on the policies, and polling data from Tennesseans. If polling data were not available for Tennesseans, national polls would inform an estimation of public support in the state. I made a recommendation for a particular policy after considering the following: stronger arguments for the policy rather than against the policy, consistent literature demonstrating the effectiveness of the policy at reducing firearm mortality, and clear support (>55%) among Tennesseans or at least very strong national support. I would not recommend for Tennessee policies that did not include all three of these factors.

Results

Universal Background Checks

National Arguments in Favor of Universal Background Checks.

One commonly proposed policy in response to the gun violence epidemic has been a call for “universal background checks.” In a statement prior to the convening of the 116th United States Congress, now Speaker of the House Nancy Pelosi, said in a statement that “the new Democratic majority will act boldly and decisively to pass commonsense, life-saving background checks that are overwhelmingly supported by the American people,” (Daugherty, 2018). The term “universal” is key to this proposal as a majority of firearms are acquired with a background check (M. Miller, Hepburn, & Azrael, 2017). In 1968, Congress passed the Gun Control Act which required Federal Firearms Licenses for “those engaged in the business” of selling firearms. Under the Gun Control Act, those with Federal Firearms Licenses were also required to keep records of the firearm sales that they conducted. In 1993, Congress passed the Brady Handgun Violence Prevention Act which instituted federal background checks on all firearm purchasers who buy from dealers with Federal Firearms Licenses. These regulations, however, did not apply to private citizens who wished to sell firearms infrequently. This limitation in the law is referred to some as the “gun show loophole.” Private citizens may sell firearms at gun shows, or in any other context, to anyone they wish as long as they live in the same state as the seller and the seller does not believe that the purchaser is “prohibited by law from purchasing or possessing firearms” (18 U.S.C. § 922). As a result of this, more than one in five (22%) recent firearm acquisitions were completed without a background check (M. Miller et al., 2017). The

target, then, of “universal background checks” are these exact acquisitions – private transactions within states in which federal background checks are not currently enforced.

A number of national firearm safety organizations, such as Everytown for Gun Safety, have called for the enforcement of background checks on all firearm transfers. Mayors Against Illegal Guns, an offshoot of Everytown for Gun Safety, investigated the prevalence of firearm transfers to criminals who avoided federal background checks. Their investigation focused on an online website called ‘Armslist.com’ which is an online firearm marketplace that allows private sellers to sell guns to other citizens. The Mayors Against Illegal Guns investigation of 13,000 listings found that 1 in 30 would-be buyers on Armslist.com had criminal records that would have barred them from purchasing or possessing guns (Mayors Against Illegal Guns, 2013). Based on this rate, it is estimated that at least 25,000 firearms could be transferred to criminals each year via Armslist.com alone. Compared to the number of criminals who are found attempting to acquire firearms through FFL dealers (0.87%), there are four times the number of criminals who attempt to acquire firearms through Armslist.com. This high rate of criminal would-be buyers is evidence that criminals knowingly seek firearm transfers that do not require federal background checks.

Organizations that support universal background checks often point to gun violence perpetrated by someone who did not undergo a background check before purchasing a firearm. For example, Mayors Against Illegal Guns use the story of Radcliff Haughton to demonstrate the harmful effects of background check loopholes. In 2012, Haughton had a restraining order placed on him by his wife, Zina Daniel. Knowing that he would not be able to pass a federal background check, Radcliffe sought a .40 caliber FNH pistol from Armslist.com. After obtaining the weapon, he went on to kill his wife and two of her coworkers (Mayors Against

Illegal Guns, 2013). A similar case in Illinois occurred in 2011. Dmitry Smirnov, found to be stalking Jitka Vesel, was also prohibited from purchasing a firearm. Smirnov bought a firearm on Armslist.com and went on to murder Vesel in a parking lot.

Following the investigation from Mayors Against Illegal Guns and an overview of the problems associated with unregulated private sales, Everytown for Gun Safety made three recommendations for the country regarding background checks. The first recommendation is for Congress to act to close the existing gaps in the enforcement of background checks. While federal background checks are effective, the private-sale loophole enable for criminals who are not allowed to possess firearms can still have easy access to them. Everytown supports the bill sponsored by Joe Manchin (D-WV) and Pat Toomey (R-PA) that would close this gap in background check legislation.

The second recommendation from Everytown is for the Bureau of Alcohol, Tobacco, and Firearms (ATF) to improve their enforcement of laws and pay closer attention to online firearm transfers. They suggest that conducting undercover investigations of websites that facilitate private firearm sales would improve enforcement. Finally, Everytown calls for websites to adopt tougher protocols that would deter criminals from obtaining firearms from their sites. Two strategies that could accomplish this would be a requirement for websites to register visitors before viewing or posting sale ads and for buyers and sellers to complete a verification prior to attempting a transaction.

The Giffords Law Center to Prevent Gun Violence agrees with Everytown for Gun Safety with regards to expanding background checks. In fact, the Giffords Law Center claims that because of the fast rise in online firearm sales, the “most dangerous gap in federal firearms law today is by the background check loophole” (Giffords Law Center, 2018e). This loophole is

particularly dangerous now, because of the fast rise in online firearm sales. The Giffords Law Center argues that this allows criminals to easily obtain weapons that they would not have otherwise been able to purchase, citing a study in which it was found that approximately 80% of firearms acquired for criminal purposes are done so through private transactions (Vittes, Vernick, & Webster, 2013). In order to close this “deadly loophole,” the Giffords Law Center advocates for states to adopt legislation that would “[require] all firearm transfers to be conducted through licensed dealers, so that background checks will be completed on all purchasers,” (Giffords Law Center, 2018e). This regulatory legislation has already been adopted in California, Colorado, Delaware, Washington D.C., New York, Oregon, Vermont, and Washington.

Arguments for universal background checks are made under the frame of public safety and violence prevention. While some support for universal background checks acknowledge that they may prevent suicide, most of the arguments involve mass shootings, homicide, and domestic violence. To supporters of background checks, the absence of oversight with regards to private firearm sales creates a dangerous opening for potential criminals to easily access firearms for nefarious purposes. Additionally, universal background checks are framed as being “common sense” (Giffords Law Center, 2018b). Proponents of gun control view background checks as an obvious solution to gun violence. For the Giffords Law Center, Everytown for Gun Safety, and others, firearm violence is a public health hazard and the “gun show loophole” clearly allows for firearm violence to proliferate.

National Arguments Against Universal Background Checks.

John R. Lott Jr., a political commentator and guns rights advocate, wrote an op-ed in the *New York Times* in February of 2018 arguing that background checks are not the solution to gun

violence. “[The] measure passed by the House and being considered in the Senate to expand the National Instant Criminal Background Check System would not only fail to fix major flaws in the system but would also probably introduce new ones,” Lott said in a response to the FixNICS Act that was signed into law by President Trump in 2018 (J. R. Lott, 2018). Lott argued that the FixNICS Act did not propose to fix a major flaw in the current federal background check system – false positives, and that a majority of the 377,283 denials of firearms sales that occurred between 2006 and 2010 were in fact due to people with similar sounding names or birth dates to registered felons. Lott also argues that imposing background checks on all private sales would drive up the cost of such sales, affecting the ability of lower-income individuals to “defend themselves.” Finally, he concludes with what he believes would be the true solution to reducing gun violence, an increase in civilians with concealed-carry permits.

Jacob Sullum writing for *Reason Magazine*, a libertarian-leaning publication, outlined his four reasons why “universal background checks” for gun buyers are a bad idea. Because universal background checks are called for following mass shootings, Sullum argues that this policy actually makes no sense as a response to such events. Many such shooters such as the mass shooter in Oregon in 2015 or the Parkland, Florida shooter in 2018 actually passed federal background checks when purchasing the weapons that they used to commit mass shootings. The second reason from Sullum as to why universal background checks are a bad idea is that felons and criminals who seek to obtain weapons already do so through the “black market,” and thus would not be captured by expanded background check systems. Thirdly, Sullum argues that expanding the current background check system to all sales would simply exacerbate what he sees as an issue with non-violent felons not being able to protect themselves. “[Expanding background checks] compounds the injustice of disarming millions of people who pose no threat

to others but are nevertheless forbidden to own guns because they use illegal drugs, overstay a visa, were once subjected to court-ordered psychiatric treatment, or have felony records, even if they have never committed a violent crime,” (Sullum, 2015). Finally, Sullum argues that even if such laws were to pass, gun owners would not necessarily be compelled to perform background checks on their private transfers. Sullum provides the state of Oregon, which has expanded background check laws, as an example. “In Oregon, which expanded its background-check requirement in August, some local law enforcement officials have publicly stated they do not plan to enforce the new rule, either because they do not have the resources or because they view it as an unconstitutional intrusion” (Sullum, 2015). Because there is no centralized registry of guns, the argument follows, there would be no way to ensure that such background checks occurred on all transfers.

Many of the sentiments expressed by Sullum at Reason Magazine are also the arguments put forth by the NRA in opposition to background checks on all private transactions. The NRA claims that “most mass shooters...pass background checks to acquire firearms,” (NRA-ILA, 2019). They also emphasize their belief that most criminals obtain their weapons through illegal means already, meaning that expanding background check legislation would be ineffective at preventing such people from acquiring guns that they otherwise would not be able to. Citing research conducted by the U.S. Department of Justice (Planty & Truman, 2013), the NRA asserts that “77 percent of criminals in state prison for firearm crimes get firearms through theft, on the black market, from a drug dealer or ‘on the street,’ or from family members and friends, while less than one percent get firearms from dealers or non-dealers at gun shows,” (NRA-ILA, 2019). They also cite further research that found that between 2005-2010, approximately 1.4 million guns were stolen during burglaries and property crimes (Langton, 2012). Finally, the NRA

concludes its argument against expanding background checks with the assertion that background checks on all firearm transactions would not be able to be enforced without a national registry of firearms.

The “firearm registry” argument is likely the most common argument against universal background checks coming from the guns-rights community. The “slippery slope” argument usually goes as follows: there would be no way to enforce universal background checks without a national firearm registry, therefore such measures necessitate the creation of national firearm registries, national firearm registries would track every citizen who possesses a firearm and these registries would be later used to confiscate firearms from citizens as was the case in Nazi Germany. In sum, arguments against universal background checks are framed as a government overreach that is ineffective and unconstitutional. Opponents of gun control cite mass shooters who passed background checks as evidence that they would do nothing to prevent gun violence and argue that criminals will simply use the black market. Thus, only law-abiding gun owners will be subject to additional scrutiny and bureaucratic red tape.

Support for Universal Background Checks in Tennessee.

The Safe Tennessee Project, in its support for the state of Tennessee to adopt background checks on all private firearm sales, cited polling conducted from both Middle Tennessee State University (MTSU) and Vanderbilt University showing that a majority of Tennesseans support universal background checks. A 2015 poll conducted by MTSU found that 83% of Tennesseans support making private gun sales and sales at gun shows subject to background checks while a 2015 poll from Vanderbilt University found that 84% of Tennesseans support such measures (Safe Tennessee Project, 2017b). Furthermore, MTSU found that 78% of gun rights supporters

in Tennessee were in favor of making private gun sales and sales at gun shows subject to background checks while Vanderbilt University found that 72% of Tea Party supporters supported background checks for all gun sales. The Safe Tennessee Project then goes on to outline how nationally prominent Republican politicians, such as Ronald Reagan, John McCain, and Paul Ryan, were all supporters of expanding background checks to include private sales. At the core of their argument, the Safe Tennessee Project claims that background checks are highly popular among Tennesseans and are even supported by a majority of gun rights supporters and people on the right of the political spectrum. Additionally, they cite research showing that states with expanded background check laws show a 48% decrease in suicides and a 52% decrease in mass shootings (Safe Tennessee Project, 2017b). The Safe Tennessee Project research suggests that expanding background checks in Tennessee would be both popular and effective.

Review of Universal Background Check Peer-Reviewed Literature.

While the national conversation surrounding universal background checks is important to analyze, there also are peer-reviewed studies on the effects that background checks have on the states that implement them. One crucial study published in 2012 analyzed state-level data for homicides and suicides in the U.S. during a ten-year period from 1996 to 2005. Their aim was to investigate whether increased background checks in a state would affect firearm violence. Researchers used the Web-based Injury Statistics Query and Reporting System (WISQARS) to track firearm homicides and firearm suicides in each state over the study period. Using negative binomial models, researchers found that a greater number of background checks was associated with fewer total firearm deaths (Sen & Panjamapirom, 2012). Additionally, there were statistically fewer firearm homicides and suicides in states that had specific background checks

for restraining orders, fugitive status, mental illness, and misdemeanors. There are, however, several limitations to this study that are important to consider. Potential confounding variables that were not investigated in this study were the cross-border smuggling of drugs, the ease of illegal acquisition of firearms, and the existence of unaccountable transfers between dealers and traffickers (Sen & Panjamapirom, 2012).

Another study from a team from Boston University used the WISQARS to obtain firearm mortality data from all 50 states from 2008-10. Using Poisson regression to derive incidence rate ratios (IRRs), states were compared based on their firearm laws at the time of investigation. Of the 25 firearm laws that were studied, three laws were most highly associated with reduced firearm mortality rates: universal background checks, background checks for ammunition, and requiring firearm identification (Kalesan, Mobily, Keiser, Fagan, & Galea, 2016). The authors admit that some social and state-level confounding variables may have persisted in their analysis, including firearm ownership rates and storage practices. Additionally, not all of the firearm laws were associated with reduced firearm mortality, emphasizing the need for evidence-informed legislation.

One consideration as to the implementation of universal background checks is that of compliance. It is not a guarantee that once legislation is in place that it will be followed, particularly when dealing with transactions between private citizens. A study conducted by Alvaro Castillo-Carniglia and colleagues (2018) looked at just this phenomenon. They evaluated the association between comprehensive background check policies and the rates of background checks in three states that implemented comprehensive background checks. The states of Delaware, Colorado, and Washington were all studied and compared to synthetic control groups (a statistical comparison constructed via mathematical weighting) to determine if comprehensive

background check laws captured more firearm transactions with background checks. To the surprise of the authors, only Delaware, which saw a 22%-34% increase in background checks, had a statistically significant increase in background checks following the implementation of its comprehensive background check policy (Castillo-Carniglia et al., 2018). Neither Colorado, nor Washington, observed significant increases in background checks, suggesting that compliance should be a major consideration in implementing universal or comprehensive background checks.

Survey data also points to difficulties in compliance with state law. Matthew Miller and colleagues conducted an online survey of adult gun owners in 2015 to try and estimate the proportion of current U.S. gun owners who acquired their most recent firearm without a background check. As a whole, they found that 22% of gun owners who reported a firearm acquisition in the previous two years did so without a background check (M. Miller et al., 2017). Interestingly, when looking specifically at firearms privately acquired in the previous two years, 26% of owners residing in states that regulate private sales still did so without a background check. Though this rate is lower than the rate of private acquisition without background check in unregulated states, there is still over a quarter of private firearm transfers that escape background checks despite laws being in place to capture such transfers. Clearly any policy that expands background check rules to private sales would have to deal with the issue of non-compliance by citizens who are transferring firearms amongst themselves.

Recommendation for Tennessee.

Multiple analyses of the WISQARS database that tracks firearm homicides and suicides across the country have found that states that enforce background checks on private firearm

transactions have lower firearm mortality rates (Kalesan et al., 2016; Sen & Panjamapirom, 2012). Though neither of these studies demonstrate a causal link between increases background check legislation and decreased firearm mortality, the growing evidence associating the two suggests that increased background check legislation is likely to be one of several factors that lead to lower firearm violence rates. While several studies have shown that compliance to expanded background check legislation may be difficult in states where firearms are more integral to the culture of the citizens (Castillo-Carniglia et al., 2018; M. Miller et al., 2017), this does not mean that such measures should not be implemented; rather, efforts should be made to increase resources to police departments and ATF oversight so that most private transactions are conducted with background checks. Additionally, arguments that the passage of universal background check legislation would lead to firearm registries are mostly unfounded. Current background checks conducted by the National Instant Criminal Background Check System (NICS) are not enforced by firearm registries, and the expansion of background checks to private transactions would simply mean that citizens would have to go to FFL's to officially transfer their firearms. It is already illegal under federal law for firearm registries to be established or maintained (18 U.S.C. § 926).

Given evidence that support for universal background checks is overwhelmingly high among Americans in general (Parker, Horowitz, Igielnik, Oliphant, & Brown, 2017) and Tennesseans in particular (Safe Tennessee Project, 2017b), the expansion of background checks to private sales in the state of Tennessee is likely the most politically feasible action that can be taken to reduce firearm violence in the state. Furthermore, universal background checks are correlated with lower suicide rates – the most common form of gun violence. Because the expansion of background checks has been shown to be associated with reduced firearm mortality

and because a large majority of Tennesseans support such legislation, I recommend that the state of Tennessee implement legislation that requires NICS background checks on private transactions of firearms.

Assault Weapons Bans

Arguments in Favor of Assault Weapons Bans.

Following each of the prominent mass shootings of the past seven years, proponents of gun control have called for “assault weapons bans.” In fact, from 1994-2004, an assault weapons ban was in place nationwide as a result of the Public Safety and Recreational Firearms Use Protection Act. This was a subsection of the Violent Crime Control and Law Enforcement Act of 1994 that was authored by Senator Dianne Feinstein of California and signed into law by President Bill Clinton. The primary purpose of the act was to prohibit the manufacture and possession of semi-automatic assault weapons. The act defined assault weapons as semi-automatic rifles able to accept detachable magazines and two or more of the following: folding or telescoping stock, pistol grip, bayonet mount, flash hider, or grenade launcher. When the act was let expire in 2004, firearms manufacturers were once again able to sell such rifles to the American public. The National Shooting Sports Foundation (NSSF) estimated that 8.5 million semi-automatic rifles were produced between 1990 and 2012, and approximately 1 to 2 million such rifles have been produced since then (NSSF, 2015).

In their article about assault weapons, the Giffords Law Center to Prevent Gun Violence advocated for the banning of assault weapons on two main grounds. The first of which was the “military-grade” nature of such weapons. In their opening they state, “military-grade weapons

have no place in civilian life and are unnecessary for self-defense,” (Giffords Law Center, 2018a). They go on further to say that “the military features that distinguish assault weapons from standard sporting firearms enable shooters to spray large amounts of ammunition quickly while retaining control of the gun.” The article later goes on to list the high-profile mass shootings in which such a weapon was used, including the Las Vegas shooting killing 58 people, the Pulse Nightclub shooting killing 49 people, and Sandy Hook Elementary shooting that left 28 dead. In addition to “assault weapons” being a common choice for mass shootings, the Giffords Law Center also provides evidence from Everytown for Gun Safety that showed that mass shootings involving “assault weapons” resulted in 155% more people shot and 47% more people killed than in mass shootings not involving assault weapons (Giffords Law Center, 2018a).

In December of 2018, Everytown for Gun Safety published a report that documented all of the mass shootings (defined by Everytown as incidents in which four or more people are shot and killed, excluding the shooter) that occurred between January of 2009 and December of 2017. In addition to demonstrating that assault weapons have a higher death and injury rate during mass shootings, they also found that 58% of mass shootings involved high-capacity magazines (defined as holding more than 10 rounds of ammunition) (Everytown for Gun Safety, 2018). Because of this, Everytown calls for restrictions on the purchase, possession, and manufacture of high-capacity magazines along with calls to expand background checks to all firearm sales and temporarily removing firearms through “Red Flag Laws.”

The Safe Tennessee Project also supports the reinstatement of the federal assault weapons ban. After explaining that the Parkland shooter was legally able to obtain an AR-15 style rifle, they gave an explanation of what an AR-15 is and what makes it such a deadly weapon, “The AR-15 is a civilian version of the military grade M4 and M16 type of rifles that are designed to

deliver relatively small sized rounds at high velocity in order to inflict devastating and lethal wounds,” (Safe Tennessee Project, 2018). To emphasize this point, the Safe Tennessee Project refers to an Atlantic op-ed in which a trauma surgeon detailed what makes the .556/.223 round so deadly, “They travel at a higher velocity and are far more lethal than routine bullets fired from a handgun. The damage they cause is a function of the energy they impart as they pass through the body. A typical AR-15 bullet leaves the barrel traveling almost three times faster than—and imparting more than three times the energy of—a typical 9mm bullet from a handgun,” (Sher, 2018). Finally, the Safe Tennessee Project cites a book by Louis Klarevas entitled *Rampage Nation* that found that in the ten years following the lapse of the federal assault weapons ban, gun massacres (defined as incidents in which six or more people are shot and killed) increased by 183% (Klarevas, 2016). It is important to note that the higher death count required for “gun massacres” versus “mass shootings” allowed Klarevas to find that gun massacres increased in frequency following the federal assault weapons ban.

In sum, the arguments that are in favor of banning assault weapons are usually two-fold. First, semi-automatic “assault rifles” such as the AR-15 are “military-grade” weapons that are unnecessarily dangerous and should not be in the hands of civilians. Second, “assault rifles” are used in many mass shootings, and when they are, more people are shot and killed than in mass shootings that do not involve such weapons. Similar to arguments for universal background checks, arguments for assault weapons bans are framed as a public safety solution. Assault weapons like the AR-15 represent an explicit threat to the safety of the public and the banning of their manufacture is framed as a step toward protecting the American public.

Arguments Against Assault Weapons Bans.

Proposals and calls for “assault weapons” bans have been harshly rebutted by many gun owners and gun advocacy groups, particularly since 2012 following the mass shooting at Sandy Hook Elementary School when calls for assault weapons bans became more frequent. Many of the arguments against the banning of semi-automatic rifles are summarized in an article written by the NRA in 2016. One of their main lines of argument is that assault weapons bans have very little effect on gun murders. Quoting from the Urban Institute, “The congressionally-mandated study of the federal ‘assault weapon ban’ of 1994-2004 found that the ban had no impact on crime, in part because ‘the banned guns were never used in more than a modest fraction of gun murders,’” (NRA-ILA, 2016a). They also cite a study conducted by Mark Gius (Gius, 2014) found that assault weapons bans had no statistical effect on murder rates at the state level and that during the Federal assault weapons ban from 1994-2004, there was a 19.3% higher murder rate compared to the years following the end of the ban. They note that violent crime is at a 44-year low while simultaneously, the number of semi-automatic rifles owned by Americans has never been higher. The second line of argument that the NRA used in its article rebutting assault weapons bans is that the weapons that are defined as “assault weapons” are already widespread in the United States. “AR-15s are the most commonly used rifles in marksmanship competitions, training, and home defense,” (NRA-ILA, 2016a). They state that between 1991 and 2014, over 15 million AR-15s were sold in the United States.

In 2014, Lois Beckett, who is currently a senior reporter for *The Guardian*, wrote an op-ed in the *New York Times* entitled “The Assault Weapon Myth.” Similar to the NRA, Beckett cites that the Assault Weapons Ban from 1994-2004 made little difference on firearm murder rates, though she does not cite any sources. Beckett then goes on to argue that calls for assault

weapons bans are unduly influenced by media coverage of mass shootings, and not analysis of firearm mortality data. Because of these shootings, Pew found that a majority of Americans incorrectly thought that the rate of gun crime was higher than it was 20 years ago. Beckett outlines that “semi-automatic rifles” have historically accounted for a small fraction of gun deaths. “This politically defined category of guns — a selection of rifles, shotguns and handguns with ‘military-style’ features — only figured in about 2 percent of gun crimes nationwide before the ban,” (Beckett, 2014). Eight years after the federal assault weapons ban expired, the share of gun deaths attributed to such rifles was still a small fraction of overall gun deaths. “In 2012, only 322 people were murdered with any kind of rifle, F.B.I. data shows,” (Beckett, 2014). Instead of focusing on assault weapons, Beckett argues for a re-focus on high-risk people or places, rather than specific weapons. In her conclusion, she points to the city of New Orleans, which is currently targeting at-risk young men and providing them with jobs as a path to alleviate poverty and, in the mind of Beckett, gun violence as well.

David French, writing for the *National Review*, echoes many of the same points laid out by Beckett and the NRA. By breaking down gun deaths into three broad categories, French argues that assault weapons bans would not be effective in reducing any such deaths. He first states that assault weapons bans would do nothing to reduce firearm suicides, which constitute nearly two thirds of all gun deaths. Second, he cites the same 2012 report from the F.B.I. used by Beckett that found that only 322 people were killed by rifles of any kind. “Rifles of all kinds kill fewer people annually than knives or even feet or fists,” (French, 2018). Finally, French rebuts the argument that banning assault weapons would reduce the number or lethality of mass shootings by citing Statista records (Statista, 2019) that found that a majority of mass shootings are carried out using handguns.

The arguments against assault weapons bans are primarily three-fold. First, the federal assault weapons ban from 1994-2004 had no discernable effect on firearm violence. Second, that assault weapons are widely used for sport and self-defense, and their increasing distribution is not correlated with higher rates of gun crime. And finally, that deaths from assault weapons constitutes less than 2% of all firearm deaths, so focusing on banning the manufacture of such weapons would have little effect at reducing the number of gun deaths in the country. For supporters of gun rights, arguments against assault weapons bans are framed as a protection of civil liberties and constitutional rights. And because assault weapons are only used in a small fraction of overall gun deaths, guns rights supporters do not see a reason for the rights of Americans to be superseded.

Review of Assault Weapon Ban Literature.

A report was published in 2004 out of the Jerry Lee Center of Criminology at the University of Pennsylvania that documented the effects of the 1994 Federal Assault Weapons Ban. The study compiled government analyses from the National Institute of Justice from 1998-2003 to determine how the ban affected crimes with banned firearms and magazines. By investigating 6 major cities spanning varies geographical location (Baltimore, Miami, St. Louis, Anchorage, Boston, and Milwaukee) it was determined that the share of gun crimes using an assault weapon declined by 17-72% (C. Koper, Woods, & Roth, 2004). This decline was in large part due to a reduction in the use of assault pistols and not assault rifles. Researchers also found, however, that this reduction in assault weapons usage in crime was offset by an increase during the study period in other firearms that utilized large capacity magazines. Because such

magazines that had been manufactured prior to 1994 were grandfathered in, new firearms that used these magazines proliferated during the time of the ban.

In addition to providing the mixed results that came about from the Federal Assault Weapons Ban, the report also made tentative predictions as to what would happen if the ban were re-instituted or not. Christopher Koper and colleagues gave mixed predictions as to the effects that renewing would have on gun crime. In terms of overall gun violence, the researchers did not feel as though renewing the ban would have a substantial impact. “Should [the Federal Assault Weapons Ban] be renewed, the ban’s effects on gun violence are likely to be small at best and perhaps too small for reliable measurement. Assault weapons were rarely used in gun crimes before the ban,” (C. Koper et al., 2004). In terms of the victimizations that occur during mass shootings, however, Koper and colleagues did grant merit to the banning of assault weapons. “Nonetheless, reducing criminal use of assault weapons and especially LCMs could have non-trivial effects on gunshot victimizations. The few available studies suggest that attacks with semiautomatics – including assault weapons and other semiautomatics equipped with LCMs – result in more shots fired, more persons hit, and more wounds inflicted per victim than do attacks with other firearms,” (C. Koper et al., 2004). In sum, the ban had mixed results because the percentage of crimes using assault weapons was small even prior to the ban and many assault weapons and LCMs were grandfathered into the ban. While the effects on overall gun crime would be minimal, and extension of the AWB could reduce victimizations in mass shootings.

The two main findings found in the Koper et al. report have been bolstered by more recent studies. A 2014 study by Mark Gius echoed what was found by Koper and colleagues in that AWBs would have minimal effects on overall gun crimes. Using a fixed effects model that looked at states with AWBs, Gius found that AWBs did not significantly affect firearm murder

rates at the state level (Gius, 2014). A later study conducted by Christopher Koper and colleagues that was published in 2018 investigated the scale of criminal use of assault weapons and LCMs more than a decade after the expiration of the Federal Assault Weapons Ban. Because there is no national data source that tracks which weapons are used in each firearm homicide, Koper and colleagues used various local and national data sources to triangulate the criminal use of both assault weapons and LCMs. Across a wide variety of police departments in metropolitan areas, assault weapons never exceeded 8.5% of the weapons recovered from gun crimes and most departments demonstrated a rate closer to 2% (C. S. Koper, Johnson, Nichols, Ayers, & Mullins, 2018). Researchers found that assault weapons were used in a higher percentage of mass shootings compared to gun crime in general, with 35.7% of weapons used in mass shootings being classified as assault weapons.

Recommendation for Tennessee.

Though AWBs have been shown to be effective at reducing the death toll that occurs during mass shootings, such shootings constitute a small fraction of overall firearm mortality. Legislation focused on the banning of assault weapons would only affect 2% of deaths currently caused by firearms and would necessitate considerable action by state legislatures. According to estimates from the National Shooting Sports Foundation (NSSF), there are likely between 15 million and 20 million assault weapons in circulation in the United States. It can be estimated that hundreds of thousands of assault weapons are currently in legal possession by citizens of Tennessee. These weapons would need to be grandfathered into any modern AWB, similar to how such weapons were grandfathered into the Public Safety and Recreational Firearms Use Protection Act. Though a ban would limit further manufacture and proliferation of assault

weapons, hundreds of thousands of semi-automatic rifles currently exist in homes of Tennesseans and could still be used in future shootings. It is not a given that further bans would even have significant impact on the 2% of gun deaths that AWBs would be targeting. Furthermore, an AWB would require a tremendous amount of political capital to pass in the conservative Tennessee legislature. Though AWBs poll favorably nationally, there is no data suggesting that the Tennessee populous would be in favor of banning assault weapons. As of 2019, 28 of the 33 Tennessee state senators and 73 of the 99 state representatives are Republicans, making a ban on assault weapons in Tennessee a near impossible feat. Because bans on assault weapons would affect only 2% of firearm deaths and because such legislation would be nearly impossible to pass through the Tennessee legislature, I do not recommend that Tennessee should adopt an assault weapons ban. Efforts to reduce firearm deaths in Tennessee should focus on legislation that would affect the most common types of firearm death, suicide and homicide with a handgun. Rather than spending political capital on an AWB, Tennessee legislators should focus on more effective forms of firearm legislation such as universal background checks and safe storage legislation.

Permit to Purchase Laws

Arguments for Permit to Purchase Legislation.

A set of policies that have been implemented in a number of states similar to universal background checks are what are known as permit to purchase (PTP) laws. Though these laws vary state-by-state, these laws require gun owners to obtain a renewable license in order to purchase and possess a firearm. These policies are intended to combat the “gun show/private

sale loophole” in which purchasers do not have to pass a federal background check in order to purchase a firearm from a private seller. Requiring a permit to purchase a firearm would ideally stop individuals who are permitted from owning a firearm to acquire a firearm and also allow for law enforcement to track who may or may not possess a firearm.

One of the largest proponents of PTP laws is the Giffords Law Center. They contrast activities that require licensing such as fishing, driving, and teaching with owning a firearm, which does not require a license in all states. The Giffords Law Center also emphasizes how licensing protects gun owners. “Licensing laws help ensure that gun owners exercise their Second Amendment rights legally, safely, and responsibly by requiring them to get a license before buying a firearm” (Giffords Law Center, 2018c). In addition to providing rhetorical support for PTP laws, the Giffords Law Center also cites studies that support such legislation. They cite a report published by Mayors Against Illegal Guns in September of 2010 that found that states requiring a license prior to handgun purchase were the source of statistically fewer crime guns than states that did not require a license for handgun purchases (Mayors Against Illegal Guns, 2010b). Furthermore, Giffords Law Center cites a 2001 paper by Daniel Webster and colleagues that found that in cities within states that require firearm licensing, 33.7% of crime guns were originally purchased in those states compared to 84.2% in cities whose states did not require firearm licensing (Webster, Vernick, & Hepburn, 2001). Finally, the Giffords Law Center cites how popular PTP laws are among the American public. In a 2001 nationwide poll, 85% of respondents favored laws requiring permits for handgun purchasers (Common Dreams, 2001). Permit to purchase laws have continued to remain popular. A 2013 poll found that 77.3% of Americans and 59.4% of gun owners supported “requiring people to obtain a license from a local law enforcement agency before buying a gun to ensure that they are not

legally prohibited from having a gun” (Barry et al., 2013). Following an overview of current state laws requiring licensing to purchase a firearm, the Giffords Law Center outlines the framework for further states to use when crafting PTP legislation. This framework includes: licensing required for purchase and possession of firearms, licensing shown for all firearm purchases (for licensed and private sales), licenses must have finite durations, and the requirements for obtaining a license including – background check, safety training, hands-on testing, and a written exam (Giffords Law Center, 2018c).

The Trace, which is a nonprofit, nonpartisan organization that focuses on gun violence in the United States has also come out in favor of PTP legislation. In an article written by Evan Defilippis and Devin Hughes, permit to purchase legislation is portrayed as both evidence-based and “common sense” (Defilippis & Hughes, 2015). Their advocacy for PTP legislation revolved around a 2015 effort by Rep. Chris Van Hollen from Maryland that would institute a national permit to purchase system. The proposal would make a permit necessary to purchase a handgun nationwide. To obtain such a permit, a prospective handgun purchaser would need to pass a background check, apply for the permit in person at a local law enforcement office, and provide their fingerprint. This permit would then be good for five years at which point the permit would need to be renewed. Defilippis and Hughes argue that giving local law enforcement authority over handgun purchase permits would be safer than the current NICS background check since law enforcement have more information about the citizens in their jurisdiction. The authors cite a study conducted by David Hemenway at the Harvard School of Public Health that found that a majority of police chiefs prefer discretion when it comes to giving citizens handgun permits (Hemenway & Hicks, 2015). Defilippis and Hughes cite several other studies that support PTP legislation including a study by Daniel Webster and colleagues that found a 76% lower per

capita rate of exporting guns for criminals in PTP states compared to non-PTP states (Daniel Webster, Crifasi, & Vernick, 2014) and a study that found that PTP legislation is correlated with lower firearm-related mortality and suicide rates (Fleegler, Lee, & Monuteaux, 2013). The authors conclude by emphasizing how important a national PTP policy would be, given that gun restrictive states tend to displace gun crime to less restrictive states (Mayors Against Illegal Guns, 2010a) and that PTP legislation is “essential” (Defilippis & Hughes, 2015).

In his 2019 book *Dying of Whiteness*, Jonathan Metzl details the effects of Missouri repealing PTP legislation in 2007 citing the same Webster studies found in the Defilippis and Hughes article. Using WISQARS data, Webster found in 2014 that “the [PTP] law’s repeal was associated with increased annual murder rates of 0.93 per 100,000 (+16%),” (Daniel Webster et al., 2014). Metzl uses anecdotal accounts to demonstrate how unobtrusive PTP laws in Missouri were. Quoting a retired lawyer from Joplin, Missouri: “It was no big deal at all... We never thought anything of it, just took a few minutes. Kind of made sense to have someone track the guns in town,” (Metzl, 2019, p. 85). Metzl explains that “the regulations were far from intrusive for gun buyers and represented rote components of everyday transactions surrounding guns.” (Metzl, 2019, p. 85).

Because permit to purchase laws are often argued for in conjunction with universal background checks, purchase permits are framed as a legislative way to protect the public from people who would use firearms to harm others. Making potential firearm purchasers obtain a permit from their local sheriff’s department would deter potential criminals from obtaining firearms and catch those who are not permitted to own firearms from obtaining them.

Arguments Against Permit to Purchase Legislation.

While there may be broad support for PTP legislation, there also are strong dissenting voices from conservative circles. One of the strongest dissenting voices is that of John Lott, a crime researcher who often writes in opposition to firearm legislation. In a 2014 article published in Fox News, Lott claimed that Daniel Webster “cherry-picked” data when investigating the effects of Missouri’s repeal of PTP laws. In his criticism, Lott states that, “While it is true that the murder rate in Missouri rose 17 percent relative to the rest of the U.S. in the five years after 2007, it had actually increased by 32 percent during the previous five years. The question is why the Missouri murder rate was increasing relative to the rest of the United States at a *slower rate* after the change in the law than it did prior to it,” adding “Simply looking at whether murder rates were higher after the law was rescinded than before misses much of what was going on. Most likely, getting rid of the law *slowed* the growth rate in murders,” (Lott, 2015). Lott goes on to cite his own book, *More Guns, Less Crime*, to explain how the passing of universal background checks led to a slight increase in murder rates. To conclude his op-ed, Lott urges readers to be skeptical of all studies that focus on the effects of legislation in a single state and to rather opt for research that looks at the country more broadly.

Daniel Webster’s research has several other critics, including Robert VerBruggen and Charles Cooke. VerBruggen, writing for RealClear Policy referred to Webster’s Missouri study as “interesting if only suggestive” (VerBruggen, 2015). In a 2014 op-ed in the same publication, VerBruggen goes on to explain that he is unconvinced that the repeal of PTP alone could have such a dramatic effect on firearm murder rates, “I’m skeptical that [Missouri’s repeal of PTP] could cause an effect this big, especially when implemented in just a single state” (VerBruggen, 2014). Though his own analysis of the murder rates in Missouri compared to the United States

as a whole led him to conclude that “the state’s murder rate indeed soared the year after the gun law changed,” he is not convinced that the rise in murder rate can be solely attributed to the repeal of PTP legislation. Charles C. W. Cooke, writing for National Review, provides further criticism of Webster’s methodology and other studies that similarly use single states as test cases. He states that Webster’s study faces a “trio of problems,” including the fact that criminals tend not to get gun permits, that correlation does not equal causation, and the term “gun homicides” is not a meaningful term when the actual goal is to “reduce homicides *per se*,” (Cooke, 2015).

Opponents of PTP legislation frame permit laws as unnecessary legislation that burdens gun owners and is based in data that is “cherry picked” and unreliable. This framing differs from other arguments from gun advocates that use a constitutional framing. Instead of attacking the legislation itself as unconstitutional, most arguments against PTP legislation focus on delegitimizing the studies that have shown it to reduce gun violence.

Review of Permit to Purchase Literature.

As mentioned earlier, most of the research that has looked into the effectiveness of PTP legislation has come from Daniel Webster at the Johns Hopkins Center for Gun Policy and Research. The first of his studies on PTP was published in 2014 and looked at the effects of the repeal of Missouri’s permit-to-purchase legislation. Webster and colleagues used a quasi-experimental research design that looked at state-level homicide rates using WISQARS. Following regression analysis, it was found that the repeal of Missouri’s PTP handgun laws were associated with a 29.4% increase in firearm homicide rates while non-firearm homicide rates stayed close to pre-repeal levels (Daniel Webster et al., 2014). This amounted to an estimated

increase of 1.09 deaths per 100,000 population. Mayors Against Illegal Guns found similar results using data from the ATF in which they found a 25% increase in firearm homicides in the three years following the 2007 repeal of PTP (Mayors Against Illegal Guns, 2014). They also found that there was a 110% increase in the share of guns with a “time-to-crime” after purchase of less than 2 years, meaning that the share of guns recovered at Missouri crime scenes within two years of their original sale doubled.

The following year, Webster and colleagues published another paper that investigated PTP legislation. In this case, the implementation of PTP in Connecticut was the subject of inquiry. Using a synthetic control methodology, Webster and colleagues compared Connecticut’s homicide rates following the 1995 implementation of PTP with an estimation of what the rates would have looked like had Connecticut not introduced PTP legislation. They found that the law was associated with a 40% reduction in firearm homicide (Rudolph, Stuart, Vernick, & Webster, 2015).

Finally, Webster and colleagues published a paper in 2018 that investigated the effects of firearm legislation on large, urban counties. The researchers used a quasi-experimental design that evaluated firearm homicide between the years 1984 and 2015 and analyzed the data using an interrupted time series using non-firearm homicide as a negative control. PTP laws were found to be associated with a 14% reduction in firearm homicide without a simultaneous increase in non-firearm homicide (Crifasi et al., 2018). Interestingly, Webster and colleagues also found that comprehensive background check (CBC) legislation had no impact on firearm homicide if it was not accompanied by PTP. The authors hypothesized that the act of applying for a permit to purchase in person holds purchasers more accountable and makes straw purchases less likely (Crifasi et al., 2018)

Recommendation for Tennessee.

The several studies that have been published by Daniel Webster and his colleagues have been widely cited by the media to both support and refute the benefits of PTP. Though it may seem as though Webster has “cherry-picked” his data by focusing on particular states, as Charles Cooke or Robert VerBruggenn may argue, states can serve as informative case studies. Of course, correlation does not equal causation and states vary on many more variables than the existence or non-existence of PTP legislation, but this does not mean that Webster’s work should be discounted. Instead, additional work should be done to assess the socio-cultural factors that also affect firearm homicide. At this point in time, all of the research surrounding PTP legislation clearly points to the fact that its existence is highly correlated with fewer firearm homicides. While PTP legislation has high popularity even among gun owners (Barry et al., 2013), there is no polling data from Tennesseans on the issue. Despite this, PTP legislation is likely to have similar support to universal background checks in Tennessee given that both of these policy proposals poll in similar numbers nationally (Barry et al., 2013). The combination of universal background checks with permit-to-purchase laws seem to be the two most consequential pieces of legislation that would reduce firearm mortality without restricting the rights of law-abiding gun owners. They are also highly similar, so it is possible that both universal background checks and PTP legislation could be a part of the same legislative initiative. Taking into account its proven effectiveness and estimated support among Tennesseans, I recommend that Tennessee pursue PTP legislation.

Safe Storage Laws

Arguments for Safe Storage Laws.

One form of firearm legislation that is not often a part of the larger national discourse, but nevertheless could be the most impactful, are safe storage laws, also known as Child Access Prevention Laws. Such laws across the country require people to responsibly store their firearms and ammunition when not in use to prevent children, unlawful users, or thieves from gaining access to firearms (Giffords Law Center, 2018d). Currently, only 18 states and the District of Columbia have laws that concern the locking or storage of firearms. While limited in national scope, the Giffords Law Center argues that these laws help to reduce unintentional shootings, homicides by children, and firearm suicide. Additionally, unsecured and loaded firearms are, according to the Giffords Law Center, “a major source of black market weapons and are a significant threat to public safety,” (Giffords Law Center, 2018d). Citing a survey that was conducted in 2015, Giffords states that 4.6 million minors in the United States live in a home with a loaded and unlocked firearm (Azrael, Cohen, Salhi, & Miller, 2018). Furthermore, using data from WISQARS that tracks unintentional shootings, the Giffords Law Center found that close to 20,000 minors were killed or seriously injured between 2005 and 2014 in unintentional shootings (Giffords Law Center, 2018d).

The Giffords Law Center also claims that safe storage laws save lives, citing multiple peer-reviewed studies. They cite a report published by the United States General Accounting Office that stated that 31% of accidental firearm deaths could be prevented by a combination of child-proof safety locks and loading indicators on the weapon (USGAO, 1991). In addition to preventing accidental shooting, the Giffords Law Center claims that safe storage laws can

prevent suicides. Using CDC data, they found that firearms are used in just 9% of youth suicides in Massachusetts, a state that has comprehensive safe storage laws, compared to 39% of youth suicides nationally (Giffords Law Center, 2018d). Furthermore, the Giffords Law Center cites a study that found that in the four states that require handguns to be locked (California, Connecticut, Massachusetts, and New York) had 40% fewer suicides per capita and 68% fewer firearm suicides per capita compared to states without such laws (Anestis & Anestis, 2015). In sum, the Giffords Law Center claims that if safe storage laws were nationwide, then suicides and accidental shootings would be reduced dramatically.

Everytown for Gun Safety has also raised concerns that the lack of comprehensive safe storage laws across the country lead to accidental shootings by children. By reviewing reports of unintentional shootings nationwide, Everytown has found that there have been at least 1,534 unintentional shootings committed by children 17 years of age or under (Everytown for Gun Safety, 2019). Their #NotAnAccident index provides information on each of these unintentional shootings, including the date, location, and type of firearm used. In addition to encouraging states to pass safe storage legislation, Everytown has also promoted the ‘Be Smart’ campaign that aims to promote safe firearm practices. Firearm owners are encouraged by ‘Be Smart’ to “S: secure all guns in homes and vehicles; M: model responsible behavior; A: ask about unsecured guns in other homes; R: recognize the role of guns in suicide; and T: tell peers to BE SMART,” (Be Smart, 2019).

The American Academy of Pediatrics has also advocated for safe storage legislation nationwide. The AAP claims that “the presence of unlocked guns in homes increases the risk of both unintentional gun injuries and intentional shootings,” (AAP, 2018). In addition to their advocacy for safe storage laws, the AAP also encourages pediatricians to have conversations

with families about safe firearm practices stating that “pediatricians play a key role in injury prevention by providing anticipatory guidance to parents to help minimize the risk of injury in the child’s everyday environment,” (AAP, 2018).

Arguments for safe storage legislation are framed differently than other gun control arguments. Rather than framing safe storage as “common sense” or as necessary for public safety, advocates for safe storage frame their arguments primarily around the safety of children. Often times safe storage laws are even referred to as “child access prevention laws,” implying that the laws are intended to protect children instead of adults or the general public.

Arguments Against Safe Storage Laws.

The NRA-ILA outlines several arguments against safe storage laws in an article entitled, “Mandatory Storage/Trigger Lock Legislation.” Of their eight arguments against the enactment of mandatory or safe storage, three are the most substantial. First, the NRA-ILA argues that fatal firearm accidents are at “an all-time low,” (NRA-ILA, 1999). They cite National Safety Council who found that firearms are involved in only 1.5% of accidental deaths compared to 47% for motor vehicle accidents, 15% for falling, 10% for poisoning, and 4% for drowning. More recently, Wayne LaPierre has claimed that “fatal firearm accidents are at the lowest level in 100 years” (Jacobson, 2013). Secondly, the NRA-ILA argues that the needs of American gun owners cannot be met with “one size fits all” legislation, arguing that the needs of gun-owners in high-rise apartments, for example, are much different than those living on isolated farms. Thirdly, the NRA-ILA claims that the enforcement of mandatory storage laws would lead to “abuses of civil liberties,” (NRA-ILA, 1999). The searches of homes needed to enforce safe storage laws would, in the eyes of the NRA-ILA, violate citizens’ Fourth Amendment protections against illegal

search and seizure. The NRA-ILA conclude their arguments against mandatory/safe storage laws by advocating for better education, rather than legislation, to prevent accidental shootings.

The NRA-ILA also responded to several publications that advocated for safe storage laws in order to prevent children from accidentally harming themselves with firearms. They rebuke two specific articles, one published by The Trace and another by USA Today, as being opinion pieces rather than journalistic articles by advocating for safe storage legislation. In response, the NRA-ILA state that accidental firearm deaths have dramatically decreased over the same span of time in which the stockpile of civilian-owned firearms has increased (NRA-ILA, 2016b). Additionally, the NRA-ILA claims that the NRA itself has educates “over one million participant annually” and that its “Eddie Eagle GunSafe program has been used by 26,000 schools, civic groups, and law enforcement agencies to reach more than 28 million children since 1988,” (NRA-ILA, 2016b). Once again, the NRA-ILA advocates for “common sense, good parenting, and proper training,” rather than legislation, to prevent children from being harmed in accidental shootings.

David Workman, a senior editor at the magazine “TheGunMag,” spoke with Vivian Wang from the New York Times about safe storage laws. He, like the NRA-ILA, argued that the passing of safe storage laws would be impossible to enforce without imposing on the privacy rights of gun owner. In his conversation with Wang, Workman said that “You’re going to send the police around to knock on your door, to say ‘Hey, we’re going to come in and check that you have your gun stored safely?’ ... We’re not just talking about guns. We’re talking about privacy rights” (Wang, 2019). Workman has also claimed that Washington’s Initiative 1639, which bars citizens under 21 from purchasing semi-automatic rifles and mandates “safe storage,” “strips young adults ... of their Second Amendment right” (Workman, 2019).

Arguments against safe storage laws are framed as a violation of citizens' constitutional rights. The NRA-ILA and other gun advocates see safe storage laws as infringing on gun owners' right to defend themselves (Second Amendment) and see the enforcement of such laws as impossible without illegal search and seizure (Fourth Amendment).

Review of Safe Storage Literature.

There have been several studies that have aimed to estimate general gun-ownership trends and their relation to storage. A study published by the RAND Corporation in 2000 attempted to estimate gun storage patterns in American households with children. Using a National Health Interview Survey, they found that 35% of homes with children under the age of 18 had at least one firearm (Schuster, Franke, Bastian, Sor, & Halfon, 2000). They also found that among homes with children and at least one firearm, 43% had at least one firearm that was not locked. This amounted to, at the time, 2.6 million children living in homes in which firearms were easily accessible to them. A more recent study published in 2018 also documented firearm storage patterns in households with children. A nationally-representative online survey was used to capture data to assess self-reported firearm storage practices. Researchers found that approximately one-third of households had at least one firearm regardless of whether children were present or not (Azrael et al., 2018). In households with firearms and children, 2 out of 10 household stored their firearms in the least safe manner, i.e. unlocked and loaded, 3 out of 10 stored their firearm in the safest manner, i.e. locked and unloaded, and the remaining 5 out of 10 stored their firearms in some other manner (Azrael et al., 2018). Based on their research data, 7%, or 4.6 million children, live in homes with firearms that are not safely stored.

Additional research has been done to determine the effects of firearm storage practices with types of firearm injuries in the home. One article published in the *New England Journal of Medicine* investigated home suicide rates in relation to gun ownership. The researchers took all of the home suicides that occurred in both Shelby County, Tennessee and King County, Washington (the most populous counties in their states) over a 32-month period. These suicide victims were then statistically matched with control subjects from the same neighborhood in terms of sex, race, and age. Researcher found that 58% of the suicides studied were committed with a firearm (Kellermann et al., 1992). Furthermore, the presence of one or more guns in the home was associated with an increased risk for suicide. A more recent study published in the *Journal of Interpersonal Violence* investigated the link between firearms in the home and juvenile violence and victimization. Using a dataset from the National Longitudinal Study of Adolescent Health conducted by the Carolina Population Center at the University of North Carolina at Chapel Hill, researchers obtained a sample of 12,584 juveniles for their study. After controlling for prior violence and victimization, juveniles with access to firearms in their homes had both increased rates of violent offence and violent victimization compared to juveniles that did not have access to firearms in the home (Ruback, Shaffer, & Clark, 2011).

Several studies have also investigated the links between safe storage and CAP laws with firearm injuries among children. Using Poisson regression analysis, Jeff DeSimone and Sara Markowitz working for the National Bureau of Economic Research studied the effects of CAP laws in several states. Their analysis found that when CAP laws are implemented in a state, youth self-inflicted firearm injuries fell by 64%, though CAP laws did not impact adult self-inflicted injury rate (DeSimone & Markowitz, 2005). A second study also looked at CAP, using a pooled cross-sectional approach to analyze all 50 states from 1979-2000. Though researchers

found that CAP laws were associated with declines in unintentional firearm deaths in children age 0-14, the only states with statistically significant declines in unintentional firearm deaths after controlling for firearm prevalence were Florida and California (Hepburn, Azrael, Miller, & Hemenway, 2006). Finally, in a study that looked at the association between CAP laws and youth suicide, researchers found that CAP laws were associated with an 8.3% reduction in suicide among teenagers aged 14-17 and a statistically significant reduction in firearm suicides among young adults aged 18-20 (Webster, Vernick, Zeoli, & Manganello, 2004).

Recommendation for Tennessee.

Tennessee in particular has a problem with unintentional shootings. As stated earlier, Tennessee suffers the 8th most unintentional firearm deaths in the country (Safe Tennessee Project, 2017a). Roughly half of these unintentional firearm deaths involve children under the age of 18, with roughly 30 children dying each year in Tennessee. Though these 30 deaths per year are small in comparison to other forms of accidental death, as alluded to by the NRA-ILA, each of these accidental deaths is preventable. Safe storage laws are one way to legislatively ensure that firearms are locked and inaccessible to minors or other individuals who are prohibited from owning firearms. The research on safe storage and CAP laws are very consistent in finding statistically significant declines in accidental firearm injuries and deaths. The USGAO estimates that 31% of accidental deaths could be prevented by practicing safe storage. Contrary to what gun advocates from the NRA may argue, safe storage laws in no way infringe on the Second or Fourth Amendment rights of Americans. Modern gun safes with biometric or keycode locks from companies such as Vaultek and Armourguard allow for gun owners to lock their firearms away from children while also having quick access in an emergency situation.

Furthermore, safe storage laws would not require unconstitutional searches of citizens homes. Rather, harsh penalties would be given to firearm owners whose storage habits allowed for prohibited persons or minors to use their firearm. This would be the manner in which safe storage laws would be enforced. Finally, though there is no data on the opinions of Tennesseans specifically, safe storage laws poll highly favorably at a national scale with 76% in favor (Shepard, 2018). There is no evidence that Tennesseans would differ dramatically from the rest of the country in terms of support for safe storage laws. Because safe storage laws have repeatedly demonstrated effectiveness in reducing accidental firearm deaths and are popular nationally, I recommend that Tennessee join the 18 other states in the U.S. by enacting safe storage legislation.

Conclusion

Firearms are the topic of gun control are one of the most contentious issues in modern American political discourse. On the surface, the debate seems to surround issues of rights and protection. Supporters of the Second Amendment believe that they have a fundamental, constitutional right to “keep and bear arms” in whatever way they want. Any kind of “gun control,” from the seemingly least restrictive (background checks, safe storage laws) to the most restrictive (assault weapons bans), are resisted with claims of “wanting to take our guns away” and an affront to their constitutional right. Conversely, supporters of various gun control measures recognize the existence of the Second Amendment, but also consider the historical context within which the amendment came about. State-run militias were necessary for the protection of the country in the 18th century. Additionally, gun control supporters recognize how

technology has changed, making modern firearms much more lethal and capable of committing mass atrocities like those that happened in Parkland and Las Vegas.

More fundamental to the debate about guns than rights, however, is identity and symbolism. Particularly for the political Right and for rural Americans, gun ownership is intertwined with notions of identity. A survey conducted by Baylor University found that rural, white men were significantly more likely than other demographic groups to feel “empowered” by their firearms (Mencken & Froese, 2019). From the perspective of symbolic interactionism (Blumer, 1986), firearms carry conflicting symbolic meaning depending on which side of the debate a person falls, or even where a person resides. For many in rural American or those on the political right, firearms symbolize strength, protection, independence, and freedom (LaPierre & Clancy, 1994). Firearms are not only found in homes, but also on t-shirts and bumper stickers. For those in more metropolitan areas or on the political left, firearms symbolize war, violence, destruction, and fear (Braman & Kahan, 2006). Instead of being celebrated on merchandise, firearms are shown on news and in movies as tools of death and destruction. These conflicting perceptions of guns create conflicting perspectives from which voters and policy makers take on the gun control debate.

The socio-political factors mentioned above are crucial to any discussion regarding firearm policy. For this reason, an analysis of the arguments for and against each position was outlined prior to a review of the policy literature. It is necessary to consider both the rhetorical and empirical aspects to a policy when assessing its merit and political feasibility. For example, though some opponents of universal background checks make slippery slope arguments claiming that expanded background checks lead to national registries and confiscation, it is important to keep in mind that such registries are already against the law (18 U.S.C. § 926) and that universal

background checks have been successful in reducing firearm mortality in the states that have implemented them. Conversely, while many supporters of AWBs argue that the AR-15 is a “weapon of war” and allows mass shootings to proliferate, the AR-15 is specifically designed for lawful civilian use and are only used in a minority of mass shootings (Statista, 2019). The topic of firearms and gun control is rife with misconceptions and misinformation, so an in-depth analysis is needed to come to a well-informed opinion.

Outlined in this thesis are legislative goals that I believe the state of Tennessee can realistically pursue to reduce firearm mortality. While the three policies advocated here (universal background checks, permit to purchase legislation, and safe storage laws) are not exhaustive, they can, if implemented together, set a foundation in which safe and responsible firearm ownership is encouraged. Importantly, none of the above policies would take firearms away from responsible gun owners. Rather, these policies are focused on keeping firearms out of the hands of those who may use them to harm others and reduce the chance of a minor using them to harm themselves. Each of these policies have also been shown to reduce the most common form of gun death – suicide.

There is a tendency for conversations about gun control to become arguments about the right to even own firearms. Proponents of gun rights regularly argue that those in favor of gun control “want to take away your guns” as President Donald Trump said in a speech in front of NRA members in 2019 (Factba.se, 2019). For this reason, it is crucial for those in favor of increased gun control to support and encourage responsible gun ownership instead of demonizing guns or gun owners as a whole. By implementing safe storage laws, universal background checks, and permit to purchase legislation, the state of Tennessee can reduce firearm

mortality while maintaining the rights of Tennesseans to safely and responsibly “keep and bear arms.”

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