

Testimony of Paul Helmke  
President, Brady Campaign & Center to Prevent Gun Violence  
at the  
U.S. House of Representatives, Oversight and Government Reform Committee  
Forum on Law Enforcement Tools to Stop the Flood of Illegal Weapons  
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Thank you Ranking Member Cummings, and other Members of the Committee for arranging this forum and for giving me the opportunity to offer testimony today.

My name is Paul Helmke, and I am President of the Brady Campaign to Prevent Gun Violence, the nation's largest, non-partisan, grassroots organization leading the fight against gun violence.

More than three months ago, we sent a letter House Judiciary Committee Chairman Lamar Smith urging him to convene a hearing to address the problem of gun trafficking into Mexico with particular focus on whether changes in current law are needed to attack the problem. We have urged Oversight Committee Chairman Darrell Issa to take a similar approach. Thus far, our requests have fallen on deaf ears. That is why we are especially grateful to Ranking Member Cummings for the leadership you have shown by allowing this important topic to be discussed today.

The bad news is all too obvious - we have a problem with gun violence in this country which not only leads to our arming the vicious cartels that have terrorized Mexico, but also endangers way too many Americans. The less obvious good news is that we know what to do to reduce this gun violence..

We are now just days away from the six month anniversary of the shootings in Tucson. Since the Tucson shootings, more than 47,000 Americans have been shot, and Americans are still being slaughtered at the rate of at least 32 people shot and killed in gun homicides every day. If today is a typical day in America, eight children and teens will die from gunfire. And for every person killed by guns, at least 3 are injured but survive.

Yet as the six month anniversary of Tucson approaches, we have still seen no change in our nation's weak or non-existent gun laws. We still have no federal law criminalizing gun trafficking, banning assault weapons and magazines, or closing the loopholes in our Brady Background Check system that help arm dangerous killers and supply gun traffickers. The Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF) remains without a confirmed leader and continues to be stymied by laws and Appropriations riders that tie its hands and allow corrupt gun dealers to flagrantly violate the law and keep on selling guns.

And thousands of American guns continue to flood across the border into Mexico, threatening the stability of our neighbor to the south. Cartel violence is a direct threat to U.S. safety and security as well. The Department of Homeland Security has warned that "Mexican Drug Trafficking Organizations constitute the greatest organized crime threat to the United States."

There are three main steps we should take to strengthen our gun laws to stop gun trafficking. First, we should close the private seller loophole exploited primarily at gun shows and apply Brady

background checks to all gun sales. Second, we should enact a ban on the sale of military-style assault weapons and assault clips. And third, we should strengthen ATF's ability to crack down on the corrupt gun dealers that supply the criminal market.

**Number One – We must make sure that no guns are sold without a background check, so no one who is prohibited from buying guns can buy one.**

We must make sure that such dangerous people who are barred from buying a gun at a gun shop cannot then walk into a gun show and obtain the same gun without a background check from a private seller.

Under current federal law, there are two categories of gun sellers: licensed sellers, and unlicensed sellers. If you are “engaged in the business” of selling guns, you are required to have a federal firearms license, and you cannot sell a gun without a background check that determines if the purchaser is prohibited from buying guns.

But federal law allows people without a license to sell guns without a background check. These unlicensed sellers are not required to check the background of the purchaser, and they are not required to keep any records.

An estimated 40% of gun sales are made by unlicensed sellers without a background check. ATF has found that no-check sales at gun shows and other sales by unlicensed gun sellers are a major source for the illegal gun market, with trafficking “cases involving gun shows and flea markets account[ing] for 30.7% of all trafficked guns in the U.S.”<sup>1</sup> ATF Assistant Special Agent in Charge of the Dallas Field Division, Michael Golson, said of trafficked weapons entering Mexico from the U.S.: “‘They’re coming from gun shows and flea markets.’ Often, he says, private collectors are selling their weapons because ‘they don’t have the same restrictions.’”<sup>2</sup>

We need to require Brady background checks for guns sold at gun shows and all private sales. We support S. 35 and H.R. 591 as well as the broader efforts to fix the entire gun checks system.

**Number Two – We need to prohibit the sale of military-style semi-automatic assault weapons and assault clips.**

Gun traffickers are able to purchase large quantities of military-style semiautomatic assault weapons and .50 caliber sniper rifles that can penetrate armored car plating and airplanes. The Tucson shooter was able to buy high-capacity assault clips that let him fire more than 30 rounds without pausing to reload.

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<sup>1</sup> Garen J. Wintemute, *Gun shows across a multistate American gun market: observational evidence of the effects of regulatory policies*, 13 INJURY PREVENTION 150 (2007) (citing BUREAU OF ALCOHOL, TOBACCO & FIREARMS, *Following the Gun: Enforcing Federal Firearms Laws Against Firearms Traffickers* (June 2000)). For more details on the importance of background checks, see BRADY CENTER TO PREVENT GUN VIOLENCE, *Brady Background Checks: 15 Years of Saving Lives* (Nov. 2008), available at: <http://www.bradycenter.org/xshare/pdf/reports/brady-law-15years.pdf>.

<sup>2</sup> Cami McCormick, *The U.S. Guns in Mexico's Drug War*, CBS NEWS, Mar. 26, 2009.

Mexican law enforcement is increasingly being out-gunned by drug gangs bearing military-style assault weapons, .50 caliber sniper rifles, and other high-powered weapons from the U.S. Recent data shows a surge in seizures of military-style assault rifles and .50-caliber guns, and according to ATF, cartels favor more powerful weapons like AK-47s, AR-15s, and FN 5.7 mm caliber pistols, known in Mexico as “Cop Killers” because they can pierce body armor. Mexico Attorney General Medina Mora has said that before the assault weapons ban was allowed to expire, only 21 percent of the weapons Mexico seized from traffickers were assault rifles, while today, it is more than half.<sup>3</sup>

Similarly, in the U.S., since the federal assault weapons ban expired in 2004, police chiefs across the country report increases in assault weapons used in crime and used against them. It is far too easy for dangerous people like the shooter in Tucson to get assault clips that are designed to enable shooting mass numbers of people quickly and efficiently without reloading.

We support legislation to ban the sale of these semi-automatic assault weapons and bills such as H.R. 308/ S.32 that ban assault clips to keep these weapons of war off our streets.

**Number Three – We must give our police and federal law enforcement the tools and resources they need to fight gun crimes, including illegal gun trafficking and corrupt gun dealers.**

We know how criminals get guns. But we don’t give law enforcement the tools to stop them effectively.

Studies have shown that virtually every gun used in crime started out in the legal market. Criminals want new guns, and they get new guns, mostly from a small group of dealers. About 1 percent of gun dealers sell almost 60 percent of crime guns.<sup>4</sup> An ATF report issued in 2000 found that corrupt gun dealers, on average, trafficked over 350 guns each to the criminal market.<sup>5</sup> Among dealers inspected by ATF who had sold high numbers of guns traced to crime, 75% were found to have violated Federal firearms laws.<sup>6</sup>

We must give law enforcement all the tools it needs to crack down on corrupt dealers, to prevent them from continuing to supply dangerous people with guns. Instead, we tie law enforcement’s hands, we put blinders on them, and we give special protections to corrupt gun dealers who supply criminals.

Corrupt dealers who violate gun laws are specially protected under the law. Instead of letting ATF operate as other law enforcement entities do, ATF is barred from conducting more than one

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<sup>3</sup> *Mexico: U.S. must stop gun trade at border*, CBS News, Feb. 28, 2009, available at: <http://www.cbsnews.com/stories/2009/02/28/world/main4835694.shtml>.

<sup>4</sup> Bureau of Alcohol, Tobacco and Firearms (ATF), *Commerce in Firearms in the United States 2* (2000). See also Glenn L. Pierce, LeBaron Briggs & David A. Carlson, *The Identification of Patterns in Firearms Trafficking: Implications for Focused Enforcement Strategies*, A Report to the United States Dep’t of Treasury, Bureau of Alcohol, Tobacco and Firearms Office of Enforcement, 12-13 (1995); Report of Sen. Charles E. Schumer, *A Few Bad Apples: Small Number of Gun Dealers the Source of Thousands of Crimes* (June 1999) (finding that 137 of the worst dealers accounted for 34,000 of crime guns over three years); Philip J. Cook and Anthony A. Braga, *Comprehensive Firearm Tracing: Strategic and Investigative Uses of New Data on Firearms Markets*, 43 Ariz. L. Rev. 277, 294 (2001).

<sup>5</sup> ATF, *Following the Gun: Enforcing Federal Laws Against Firearms Traffickers* x, 10-15 (June 2000).

<sup>6</sup> ATF, *ATF Regulatory Actions: Report to the Secretary on Firearms Initiatives 20* (Nov. 2000).

unannounced investigation of any gun dealer each year. So after a dealer has been inspected once, he knows it's unlikely ATF will visit for another year.

It is also too difficult to stop corrupt gun dealers from continuing to sell guns, even after they have been found to violate gun laws. To revoke a gun dealer's license, ATF must meet an extraordinary burden of proof, higher than required even in most criminal cases. ATF must prove that a dealer "willfully" violated the law, requiring proof that the dealer not only broke the law but also knew that his or her conduct was unlawful. Because of this standard, ATF generally requires repeated violations of the law over many years before it attempts to revoke a license. As a result, license revocations are exceedingly rare.

And even if ATF succeeds in revoking a license, corrupt gun dealers are allowed to continue to sell guns while their case is on appeal. In fact, gun dealers have been allowed to sell guns even after their licenses have been finally revoked.<sup>7</sup> We must stop allowing gun dealers who violate the law to continue to do so.

We must give ATF the power to track trafficked guns by supporting the proposed rule to require reporting of assault rifle sales along the Mexico border.

We support legislation like S. 2878/H.R. 4298 introduced last Congress by Senator Kirsten Gillibrand and Rep. Carolyn McCarthy to strengthen ATF and give it the tools it needs to crack down on corrupt gun dealers. We strongly oppose legislation like H.R. 1093 being pushed by the gun lobby to make it virtually impossible for ATF to revoke the licenses of law breaking gun dealers.

These are just some of the policies that we should implement to protect our families and communities from the scourge of gun violence.

**There are many more lethal loopholes in our gun laws that we hope will be addressed in future hearings.** These include the following:

- Current law enables gun traffickers and gangs to be supplied with arsenals, placing no limit on the number of guns you can buy in a single purchase. Purchases of multiple guns, whether one hundred or one thousand or more, require only another form notifying ATF, but the guns are sold, and no additional questions are asked about why someone wants an arsenal. Not surprisingly, it is typically gun traffickers who want 10, 50, or 100 guns at a time, so they can stock their inventory to sell on the streets.
- Current law allows suspected terrorists, even if they are deemed too dangerous to fly on airplanes, to buy all the guns they want, as long as they have not been convicted of a felony or fall into another category of prohibited gun purchasers. We are pleased that Senator Frank Lautenberg and Representative Peter King have introduced the Bush Administration's proposed legislation, S. 34/H.R. 1506, to give the Attorney General discretion to deny such gun sales. This is an important start to closing this loophole.

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<sup>7</sup> See, e.g., "Former Gun Dealer Faces Criminal Charges," WBAL-TV, (April 20, 2007), <http://www.wbaltv.com/news/12638343/detail.html>.

**These proposals should not be controversial.**

The proposals I have discussed today are basic “law and order” policies. Most Americans across the country support them. Law enforcement supports them. They will not prevent law-abiding citizens from having a gun in their home, if they choose. They will not cost a single sportsman a day of hunting season. Plugging the lethal loopholes in our laws is simple common sense.

We have all heard from pundits who say that Congress is afraid to tackle the gun issue because guns are a third rail of American politics. I reject that. As a lifelong participant in our political system, I think the most dangerous thing a political leader can do is ignore an issue that is important to the American people, or to do nothing when change is a necessity. After the Tucson shootings especially, politicians ignore the gun crisis at their peril.

I got involved in this issue as a Republican mayor in Fort Wayne, Indiana. Sensible gun laws should not be supported by just one party, or one region, or just big cities, or whatever. Supporters of sensible gun laws have come from rural America, from the West, from the South, Republicans as well as Democrats. The common thread among them is they had the courage of their convictions, and the judgment to trust in the common sense of the American people.

What we are doing now about gun violence is not working. We can do better. Too many of our neighbors are suffering the same pain experienced by the Tucson, and Virginia Tech, and Columbine, and all too many other victims and families every day.

At least thirty-two times a day.

I ask Congress what we should all be asking ourselves: What are you going to do about it?

Thank you very much.

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