An Intractable Issue? Gun Control in America, 1968-Present

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An Intractable Issue? Gun Control in America, 1968-Present

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Introduction

On December 14, 2012, Adam Lanza, a mentally ill twenty-year-old man, murdered twenty-seven people with a Bushmaster AR-15 semiautomatic assault rifle at Sandy Hook Elementary School in Newtown, Connecticut. His victims included twenty young children, six teachers, and his own mother.1 His mother had legally purchased this military-grade assault rifle from a gun shop. Although twelve thousand gun murders occur each year, according to data collected by the gun-control advocacy group Everytown for Gun Safety, little action has been taken on the federal level to curb this epidemic of violence.2

This time, however, the status quo on gun control seemed ripe for a change. Public opinion polls showed a surge in the percentage of Americans who favored stronger gun control measures. A bipartisan bill that would have extended criminal background checks to prospective gun buyers at gun shows and over the internet, the Manchin-Toomey bill, was crafted in response to the Sandy Hook shooting. A Gallup poll on the issue taken before the 2013 vote indicated that 91 percent of Americans favored passing a law that would require criminal background checks for all gun sales.3 The bill was defeated in the Senate in April 2013.4 After the San Bernardino, California shooting in December 2015, the bill was revived and voted down again, attracting even fewer votes in favor than it had in 2013.5

This lack of a legislative response on any other issue would be considered outrageous. Time and time again, Congress votes against gun control bills that contain measures which the majority of the American public supports. This lack of legislative response is not new for gun control policy. Federal gun control measures have been the subject of tooth-and-nail battles in Congress. If these measures are passed at all, they are often stripped of any measures that would create substantive federal regulation of firearms during the legislative process, or are passed with a built-in sunset period, meaning that the law will expire in a set period of time unless Congress approves it again. In most cases, Congress has declined to renew federal legislative measures regarding gun control that include this sunset period.

In my thesis, I investigate the factors that contribute to this seeming lack of federal legislative response to gun control to determine how and if there is a way forward to pass more effective gun laws on the federal level in the future. Chapter One explains three of the most substantive federal gun control policies: The Federal Gun Control Act of 1968, the Brady Law, which was signed into law in 1993, and the Federal Assault Weapons Ban of 1994. These three laws are instructive if one wishes to understand why federal gun control policy emerges from Congress without many of the provisions that the American public supports. Chapter Two identifies prominent interest groups on both the pro-gun-control and pro-gun-rights side of the debate and the factors behind their influence, or lack thereof, on gun control policy on the federal level. Chapter Two also explains certain theories in public policy that contribute to the difficulty of enacting strong gun control legislation on the federal level.

Chapter Three examines public opinion polling and how it may be interpreted. Although the majority of the American public supports a considerable number of mild to moderate gun control measures, as public opinion polling can attest, this is often a silent majority.
Three provides an in-depth explanation for why public opinion polling might not be reflective of who is the most concerned about the issue of gun control.

Lastly, Chapter Four summarizes recent policy initiatives regarding gun control. In January 2016, President Obama announced an executive order that took some steps to combat gun violence, but this executive order has met with backlash from Congress. Chapter Four also details potential policy solutions that could work around the stasis seen in Congress on gun control.

I. The Gun Control Act of 1968: Impetus and Objectives

Although hearings for provisions that would eventually become part of the Gun Control Act of 1968 began early in 1963, the impetus for Congress to introduce further restrictions on gun access did not truly arise until November of that year. Lee Harvey Oswald used a gun purchased through mail order to assassinate then-President John F. Kennedy on November 22, 1963. President Lyndon B. Johnson introduced gun control legislation each year beginning in 1965, but members of Congress declined to act until 1968, when the assassinations of Senator Robert F. Kennedy and civil rights leader Martin Luther King, Jr. galvanized support for gun control in both the public and their elected representatives. According to Harry Wilson, the nation’s grief over the back-to-back assassinations “...served to make the often silent voices of supporters of gun control more audible, while the cries of control opponents were largely muted.”

Senator Thomas Dodd, D-CT, introduced a gun control bill in the Senate with two central provisions that were approved by the President himself: registration for all firearms and licensing of gun owners. The Chair of the Judiciary Committee, Emanuel Celler, D-NY, introduced the bill in the House.

Legislative Process

Members of the House Judiciary Committee who disagreed with President Johnson’s gun control objectives immediately set out to weaken the bill, which they did successfully. Once it
passed on to the House Rules Committee, the Committee Chair, William Colmer, a Democrat from Michigan and a staunch gun-rights proponent, negotiated with Celler for three weeks.\textsuperscript{12}

Ultimately, the bill moved out of the Rules Committee, but only after Celler agreed to “...oppose any efforts to add registration and licensing provisions to the bill on the floor of the House.”\textsuperscript{13}

President Johnson used some of the negotiation skills that he had honed for years as the Senate majority leader in order to rally habitual gun-control opponents around the Gun Control Act. However, this required compromise on his end. In exchange for his support of legislation that would authorize federal wiretapping, which he was previously against, “...the NRA agreed that, while it could not support the GCA, it would not consider GCA votes on the legislative report card when grading members of Congress A through F on their support of gun rights. This grading was and is one of the NRA’s most efficient tools for enabling political action by the membership.”\textsuperscript{14} This freed up certain members of Congress to vote in favor of the bill who would not support it otherwise. Nevertheless, David Kopel reports, “...many congressmen voted “no” anyway, out of deference to their constituents.”\textsuperscript{15} The House passed the bill as HR 17735 on June 21, 1968, after forty-five amendments were proposed and debated.\textsuperscript{16} The Senate passed the bill on September 18, after making various changes to weaken it even further. President Johnson signed it into law on October 22.\textsuperscript{17}

**Provisions**

Neither of President Johnson’s primary objectives for the Gun Control Act of 1968 was achieved. According to Wilson, this was “...largely due to the efforts of the NRA and other gun

\begin{itemize}
\item \textsuperscript{12} Ibid.
\item \textsuperscript{13} Ibid.
\item \textsuperscript{15} Kopel, “The Great Gun Control War of the Twentieth Century--And Its Lessons for Gun Laws Today,” 1547.
\item \textsuperscript{16} Ibid.
\item \textsuperscript{17} Spitzer, *The Politics of Gun Control*, 135.
\end{itemize}
control opponents.” In spite of this, the Gun Control Act of 1968 was a great leap forward for federal gun control legislation. Its provisions banned interstate sales of firearms, mail-order sales of long guns, and the sale of “Saturday Night Specials,” the popular term for cheap, imported handguns. It also created additional categories of people who would be prohibited from purchasing weapons, including “minors, drug addicts, mental incompetents, and convicted felons.” Licensing and record-keeping requirements for gun dealers and collectors were also reformed, though not to the extent that Johnson had originally envisioned. They were now required to “...keep a federal form (now known as Form 4473) detailing information for each sale, such as the gun’s model and serial number, the buyer’s name, address, age, race, and so on. The forms would be available for government inspection and for criminal investigations, but the forms would not be collected in a central registration list.” Additionally, the Gun Control Act of 1968 created a federal oversight bureau, the Bureau of Alcohol, Tobacco, and Firearms, to regulate these new measures.

**Outcome**

Robert Spitzer describes the Gun Control Act of 1968 as legislation whose scope was modest, and as a consequence, its impact was minimal. Gun control opponents nevertheless immediately set to work to erode the act, if not overturn it entirely. One year later… Congress repealed a provision of the act requiring sellers of shotgun and rifle ammunition to register purchasers.

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18 Wilson, *Guns, Gun Control, and Elections*, 89.
21 Ibid.
Wilson identifies the area of the bill with the most impact as the restrictions on interstate firearms sales, though “...this was probably never a large proportion of firearm sales.” Other types of guns that were restricted increased in either production or importation nonetheless. Shotguns that did not meet the criteria for a Saturday Night Special were still imported, and domestic handgun production actually increased in response to the limitations placed on gun imports. Franklin Zimring reports that domestic handgun production increased steadily post-1968, estimating that domestic production of handguns for civilian use peaked dramatically at over one million in 1968 for the first time and increased every subsequent year until 1972, when production rose to 1,667,000. Domestic production fell the year after to 1,609,000 handguns. It also led to an increase in the number of gun dealers. Zimring found that the creation of the ATF and the fact that the 1968 Gun Control Act necessitated licensing dealers were intended to reduce the number of persons applying for licenses, thereby making meaningful regulation of dealer activities feasible. But the higher fee was offset by the fact that, after the Act, the only way to receive firearms in interstate commerce was to obtain a federal license. The number of dealer and collector licenses in effect never dropped below 60,000 and is currently estimated to be at 160,000, compared to about 100,000 in the early 1960s.

The Gun Control Act of 1968 was successful in decreasing the number of imported handguns. Zimring found that “handgun imports in 1969, the first year under the Gun Control Act, were less than a third of 1968’s record volume of 1,155,000, and importation has never exceeded one-third of the 1968 total.”

25 Wilson, Guns, Gun Control, and Elections, 90.
26 Spitzer, The Politics of Gun Control, 136-137.
Lastly, it appears that the Gun Control Act of 1968 had a negligible effect on crime. In fact, Zimring finds that gun violence in the years 1966 through 1973 was characterized by “…explosive growth in the rate of handgun usage in the period 1966-1969 followed by three years in which handgun violence continued to grow, but at a more modest rate.”

II. The Brady Law (1993): Impetus and Objectives

The Brady Handgun Violence Prevention Act (known as the Brady Law), enacted in 1993, amended the Gun Control Act of 1968. The law was named in honor of James Brady, President Ronald Reagan’s press secretary, who was shot in the head in 1981 and became permanently disabled during an assassination attempt against Reagan. Brady’s wife, Sarah, became the president of Handgun Control, Inc., one of the foremost gun-control advocacy groups, and, with her help, the organization began to lobby Congress in the late 1980s until the early 1990s. Their objective for the next federal gun-control law was to create both a waiting period and a background check for purchasing handguns. They hoped that the background check would prevent those who should not possess handguns from buying them, and “the waiting period would serve as a cooling-off period for those who would buy a gun in a fit of homicidal passion or rage or during a period of suicidal thoughts.” However, HCI and other gun control advocates knew how to pick their battles; the background check would be imposed only on handgun sales by federally licensed dealers. Long guns and the secondary market were left untouched. Sales reports would be sent to local authorities, not to the federal government, and these reports would have to be destroyed relatively soon.

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32 Spitzer, The Politics of Gun Control, 147.  
34 Wilson, Guns, Gun Control, and Elections, 93.  
35 Ibid.  
36 Ibid.
after the transaction was completed. This would, in effect, prevent the establishment of gun registration.\textsuperscript{37}

**Legislative Process**

Howard Metzenbaum, D-OH, introduced the Brady Bill in the Senate and Edward Feighan, D-OH, introduced it in the House early in 1987.\textsuperscript{38} The NRA objected to its provisions almost immediately, claiming that “...it would simply be a prelude to stronger regulation, that it would not stop criminals from getting guns, and that it merely inconvenienced those entitled to guns.”\textsuperscript{39} It was put to a vote in the House in September of 1988, but the original bill was weakened by House members who substituted an NRA-supported amendment about the proposed waiting period.\textsuperscript{40} The bill died in the House and was not taken up again until 1990.\textsuperscript{41}

Reflecting on the failure of the original Brady Bill, Representative Feighan attributed its lack of success to the lobbying efforts of the NRA, who had spent, according to the organization’s own estimate, between 1.5 and 3 million dollars on a media campaign and grassroots efforts to suppress any support for the bill.\textsuperscript{42} He acknowledged the NRA’s hold on legislators, saying that “...at least two dozen House members had privately spoke of their support for the bill but had refused to vote for it, not because they feared losing their seats but because of “the aggravation” that accompanied opposing the NRA.”\textsuperscript{43}

The House finally passed the Brady Bill, with its original seven-day waiting period intact, in May of 1991.\textsuperscript{44} In order to do so, however, the House had to vote against an NRA-backed replacement bill that would have instituted an instant computerized background check in the

\textsuperscript{37} Wilson, *Guns, Gun Control, and Elections*, 94.
\textsuperscript{38} Spitzer, *The Politics of Gun Control*, 148.
\textsuperscript{39} Ibid.
\textsuperscript{40} Ibid.
\textsuperscript{41} Ibid.
\textsuperscript{42} Ibid.
\textsuperscript{43} Ibid.
\textsuperscript{44} Ibid.
place of the seven-day waiting period. The most states were not operating with fully automated records, and the expense of developing a computerized instant-check system and digitizing records would be astronomical. The NRA was fully aware of the limitations of their alternate plan. The strategy behind it was not to present a viable alternative, but simply to appear to do so. Spitzer explains the NRA’s logic:

The political strategy behind the...proposal was based on the principle that a motion is easier to defeat if the opposition has something to offer in its place. By proposing an alternative of little or no feasibility, the NRA and its allies were offering a plan that seemed to offer a meaningful reform yet posed no actual change in gun-purchasing procedures for many years to come.

Although this alternate version was ultimately not approved in the House, the Senate made changes to two of the Brady Bill’s most important provisions. The waiting period to buy a handgun was reduced to five days instead of seven, and the Brady Bill was integrated into an omnibus crime bill as an attempt at bipartisan compromise. In spite of this effort, Senate Republicans filibustered the bill during a floor vote on March 19, 1992, forcing the bill’s sponsors to withdraw it after their effort to invoke cloture failed to garner the required sixty votes. A similar process occurred when the bill was reintroduced on October 2.

The bill finally attracted support in late 1993, when gun-control supporters agreed to adopt the five-day waiting period instead of the seven days that had been proposed originally. The bill was approved by the Senate on November 24 of that year, but not before the NRA

45 Ibid.
46 Spitzer, The Politics of Gun Control, 149.
47 Ibid.
48 Ibid.
49 Ibid.
50 Ibid.
51 Ibid.
52 Spitzer, The Politics of Gun Control, 150.
extracted a compromise from the pro-gun control supporters of the Brady Bill. The amendments made to the bill at the suggestion of the NRA included “...requirements that background check records of sales to lawful purchasers be destroyed, and that the Brady handgun waiting period would sunset within five years, replaced by the National Instant Check System.” These new measures upset supporters of the original version of the bill, because “…many states had waiting periods longer than five days, and the move was seen as a violation of states’ rights.” The compromise occurred because Senate Republicans filibustered the original Brady Bill, which had more stringent requirements, like a longer waiting period, until Senate leaders from both sides of the aisle agreed to consider the alternate, NRA-backed version in a floor vote. President Clinton signed the Brady Bill into law on November 30.

**Provisions**

Ultimately, the Brady Law included the five-day waiting period for handgun purchases. Its other provisions included allocating funds for states to upgrade and computerize their criminal records so the National Instant Check System could be implemented, increased firearms licensing fees, made theft of firearms from licensed dealers a federal crime, required police notification for sales of multiple handguns, and, most contentiously, “...stated that police must make a “reasonable effort” to check the backgrounds of gun buyers.” States that had their own systems for background checks for firearms purchases and handgun licensing were exempt from the provisions of the Brady Law.

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53 Ibid.
56 Ibid.
57 Ibid.
59 Wilson, *Guns, Gun Control, and Elections*, 95.
“A Reasonable Effort”: Police Background Checks and *Printz v. United States*

The police background check for handgun purchases was, by and large, the most controversial provision of the Brady Law. Since the law mandated that a system for a national instant criminal background check would be created and instituted within five years, an alternate method to perform background checks was necessary until the National Instant Criminal Background Check System could be implemented. The alternate method “...required the assistance of authorized firearms dealers and state chief law enforcement officers (CLEOS)...” who were supposed to make “...a reasonable effort to ascertain...whether receipt or possession [of the handgun] would be in violation of the law.” Two sheriffs, Jay Printz of Montana and Richard Mack of Arizona, challenged this provision on Tenth Amendment grounds, alleging that “congressional action compelling state officers to execute federal laws is unconstitutional.” The Supreme Court ultimately agreed in 1997.

Writing for the majority, Justice Antonin Scalia concluded that permitting the federal government to “impress into its service--and at no cost to itself--the police officers of the [fifty] States” would violate the protection of dual sovereignty set forth by the Framers in the Constitution.” Requiring that police be the agents conducting the background checks at the behest of a federal law was also determined to violate the separation of powers outlined in the

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62 Ibid.


64 Ibid.

65 *Printz v. United States* (n.d.).
Constitution. The President is supposed to be responsible for the administration of laws enacted by Congress. Transferring this responsibility to police officers by compelling them to conduct background checks on prospective handgun purchasers would effectively bypass executive control. According to Justice Scalia, this would result in transferring “this responsibility to thousands of CLEOS in the [fifty] States, who are left to implement the program without meaningful Presidential control,” thereby undermining the power of the Executive branch. As a result of the Printz decision, police were no longer required to conduct the background checks by law. Instead, President Clinton urged the states to continue to perform background checks of prospective handgun buyers on a voluntary basis.

Outcome

Wilson admits that, ultimately, “it is difficult to assess the impact of the Brady Bill." The system has been effective in certain respects, particularly in preventing handgun purchases from licensed dealers by prospective buyers with criminal records, domestic violence convictions, or restraining orders. It also led to a drastic decrease in the number of federally licensed dealers, due to the license fee increase. By 2007 there were only about 50,000 such dealers, down from 285,000 the year before the Brady Law was put into place. However, due to privacy laws, the system has been ineffective in identifying and preventing gun purchases by people who are mentally ill or drug users. The Virginia Tech shooting in 2007, where a mentally ill college student murdered thirty-three people with two semiautomatic handguns,

67 Printz v. United States (n.d.).
68 Spitzer, The Politics of Gun Control, 151.
69 Wilson, Guns, Gun Control, and Elections, 95.
70 Ibid.
71 Spitzer, The Politics of Gun Control, 151.
72 Wilson, Guns, Gun Control, and Elections, 95.
highlighted the gaps in record-keeping resulting from the weakness of the Brady Law. At the time, only twenty-two states submitted their mental health records to NICS, as the Brady Law made no provisions to enforce compliance with its record-keeping requirements. The NICS Improvement Amendments Act of 2007 “...now requires all states to submit appropriate mental health records and also provided a procedure whereby those judged mentally incompetent to own a firearm could petition to have the right restored.”

Additionally, the Brady Law, by nature of its compromise, undermined stronger efforts by not regulating secondary sellers, including gun shows and antiques dealers. Although the Brady Law has prevented many people who should not possess handguns from purchasing them through licensed dealers, it is likely that those denied because of the background check will turn to either straw buyers or the secondary market. Referring to a study on handgun use in homicide and suicide, two primary reasons cited for the waiting period and background check that were originally provisions of the Brady Law, Wilson says that “Ludwig and Cook [the authors of the study] found no statistically significant effect of the Brady Bill.”

Jens Ludwig and Frederick Cook studied the impact of the Brady Act, specifically its provisions for a waiting period and a background check, on homicide and suicide rates. After analyzing National Center for Health Statistics data between the years 1985 and 1997, years both before and after the Brady Law went into effect, Ludwig and Cook found that “…implementation of the Brady Act appears to have been associated with reductions in the

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74 Ibid.
75 Ibid.
76 Wilson, *Guns, Gun Control, and Elections*, 95.
77 Ibid.
firearm suicide rate for persons aged 55 years or older but not with reductions in homicide acts or overall suicide rates.”

The sunset of the five-day waiting period after 1998 and the introduction of the National Instant Criminal Background Check System also impacted the law’s effectiveness. The NICS, unlike the interim background check, applies to all firearms. The National Instant Criminal Background Check System created allows “any licensee [to] contact, by telephone or by other electronic means in addition to the telephone, for information on whether receipt of a firearm by a prospective transferee would violate Federal or State law.” NICS has allowed for 95 percent of the background checks to be completed within a two-hour window. By 2000, 26 states had their own background check system, meaning that they are no longer bound to the national system established by the Brady Law.

III. Assault Weapons Ban (1994): Impetus and Objectives

Many pro-gun-control groups, including Handgun Control, Inc., grew more politically sophisticated as time went on and were able to replicate the lobbying and organizational tactics that the NRA had used successfully in the past. This included a public education campaign that “...emphasized injuries and deaths of children by gunshot, and the need to impose gun safety laws.” This public education and the growing public interest in gun control came to a head in response to a January 1989 shooting where a mentally ill man named Patrick Purdy murdered 78


Ibid.

Spitzer, The Politics of Gun Control, 151.

Ibid.

Spitzer, The Politics of Gun Control, 141.

five children and wounded twenty-nine others on a playground in Stockton, California.\textsuperscript{85} He was armed with an AK-47.\textsuperscript{86} Moved by the situation, President George H.W. Bush levied a temporary ban on the import of certain types of assault rifles in March of 1989.\textsuperscript{87} An executive order by President Clinton expanded the ban to assault-style handguns in 1993.\textsuperscript{88} Various attempts to pass an assault weapons ban languished in Congress between 1989 and 1991.\textsuperscript{89}

**Legislative Process**

In November of 1993, the Senate banned the manufacture of nineteen types of assault weapons. However, it did not address guns of this type that had already been produced, and exempted more than six-hundred and fifty types of hunting weapons.\textsuperscript{90} The outlook for the House to approve the bill was dim until President Clinton threw his support behind an assault weapons ban.\textsuperscript{91} The House took up the matter in 1994. Eager to move forward, Clinton advocated for an early vote in the House, which was ultimately the wrong decision. The bill was rejected on August 11 by a vote of 225 to 210.\textsuperscript{92} Clinton rallied the support of police organizations and his cabinet members and pushed Congressional leaders to act on the bill once again. The House renegotiated the bill, fielding fierce lobbying attempts from the NRA to get it to drop the assault weapons ban.\textsuperscript{93} Ultimately, the bill passed, and Clinton signed the Violent Crime Control and Law Enforcement Act, of which the assault weapons ban was Title XI.\textsuperscript{94}

\textsuperscript{85}Wilson, *Guns, Gun Control, and Elections*, 95.
\textsuperscript{86} Ibid.
\textsuperscript{87}Spitzer, *The Politics of Gun Control*, 142.
\textsuperscript{88} Ibid.
\textsuperscript{89} Ibid.
\textsuperscript{90} Ibid.
\textsuperscript{91} Ibid.
\textsuperscript{92}Spitzer, *The Politics of Gun Control*, 144.
\textsuperscript{93} Ibid.
\textsuperscript{94}Spitzer, *The Politics of Gun Control*, 145.
Provisions

The Assault Weapons Ban prohibited by law the sale and possession of nineteen types of weapons, as well as “copycat” weapons that included at least two characteristics of the types that were explicitly banned.\(^95\) Six-hundred and sixty-one rifles used for sporting purposes were specifically exempted, as were existing assault-style rifles.\(^96\) Gun clips holding more than ten bullets were also banned.\(^97\) It also proposed the prohibition of gun possession by anyone with a domestic violence restraining order against them.\(^98\) An additional provision of the assault weapons ban gave Congress the power of review to include more gun types under the Assault Weapons Ban.\(^99\)

After Republicans won control of Congress in the 1994 elections, the Assault Weapons Ban barely survived a repeal vote in 1996.\(^100\) Republicans, including the Senate majority leader, Robert Dole, and the House Speaker, Newt Gingrich, “…publicly pledged to make repeal of the assault weapons ban a top priority.”\(^101\) Although they ultimately did not succeed in repealing it before its automatic sunset in 2004, 183 Republican members of Congress voted to repeal the ban in March of 1996.\(^102\) Repealing the assault weapons ban had been a priority of many Republicans in Congress since its passage. It was saved by the vanity of Senate majority leader Robert Dole, who was running for president and thought that repealing the assault weapons ban would hurt his popularity with the American public.\(^103\) An August 1994 Gallup poll found that

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\(^95\) Ibid.
\(^96\) Ibid.
\(^97\) Ibid.
\(^99\) Ibid.
\(^100\) Spitzer, The Politics of Gun Control, 145.
\(^101\) Ibid.
\(^102\) Ibid.
\(^103\) Ibid.
seventy-one percent of Americans “…favored banning the manufacture, sale, and possession of the much narrower category of guns labeled “assault rifles,” though this dropped to 57% by April 1996.”

Outcome
The Assault Weapons Ban was self-defeating. By including a sunset clause for the entire law after ten years, it ensured its own downfall. Despite its popularity with the American public, 68% of whom favored the measure, it expired in 2004.

While it was active, however, the Assault Weapons Ban’s effectiveness was limited. Several scholars, including Wilson and Kopel, point to its unnecessary focus on the outward appearance, rather than the inward function, of the types of assault rifles as one of the ban’s illogical provisions.

Kopel writes that:

on close inspection, the assault weapon ban was mostly about appearances...the generic definition focused on accessories such as bayonet lugs and adjustable stocks...manufacturers simply removed the prohibited features, renamed the guns, and were soon selling firearms that in internal operation were operationally the same as the banned guns.

Wilson is more sympathetic, and explains the logic behind this:

The vague definition [of what constitutes an assault weapon] was the result of the bill’s proponents choosing the path of least political resistance. A more specific definition would have included all semiautomatic guns, which would have greatly increased the number of gun owners who were impacted by the law and would likely have doomed it to failure.

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104 Gary Kleck, Targeting Guns: Firearms and Their Control (Aldine Transaction, 1997), 105.
105 Wilson, Guns, Gun Control, and Elections, 96.
106 Spitzer, The Politics of Gun Control, 147.
109 Wilson, Guns, Gun Control, and Elections, 96.
Apart from its focus on the outward appearance of assault weapons instead of their performance capabilities, the Assault Weapons Ban led to a surge in manufacturing just before the ban took place.\textsuperscript{110} This led to lowered prices on these weapons after the ban and increased availability on both the primary and secondary markets.\textsuperscript{111} Christopher Koper and Jeffrey Roth, in their 2002 study of the short-term primary and secondary market effects of the Assault Weapons Ban on gun markets, examined several factors related to the accessibility of guns to criminals, including “…production and price trends in legal and illegal markets.”\textsuperscript{112} They modeled three possible situations of the effects of the Assault Weapons Ban on the primary (which encompasses “…transactions by federally-licensed gun manufacturers, importers, distributors, and retail dealers”\textsuperscript{113}) and secondary markets (which are “…second-hand gun transactions made by non-licensed individuals”\textsuperscript{114}) for purchasing assault weapons.

These scenarios included a “market non-response model,” which would entail no effect of the ban on demand for assault weapons, causing a “diminishing assault weapon stock and rising prices,” leading to a gradual reduction in criminal use of assault weapons.\textsuperscript{115} This scenario was determined to be invalid because of the long legislative process for the Assault Weapons Ban that received extensive media coverage. Koper and Roth hypothesize that “…this publicity

\textsuperscript{111} Koper and Roth, “The Impact of the 1994 Assault Weapons Ban on Gun Markets: An Assessment of Short-Term Primary and Secondary Market Effects,” 239.
\textsuperscript{112} Koper and Roth, “The Impact of the 1994 Assault Weapons Ban on Gun Markets: An Assessment of Short-Term Primary and Secondary Market Effects,” 240.
\textsuperscript{115} Koper and Roth, “The Impact of the 1994 Assault Weapons Ban on Gun Markets: An Assessment of Short-Term Primary and Secondary Market Effects,” 244.
may have affected both supply and demand for AWs [assault weapons] even before the ban took effect.”

Their second model, hypothesizing “speculative demand,” suggests that demand for assault weapons began rising prior to the debate about the Assault Weapons Ban. They found that increased demand would have created an increase in prices for assault weapons in both the primary and secondary markets for the models that seemed the most likely to be banned. This increase in price and demand before the assault weapons ban would have resulted in a sharper reduction in criminal assault weapons use earlier than occurred in the market non-response model.

The third model, which Koper and Roth call “speculative demand and response,” hypothesizes that demand in this model would act in the same manner as the speculative demand model, but, before the ban was put into place, all components of the supply chain, including manufacturers, wholesalers, and retailers, “…would have responded to the pre-ban price increase by increasing their production of sales volumes…Manufacturers also responded to the ban by introducing, or more heavily marketing, “legal substitute” models that escape the ban but closely resemble the banned models.” The supply of “grandfathered” existing assault weapons and the new copy-cat models would satisfy the demand for assault weapons and lead to a decrease in prices for assault weapons in both the primary and secondary markets. Any decrease in criminal use resulting from the temporary rise in prices before the ban would be “…followed by a rebound [in criminal use of assault weapons] of infinite duration.”

116 Ibid.
117 Ibid.
118 Ibid.
120 Ibid.
To test these three models, Koper and Roth examined “pre- and post-ban primary market data on [assault weapons] to directly measure trends in primary market availability and indirectly approximate trends in secondary market availability.”\textsuperscript{121} They then applied the data about pricing trends for assault weapons to the criminal use of assault weapons, involving data about gun seizures by the police to “…approximate trends in criminal use of [assault weapons].”\textsuperscript{122}

Ultimately, the findings from Koper and Roth’s data modeling showed that:

Speculation during the Congressional debate about the ban caused a substantial but temporary increase in the price of [assault weapons] around the time of its enactment, leading to a decrease in the availability of these weapons to criminals in the short-term aftermath of the ban. However, prices began falling after the ban, due apparently to a surge in [assault weapons] production (and production of very similar but non-banned gun models) just before the ban became effective…we expect to see some temporary rebound in criminal use of [assault weapons] as the pre-ban weapons are resold before seeing a gradual attrition in the stock of [assault weapons].\textsuperscript{123}

Koper and Roth found that prices for assault weapons were at their peak “…when the ban became effective in the latter part of 1994 and remained high through the first half of 1995. In the second half of 1995…the prices declined to levels comparable to the pre-ban period.”\textsuperscript{124} Their findings about assault weapons production between 1989 and 1994, the year the ban was put in place, indicate that production of all categories increased in 1993, which is anecdotally described as a year in which gun manufacturers, sellers, and consumers feared the new Clinton administration would pursue and achieve broad gun control legislation (e.g. the Brady Bill). However, in 1994, as the narrow coverage of the [assault weapons] ban took shape during Congressional debate, production of all the banned

\textsuperscript{121} Koper and Roth, “The Impact of the 1994 Assault Weapons Ban on Gun Markets: An Assessment of Short-Term Primary and Secondary Market Effects,” 246.
\textsuperscript{122} Ibid.
\textsuperscript{123} Ibid.
\textsuperscript{124} Koper and Roth, “The Impact of the 1994 Assault Weapons Ban on Gun Markets: An Assessment of Short-Term Primary and Secondary Market Effects,” 250.
categories…increased substantially over their 1989-93 averages while production of the non-banned…models fell.\textsuperscript{125}

This data ultimately supported their speculative demand response model.\textsuperscript{126} The effects of the higher prices in both the primary and secondary markets in the time period immediately following the assault weapons ban resulted in assault weapons becoming

At least temporarily less accessible to criminal users…However, the excess stock and falling prices of [assault weapons] in primary markets by 1996 should translate into greater availability of [assault weapons] in both primary and secondary markets. This effect could be intensified if some unscrupulous dealers and collectors who paid high speculative prices for [assault weapons] that subsequently lost value became more willing to sell the guns to illegal users for a premium. Consequently, we predict that the reduction in criminal use of [assault weapons] will be followed by an upswing of indefinite duration, particularly if prices for the banned weapons remain low.\textsuperscript{127}

Wilson summarizes the conclusions of the Koper and Roth study of the market availability of assault weapons as: “Although Christopher Koper and Jeffrey Roth found a small decline in homicide that might be attributable to the ban, they also acknowledged that the number of banned weapons sold in the months prior to implementation date increased by 120 percent. Kleck argues that the ban could have prevented no more than two homicides annually.”\textsuperscript{128} Philip Cook and Kristin Goss write that “there is no compelling evidence that it [the 1994 Assault Weapons Ban] saved lives. A more stringent or longer-lasting ban might well have been more effective.”\textsuperscript{129}

\textsuperscript{125} Koper and Roth, “The Impact of the 1994 Assault Weapons Ban on Gun Markets: An Assessment of Short-Term Primary and Secondary Market Effects,” 254.
\textsuperscript{126} Koper and Roth, “The Impact of the 1994 Assault Weapons Ban on Gun Markets: An Assessment of Short-Term Primary and Secondary Market Effects,” 255.
\textsuperscript{127} Koper and Roth, “The Impact of the 1994 Assault Weapons Ban on Gun Markets: An Assessment of Short-Term Primary and Secondary Market Effects,” 256.
\textsuperscript{128} Wilson, Guns, Gun Control, and Elections, 96-97.
IV. Commonalities and Lessons from the Three Cases

Analysis of these three cases shows several points of similarity regarding the relative weakness of federal gun control policy. One of these categories is the strength and influence of lobbying and interest groups. These include the involvement of the NRA through lobbying efforts and their influence over legislators through their “report card” evaluation of legislators’ support of gun rights, as well as the weak position of gun-control advocacy groups, especially in contrast to the power of gun-rights groups like the NRA. The second category of similarity is the perception of gun ownership as a right. Gun rights vs. gun control is able to be portrayed as a conflict of opposing ideologies; this is reflected through constituent beliefs and reactions. Pew Research Center has been asking since 1993 “what do you think is more important—to protect the rights of Americans to own guns or to control gun ownership?” Researchers have found that it has been a topic where

there is no indication that people have any difficulty answering this question or are ambivalent about the topic. In fact, when asked a follow-up about the strength of their opinion, 81% of those who said it is more important to control gun ownership felt strongly about that position; 91% of those who said it is more important to control gun ownership felt strongly.¹³⁰

This complete polarization of the issue, as well as the public’s strong adherence to their chosen side of the issue, shows that people see gun rights and gun control as polar, irreconcilable opposites.

The third category is the legislation itself. In order to ensure passage, federal gun control
laws often build in compromise measures that paralyze or weaken their effectiveness. These
three categories of limitations will be discussed in Chapter Two.
Chapter 2: What Makes Gun Control Legislation So Difficult?

I. Social Regulatory Policy

The inherent issue with the American people’s conception of gun regulations, according to Robert J. Spitzer, in *The Politics of Gun Control*, is the result of a tendency to resist governmental control of individual behavior.\(^{131}\) Policy that aims to regulate or restrict the conduct of individuals that produces direct consequences to their behavior has a high probability of generating controversy among citizens.\(^{132}\) He says that “whenever the government seeks to apply its coercive powers directly to shape individual conduct, the prospect of controversy is great, especially in a nation with a long tradition of individualism.”\(^{133}\) Spitzer quotes the policy analyst Theodore J. Lowi regarding government coercion of individual behavior:

> When the likelihood of government coercion is immediate—that is, when the behavior of individual citizens is directly affected, as in the case of regulation—the prospect of controversy is high. When the likelihood of government coercion is remote—that is, when the primary purpose of the policy in question is, say, to provide benefits rather than regulate individual conduct—the prospect of controversy is low.\(^{134}\)

Gun control’s categorization as a social regulatory policy, defined as “the exercise of legal authority to affirm, modify, or replace community values, moral practices, and norms of interpersonal conduct,” creates another layer of controversy.\(^{135}\) Spitzer writes that social regulatory policy, which is “…concerned with broader issues of public safety, health or

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\(^{132}\) Ibid.
\(^{133}\) Ibid.
\(^{134}\) Ibid.
\(^{135}\) Ibid.
morals…greatly expanded at the national level in the 1960s.\textsuperscript{136} The Gun Control Act of 1968 was the most stringent gun control measure of that era.

As an area of social regulatory policy, gun control is an issue that is very easily politicized.\textsuperscript{137} Spitzer enumerates four political traits of social regulatory policy, all of which will be discussed in detail in this chapter: “the prevalence of single-issue groups,” grassroots activism, public opinion, and political parties.\textsuperscript{138}

Gun control has created and sustained a variety of single-issue groups, both pro-gun rights and pro-gun control. The groups, with their singular focus and intense sentiments about the issue at hand, are “…highly motivated to defend what they believe are fundamental and very personal values.”\textsuperscript{139} This absolutist view, which pits the members of the organization against its external “enemies,” who do not feel the same way about the issue, encourages political participation within interest groups.\textsuperscript{140}

The second political element of social regulatory policy, grassroots activism, shows that political influence transcends organized, professional lobbying groups. The pressure coming from citizens acting outside the federal government can, according to Spitzer, “…have a profound effect on how national political leaders respond to these issues.”\textsuperscript{141}

The third area, public opinion, has the potential to influence areas of social regulatory policy, but does not reliably inspire or effect change. Because most citizens do not mobilize with the frequency or intensity of members of single-issue groups, individual events, like murders, assassinations, or a rise in crime, and the reaction of key groups to these events, have the

\textsuperscript{136} Ibid.
\textsuperscript{137} Spitzer, \textit{The Politics of Gun Control}, 89.
\textsuperscript{138} Spitzer, \textit{The Politics of Gun Control}, 88-89.
\textsuperscript{139} Spitzer, \textit{The Politics of Gun Control}, 88.
\textsuperscript{140} Ibid.
\textsuperscript{141} Spitzer, \textit{The Politics of Gun Control}, 89.
potential to harness public opinion to create policy change. However, public opinion motivates action on issues of gun control less frequently than some of the other traits of social regulatory policy. Philip J. Cook and Kristin A. Goss find that the effects of high-profile shootings on public opinion about gun policy impact it only “sometimes—but not by much, and the effects usually don’t last long.” This kind of short term surge without a long-term effect in public support for stricter gun control laws after tragic gun-related events, most commonly school shootings, is significant. We have to ask what makes public opinion so changeable regarding this issue and why the public’s memory of these events does not sustain a consistent pro-control sentiment. The topic of public opinion in relation to various aspects of gun control will be further discussed in Chapter 3.

The final political trait of social regulatory policy is political parties. They often use social regulatory policy issues like gun control to appeal to constituents who align with their views on these issues. Cook and Goss note that, “by and large, Democrats favor stricter gun laws, while Republicans favor either keeping the laws the same or in some cases liberalizing them.” This clear divergence of opinion on the issue began in the 1970s, when “…Republican platforms increasingly emphasized support for the Second Amendment and the right of self-defense, as well as opposition to certain gun laws. Meanwhile, the Democrats called for various new gun laws…” Party opinion on these issues is strongly correlated to each party’s core political constituent base. Cook and Goss note that:

Republicans are strongest in the South and in rural areas, where gun ownership is widespread and reflective of strong traditions of individualism and distrust of

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142 Ibid.
144 Spitzer, *The Politics of Gun Control*, 89.
146 Ibid.
government. Democrats are strongest in urban areas and among women and racial minorities, who either lack a gun-owning tradition or see the dangers up close. Not surprisingly, then, the partisan divide shows up in public opinion polls.\textsuperscript{147}

The Pew Research Center’s 2014 survey of the demographics and political beliefs of gun-owning households supports Cook and Goss’ findings. The South, where 38 percent of households own a gun, leads all other regions in gun ownership.\textsuperscript{148} People living in rural and suburban areas are also, according to Pew, far more likely to own guns than those residing in urban areas. 51 percent of people who claim gun ownership are rural residents, followed by suburban residents, 36 percent, and, lastly, urban residents, at a rate of 25 percent.\textsuperscript{149} Pew’s analysis of the percentages of members of political and racial or ethnic groups who own guns corroborates the relation between political party affiliation, race and gun ownership. Whites are most likely to own a firearm and make up 41 percent of gun owners, while blacks own guns at a rate of 19 percent, and Hispanics at 20 percent.\textsuperscript{150} 49 percent of gun owners are Republican, 37 percent are Independent, and 22 percent are Democrats.\textsuperscript{151}

\section*{II. Stakeholders}

\textbf{Pro-gun-control Groups: The Brady Campaign}

The Brady Campaign was originally established in 1974 as the National Council to Control Handguns. Later, the group changed its name to Handgun Control, Inc.\textsuperscript{152} Prior to the creation of NCCH, there was “no significant \textit{organized} gun control movement.”\textsuperscript{153} The organization was created by Mark Borinsky, a shooting victim, Ed Welles, a retired CIA agent,
and Pete Shields, a prominent executive at DuPont whose son had died in a random shooting. Their early success stemmed from their ability to, as Wilson explains, “translate their personal tragedies into a public policy issue;” victims and families of victims came together to assert that a social problem existed and could be addressed through gun control measures. Although the organization was initially welcomed by certain members of Congress, NCCH realized that their goal, which was an outright ban of handguns, was not politically viable. After six years, it was clear to the organization’s leaders that “neither the public nor Congress supported an outright ban and the pursuit of such a policy would be fruitless and possibly detrimental to the organization.”

The public’s levels of support for a total and outright ban of handguns has traditionally been very low, and the idea of a total ban on handguns has remained consistently unpopular, according to public opinion polling. NCCH realized that, in order to have longevity as an organization and to retain credibility and appeal among both Congress and the American public, their efforts would have to be more modest and incremental. Under a new name, a compromised platform, and Shields’ leadership, the group attracted over one hundred thousand members and contributed $75,000 to the 1980 Congressional campaign cycle. They founded their outreach organization, the Center to Prevent Handgun Violence, in 1983, and their legal organization, the Legal Action Project, in 1989.

Sarah and Jim Brady’s involvement with Handgun Control, Inc., starting in 1985, further increased the influence of the organization. Sarah Brady’s role was to serve as

…an eloquent spokesperson and put a recognizable face on HCI. Often appearing with her husband, who was confined to a wheelchair and whose speech was slurred

\[^{154}\text{Ibid.}\]
\[^{155}\text{Ibid.}\]
\[^{156}\text{Ibid.}\]
\[^{157}\text{Ibid.}\]
\[^{158}\text{Ibid.}\]
\[^{159}\text{Ibid.}\]
\[^{160}\text{Ibid.}\]
as a result of the wounds he sustained, Brady raised the profile of the group and opened doors that had previously been closed. Her credentials, as the daughter of a Republican activist and an FBI agent, as well as her husband’s, as the press secretary to the conservative Republican President Reagan, added significantly to the clout of HCI.¹⁶¹

HCI, in acknowledgement of the Brady’s recognition factor among the general public, changed their name a second time, to the Brady Campaign to Prevent Gun Violence, in 2001.¹⁶² To assess the overall impact and effectiveness of the Brady Campaign, one has to take into account the fact that they operate at a size and budget that is approximately one-tenth of the NRA’s.¹⁶³ With a more limited budget and reach than that of the NRA, the Brady Campaign has still managed to emerge as a worthy opponent for the NRA and is the “preeminent gun control advocate in the country.”¹⁶⁴ Their lobbying efforts were key to securing the Brady Bill in 1993.

In spite of the fact that the Brady Bill was diminished greatly in its impact between its original draft and the final bill, it was arguably only passed at all due to “the tenacity of Sarah Brady and the relatively modest goals of the legislation and HCI.”¹⁶⁵ The bill itself was gutted by early involvement from the NRA, who in 1988 persuaded some legislators to back a substitute amendment that would take away the proposed waiting period.¹⁶⁶ They also spent between $1.5 and $3 million on a media campaign and grassroots efforts to foment public dissatisfaction about the bill’s proposed measures.¹⁶⁷ The introduction of the substitute amendment divided the House on the measure and effectively killed the bill.¹⁶⁸ The matter was not taken up again until 1990.

¹⁶¹ Wilson, *Guns, Gun Control, and Elections*, 143.
¹⁶² Wilson, *Guns, Gun Control, and Elections*, 144.
¹⁶³ Wilson, *Guns, Gun Control, and Elections*, 143.
¹⁶⁴ Ibid.
¹⁶⁵ Ibid.
¹⁶⁷ Ibid.
¹⁶⁸ Ibid.
and was carried through endless setbacks and policy changes with the “tireless” lobbying efforts of the Brady Campaign until the bill’s passage in 1993.169

Their next goal was Brady II, whose original policy goal was in line with the gun control regulations of European nations and would have required a national license for possessing a handgun, registration of all firearms, an $800 increase in the cost of a gun license, and licensing for all ammunition dealers.170 The NRA’s influence over the 1994 midterm elections and the subsequent Republican sweep doomed any prospects of Brady II’s passage.171 Later legislative victories on the federal level included the addition of those convicted of domestic abuse to the 1997 Omnibus Consolidated Appropriations Act, which, in part, enumerates who is ineligible to purchase firearms.172

On the federal level, the Brady Campaign’s success seems to have stalled in the late 1990s. Wilson notes that “there have been no national legislative victories in recent years” for the organization.173 As Congress has become more partisan and individual members more committed to hardline positions on either gun rights or gun control, it has been more difficult for the Brady Campaign to persuade legislators on the federal level to reach the kind of compromise it took to pass the Brady Law, as long and contentious as that process was.

Apart from the difficulty inherent in persuading the two political parties to collaborate on federal legislation, the Brady Campaign also has had to address infighting and the lack of a coherent message among gun-control groups. The Brady Campaign has always been the most moderate of the prominent gun-control groups, which probably explains its position of

169 Wilson, Guns, Gun Control, and Elections, 143.
170 Ibid.
171 Wilson, Guns, Gun Control, and Elections, 144.
172 Ibid.
173 Ibid.
dominance among them. In an article published in the *Atlantic* discussing the changing tactics of gun-control groups, Molly Ball writes that “the various advocacy groups were often more concerned with fighting with each other than with taking the fight to their opponents, and a vocal contingent valued ideological purity over pragmatism.”\(^{174}\) Infighting about policy goals and whether or not to support middle-of-the-road policy measures regarding guns cost these groups valuable time in the wake of the Columbine High School shooting in 1999, when President Clinton proposed several broad gun control policy measures, and in 2004, when the Federal Assault Weapons ban entered its sunset period, which was ultimately not renewed due to a lack of Congressional support.\(^{175}\) Ball and others see the potential for success for the Brady Campaign and other groups in the future as they continue to adopt a more centrist, incremental view of what gun policy should look like, focusing on increased safety measures and less on absolutist positions, such as outright bans on certain types of firearms.\(^{176}\)

**Other Prominent Groups**

Three other prominent gun-control groups that operate with a goal to impact policy on the federal level are the Violence Policy Center, the Coalition to Stop Gun Violence, and the Million Mom March (which has been part of the Brady Campaign since 2001). The Violence Policy Center is primarily a research and advocacy group whose stated mission is to “fight firearms violence through research, education, and advocacy.”\(^{177}\) They produce up to twenty studies annually and are often used by the media as a resource for gun-related issues.\(^{178}\) The VPC’s

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\(^{175}\) Ibid.

\(^{176}\) Ibid.

\(^{177}\) Wilson, *Guns, Gun Control, and Elections*, 144.

\(^{178}\) Ibid.
policy goal is to prohibit private handgun ownership in the U.S., a policy stance that is regarded as more militant than that of the Brady Campaign.\textsuperscript{179}

The Coalition to Stop Gun Violence was formed by the United Methodist General Board of Church and Society as an umbrella organization to unite church groups in a mission to ban all private ownership of handguns. It is described as the “second most influential group in the gun control movement.”\textsuperscript{180} Today, the American Psychiatric Association, Americans for Democratic Action, and the YWCA are among its other member organizations, and they have over one hundred thousand individual members as well.\textsuperscript{181} All the individual organizations work together under the umbrella organization with a goal to reduce gun violence by “eliminating various types of firearms.”\textsuperscript{182} They collaborate with the VPC to disseminate its research, because the two organizations share the same policy goal, and also independently lead grassroots activism, voter turnout initiatives, and litigation support.\textsuperscript{183}

The Million Mom March was founded in 1999 so that individuals could unite around one event: a gathering on the National Mall in Washington, D.C. to protest the dearth of gun control legislation.\textsuperscript{184} Ultimately, 750,000 people assembled for the event, which inspired similar events on a smaller scale nationwide.\textsuperscript{185} Their resounding initial success prompted the organization to create offices in 46 states, but the momentum was astonishingly short-lived. Within a year, many of the offices closed, the national organization laid off all but five of its employees, and it attracted far fewer marchers for its anniversary event the following year.\textsuperscript{186} Kristin Goss

\textsuperscript{179} Ibid.
\textsuperscript{180} Wilson, \textit{Guns, Gun Control, and Elections}, 146.
\textsuperscript{181} Wilson, \textit{Guns, Gun Control, and Elections}, 145.
\textsuperscript{182} Ibid.
\textsuperscript{183} Ibid.
\textsuperscript{184} Wilson, \textit{Guns, Gun Control, and Elections}, 146.
\textsuperscript{185} Ibid.
\textsuperscript{186} Ibid.
correlates their short period of success to a lack of Congressional action attributable to the Million Mom March’s efforts, writing that, although the organization’s demands were “modest measures, such as expanding background check requirements to private sales at gun shows and limiting handgun purchases to one per month,” these demands were ignored in Congress that year. Although “many observers saw the March as yet another fleeting outburst of pro-control sentiment that was doomed by election-year politics,” their efforts were incredibly valuable to the Brady Campaign, which merged with them in 2001. The state-wide chapters established under the Million Mom March meant that the Brady Campaign benefited from their established grassroots base, allowing them to increase their advocacy efforts to state and local levels.

“Common-Sense Gun Laws”: The New Gun-Control Groups

Two gun-control groups have recently been founded within a new model where they seek a broad base of supporters, including demographics who are not usually advocates for gun control, in order to pass “common-sense” gun control laws. The kind of gun control measures that are considered “common-sense” generally attract the highest levels of support in public opinion polls and are, for the most part, uncontroversial. Both Everytown for Gun Safety and Americans for Responsible Solutions favor extending criminal background checks to internet and gun show sales and prohibiting convicted stalkers and domestic abusers who are in dating relationships from purchasing firearms.

188 Ibid.
189 Ibid.
190 Wilson, Guns, Gun Control, and Elections, 146.
191 Goss, Disarmed: The Missing Movement for Gun Control in America, 184.
Everytown for Gun Safety was formed in 2014 by Michael Bloomberg, a former mayor of New York City, who wanted to commit some of his personal wealth to preventing gun violence and stimulating policy action on the issue.\textsuperscript{192} He donated $30 million to start the organization, which conducts research on gun violence and possible policy solutions, files amicus briefs in court cases where gun laws are imperiled, and contributes funding to candidates on the federal, state, and local levels who align with the organization’s policy goals.\textsuperscript{193}

Gabrielle Giffords, an Arizona congresswoman who was shot in the head and critically injured in 2011, formed a super PAC of her own, called Americans for Responsible Solutions, with a goal to influence elections and lobby in favor of stricter national gun laws.\textsuperscript{194} Americans for Responsible Solutions lobbies on the state and federal level and has run attack ads against senators who voted against the Manchin-Toomey bill, which would have tightened background check regulations.\textsuperscript{195} Ms. Giffords and her husband, Mark Kelly, emphasize their own status as “gun owners and strong supporters of the Second Amendment…[who] know we must protect the rights of Americans to own guns for collection, recreation, and protection.”\textsuperscript{196}

**Gun Rights**

The NRA is the largest, oldest, and most visible of the pro-gun-rights groups in the United States, but there are several other noteworthy organizations with a similar mission. Although they are less prominent, they still “…fill niches that the large organization [the NRA]
does not and sometimes serve as a burr in its saddle.”

These include Gun Owners of America, which “…calls itself the “no compromise gun lobby,” a not-so-subtle dig at the NRA, and manages to make a lot of noise in lawmakers’ offices when gun control legislation is on the agenda,” The National Association for Gun Rights, whose goal is to “assist the growing movement of state-level grassroots gun rights organizations,” and the Citizens Committee for the Right to Keep and Bear Arms.

Gun Owners of America, like the NRA, has both a research component to the group, called the Gun Owners Foundation, and an advocacy arm, the Gun Owners of America Political Victory Fund, which creates and disseminates newsletters, email updates, and a candidate rating guide for constituents. Like the NRA, members pay dues, which help to fund the organization’s political efforts. Harry L. Wilson describes the membership of Gun Owners of America as “more militant” than even the NRA. The effect of their public suggestion that the NRA is willing to compromise on gun policy issues is often enough of a push for the NRA to seek a hardline approach. In one instance, the NRA originally appeared slated for compromise during a 2004 Senate debate regarding limiting liability for gun manufacturers. Gun Owners of America responded by writing on their website that the NRA might concede to amendments to legislation that would revive the federal Assault Weapons Ban or close the gun show loophole that exempts buyers from background checks in the future. The result, as Wilson reports, was that the NRA decided to “immediately stake out a no-compromise position on the bill.”

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198 Ibid.
199 Ibid.
200 Wilson, Guns, Gun Control, and Elections, 151.
201 Ibid.
202 Ibid.
203 Ibid.
204 Ibid.
The Citizens Committee for the Right to Keep and Bear Arms is a nonprofit lobbying and grassroots organization that aims to promote gun rights-friendly policy through extensive lobbying. Common among all three organizations is their stance that the NRA compromises too often and needs to take a more hardline stance on gun rights over gun control measures.

**Gun Rights Groups: The NRA**

The NRA has been a key player in the federal gun control policy debate and is the leading gun rights proponent of record, both in the United States and, increasingly, internationally. Spitzer asserts that the organization has “…dominated and defined gun politics for most of the last century.” The NRA was founded in 1871 to facilitate the “improvement of its members in marksmanship.” Its entanglement with the federal government did not begin to reach its present form until the 1960s, when substantive gun control policy reached Congress. At that point, Spitzer writes, “…the NRA devoted increasing time and resources to the political agenda.”

Regarding the NRA’s legislative involvement and lobbying efforts specifically, the group tested the waters in the late 1960s and early 1970s by focusing on efforts to defeat gun-control proponents who were running for Senate seats. They helped to defeat Joseph Clark, a Democratic candidate from Pennsylvania, in 1968 and Joseph Tydings, a Democratic candidate from Maryland, in 1970. The NRA focused on Joseph Clark’s reelection in 1968 because “he endorsed strong gun registration laws” and was running in Pennsylvania, a state with a large

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205 Wilson, *Guns, Gun Control, and Elections*, 152.
208 Ibid.
209 Ibid.
211 Ibid.
213 Ibid.
number of licensed hunters and a significant percentage of its population concentrated in rural areas.\textsuperscript{214} The NRA used scare tactics to spread dislike of Mr. Clark in rural, pro-gun territory, which turned into votes for Clark’s opponent. “In rural Pennsylvania, literature was distributed to hunters and farmers solemnly warning that “Clark wants to take away your guns.”\textsuperscript{215}

Joseph Tydings’ campaign was effectively smeared by the NRA through its printing and mass distribution of bumper stickers that read “if Tydings wins, you lose.”\textsuperscript{216} The NRA targeted their efforts to Maryland’s hunters as they did two years earlier in Pennsylvania, saying that a bill that Tydings had proposed, the Firearms Registration and Licensing Act, would prevent them from using their guns for sporting purposes.\textsuperscript{217} He was defeated by a Republican candidate, Glenn Beall Jr.\textsuperscript{218} Mr. Tydings acknowledged the power of the NRA and their ability to fundraise and mobilize: “they raised money all over the nation to bring to Maryland to beat me. And bragged about it.”\textsuperscript{219}

After these two victories, the NRA was convinced that legislative involvement was both effective and necessary. The NRA expanded their efforts further by creating their lobbying organization, the Institute for Legislative Action, in 1975.\textsuperscript{220} Cook and Goss report that the Institute operated with a budget of $230 million in 2011; their Political Action Committee, the NRA Political Victory Fund, spent approximately $16 million during the 2012 election cycle.\textsuperscript{221}

\textsuperscript{215} Ibid.
\textsuperscript{217} Ibid.
\textsuperscript{218} Ibid.
\textsuperscript{219} Ibid.
\textsuperscript{220} Spitzer, \textit{The Politics of Gun Control}, 96.
\textsuperscript{221} Cook and Goss, \textit{The Gun Debate: What Everyone Needs to Know}, 190-191.
Vizzard acknowledges that the NRA’s influence extends past its lobbying efforts. Although the organization’s ability to and prowess at lobbying Congress and its members is incredibly important to the efficacy of their work, it cannot be ignored that “the NRA and its allies have exercised as much control over public policy by molding public attitudes, language, and cultural paradigms as by direct influence in Congress.”

III. Why is the NRA so Effective?

The effectiveness of the gun lobby, particularly the NRA, is well known. They are consistently recognized as one of the most powerful interest groups in Washington. The organization is notable for their successful lobbying record. The NRA has not “…lost a major battle over federal gun control legislation in nearly two decades.” Their public approval ratings are high, even after a mass shooting occurs. Immediately after the Sandy Hook school shooting in December 2012, only thirty-three percent of Americans expressed the belief that the NRA had too much control over gun laws. What factors contribute to their power and influence?

Issue Framing

Deborah Stone describes the paradox present in the debate about gun rights versus gun control: “Policy on guns is pulled between these two strong ideas: guns are vital to personal safety and a threat to public safety. Policy makers must balance conflicting imperatives.”

Gun rights activists view it as a rights issue:

For gun rights supporters, guns are “a necessary tool to the human right of self-defense.” They are also part of America’s cultural heritage, “symbols of

citizenship, intimately tied to defending political rights.” Colonists armed themselves against Native Americans and the British and, thanks to guns, survived and won their independence. The right to own and use guns is “at the center of the Western liberal tradition, a right without which all other rights and obligations are meaningless and impossible.”

In this view, guns are enmeshed in the most heroic and inspiring moment of American history, its fight for independence from Britain, and in the natural rights possessed by all within the “Western liberal tradition.” Gun ownership is framed not only as a patriotic, American value but an inalienable right that, if taken away, shakes the foundation of the rights of citizens living in a democracy.

By contrast, gun control advocates frame guns in a far more threatening, dangerous light. Stone provides an overview of issue-framing in the pro-gun-control context:

For gun control advocates, guns kill and injure. They are the weapon of choice in crime and are more likely to result in death than any other weapon. And although guns can be used for self-defense, they can also be used for suicide…Guns kept in the home for self-defense can fall into children’s hands, leading to accidental deaths and injuries. They can also fall into burglars’ hands and become weapons of crime…For gun control supporters, then, the potential benefits of self-defense are outweighed by the costs of increased violence and insecurity.

When examining the two potential ways of framing this issue, it is important to note one of the key advantages that gun rights groups use in this debate and in their issue-framing strategies: a constitutional amendment. They are able to frame any and all attempts to institute gun control measures as an infringement upon the Second Amendment, a right that they interpret to mean that all American citizens have an absolute right to bear any kind of arms in nearly any circumstance. Their consistent narrative involves positioning themselves as the defenders of Americans’ right to bear arms, a right that is constantly under attack by gun control advocates

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227 Stone, Policy Paradox: The Art of Political Decision Making, 149.
228 Stone, Policy Paradox: The Art of Political Decision Making, 150.
and the federal government. The NRA’s “about” page on their website repeatedly refers to the organization’s defense of the Second Amendment against government infringement. For example, the page describes the creation of the Institute for Legislative Action, its lobbying arm, as follows:

In response to repeated attacks on the Second Amendment right, NRA formed the Legislative Affairs Division in 1934. While NRA did not lobby directly at this time, it did mail out legislative facts and analyses to members, whereby they could take action on their own. In 1975, recognizing the critical need for political defense of the Second Amendment, NRA formed the Institute for Legislative Action, or ILA.229

Every action they take is framed as fighting back against an invasive federal government whose ultimate goal is to take away the firearms that the American people have a constitutional right to possess and use. They are self-described as “a major political force and as America’s foremost defender of Second Amendment rights.”230

In a similar vein, the NRA’s page that details the work of its Political Victory Fund explains the driving force behind the organization as a whole: “NRA relies on a very simple premise: when provided with the facts, the nation’s elected officials will recognize that “gun control” schemes are an infringement on the Second Amendment and a proven failure in fighting crime.”231 These two statements of self-described organizational goals show that the NRA views itself as an organization that understands the correct interpretation of the Second Amendment and must educate the public and lawmakers about it in order to protect the integrity of people’s Second Amendment rights.

230 Ibid.
Deborah Stone also writes about negative and positive liberty, a key difference that she highlights between perceptions of liberty between conservatives and liberals. It seems applicable to the gun control debate and ideological differences between gun rights proponents and gun control proponents. Negative liberty, a concept articulated by the philosopher Isaiah Berlin and discussed in Stone, is the principle that “I am…free to the degree to which no man or body of men interferes with my activity. Political liberty…is simply the area within which a man can act unobstructed by others.”\textsuperscript{232} Stone writes that conservatives “…look for instances of somebody taking someone else’s resources.”\textsuperscript{233} When they are able to frame an issue that “suggests a negative concept of liberty and conjures up the old colonial fear of tyrannical government,”\textsuperscript{234} citizens worry that their rights will be taken away.

Gun ownership as a fundamental expression of liberty and as a natural right of American citizens has been consistently employed as part of the narrative of the NRA and other gun-rights groups. Writing for PBS NewsHour about the power of language and issue-framing in the gun-rights versus gun-control debate, Simone Pathe notes that the NRA “…uses the rhetoric of rights to lend legitimacy to its argument.”\textsuperscript{235} When the NRA’s CEO and Executive Vice President, Wayne LaPierre, testified in front of Congress in January 2013, he called gun ownership a “God-given, fundamental right.”\textsuperscript{236} Referring to the language used in organization-wide, internal polling of NRA members, Andrew Arulanandam, a spokesperson for the organization, said that “for us, it’s a debate over gun rights.”\textsuperscript{237}

\textsuperscript{232} Stone, Policy Paradox: The Art of Political Decision Making, 114.
\textsuperscript{233} Stone, Policy Paradox: The Art of Political Decision Making, 116.
\textsuperscript{234} Ibid.
\textsuperscript{236} Ibid.
The NRA and other gun-rights groups have consistently conflated gun control with an ever-present threat to people’s rights and liberties. Writing for the *Huffington Post*, Dennis Henigan, a former Vice President of the Brady Campaign, explains how this argument effectively convinces the public that the government taking away people’s guns and their rights to own guns is not only in the realm of possibility, but something that could very easily happen should gun-rights supporters ever let their guard down in the face of proposed gun control measures:

For the NRA, the key to this strategy is the “slippery slope” argument—that every incremental tightening of gun laws is but a step down the slippery slope to a general gun ban. Some years ago, the NRA’s Wayne LaPierre described “the plan” which is “now obvious to all who would see: first, step, enact a nationwide firearms waiting period law. Second step, when the waiting period doesn’t reduce crime, and it won’t, enact a nationwide registration law. Final step, confiscate all the registered firearms.” In the words of another NRA official, “what the opposition really wants is a total ban on the private ownership of all firearms.”

When language like this is employed, gun-rights supporters remain in constant fear that their guns will be taken away and will naturally want to resist this. Alarmist language, as employed by Mr. LaPierre and other NRA spokespeople, spurs the organization’s membership into action.

In communicating this message, the NRA has the advantage of preaching to the converted, in a sense. Their millions of members are the primary targets for the NRA’s messages and communications. Gun-control advocates have to do more to sway public opinion and do not have the advantage of communicating to a large, organized group that is already in favor of its message. The NRA has been able to use negative media coverage of gun violence to its advantage, framing the issue in a way that turns what could otherwise paint the NRA’s

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mission in a negative light into instances that galvanize the NRA membership into action that will support gun rights. Brian Anse Patrick, writing about the NRA’s effective reshaping of negative media coverage into a call to action for its membership, says:

The NRA decodes media content for its members along lines characteristic of social movement mobilization, e.g., allusions to class or cultural media war against gun owners. This suggests an awareness on the part of the NRA of the manifold benefits of interpreting coverage for its members: negative coverage successfully reinterpreted is coverage that mobilizes and reinforces solidarity, a sort of reverse or co-opted form of publicity worth millions measured either in dollars or members.\(^{240}\)

The sense that their lifestyle is under attack and that it is necessary for the group to stand in solidarity under this attack, coupled with a belief in the validity of their stance on the Second Amendment, only strengthens the group.\(^{241}\)

**Gun Control Groups and Issue Framing**

Positive liberty, a contrasting view, requires that “I wish…to be moved by reasons, by conscious purposes, which are my own…[to be] self-directed and not [treated as] a thing, or an animal, or a slave…incapable…of conceiving goals and policies of my own and realizing them.”\(^ {242}\) Liberals “…look for evidence of severe deprivations that would prevent people from “conceiving goals and realizing them,” in Berlin’s words.”\(^ {243}\) This kind of liberty is difficult to frame in the context of the gun control debate. The “severe deprivations” that Berlin says are key motivators for liberals to call for change certainly exist in the form of loss of life due to gun violence. However, the guiding principle of being “self directed” and not being treated as someone “…incapable…of conceiving goals and policies of my own and realizing them” is an


\(^{241}\) Patrick, *National Rifle Association and the Media*, 106.


argument that pro-gun-rights advocates use in their own issue-framing. The liberty/freedom narrative on the pro-gun-control side in this instance is not as compelling.

The dominant imagery that gun-control groups often rally around are tragic incidents of gun violence. These are powerful images, and the public often reacts early on with support for stricter gun control measures, but these instances of public solidarity with the gun control movement are fleeting. Luke Chitwood describes the drawbacks to using these images:

Gun-control advocates push for negatively framed aims like fewer deaths, fewer injuries, less violence…It’s a downer message missing a clear hope of meaningful change. Each widely publicized shooting is more heart-wrenching, terrible, and puzzling than the last. But the pain from these horrific events numbs or fades quickly, and with that emotional detachment goes the response. Those events are not movement-sustaining or galvanizing in an enduring way. ²⁴⁴

A negative frame of the issues characterized by a situational reaction to tragedies as they occur does not have the same consistency of message as the NRA’s dominant issue frame, which is based around Second-Amendment rights.

In the past, gun control groups have suffered in popularity and credibility because of messaging and image framing that disputes much of what the NRA and other gun-rights groups claim to be true. In the words of Molly Ball, writing for the Atlantic, “they openly disputed that the Second Amendment conferred the right to own a gun. Their major policy goals were to make handguns illegal and to enroll all U.S. gun owners in a federal database.” ²⁴⁵ This stance is absolutist and unappealing. Gun control organizations’ policy goals were framed in a way that seemed to want to take rights away from people, making them far less appealing than the NRA’s framing of the issue, which seeks to, in their view, protect a natural right that is enshrined in the

²⁴⁵ Ball, “How the Gun-Control Movement Got Smart.”
Constitution and extended to all Americans. By previously framing their views in a way that dismissed an individual rights interpretation of the Second Amendment, “…gun control advocates were putting up “a stone wall, a barrier to gun owners” that made them “logically presume that you wanted to take their gun away.”

In recent years, gun control groups have framed the issue in a way that emphasizes gun violence prevention, instead of gun control, as their principal policy goal. Their mission is to express themselves in a way that is “…more appealing to Middle America and moderate voters.” Dan Gross, the president of the Brady Campaign, explains the new strategy taken by gun-control groups in recent years: “the message is now turned outward instead of inward, focused on engaging and mobilizing the latent majority of the public that supports common-sense measures like universal background checks.” The Brady Campaign and other groups are taking a more moderate stance on policy goals, hoping to attract people who might not believe in the more stringent gun control measures that groups had advocated for in the past.

They are also choosing to emphasize the risks inherent in improper storage of firearms, like accidental shootings of and by children, and suicide, particularly among adolescents who are able to access guns owned by their parents. It is notable that both the Brady Campaign and Everytown for Gun Safety have made guns in the home and awareness of the impact of gun violence on children into two of their main policy priorities. On its website, Everytown for Gun Safety explains that “it’s easy to believe that your guns are well hidden or that your children know how to stay away…” and urges its readers to “…start an honest conversation about what

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246 Ibid.
247 Ibid.
248 Ibid.
249 Ibid.
responsible gun ownership means, and we should develop technology and laws that make safe storage the norm. We can protect our kids while respecting the rights of lawful—and responsible—gun owners.”

With language like this, it is clear that pro-gun-control groups are beginning to frame their positions in ways that seek to attract “responsible” gun owners to their cause, instead of demonizing all gun owners. Everytown for Gun Safety’s website assumes that its readers are, in fact, gun owners who are looking for ways to be responsible about it and minimize the risks to their families, a universal concern of all people, regardless of their views on guns. This changed policy position for pro-gun-control groups seeks to include gun owners in their advocacy by focusing on issues that all people can be concerned about: the health and safety of their loved ones.

Membership Recruitment and Retention

According to Cook and Goss, the principal source of the NRA’s influence is “…its committed membership of somewhere around 3.4 million members.” Although citizens would not be as effective acting on their own, they are able to join the NRA, which is perfectly adapted to game the American political system, which, as Cook and Goss note, has “…many points of political access and relatively weak political parties,” allowing the NRA to step in and influence the political process. The organization has, according to Cook and Goss, “built-in advantages that its leaders have leveraged with strategies that are especially well suited to succeeding in American politics.”

253 Ibid.
254 Ibid.
One of these advantages is the NRA’s organizational structure. The fact that the NRA operates and engages citizens and policymakers on the local, state, and national level means that “…it can apply pressure on lawmakers at all three levels of government.” Not only does this structure guarantee success in all levels of government, it also contributes to the NRA’s ability to involve itself in the three branches of government. Lobbyists weigh in on legislation at the federal and state level, lawyers litigate and defend gun rights in court, and NRA lobbyists and experts influence regulations that are created in the executive branch.

The second factor contributing to their power is the incentives provided to NRA members by virtue of their membership in the organization. Not only does it offer its members “…tangible things of value that people will join the organization just to receive-in the NRA’s case, items such as magazines with useful information, discounts on everything from hotels to hearing aids, even a wine club membership,” but it also provides them with experiences that reinforce their feelings of solidarity with the mission of the organization and its other members, like shooting events and competitions.

The third factor contributing to the NRA’s influence is the “…sense of meaning and satisfaction we get when we work for a cause we hold dear” that it provides to its members. The NRA has imbued gun ownership and culture with meaning by affiliating it with national values, supporting the NRA’s claim that “guns contribute to the public good.”

Although Spitzer notes the relative ineffectiveness of grassroots engagement on social regulatory policy, the NRA has transcended the difficulty of organizing effective grassroots

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255 Ibid.
257 Ibid.
258 Ibid.
259 Ibid.
260 Ibid.
engagement. They have been able to generate genuine, effective grassroots engagement among their many members, who “…show up at lawmakers’ town hall meetings, contact elected officials, write letters to the editor, harass opponents, and cast their votes based on a candidate’s gun rights positions.”

Polls taken in 1978 and in 2013 support the assertion that supporters of gun rights are more likely to engage in supportive action over their stance on the issue than are gun-control supporters. The 1978 poll, administered by Howard Schuman and Stanley Presser, found that supporters of gun rights were

…three times as likely to have taken some action on the issue, such as writing a letter or giving money. Even when correcting for the fact that there were more pro-control supporters, nearly two-thirds of all letter writers and donors were from the pro-gun rights side.

<table>
<thead>
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<th>Behavior Reported</th>
<th>Position on Gun Permits</th>
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<tbody>
<tr>
<td></td>
<td>Pro-permit</td>
<td>Anti-permit</td>
</tr>
<tr>
<td>Written a Letter</td>
<td>3.7</td>
<td>6.5</td>
</tr>
<tr>
<td>Given Money</td>
<td>1.7</td>
<td>7.7</td>
</tr>
<tr>
<td>Written a Letter and Given Money</td>
<td>1.7</td>
<td>6.2</td>
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<tr>
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<td>92.9</td>
<td>79.6</td>
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<td>Total</td>
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Although it is clear from the polling data that most people on both sides of the gun permit issue chose to do nothing to support their views externally, the percentage of those who took action on the anti-permit side of the issue is substantially higher than those who were in favor of the proposed permit. It shows that if even such a small percentage of people choose to act, they can still have an impact, especially when the opposite viewpoint is expressed less frequently. The 2013 poll found that gun-rights supporters were twice as likely to have “…given money, contacted a public official, expressed an opinion on a social networking site, or signed a petition on the gun issue.”

**The Policy Advantage of the NRA Over Gun Control Groups**

Cook and Goss find two policy norms that advantage gun-rights advocates over gun control advocates. These result from the fact that

> …in a political system with many choke points, it’s easier to block a proposal than it is to push something through… [and]…people respond more vigorously to threats of loss than they do to the prospect of gains, particularly if those gains are theoretical or off in the future.

The pro-gun lobby has managed to capitalize effectively on these two natural advantages by not only blocking new legislation that it dislikes, but by also advancing an affirmative strategy to “enact new laws relaxing the old ones.” In this way, they are not simply keeping the status quo on gun control legislation. They are able to advance their agenda to create policy that is shaped by their own values.

One example where this proactive strategy was put into practice on the federal level is the Firearms Owners Protection Act of 1986, also known as the McLure-Volkmer Bill. William J. Vizzard, *Shots in The Dark: The Policy, Politics, and Symbolism of Gun Control* (Lanham: Rowman and Littlefield), 2000, 130.

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264 Ibid.
266 Ibid.
Vizzard refers to it as “the centerpiece of NRA strategy,” crafted by Neal Knox and Harlon Carter, two NRA leaders in the early 1980s.\textsuperscript{268} The legislative goal for the NRA was to repeal the 1968 Gun Control Act.\textsuperscript{269} While it did not achieve its ultimate goal, it substantially weakened the provisions of the Gun Control Act.\textsuperscript{270} Its consequences included the reintroduction of interstate sales of rifles and shotguns “as long as the sale was legal in the state of the buyer and the seller,” elimination of record-keeping requirements for ammunition dealers, relaxed licensing regulations for gun sellers unless they sold firearms “regularly,” and “prohibited the establishment of any system of comprehensive firearms registration,” which had originally been one of the goals of the 1968 Gun Control Act.\textsuperscript{271} Regarding the House debate on the bill, a reporter for the \textit{New York Times} observed that “…It was a measure of the power of the gun lobby that no member of Congress, in the day-long debate, spoke in favor of keeping all the existing controls. Rather, the question was the extent to which they should be eased.”\textsuperscript{272} Overall, the Firearms Owners Protection Act “…allowed a major reversal in the trend toward stricter firearm regulation.”\textsuperscript{273}

A more recent example is NRA involvement in healthcare legislation, particularly the Affordable Care Act. After the NRA successfully lobbied at the state level in Florida to penalize doctors if they asked their patients about gun ownership, a provision that became state law in 2012, they ensured that a similar provision was passed on the federal level in 2013.\textsuperscript{274} Title X of the Affordable Care Act includes a section titled “Protection of Second Amendment Gun

\textsuperscript{268} Ibid.
\textsuperscript{269} Spitzer, \textit{The Politics of Gun Control}, 139.
\textsuperscript{270} Ibid.
\textsuperscript{271} Ibid.
\textsuperscript{272} Spitzer, \textit{The Politics of Gun Control}, 140.
Its measures require that health care providers not “collect data related to owning or using firearms,” “not require the disclosure or collection of information relating to the presence or storage of a lawfully possessed firearm or the use of a firearm,” and that individuals “do not have to disclose that they own a gun.” These efforts were largely interpreted as an effort to disrupt the view of gun use and gun violence as a public health issue. The NRA has also lobbied to block federal funding for research into firearms by the Centers for Disease Control and Prevention.

While the pro-gun lobby benefits from these policy norms, gun-control groups face the difficulties inherent in fighting against these norms. While the gun lobby simply has to strike down legislation it does not like, gun-control advocates have to come together to create a policy that they all agree on. This can be difficult when the most prominent organizations do not always agree. As has been shown, their policy objectives are all slightly different. Cook and Goss observe that, like gun control organizations, the general public does not agree either on how to best bring about gun control. Only recently has a consensus begun to emerge that background checks must be expanded to most or all gun sales.

One major challenge for gun-control activists is that they are working to bring about a public good: a society free of gun violence. The free-rider problem is inherent in working towards a public good. “Because people benefit from a public good whether or not they helped to

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276 Ibid.
279 Ibid.
280 Ibid.
achieve it, they have a tendency to withhold their time and money and “free ride” on the contributions of others.”

Unlike an NRA membership, joining a gun control organization has no real tangible benefits.

Another unique challenge that the gun control movement faces in contrast to the gun-rights movement is its constituency. Cook and Goss note that advocates and supporters are often victims or are disadvantaged and lacking in political capital. In other words,

many survivors and family members live in low income communities and lack time, money, and powerful networks that are used in network building; many would-be advocates also are depleted by their experience.

The NRA does not face these same disadvantages in its constituency.

In recent years, more gun control groups are beginning to bring in elected officials and other high-profile individuals, similar to what the NRA does. Gabrielle Giffords, who now leads Americans for Responsible Solutions, is a former Congresswoman from Arizona who was shot during an open forum for her constituents. Michael Bloomberg, who founded Everytown for Gun Safety, is the former mayor of New York City. He, along with Thomas Menino, the former long-serving mayor of Boston, came together to create Mayors Against Illegal Guns in 2006. The group’s members now include “more than 1,000 current and former mayors…[who] fight for common-sense gun laws.”

The fact that more gun-control groups are either led by or affiliated with powerful individuals increases their profile and the publicity awarded to them.

Apart from policy norms, the NRA’s strength in comparison to the Brady Campaign and other gun-control groups also comes from other sources. One of them is financial. Part of the

281 Ibid.
283 Ibid.
285 Ibid.
NRA’s operating budget is made up of membership dues. Its approximately 3.5 million members means that the money adds up significantly. None of the prominent gun-control organizations require membership fees. Instead, they rely on voluntary donations.\(^{286}\) This means that the NRA can outspend the gun control organizations in lobbying and campaign contributions. This level of spending leads to “access to decision makers, and access is half of the battle.”\(^{287}\) Cook and Goss report that “the combined membership of state and national gun control groups in the early 2000s was about 7% of that of the NRA,” as were the Brady Campaign and the National Coalition to Prevent Gun Violence’s combined revenues.\(^{288}\) Americans for Responsible Solutions and Everytown for Gun Safety’s most recent expense reports show that their overall revenues total $8,168,577 (in 2016) and $36,030,037 (in 2013), respectively.\(^{289}\) The NRA’s annual operating budget in 2015 was “…some quarter of a billion dollars,” and their annual lobbying budget in 2015 was approximately $3 million, according to James Surowiecki of the New Yorker.\(^{290}\)

Because of these factors, which attract a high volume of loyal, dues-paying members that all believe in the organization’s ethos, money, and influence drawn from the NRA’s membership, its political strength is reinforced by programs that they are able to support precisely because of their membership. These programs include “…developing and disseminating authoritative research and talking points for lawmakers, orchestrating grassroots and inside-the-beltway lobbying, communicating with members, and influencing elections.”\(^{291}\)

\(^{286}\) Wilson, Guns, Gun Control, and Elections, 144-146.
\(^{287}\) Wilson, Guns, Gun Control, and Elections, 155.
Gun-control groups are fighting back and have begun in recent years to adapt some of the gun lobby’s tactics. One of those tactics is to focus on elections in order to defeat NRA-friendly candidates.\footnote{Cook and Goss, \textit{The Gun Debate: What Everyone Needs to Know}, 205.} In one instance, former Mayor of New York City Michael Bloomberg’s Super PAC, Independence USA, donated more than $2 million to Congresswoman Robin Kelly, an underdog congressional candidate from Illinois during the 2013 election, contributing to her victory.\footnote{Ibid.} Independence USA used attack ads and direct mailings against Ms. Kelly’s opponent, Debbie Halvorson, who was running as an incumbent.\footnote{Byron Tau, “Bloomberg Group Declares Illinois Win,” \textit{Politico}, February 27, 2013, http://www.politico.com/story/2013/02/michael-bloombergs-super-pac-declares-victory-in-illinois-race-088176.} These were similar to efforts that the NRA employed against Democratic, pro-gun-control candidates in the late 1960s and early 1970s.\footnote{Spitzer, \textit{The Politics of Gun Control}, 96.} Halvorson had held an “A” rating from the NRA during her time in Congress.\footnote{Ibid.} Although Halvorson initially led the race, with a 51 percent favorability rating according to an internal poll, Kelly won with 52 percent of the vote to Halvorson’s 25 percent.\footnote{Ibid.} Doug Schoen, an Independence USA staffer who helped to lead campaign efforts for Robin Kelly, acknowledged that “…this was a concerted, focused campaign solely on the gun issue…There were no other issues and themes used. This election became…a referendum on guns—that was our avowed purpose, that was our intent and what we were seeking.”\footnote{Ibid.} Notably, the NRA did not contribute to Halvorson’s campaign.\footnote{Ibid.}

The other tactic that gun control organizations are using to great effect is to “…engage family members and survivors of gun violence as full-time lobbyists, media spokespeople, and
grassroots advocates.” Although they had previously been used effectively to promote gun control on the state and local level, it has only been recently that some have ascended to the national stage. Cook and Goss note that “the Virginia Tech families were key to passage of the 2007 federal legislation to improve the national background check system…” Fifteen family members and survivors of the Virginia Tech shooting testified in front of the Senate in 2008 in favor of the National Instant Criminal Background Check Improvement Act of 2007. Key provisions of the bill required states to submit records of people who were determined to be ineligible to buy firearms to the NICS and penalize states that did not comply with an additional requirement to automate and transfer their records to the NICS. Many of the family members’ testimony focused on the fact that the shooter had been determined mentally ill and dangerous by Virginia courts, which meant that he was technically prohibited from buying weapons, but his access to firearms remained unimpeded due to weak points in the background check system. A strengthened background check system where states complied with reporting to NICS about dangerous individuals would help to avoid consequences like those of the Virginia Tech shooting.

As the legislative process on this particular bill dragged on for years, they continued to testify and give public statements in the aftermath of similar events, including after the shooting of Congresswoman Gabrielle Giffords in 2011 in Tucson, Arizona, where the shooter was also

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303 Ibid.
304 Ibid.
305 Ibid.
mentally ill but allowed to purchase firearms anyway. The National Instant Criminal Background Check Improvement Act of 2007 passed in May 2011. Paul Helmke, a professor of Indiana University’s School of Public and Environmental Affairs, in an article for the Huffington Post, wrote that “survivors and family members of the Virginia Tech massacre fought to make the Brady background check better, and their efforts have been vindicated by the bill’s passage.”

Families of the 2012 Sandy Hook shootings have created an advocacy group, Sandy Hook Promise, which began its work on the state level, leading efforts to create stronger gun safety laws in Connecticut. They went to Washington to lobby members of Congress to get them to support the Manchin-Toomey bill, which would have further strengthened background checks and closed the gun show loophole. In spite of their efforts, a 2013 bipartisan compromise to require background checks for all commercial gun purchases was defeated. After the San Bernardino shootings in December 2015, the Manchin-Toomey bill was put to a vote in the Senate and failed again, 50 to 48. Even though results have been mixed, as these cases show, testimony from survivors and families of victims is compelling and puts a human face to a politicized issue. Matt Bennett, a policy advisor at Third Way, a policy research institute, wrote

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308 Ibid.
310 Ibid.
in an essay for the Brookings Institution about the impact of the Sandy Hook victims’ families on gun control, that:

It’s often the case that some of the most effective advocates in American politics are people who have a personal stake in an issue…But it is a rare thing for such advocates to be granted time with almost any senator they ask to meet—rarer still for them to be able to move even the most jaded of these lawmakers to tears by bringing out a photo of a smiling six-year-old child. Yet that keeps happening with Sandy Hook families…But these families don’t want sympathy—they want a bill signed into law.312

IV. Where Does Gun Control Policy Gridlock Come from?

William J. Vizzard argues that the national debate over federal gun control policy has, time and time again, created

…a political environment skewed in favor of individualism, incrementalism, and pluralism has produced a form of stalemate…that shifts attention from crafting functional policy to efforts at controlling language and paradigms. The result is poorly crafted and ineffectual policy, the implementation of which accomplishes little except generating conflict that feeds back into the policy debate.313

Spitzer notes the repeated reaction during each national moment of gun control controversy:

The political pattern typifying the gun debate is one in which repetitive political scenarios play themselves out with great fury but astonishingly little effect. The cycle of outrage, action, and reaction usually begins with the sensational and the horrific.314

This pattern can be easily observed in each of the three cases from the previous chapter. Reacting to the 1968 assassinations of Martin Luther King, Jr. and Robert F. Kennedy (outrage), supporters of gun control measures finally had the upper hand over its opponents and were able to pass the Gun Control Act of 1968 (action), a measure that had been introduced by President

312 Matt Bennett, “The Promise: The Families of Sandy Hook and the Long Road to Gun Safety.”
314 Spitzer, The Politics of Gun Control, 14.
Lyndon B. Johnson every year since 1965. After the passage of the Gun Control Act of 1968, implementation of the newest policy “overshadowed” formulation of new policy, according to Vizzard. Encouraged by the new legislation, gun control advocacy groups were formally created and organized beginning in the late 1960s and the early 1970s. Their effect on gun-rights advocates was to “…energize [gun-rights proponents] into more intense resistance.”

Vizzard reports that “there is substantial evidence that a sudden increase in visible public support for gun control had a significant impact on the bill’s passage.” The NRA and other organized gun control opponents set out on a mission to weaken the legislation’s provisions and were ultimately successful. In 1969, a measure that required sellers of ammunition to register their purchasers was repealed, largely due to the machinations of the NRA and the gun lobby. Because of the efforts of the NRA and other pro-gun rights lobbying organizations, “…the law still proved to be more of a statement of intended policy than a framework for policy implementation.” Spitzer writes that the vigorous efforts of the NRA and its affiliates were

…mostly successful in blocking gun control measures in the states and at the federal level in the 1970s and 1980s, but toward the end of the 1980s public sentiment shifted more strongly toward gun control, and the NRA’s political inflexibility and stridency began to make more enemies than friends. As a consequence, the political fulcrum began to shift in favor of gun control proponents, spearheaded by the Brady Campaign to Prevent Gun Violence.

This sea change in political positioning on the gun control issue carried the public’s shock and concern about James Brady’s devastating injuries during the assassination attempt of then-

315 Ibid.
317 Ibid.
318 Ibid.
319 Ibid.
320 Spitzer, The Politics of Gun Control, 137.
322 Spitzer, The Politics of Gun Control, 15.
President Ronald Reagan to the halls of Congress (outrage), where it was introduced in its original form for the first time in the House in 1987 (action). The reaction from the NRA and other gun control opponents was fierce in its scope. They were able to kill the bill in 1988, execute a multi-million dollar grassroots and media campaign against the Brady Bill in the interim, and, when it was reintroduced in 1990, they delayed passage of the bill until May of 1991 and even proposed an alternate bill in its place. They lobbied against the Brady Bill so effectively that, even when the bill seemed slated for passage in 1991, Senate Republicans filibustered it, requiring the bill’s sponsors to withdraw their support and wait another two years to pass it successfully, this time in 1993. By this time, the opponents of the bill had so much clout that they were able to pass a version of the bill with a five-day waiting period in place for only five years, with the National Instant Criminal Background Check System as its subsequent replacement.

Two years later, the Federal Assault Weapons Ban was passed (action); it was inspired by a 1989 mass shooting where a mentally ill man killed 5 children and wounded twenty-nine others with an AK-47 (outrage). The reaction to the Federal Assault Weapons Ban was so contentious that it required renegotiation in the wake of opposition from the NRA and its allies, who did not support an assault weapons ban in any capacity. The Assault Weapons Ban was reviled by most Republicans, who made its repeal a legislative priority after they won control of the House in 1994. This consistent, cyclical pattern evident in the three cases shows how

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323 Spitzer, The Politics of Gun Control, 148.
324 Ibid.
325 Ibid.
326 Spitzer, The Politics of Gun Control, 150.
328 Wilson, Guns, Gun Control, and Elections, 95.
329 Spitzer, The Politics of Gun Control, 145.
330 Spitzer, The Politics of Gun Control, 146.
incremental and crisis-based gun control policy has been on a federal level, not exactly a strong foundation for policy.

V. Conclusions

Gun control belongs to a uniquely contentious category of policy that is characterized by strongly-held convictions and emotions on both sides of the issue. Its status as social regulatory policy, which seeks to restrain or regulate individual conduct, means that the NRA and other gun rights groups have an advantage when trying to sway both lawmakers and the general public. Because people have a tendency to dislike policy that seeks to regulate their behavior, the pro-gun-control side of the debate has faced far more difficulty in swaying lawmakers and the public, which means that the impetus for federal gun control policy has come from tragic situations where public outrage over gun violence is at a sufficiently high level to override concerns of governmental restriction of individual rights and behavior. This outrage-action-reaction cycle has led to incremental policy that later faces backlash from gun rights groups and their supporters, diminishing the effectiveness of the policy and increasing the level of difficulty that gun control advocates face the next time policy regulation on guns is sought on the federal level.

These kinds of obstacles, coupled with the public’s dislike of social regulatory policy, is manifested in public opinion polling on issues of gun control. Although public opinion indicates that people favor it conceptually, some regulations are met with higher levels of public approval than others. Additionally, the trend shown by public opinion polling on the subject of gun control has begun to indicate a long-term shift in public opinion, showing that people are beginning to favor gun rights over gun control in a theoretical, binary situation. This trend and the specifics of public opinion polling on this topic will be further discussed in Chapter Three.
Chapter 3: Public Opinion and its Role

In *Guns, Gun Control, and Elections: The Politics and Policy of Firearms*, published in 2007, Harry Wilson analyzes the existing literature about gun control and public opinion, finding that “many researchers have noted an apparent consensus in favor of the general concept of gun control.”\(^{331}\) He quotes Gary Kleck, a gun control scholar and one of Wilson’s contemporaries, who concludes that “there are a large number and a wide range of weak-to-moderate regulatory controls that solid majorities of Americans will endorse if asked.”\(^{332}\) However, Wilson’s book was published nine years ago, and the landscape of public opinion about gun control in America has shifted. The change has not necessarily occurred in the area of regulatory control; according to Pew Research Center, as of July 2015 (the most recent poll Pew conducted on the issue), the majority of Americans supported several of the most common gun-control proposals, including background checks for private sales and gun shows, laws to prevent the mentally ill from buying guns, the creation of a federal database to track gun sales, and a ban on assault-style weapons.\(^{333}\)

What has changed is the public’s perception that support for gun rights and support for gun control measures are diametrically opposed; that is to say that one may be in favor of either gun rights or gun control but it is impossible to be in favor of both. At several points in the past three years, Pew Research Center’s poll found that the majority of the American public favored gun rights over gun control, as measured by the question “what do you think is more important—to protect the rights of Americans to own guns, OR to control gun ownership?”\(^{334}\)

\(^{331}\) Harry L. Wilson, *Guns, Gun Control, and Elections*, 114.
This chapter will highlight trends in public opinion regarding gun control policy and the theory that could explain the seeming disconnect between what the general public wants in federal gun control legislation and what is actually passed in Congress.

I. What is the Importance of Public Opinion to Gun Control Policy?

Kleck notes that public opinion is an essential part of the debate surrounding gun control policy. Advocates for both gun rights and gun control rely on public opinion to inform and enhance their policy positions.\(^{335}\) Public opinion is also a key element of the legislative process for any potential gun control policy decision. As Kleck notes, “for proposed gun controls to have any impact, they must survive the political process and be implemented first, and this is harder in the face of significant public opposition to the controls.”\(^{336}\)

Paul Burstein observes that there are three general principles in the link between public policy and public opinion on which the social science community has reached a consensus: “public opinion influences public policy; the more salient an issue to the public, the stronger the relationship is likely to be; and the relationship is threatened by the power of interest organizations, political parties, and economic elites.”\(^{337}\) However, there is less consensus among the academic community about the relative impact of these three factors.\(^{338}\)

The amount of influence held by public opinion and its effect on public policy is disputed. Some theorists assert that there is a high degree of responsiveness of public policy to public opinion, particularly when shifts in public opinion occur.\(^{339}\) Others give more emphasis to

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335 Gary Kleck, Targeting Guns: Firearms and Their Control, 325.
336 Ibid.
338 Ibid.
the power held by interest groups and their role in the legislative process, which can put pressure on legislators to contravene public opinion.\textsuperscript{340} Burstein summarizes the differences of opinion:

Jones (1994) argues that inherent limitations in both the cognitive capacities of individuals and the organizational capacities of Congress mean that responsiveness is likely on only the few issues that the public cares about at any given time. Zaller (1992) and others contend that on many issues the public cannot be said to have meaningful political opinions, so policy must be the product of other forces. And Arnold (1990: 271-72) suggests that many issues are so complex, and the legislative process so arcane, that most citizens are unable to ascertain whether their interests are being served. Thus, predictions about the impact of opinion on policy range from its having a very substantial influence (Stimson, MacKuen, and Erikson 1995) to its keeping policy, rather vaguely, “in bounds” in its distance from public opinion (Jones 1994:238).

Without a consensus, the level of responsiveness of legislators to public opinion is unclear. Burstein used thirty studies about government responsiveness to determine how public policy was influenced by public opinion.\textsuperscript{341} He found that “three-quarters of the relationships between opinion and policy are statistically significant,”\textsuperscript{342} meaning that “…policy is affected by opinion most of the time; often—over half the time when public opinion has any effect—the impact really matters substantively.”\textsuperscript{343}

Other theorists emphasize the influence that interest groups, political parties, and elites hold over policy.\textsuperscript{344} This level of influence, coupled with the resources available to them, can devalue democratic responsiveness and divert attention from public opinion.\textsuperscript{345} However influential interest groups, political parties, and elites are on policy, their “…political activities may be most effective when consistent with public opinion.”\textsuperscript{346} This means that the actions of

\textsuperscript{340} Ibid.
\textsuperscript{343} Burstein, “The Impact of Public Opinion on Public Policy: A Review and an Agenda,” 34.
\textsuperscript{345} Ibid.
these separate entities resonate more when they are in line with what the general public wants from gun control policy. In fact, interest groups might enhance responsiveness of legislators to public opinion. Burstein summarizes Hasen’s 1991 article, which finds that

…interest groups may be influential, in part, because they provide information useful to legislators, including information about what the public wants, serving as useful intermediaries between the public and the government. They represent some groups better than others, but overall may enhance the impact of public opinion on public policy.347

Another factor in democratic responsiveness is issue salience. A certain amount of salience is required in order to keep the issue on the forefront of the minds of both the public and elected officials. In order for legislation to be created surrounding an issue, people have to care enough about it to ensure that something is accomplished that will impact the issue.348 In Burstein’s analysis, “the combination of salience and substantive public opinion [in studies of policy responsiveness and public opinion] always has an effect and is of substantial policy importance over three-fifths of the time. This is consistent with the impact of public opinion increasing as salience increases.”349

II. How Does Public Opinion Explain the Weakness of Federal Action on Gun Control?

The public opinion data assembled here, when contrasted against the final form of gun control measures passed in Congress, shows a distinct lack of governmental response to the views of the general public. The majority of the American public has supported many gun regulations, including those that have failed multiple times in Congress, like a seven-day waiting period to purchase a firearm, closing the “gun show loophole,” and a federal ban of assault

347 Ibid.
348 Ibid.
weapons. These measures that the public has supported wholeheartedly, according to polling data, have been the subject of tooth-and-nail battles in Congress. They have either failed outright or have not been renewed after their planned sunset period, as shown in the three cases presented in the first chapter.

One instance of this is the failure of the bipartisan Manchin-Toomey bill in April 2013, which would have expanded background checks “…to cover all firearms sales at gun shows and over the internet, but would have exempted sales between friends and acquaintances outside of commercial venues.” With a final vote count of 54 to 46, the Senate fell six votes short of what would be necessary to pass the bill. A Gallup poll taken in late January of that year indicated that 91 percent of the public favored passing a law that would require criminal background checks for all gun sales, with only 8 percent of people opposed. This proposal was supported by 97 percent of Democrats, 86 percent of Independents, and 92 percent of Republicans. Additionally, 53 percent supported President Obama’s original nine-point plan to reduce gun violence, which was more controversial and far-reaching than the bipartisan background check bill in its final form. After the vote occurred, a Gallup poll found that 65 percent of Americans thought that the Senate should have passed the background check bill. Expressing his disgust with the Senate’s lack of cooperation regarding this bill, President Obama said that “the American people are trying to figure out: how can something have 90% support

353 Ibid.  
354 Ibid.  
If the majority of the public supports stricter regulation, then what explains the legislation that has passed in Congress, which seems to be unreflective of what the majority of the American public wants?

One factor could be that, although the majority of the public wants one thing, a small and influential group is making the most noise about their views, ensuring policy responsiveness. Spitzer attributes this problem, which he refers to as the “opinion-policy gap,” to the “outrage-action-reaction cycle.” The narrative surrounding gun control requires a reaction to each new incident of gun violence, when the public’s level of pro-gun-control sentiment is higher than usual. The nature of the cycle means that public outrage lasts for only a limited amount of time, at a level of passion that is not dependably sustained. Once the level of commitment to gun control drops, gun-rights advocates “…retain a political edge that generally works against a direct translation of public preferences into policy enactments.”

In general, gun-rights advocates remain on a consistently high level of alert, because the NRA has framed the issue in a way that makes gun-rights advocates concerned that their Second Amendment rights are at risk. This gives them an advantage over gun-control advocates, who rely on the ephemeral nature of the outrage-action-reaction cycle each time an incident of gun violence occurs. Kleck concurs, finding that public opinion is highly motivated by incidents of gun violence, with a pattern of “…support increasing sharply immediately after the event and then dropping as memory of the event fades.”

Those who are in favor of gun rights and looser regulations seem to be contributing more to advocacy groups that support their views and making their views known to legislators, who try

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356 Steinhauser, “Public Opinion Gets Trumped in Gun Control Defeat.”
357 Spitzer, The Politics of Gun Control, 122.
358 Spitzer, The Politics of Gun Control, 123.
359 Kleck, Targeting Guns: Firearms and Their Control, 335.
to represent those who are most active and vocal. Howard Schuman and Stanley Presser surveyed people about their support for gun permit laws and what kind of action, if any, survey respondents had taken in relation to their views.\textsuperscript{360} Examining polling results between 1959 and 1979, they found that approximately 75 percent of Americans favored a law being put into place that would require anyone who wanted to buy a gun to first obtain a police permit.\textsuperscript{361} In spite of this consistently favorable view held by a strong majority towards gun permit requirements, no nationwide police permit system has been put into place.\textsuperscript{362} In order to understand this gap between favorable public opinion and legislative action, Schuman and Presser surveyed people about their support for a police licensing permit for gun ownership, as well as whether or not survey respondents had taken various types of action in order to express their opinions.

They hypothesized that a reason for the disconnect between levels of support and actual legislative action taken could result from the public’s intensity of feeling about the issue.\textsuperscript{363} The percentage of people in support might, in fact, not be as important as “…the relative strengths with which attitudes are held…”\textsuperscript{364} Their hypothesis assumed that those in the minority, who opposed permit laws, felt very strongly about the issue and translated those feelings into actions that had consequences in the political arena.\textsuperscript{365} Politicians are reluctant to alienate single-issue voters. Schuman and Presser acknowledge that “…in a situation in which preferences and the propensity to act on them are correlated, an electoral strategy that accommodates each of the more intense preferences will defeat an electoral strategy based on majority preferences.”\textsuperscript{366}

\textsuperscript{361} Ibid.
\textsuperscript{362} Ibid.
\textsuperscript{363} Ibid.
\textsuperscript{364} Ibid.
\textsuperscript{365} Ibid.
Although the intensity of support for gun permits was slightly stronger than the intensity of support for gun control opponents, opponents of a gun permit law were far more likely to have taken action to express their opinions.\textsuperscript{367} Actions taken varied, but 20.4 percent of those who were anti-permit had written a letter, given money, or both, as compared to only 7.1 percent of those on the pro-permit side.\textsuperscript{368} This influences the perception of the public by those who disseminate information about public opinion, as well as decision-makers in government.

Schuman and Presser observe that “…politicians, editors, and others who take stands on the gun permit issue will hear from permit opponents noticeably more often than from permit proponents, even though it is the latter who clearly predominate in the country.”\textsuperscript{369} Additionally, the financial support of gun-permit opponents influences how and by whom their message is promulgated; they support gun-rights groups and gun-rights candidates during elections.\textsuperscript{370}

Schuman and Presser ultimately concluded that:

The apparent inconsistency between these findings seems to be due to the fact that strength of feeling and taking action are highly related for permit opponents, but not for proponents. Thus among respondents who believe the issue to be most important, opponents are quite likely to act on their beliefs, whereas this is not so for proponents—a difference that may well reflect the superiority in organizational effectiveness of the forces opposed to gun control.\textsuperscript{371}

Burstein echoes this possibility, noting that “political parties may, when in office, enact policies favored by their most ardent supporters rather than the general public.”\textsuperscript{372} Spitzer also acknowledges the importance of “pressure-group politics,” since they are often able to influence

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\textsuperscript{367} Schuman and Presser, “The Attitude-Action Connection and the Issue of Gun Control,” 40.
\textsuperscript{368} Schuman and Presser, “The Attitude-Action Connection and the Issue of Gun Control,” 44.
\textsuperscript{370} Schuman and Presser, “The Attitude-Action Connection and the Issue of Gun Control,” 45.
\textsuperscript{371} Schuman and Presser, “The Attitude-Action Connection and the Issue of Gun Control,” 40.
Congress substantially.\(^{373}\) They are especially effective when public outrage has leveled off and gun control ceases to be a politically salient issue for the public.

**Gun Policy is Seen as a Low-Priority Issue**

In a Gallup poll from May 2013, 55 percent of Americans rated “reducing gun violence” as a top or high priority for Congressional and Presidential action, ranking it third to last in a list of twelve policy issues provided to survey respondents.\(^{374}\) However, gun control’s saliency as an issue was drastically influenced by the respondent’s political affiliation. The survey results indicated that “Democrats are more than thirty points more likely than Republicans to say…reducing gun violence should be a top or high priority for Congress and the President…The divergent perspectives on gun violence underscore that this issue has taken on significant political overtones.”\(^{375}\) 73 percent of Democrats who responded to the poll ranked “reducing gun violence” as a top or high priority for Congress and the President, as compared to 40 percent of Republicans and 50 percent of Independents.\(^{376}\)

This poll is just one example illustrating Kleck’s argument that gun control is a low-salience issue; the general public does not “…seem to have very strong views on the topic or think about it a great deal.”\(^{377}\) He points to several different surveys and their responses that show volatility and inconsistent levels of support over time for the same set of gun control measures.\(^{378}\) When responding to polls about important issues that the country is facing, how to reduce crime, and factors that contribute to the levels of crime in the United States, Kleck notes

\(^{373}\) Spitzer, *The Politics of Gun Control*, 123.


\(^{375}\) Ibid.

\(^{376}\) Ibid.


\(^{378}\) Ibid.
that few people attribute the cause of these societal problems to guns and their lack of regulation.\textsuperscript{379}

Cook and Goss find a similar volatility in responses to public opinion polling, which can be responsive to highly-publicized events like mass shootings and accidental gun deaths, but only in the short term. In their review of public opinion polls on gun policy administered by Gallup and Pew, Cook and Goss find that Gallup’s survey

\ldots asks whether laws governing firearm sales should be more strict, less strict, or kept as they are—registered a six-point bump in the “more strict” direction after the Columbine High School shooting in April 1999. But by December, support for stricter laws had retreated to its pre-Columbine level. Six months after the most deadly shooting in American history, at Virginia Tech in April 2007, support for stricter gun laws was actually lower than it had been six months before the event—meaning that, if the shooting of 50 students and professors moved Americans toward stricter gun laws, such sympathy did not last. There was an eight-point surge after the Tucson shooting in January 2011, but it had evaporated by the fall. After the shootings at the Aurora, Colorado theater (July 2012), at the Wisconsin Sikh temple (August 2012), and the Sandy Hook School (December 2012), support for stricter gun laws surged 12 to 15 points.\textsuperscript{380}

This pattern, where public opinion is highly responsive in the immediate aftermath of an incident of gun violence but lasts for only a short period of time after the incident, means that it is difficult to gauge the public’s true feelings on this matter, or translate the public’s pro-gun-control response, when it is at an elevated level, into a policy response. Tom W. Smith, in his study of NORC data about public support for gun control measures, also addressed issue saliency in relation to the Columbine High School shooting in 1999. He finds that the saliency of gun control was higher in the immediate aftermath of the shooting, and “\ldots respondents in public opinion polls became much more likely to mention crime in general or gun violence in particular

\textsuperscript{379} Kleck, Targeting Guns: Firearms and Their Control, 330.
as the most important problem facing the country.” The impact of Columbine was not lasting, as Cook and Goss also observed. Smith writes that:

There is little indication that Littleton generally increased support for gun control in the short term and no sign that it did so after six months. Thus, Littleton serves as a powerful example of how fixed Americans’ views on gun control really are. Even a mass school shooting on live television did little to change people’s views on the issue.

III. The Problem with Relying on Public Opinion

Although the goal of public opinion is to accurately gauge how the public feels about a particular issue in the present moment and over time, there are some problems inherent in relying on polling and assuming that polls reflect the public’s genuine opinion. One of the issues with relying on public opinion polling is inconsistency in survey design and misleading, unclear, or biased wording of polling questions. Kleck provides an illustrative example:

In a Time/CNN poll conducted December 2, 1993, 23% of adult Americans favored a handgun ban, as described in the following question: “do you favor or oppose a law which would make it illegal for any private citizen to own a handgun for any purpose?” However, in a Gallup telephone poll conducted just two weeks later, support for a handgun ban seemed to be 70% higher, with 39% of adult Americans endorsing what appeared to be the same measure the Time/CNN poll had asked about. However, there was a critical difference in the wording of the Gallup question, which read: “do you think there should or should not be a law that would ban the possession of handguns, except by the police and other authorized persons?” The key difference is that the Gallup wording…includes a phrase that allows respondents to believe that they would be among those persons “authorized” to possess handguns...Whether intentionally or not, the Gallup wording effectively transmutes a question seemingly referring to a handgun ban into one that could be interpreted by many respondents as referring to a handgun licensing law…Clearly, seemingly minor variations in wording can produce radical differences in poll results.

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382 Ibid.
383 Kleck, Targeting Guns: Firearms and Their Control, 326.
These “minor variations in wording” of polling questions, even when both questions are asking about the same issue, produced disparate rates of approval for a theoretical handgun ban. This example suggests that public opinion on issues of gun control is not absolute. Respondents are greatly influenced by the language used in individual polling questions.

Another issue that arises when relying on or trying to interpret public opinion polling is the level of knowledge required to answer a polling question with full understanding. Polling questions may use terms that respondents do not understand without defining them, leading respondents to guess or make assumptions about the meaning of those terms. Kleck takes issue with even the simplest, most frequently-asked polling question regarding gun control:

Perhaps the most meaningless public opinion results in the entire gun control area are responses to a question asked repeatedly by the Gallup organization: “In general, do you feel that the laws covering the sale of handguns should be more strict, less strict, or kept as they are now?” The question necessarily assumes that respondents know how strict controls are now, a demonstrably false assumption.384

This assertion casts doubt on both the validity and utility of this kind of polling. If the public is not well informed, then, at best, the poll only tells us about their perceptions of the level of gun violence in America and if respondents think it is problematic. Wilson echoes this doubt about the public’s level of information, saying that “it is more likely that this question is a surrogate for the respondent’s perception of the seriousness of gun violence insofar as many of those citizens who see gun violence as a serious problem are likely to think that gun laws are too weak.”385 Kleck argues that respondents are often ill-informed about existing laws and federal controls, which greatly impacts polling results and makes results less accurate than if people understood the issues.386 If survey respondents believe that there are fewer existing gun controls

384 Kleck, Targeting Guns: Firearms and Their Control, 328.
385 Wilson, Guns, Gun Control, and Elections, 121.
386 Ibid.
than what actually have been put into place, they might be more likely to respond that they are in favor of stricter controls than what they really would like.\textsuperscript{387}

Related to this potential lack of information, another consideration when evaluating whether or not public opinion polling is an accurate measure of the public’s true feelings about gun control is the situation surrounding a public opinion poll. A respondent is asked to quickly form an opinion about something that he or she may not care about or have ever thought about before. Kleck refers to this phenomenon as a “situational opinion:” “…an opinion held only during the survey interview, but one that did not exist before the relevant question was asked and that does not persist after the interview is over.”\textsuperscript{388} Just because a respondent has expressed an opinion during the course of the survey does not mean that it is one that he or she holds permanently or one that he or she considers actionable in a way that influences gun policy. An opinion that the respondent holds might not compel him or her to write letters to legislators, vote, join an advocacy organization, or donate funds. This is evident when comparing levels of support for their expressed opinions about issues of gun control to poll respondents’ actions related to their opinions. The Schuman and Presser study about respondents’ actions to express their opinions about police licensing permits for gun ownership illustrated that, even though more people felt strongly that a police licensing permit should be put into place for gun ownership, only 7.1 percent of respondents who were pro-permit took some type of action to express that in the public arena, whether by writing a letter to lawmakers or giving money to a candidate whose views on the issue aligned with their own, as compared to 20.4 percent of those who were anti-permit.\textsuperscript{389} Additionally, as Kleck notes, even though there is a “no opinion/undecided” response

\textsuperscript{387} Ibid.
\textsuperscript{388} Kleck, \textit{Targeting Guns: Firearms and Their Control}, 331.
\textsuperscript{389} Schuman and Presser, “The Attitude-Action Connection and the Issue of Gun Control,” 45.
to most polling questions, that does not mean that everyone who has not developed an opinion will choose it.\textsuperscript{390}

IV. Evaluating the Trends

Spitzer, Vizzard, Smith, and Wilson all conclude that public opinion has remained consistently in favor of increased governmental control of guns.\textsuperscript{391} Smith, writing about stability of public opinion trends from the 1960s until the date of his own study, thinks that the longevity of the gun control issue contributes to the stability of public opinion:

By and large, attitudes toward firearms regulation have shown great stability over the past 40 years. Gun control has been debated at the national level since the mid-1960s, so public opinion on gun control tends to be mature and not subject to large or sudden fluctuations or shifts. Except for a period in the late 1980s and early 1990s when support for gun control measures rose moderately, attitudes have generally remained stable over time.\textsuperscript{392}

Certain measures have remained consistently popular, while the public is more ambivalent about others. Spitzer acknowledges that “…the size of the majority favoring stronger gun controls has varied” over the years, and attributes low points of public opinion favoring stronger gun controls to the “anti-gun control presidencies of Ronald Reagan and George W. Bush,” as well as a two-decades long decline in crime rates, including violent crime.\textsuperscript{393} Overall, however, Spitzer sees the overall trend for public support of gun control as one that “has been consistent in its support for stricter laws.”\textsuperscript{394} Elite opinion, according to a study by Kara Lindaman and Donald Haider-Markel reproduced in Wilson’s book, became more polarized

\textsuperscript{390} Kleck, Targeting Guns: Firearms and Their Control, 332.
\textsuperscript{391} Spitzer 118, Vizzard 67, Wilson 118, and Smith 160.
\textsuperscript{392} Smith, “Public Opinion About Gun Policies,” 160.
\textsuperscript{393} Spitzer, The Politics of Gun Control, 118.
\textsuperscript{394} Ibid.
between 1970 and 1990 and more in favor of gun control, though mass support for gun control remained at a consistently higher level.\textsuperscript{395}

Gun-control measures that have consistently seen a high level of support from the public include universal handgun registration, a waiting period for gun purchases, background checks for private sales of firearms, and a ban on assault weapons.\textsuperscript{396} According to Spitzer’s review of available polling data:

66 percent supported registration in 1982, 70 percent in 1985, 81 percent in 1990, 81 percent in 1991, 76 percent in 2000, and 79 percent in 2006. A series of Roper polls have found that, since the early 1970s, an average of 72 percent of Americans have favored a law “requiring a person to obtain a police permit” before buying a gun (in 2002 this number was 80 percent). In 2002 a National Opinion Research Center poll found that 80 percent favored a law requiring police permits as a prerequisite for gun purchases.\textsuperscript{397}

The public’s support for a waiting period has been even higher than for universal registration; the approval level for a waiting period has never dropped below 80 percent and has often been much higher.\textsuperscript{398} Spitzer’s review of Gallup polls show “…91 percent support in 1988, 95 percent support in 1990, 93 percent in 1991, 88 percent in 1993 (the year Congress enacted a national five-day waiting period as part of the Brady Law), and 93 percent in 2000. In 2006 80 percent favored background checks for private gun sales.”\textsuperscript{399}

Regarding assault weapons, support for a ban has been at lower levels overall than those for registration and a waiting period but seems to vary based on the polling question and how (or if) it defines an assault weapon. For example, Spitzer cites a 1992 New York Times/CBS News poll which asked “would you favor or oppose a ban on assault weapons—that is, semiautomatic

\textsuperscript{395} Wilson, Guns, Gun Control, and Elections, 117.
\textsuperscript{396} Spitzer, The Politics of Gun Control, 118-119.
\textsuperscript{397} Spitzer, The Politics of Gun Control, 119.
\textsuperscript{398} Ibid.
\textsuperscript{399} Ibid.
military-style rifles that can hold up to 30 bullets?

79 percent of respondents supported the ban, while 19 percent opposed it. The same poll completed in 2009 found that 54 percent of respondents supported an assault weapons ban. A 1993 Gallup poll asks the question slightly differently, resulting in a different response from the NYT/CBS poll; the question asked was “would you favor or oppose a law banning the manufacture, sale, and possession of semiautomatic assault guns, such as the AK-47?” This time, 66 percent of respondents supported the ban, while 30 percent did not.

Kleck observes a few overall trends that can be elicited from polling data. He reports that “there is more support for regulating sale and purchase of guns than there is for regulating possession or ownership. Thus, support is greater for measures that would affect first-time gun buyers than for measures affecting those who already have the guns they want.” Respondents are motivated by their own interests and are, in general, in favor of gun control measures that appear not to impact them or “…their own possession, acquisition, or use of guns.” Overall, public opinion polling trends show that, for the American public, “the stronger the measures [for gun control legislation], the less support there is.”

The outright ban of firearms has never reached a high level of popularity, and public support for such a measure has consistently been on the decline since polls have posed that question.

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400 Spitzer, *The Politics of Gun Control*, 120.
401 Ibid.
402 Ibid.
403 Ibid.
405 Ibid.
406 Ibid.
However, not all scholars draw the same conclusions from public opinion polls. Kleck argues that polling data and trends over time indicate that, for the most part, people are both ill-informed and ambivalent about gun control. He writes that:

The available evidence supports the following conclusions: (1) most people have no real opinion or only very weak or unstable opinions on specific narrow gun control proposals; (2) most people have only very general opinions on broad issues like gun control rather than specific, strongly held opinions on narrow issues, and (3) the few who do have strong, stable opinions in the gun control area are mostly anticontrol, because most of them are gun owners.407


In a study of polling data about questions of firearms policy and gun ownership in the United States between 1987 and 1992, Jon S. Vernick, Stephen P. Teret, Kim Ammann Howard, Michael D. Teret, and Garen J. Wintemute used 270 polling questions to draw conclusions about the American public’s views on gun control policy during that period.408

They found that “the public’s answers to these [polling] questions demonstrate, in general, a willingness to accept more control over the manufacture, sale and possession of guns.”409 The ranges of the public’s support for each regulation included in the polling data are as follows:

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409 Ibid.
### Public Support For Gun Policy Options, Selected Questions, 1987-1992

<table>
<thead>
<tr>
<th>Gun Policy Option</th>
<th>Approval Range⁴¹⁰</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ban manufacture of Saturday Night Specials</td>
<td>68% to 73%</td>
</tr>
<tr>
<td>Ban manufacture of assault weapons</td>
<td>72% to 73%</td>
</tr>
<tr>
<td>Stricter regulation of firearm sales</td>
<td>60% to 78%</td>
</tr>
<tr>
<td>Stricter regulation of handgun sales</td>
<td>60% to 65%</td>
</tr>
<tr>
<td>Ban sale of all handguns</td>
<td>40% to 42%</td>
</tr>
<tr>
<td>Ban sale of Saturday Night Specials</td>
<td>68% to 73%</td>
</tr>
<tr>
<td>Ban sale of assault weapons</td>
<td>72% to 75%</td>
</tr>
<tr>
<td>Seven-day handgun waiting period</td>
<td>80% to 95%</td>
</tr>
<tr>
<td>Ban possession of all firearms</td>
<td>29%</td>
</tr>
<tr>
<td>Ban possession of handguns</td>
<td>29% to 43%</td>
</tr>
<tr>
<td>Ban possession of Saturday Night Specials</td>
<td>68% to 71%</td>
</tr>
<tr>
<td>Ban possession of assault weapons</td>
<td>72% to 73%</td>
</tr>
<tr>
<td>Register possession of all firearms</td>
<td>67% to 79%</td>
</tr>
<tr>
<td>Register possession of all handguns</td>
<td>72% to 84%</td>
</tr>
<tr>
<td>License carrying of guns outside the home</td>
<td>81% to 88%</td>
</tr>
<tr>
<td>Individual right to bear arms protected by the Constitution</td>
<td>68% to 90%</td>
</tr>
</tbody>
</table>

They found that most of the public disfavored Saturday Night Specials and assault weapons in general; a large majority would support banning the manufacture, sale, and possession of both Saturday Night Specials and assault weapons.⁴¹¹ They also supported stricter regulation, including a seven day waiting period, but not an outright ban, on the sale of firearms.

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⁴¹⁰ Vernick et al., “Public Opinion Polling on Gun Policy,” 201.
and handguns.\textsuperscript{412} There was very strong support for registration of firearms and handgun possession, and licensing to carry guns outside the home.\textsuperscript{413} Vernick, Teret, Teret, Ammann Howard, and Wintemute thought that the polling data should serve as a sign of encouragement for legislators to pass more stringent regulations on guns.\textsuperscript{414} They wrote that:

> Given the generally supportive public opinion for a variety of gun control policies, legislators can feel more confident that a number of proposed laws intended to reduce gun violence would enjoy widespread support. In fact, every gun policy option we summarize, other than proposals to completely ban the sale or possession of all firearms or handguns, is favored by a majority of all Americans.\textsuperscript{415}

Surveying National Opinion Research Center (NORC) polls from 1996 to 1999, Tom W. Smith writes that “these polls show that public support for the regulation of firearms is strong, deep, and widespread. Large majorities back most policies to control the manufacture and sale of guns, increase gun safety, and restrict criminals from acquiring firearms.”\textsuperscript{416} Support for general gun control measures were, for the most part, high. These results are similar to findings from the Vernick et al. study. The only measures that the majority of the American public did not support were a ban on handguns except by authorized persons and a total ban on handguns.\textsuperscript{417} The table compiled by Smith from the NORC data is reproduced below:

\textsuperscript{413} Vernick et al., “Public Opinion Polling on Gun Policy,” 203.
\textsuperscript{414} Vernick et al., “Public Opinion Polling on Gun Policy,” 206.
\textsuperscript{415} Ibid.
\textsuperscript{417} Smith, “Public Opinion About Gun Policies,” 156.
<table>
<thead>
<tr>
<th>Gun Control Measure</th>
<th>% In Support&lt;sup&gt;418&lt;/sup&gt;</th>
</tr>
</thead>
<tbody>
<tr>
<td>Tamper-resistant serial numbers on guns</td>
<td>89.6</td>
</tr>
<tr>
<td>Police permit needed before gun may be purchased</td>
<td>82</td>
</tr>
<tr>
<td>Mandatory background check and five-day waiting period for gun purchases</td>
<td>80.7</td>
</tr>
<tr>
<td>Mandatory registration of handguns</td>
<td>80</td>
</tr>
<tr>
<td>Must be 21 to buy handgun</td>
<td>79.9</td>
</tr>
<tr>
<td>Require background check for private sales of guns</td>
<td>78.6</td>
</tr>
<tr>
<td>Restrict sales of handgun ammunition like handguns themselves</td>
<td>73.4</td>
</tr>
<tr>
<td>Willing to be $25 in taxed to reduce gun injuries</td>
<td>71.4</td>
</tr>
<tr>
<td>Keep guns from criminals, even if that makes it harder for law-abiding citizens to obtain guns</td>
<td>69.8</td>
</tr>
<tr>
<td>Prohibit gun imports not allowed in country of origin</td>
<td>69.2</td>
</tr>
<tr>
<td>Ban high-capacity ammunition magazines</td>
<td>66.6</td>
</tr>
<tr>
<td>Handgun owners must be at least licensed and trained</td>
<td>65.7</td>
</tr>
<tr>
<td>Mandatory registration of rifles/shotguns</td>
<td>61.3</td>
</tr>
<tr>
<td>Concealed carrying only for those with special needs</td>
<td>55.9</td>
</tr>
<tr>
<td>Prohibit importing of guns</td>
<td>55.1</td>
</tr>
<tr>
<td>Ban “Saturday Night Specials”</td>
<td>54.2-58.2</td>
</tr>
<tr>
<td>General concealed-carrying laws make communities less safe</td>
<td>45.2</td>
</tr>
<tr>
<td>Ban possession of handguns, except by police or authorized persons</td>
<td>38.5</td>
</tr>
<tr>
<td>Total ban on handguns</td>
<td>12.8</td>
</tr>
</tbody>
</table>

<sup>418</sup> Ibid.
Recent Polling Trends and Outlook: 2012-Present

The past four years have seen a shift in polling data trends and public support for various gun-control measures. At several points in time, a majority of Americans have expressed a desire to prioritize gun rights over gun control and have not wanted stricter gun control laws to pass. The tables below summarize polling data from recent years, taken from Pew Research Center, Gallup, and ABC News.

Gun Rights vs. Gun Control

Pew Research Center has been tracking responses to the question “what do you think is more important—to protect the rights of Americans to own guns, or to control gun ownership?” since 1993. The responses are reproduced below.

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Carroll Doherty notes that, although the question requires respondents to take a polar position on either rights or control, this has not proved to be a problem for respondents.\(^{421}\)

There is no indication that people have any difficulty answering this question or are ambivalent about the topic. In fact, when asked a follow-up about the strength of their opinion, 81% of those who said it is more important to control gun ownership felt strongly about that position; 91% of those who said it is more important to protect gun rights felt strongly.\(^{422}\)

Pew views questions of this kind as not meant to capture all the nuances of public opinion on every aspect of gun control, including specific measures that the public may favor or not. Instead, this kind of question is meant as a marker of “…long-term change in the overall climate

\(^{420}\) Ibid.
\(^{422}\) Ibid.
of public opinion…” 423 In this case, change in the climate began in 2009, where respondents began to be more evenly divided in their support for either gun rights or gun control. In 2012, the poll was conducted shortly after the Newtown, CT school shooting, and 49% of respondents thought that gun control was more important, over 42% who thought that gun rights were. 424 Opinion was divided again by May 2013, and, in December 2014, 52% of respondents prioritized gun rights, while 46% prioritized gun control. 425

The all-time highs that Pew notes are yet another shift in public opinion about gun laws that has happened over a relatively short period of time. During Fall 2014, Gallup found that fewer than half of Americans wanted stricter laws regulating firearms sales, while Pew found that, for the first time, more Americans favored prioritizing gun rights over gun control. 426 Gallup recorded 47% of respondents who favored stricter gun laws covering firearms sales. 427 The reasons for this increase in support vary. Part of it is political. Republicans “…have become far more supportive of gun rights during the Obama years.” 428

Another facet of this trend relates to Americans’ perception of crime and how guns relate to crime. Crime levels, particularly violent crime, began to decline precipitously in the 1990s, and people responded to that trend in the way one would expect. Pew’s survey asking respondents whether there was more crime in the United States in that year than the previous year noted declining rates of responses in the affirmative beginning in the early 1990s until the

423 Ibid.
424 Ibid.
425 Ibid.
early 2000s. More recently, people have begun to perceive crime as on the rise, although, in reality, crime statistics have been “…near 20-year lows.” Previously, respondents who had been afraid of rising crime levels had favored increased gun control measures. Now, the trend that Pew has measured shows that respondents who are worried about crime think that gun laws should either be kept as they are or relaxed. Andrew Kohut, the Pew researcher analyzing this particular survey data, infers that “…we are at a moment when most Americans believe crime rates are rising and when most believe gun ownership—not gun control—makes people safer.”

**Overall Satisfaction with Gun Legislation as it Currently Stands**

Gallup found that, after a slight rise in Americans’ satisfaction about national policy on guns, which hovered around 50 percent between 2007 and 2012, Americans have expressed more dissatisfaction with gun control laws and the way they stand in the past three years. 42 percent of Americans expressed dissatisfaction in 2012, but the percentage jumped to 51 percent in the following year. The same poll, when conducted this year, registered 62% dissatisfaction with national gun policy, an eleven-percentage-point jump from the previous year and the highest since the first time Gallup polled that particular question in 2001. Gallup attributes the levels to the fact that the poll was posed early in the year, and the “several high-profile shootings and President Barack Obama’s recent executive actions on guns” were on respondents’ minds. The organization notes that dissatisfaction was also high “at the close of the Clinton administration,” possibly notable because of former President Clinton’s work on the Assault

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429 Ibid.  
430 Ibid.  
431 Ibid.  
432 Ibid.  
434 Ibid.  
435 Ibid.  
436 Ibid.
Weapons ban, and high in late 2012, immediately after the Sandy Hook school shooting.\textsuperscript{437}

Gallup’s two related polls, including the first about level of satisfaction with current national gun policy, and an additional follow-up poll about whether respondents wanted stricter, less strict, or the same gun laws in place, are reproduced below.

Gallup’s follow-up poll to the above question, “would you like to see gun laws in this country made more strict, less strict, or remain as they are?” was asked only of the respondents who were dissatisfied with current federal gun control policy.\textsuperscript{439} Regarding the data for 2016, Gallup’s analysts note that, although more people are dissatisfied with current gun laws because they would like them to be stricter, the percentage of people who want gun laws to be more stringent and the percentage of people who would like gun laws to be more relaxed are both “at

\begin{figure}
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\textsuperscript{437} Ibid.
\textsuperscript{438} Ibid.
\textsuperscript{439} Ibid.
or near their 16-year highs…a sign of increasing polarization on that issue.”

Gallup also found that 75% of Democrats were dissatisfied, compared with 59% of Independents and 54% of Republicans. 68% of the Democrats who were dissatisfied wanted gun laws to be stricter, with 12% of Republicans feeling the same way. 24% of Republicans want to see less strict gun laws, while 4% of Democrats feel that way.

Implementation of Background Checks for Gun Ownership

Background checks have maintained high levels of support in recent years, even after the Senate failed to expand background checks on gun purchases in 2013. It should be noted that 73% of Americans were in favor of Congress passing a background check bill that would close

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440 Ibid.
441 Ibid.
442 Ibid.
443 Ibid.
the gun show loophole in 2013, according to a Pew poll from the same year on that issue.\textsuperscript{445} Despite high levels of public support, respondents expressed little confidence that Congress would pass the background check bill. 55 percent of respondents to the Pew poll said that it was “unlikely that Congress will pass significant new gun control laws this year.”\textsuperscript{446} A Gallup poll conducted after the Senate’s failure to pass expanded background checks recorded 65\% of respondents who thought that the bill should have been passed, including 85\% of Democrats and 45\% of Republicans who responded.\textsuperscript{447} This low level of confidence in the ability of elected officials to respond to the public’s desire for gun control laws like expanded background checks is important to keep in mind in light of the theory about policy responsiveness to public opinion discussed earlier in this chapter.

Overall, Pew found that 85\% of Americans favor background checks for sales made at gun shows or privately as of August 2015.\textsuperscript{448} This level of support has not changed much over the three most recent surveys conducted, two in 2013 and one in 2015.\textsuperscript{449} It is important to note that background checks for gun shows and other private sales-measures that would close the “gun-show loophole” that the Brady Law left open attract high levels of support, even from Republicans and respondents who think that gun laws should be made less strict in this country.\textsuperscript{450}

\begin{tiny}
\begin{itemize}
\item \textsuperscript{446} Ibid.
\item \textsuperscript{448} Pew Research Center, “Continued Bipartisan Support for Expanded Background Checks on Gun Sales.”
\item \textsuperscript{449} Ibid.
\item \textsuperscript{450} Ibid.
\end{itemize}
\end{tiny}
August 2013 Pew Research Center Poll: % In Favor of Background Checks For Gun Shows and Private Sales

Pew Research Center Poll:
% In Favor of Background Checks for Gun Shows and Private Sales

<table>
<thead>
<tr>
<th></th>
<th>Jan-13</th>
<th>May-13</th>
<th>Jul-15</th>
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<tbody>
<tr>
<td>Background Checks for Gun Shows and Private Sales</td>
<td>85%</td>
<td>81%</td>
<td>85%</td>
</tr>
</tbody>
</table>

451 Ibid.
452 Ibid.
Assault Weapons Ban

A ban on assault weapons attracts far lower levels of support than do background checks, but the overall level of public support for such a ban is 57%.\textsuperscript{454} It is notable that an assault-weapons ban attracts levels of support that are in the low to mid forty percent range for Republicans and those who favor gun rights over gun control.\textsuperscript{455}

\textsuperscript{453} Ibid.
\textsuperscript{454} Ibid.
\textsuperscript{455} Ibid.

457 Ibid.
V. How does Public Opinion Relate to the Policy Process of the Three Cases?

An overwhelming majority of the American public supported many of the key measures of the Brady law during the legislative process for the bill. In a 1993 survey, Kleck found that 87 percent favored both the five-day waiting period to purchase a handgun and the background check provision. Carroll Doherty observes that Pew’s December 1993 poll asking whether respondents thought it was more important to prioritize gun rights or gun control found that 57% of respondents thought controlling gun ownership was more important, while 34% said gun rights were more important. A report summary, published on December 10, 1993, found that concern about crime has supplanted the recession as the public’s single greatest worry...Americans express strong support for Bill Clinton’s efforts to control the use of handguns. Most also say that they would like to see the President challenge the National Rifle Association, which a growing number of Americans feel has too much an influence on gun control laws in this country.

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458 Ibid.
459 Kleck, Targeting Guns: Firearms and Their Control, 339.
VI. Conclusions

When considering which gun control measures the American public supports against measures that have succeeded in Congress, it is clear that elected representatives have not been responsive to what the majority of Americans wants. The level of satisfaction with national gun laws are at their lowest point since Gallup began tracking them in 2001. Overall, the majority of the American public has consistently supported many moderate gun control measures, policies that are often called “common-sense” gun laws. These include criminal background checks for firearms sold at gun shows and over the internet and a ban on the sale of assault weapons. Although these measures have attracted high levels of support from the public and elected representatives should take responses to these public opinion polls as an indication to vote for increased federal restrictions on firearms sales and ownership, the Manchin-Toomey bill, which would have extended criminal background checks to gun show and internet sales, has failed twice in the Senate. Attempts to revive the assault weapons ban have failed consistently ever since the ban reached its sunset period in 2004.

For other issues where constituents are more engaged, this lack of constituent representation would probably have negative consequences for members of Congress. However, gun control is a low-salience issue for many members of the public, especially those who, in theory, support it. Elected officials are far more likely to hear from their pro-gun-rights constituents, leading them to believe that, should they take action to create further restrictions on guns, their constituents will be unhappy and will not support them in the future. People in support of further gun control measures are more likely to care about the issue in the short term or in the immediate aftermath of a shooting incident, whereas gun-rights advocates are highly mobilized and consistently take action to make sure that their rights are not infringed upon, meaning that elected officials hear from them more often.
The result of this apathy and disillusionment of the majority of Americans, combined with the misinformation about public opinion on gun control that elected officials receive, means that elected officials will continue to vote against gun control bills until they are dissuaded to do so by their constituents. The form of dissuasion that constituents may take, whether it is declining to reelect officials who vote against gun control bills, making their voices heard on the issue by writing to their representatives, or donating only to candidates who align with their views, vary, but all are possible options to increase the responsiveness of elected officials on this matter.
Chapter 4: Current and Future Outlook

I. Current Situation

Although 2015 and 2016 have seen several shooting incidents that received prominent attention in the news and prompted discussion about gun control, actions taken on the federal level to further restrict gun violence have been mixed. President Obama’s executive order, which was announced in January of 2016, addresses some areas of gun control policy that have long needed improvement and further enforcement, like closing the gun show loophole and clarifying HIPAA reporting regulations to the National Instant Criminal Background check system that prevent mentally ill people from purchasing firearms. However, this executive order has met with some backlash, including concerns from Congress that President Obama has overstepped his authority.

President Obama has also been compelled to backpedal on certain gun control regulations due to congressional disapproval. In March of 2015, he dropped his plan to ban green-tip ammunition, which had previously been exempted from stricter regulation because of its popularity in shooting sports. Concerns arose because green-tip bullets can pierce through the type of body armor worn by police officers and are often used in automatic handguns that can fire multiple rounds of ammunition. The House Judiciary Committee Chairman, Bob Goodlatte, sent a letter to the Bureau of Alcohol, Tobacco, and Firearms objecting to the plan, citing Second Amendment concerns, that was co-signed by 238 members of the House of Representatives. A separate letter was sent on behalf of members of the Senate and signed by 52

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463 Ibid.
of them, which read, in part, that “ATF should not propose to ban…any widely-used form of ammunition used by law-abiding citizens for lawful purposes.”

At the end of March 2015, Senator Marco Rubio (R-FL) and Representative Jim Jordan (R-OH) introduced the Second Amendment Act of 2015, which seeks to nullify the District of Columbia’s current gun regulations and would allow residents increased access to firearms. Measures of the bill would “remove the authority of the D.C. Council to enact restrictive gun control measures; allow D.C. residents to buy guns in Maryland and Virginia; repeal the District’s firearm registration system; create a permitting system for carrying concealed weapons; and allow private entities and secure public buildings to determine whether guns are allowed on their property.” No further action has been taken since the bill’s introduction on March 26 of last year.

**President Obama’s 2016 Executive Order: Provisions**

On January 4th of this year, President Obama released a plan of executive actions designed to reduce gun violence in America, focusing chiefly on enhancement of NICS, the background check system that is currently in place for prospective purchasers from licensed gun dealers, and increased education and enforcement of gun control on a state level. Reports have found that, although a similar proposal had originally been drafted in 2014, it had been shelved due to legal concerns. According to Juliet Eilperin of the *Washington Post*, the ideas that have been proposed in President Obama’s executive actions this year “…gained new momentum after

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464 Ibid.
466 Ibid.
the Roseburg [Oregon, at a community college in October of 2015] shooting,” following the familiar outrage-action-reaction cycle that Spitzer describes. In his official press release, President Obama reported that:

Over the past decade in America, more than 100,000 people have been killed as a result of gun violence…Many of these crimes [carried out with firearms] were committed by people who never should have been able to purchase a gun in the first place.\footnote{Ibid.}\footnote{\textit{Ibid.}}

He also referenced the other causes and consequences of gun violence, including suicide, accidental shootings, especially of or by children, and police officers dying in gunfights with criminals.\footnote{Ibid.} Citing the high number of gun-related deaths and rallying public opinion behind him, President Obama declared that

…the vast majority of Americans—including the vast majority of gun owners—believe that we must take sensible steps to address these horrible tragedies. The President and the Vice President are committed to using every tool at the Administration’s disposal to reduce gun violence.\footnote{Ibid.}

**Area I: Expansion of Federal Oversight through the FBI and ATF**

Arguably, the most important executive action that President Obama is trying to achieve is the closure of the “gun show loophole” that the Brady Law purposely left open back in 1992. This executive action will require that both brick-and-mortar retail shops selling firearms be licensed and conduct background checks, as the Brady Law did, and will extend to online and gun show sellers.\footnote{Ibid.} According to the National Conference of State Legislatures, the licensing requirement affects anyone “engaged in the business of selling guns, regardless of how frequent
or how many sales there are.” The Bureau of Alcohol, Tobacco and Firearms (ATF) will be responsible for monitoring compliance with this new law.

One of the actions taken has been to crack down on licensing of firearms sellers and ensuring that they are requiring their buyers to undergo background checks. The ATF is tasked with administering a new rule that would necessitate background checks for prospective buyers “…of certain dangerous firearms and other items who purchase them through a trust, corporation, or other entity.” Further onus of responsibility is placed on gun sellers with another facet of the executive order, which requires them to report any firearms that have been lost or stolen in transit to the police. Guns that are lost or stolen are used more often to commit crimes than guns that are acquired legally, so it is the Administration’s hope that clearly delineating reporting responsibility will cut down on guns that cannot be tracked if something unexpected happens. It also criminalizes any sellers who do not comply with these measures, punishing noncompliance with a maximum of $250,000 in fines or five years of jail time. Acknowledging the ATF’s increased powers and responsibilities, the executive order calls for increased staffing of the Bureau, budgeting salaries for 200 additional staff members for Fiscal Year 2017.

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475 The White House Office of the Press Secretary, “Fact Sheet: New Executive Actions to Reduce Gun Violence and Make our Communities Safer.”
476 Ibid.
477 Ibid.
478 Ibid.
479 Ibid.
480 Ibid.
481 Ibid.
In light of the high volume of mass shootings that have occurred in recent years, over 20 states have passed laws regulating the purchase and carrying of firearms, but an underground market for guns has emerged as a way that criminals circumvent these new restrictions.\textsuperscript{482} More than 50,000 guns are trafficked across state lines every year, usually from states like Virginia, Florida, and Georgia, which have weaker gun laws, into the Northeast, where gun laws are generally more strict.\textsuperscript{483} In Chicago, which has some of the “tightest municipal gun regulations” in the country, many obtain firearms by driving to Indiana, a neighboring state less than an hour away from the city, where background checks are not required for private sales.\textsuperscript{484} Research from the Bureau of Alcohol, Tobacco, and Firearms finds that guns used to commit crimes in states with weaker gun laws are generally purchased in-state.\textsuperscript{485} The new restrictions placed on gun sellers through the executive order seek to target elements of gun trafficking where federal jurisdiction applies. Unfortunately, the reason why gun trafficking from state to state is so widespread is that gun laws on the state level vary in their stringency.

One of the other key aspects of the executive order is an expansion and improvement of the National Instant Criminal Background Check System (NICS), which has been one of the (purposefully) weakest provisions of the Brady Law since its passage. The improvements will involve “…processing background checks 24 hours a day, 7 days a week,” and streamlining the process used to alert police and other authorities when someone who is not permitted to possess a firearm attempts to buy one.\textsuperscript{486} It gives the FBI the authority to hire 230 new staff members to


\textsuperscript{483} Ibid.

\textsuperscript{484} Ibid.

\textsuperscript{485} Ibid.

\textsuperscript{486} The White House Office of the Press Secretary, “Fact Sheet: New Executive Actions to Reduce Gun Violence and Make our Communities Safer.”
work on this initiative specifically, increasing the examiner staff by 50 percent.\(^487\) This process of improvement and allocation of additional resources seeks to keep guns from individuals who acquire guns through a technicality, even if they should not have them. Currently, there is a federal law in place that allows gun dealers to complete firearms sales to customers if a background check comes back without issue or if it takes longer than three days to complete.\(^488\) If the process is more streamlined and efficient, fewer people will acquire guns due to a system overload.

**Area II: Health and Safety Regarding Firearms and Who Can Access Them**

One problem that has been encountered consistently with background checks is that they have let individuals who are not allowed to possess guns due to mental health issues or the presence of an established criminal record fall through the cracks because of differing standards of privacy and an unwillingness to relinquish records that often would otherwise remain private. The 2016 executive order would require that the Department of Health and Human Services work with individual states to “…remove unnecessary legal barriers preventing states from reporting relevant information about people prohibited from possessing a gun for specific mental health reasons.”\(^489\) This would allow the information to be accessible to an FBI agent conducting a background check. HIPAA (the Health Insurance Portability and Accountability Act of 1996) is often cited by individual states as the reason for why they have not complied with the FBI’s request for mental health records used in background checks.\(^490\) The Department of Health and Human Services, HIPAA’s administrating agency, has since clarified its standing in ways that would allow NICS examiners to access the necessary information to determine whether or not an

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\(^{487}\) Ibid.  
\(^{488}\) Ibid.  
\(^{489}\) Ibid.  
\(^{489}\) Ibid.  
\(^{490}\) Ibid.
individual may purchase a firearm.\textsuperscript{491} The clarified HIPAA rule, which went into effect on January 6 of this year, states that

covered entities that order involuntary commitments or make other adjudications that subject individuals to the Federal mental health prohibitor, or that serve as repositories of the relevant data, are permitted to use or disclose the information needed for NICS reporting of such individuals either directly to NICS or to a State repository of NICS data. Thus, if a covered health care entity also has a role in the relevant mental health adjudications or serves as a State data repository, it may now disclose the relevant information for NICS reporting purposes under this new permission even if it is not designated as a HIPAA hybrid entity or required by state law to report.\textsuperscript{492}

The federal mental health prohibitor referred to in the final rule is the regulation that disqualifies individuals from “shipping, transporting, possessing, or receiving a firearm” who have “…been involuntarily committed to a mental institution, found incompetent to stand trial or or not guilty by reasons of insanity, or otherwise have been determined by a court, board, commission, or other lawful authority to be a danger to themselves or others or to lack the mental capacity to contract or manage their own affairs, as a result of marked subnormal intelligence or mental illness, incompetency, condition, or disease.”\textsuperscript{493} The Department of Health and Human Services commented on the need for a more specific regulation, saying that “an express permission would provide clarity and remove a barrier to their [individual states’] reporting.”\textsuperscript{494}

\begin{footnotes}
\item \textsuperscript{491} Ibid.
\item \textsuperscript{493} Ibid.
\item \textsuperscript{494} Ibid.
\end{footnotes}
The executive order also seeks to take preventative measures regarding mental health. The Obama administration “… is proposing a new $500 million investment to increase access to mental health care.”495

Another facet of the executive order’s health and safety provisions urges several different federal agencies, state leaders, and private sector actors to make firearms more safe and limit people’s access to them. The Department of Justice, Department of Homeland Security, and the Department of Defense have been directed by the President to conduct or sponsor research into technology that will increase gun safety and encourage the development and further dissemination of smart gun technology.496 Increased gun safety features that are part of the physical firearm would cut down on accidental gun deaths, since they often result from mishandling firearms or accidentally discharging loaded guns.497 ATF has created an Internet Investigations Center to track online sales and trafficking of firearms, in the hope that the Bureau will be able to track and prevent more illegal sales.498 He also urged individual state governments and the private sector to contribute to the process of increasing the level of difficulty for “…dangerous individuals to get their hands on a gun.”499

He then extended the responsibility to the legislative branch, calling upon Congress to fill “the gaps in our country’s gun laws” by passing “the kind of commonsense gun safety reforms supported by the majority of the American people.”500

495 The White House Office of the Press Secretary, “Fact Sheet: New Executive Actions to Reduce Gun Violence and Make our Communities Safer.”
496 Ibid.
497 Ibid.
498 Ibid.
499 Ibid.
500 Ibid.
Reaction/ Backlash

President Obama’s executive orders met, as expected, with backlash from Congressional Republicans, Republican presidential candidates, and the NRA. Jennifer Baker, an NRA spokesperson, responded to news of the executive order by characterizing the president’s actions as “doing what he always does when he doesn’t get his way, which is defy the will of the people and issue an executive order. This is nothing more than a political stunt to appease anti-gun billionaire Michael Bloomberg and will do nothing to increase public safety.”

Reports from the Washington Post say that Republican party representatives had been “shut out” by the administration, mainly due to their efforts in blocking legislation that, had it been passed, would have expanded background checks after the December 2012 Sandy Hook school shooting.

In a response that was echoed among many Congressional Republicans, Paul Ryan’s spokesman said:

The administration has not communicated with us, and we have not been briefed. We will consider options once we have information, but what seems apparent is none of these ideas would have prevented the recent atrocities. Our focus should be on the consistent causes of these acts—mental illness and terrorism—rather than infringing on law-abiding Americans’ constitutional rights.

Some Republican candidates in the 2016 presidential race saw the executive order as an opportunity to clarify their positions on gun control. A spokeswoman for Ted Cruz characterized the executive order as the President “…trying to distract Americans from his failure to address the true threat of radical Islamic terrorism, and instead going after the rights of law-abiding American citizens—it is complete lunacy.”

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502 Eilperin, “Obama Plans Curbs on Guns.”
503 Ibid.
504 Ibid.
Public Opinion on These Measures

The public, on the other hand, has backed President Obama on some of the measures that the executive order would put into place, while showing a resistance towards others. A December 2015 Washington Post/ABC News poll found that 89 percent of Americans supported background checks for online and gun show purchases. However, a growing number of Americans, in the wake of some instances of domestic terrorism, including the shooting in San Bernardino, California, in December of last year, have perceived allowing more Americans to be armed in public as a potential solution. In the same poll, 47 percent of respondents supported encouraging more people carrying guns in public as a response to terrorist attacks over the percentage of respondents, 42 percent, who thought that the appropriate response would be to enact stricter gun control laws.

Regarding public opinion about the executive order itself, a CNN/ORC poll was conducted on January 5th and 6th of this year. As with most public opinion surveys about gun control, results were strongly polarized, not at all cohesive, and characterized by strong feelings about the issues. 53 percent of respondents said that they disapproved of the way that President Obama was handling gun policy, while 43 percent of respondents approved of it. They also disapprove of the way he handled the situation. 54 percent of respondents disapproved of his use of executive order to implement these policies. However, when reminded of the specific measures that would be accomplished through executive order, including requiring background checks for gun shows and online purchases and making it easier for the FBI to run background

505 Ibid.
506 Ibid.
508 Ibid.
509 Ibid.
checks, 67 percent of respondents approved, while 32 percent disapproved. In a follow-up question, 43 percent of respondents strongly favored the new measures, 24 percent moderately favored them, and 21 percent of respondents strongly opposed them. Even though the majority of respondents approved of these changes, they did not think that they will impact gun violence. When asked whether or not they thought that the executive order’s provisions would reduce gun-related deaths in the United States, 57 percent of respondents thought that the changes would not be effective.

One of the most remarkable aspects of the poll was how respondents reacted to the President’s actions on gun control. This polling question was asked of respondents on two instances, once between December 17 and 21 of 2015, and a second time on January 5 and 6 of 2016. There was only a one-percent difference between the two polling instances where respondents said that the President had gone too far, while there was an eight percentage-point difference between instances where respondents said that the President has not gone far enough to change the nation’s gun laws. The poll results are reproduced side-by-side below.

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<th>CNN/ORC Poll, January 5-6, 2016: “When it comes to gun control laws, do you think Barack Obama has gone too far, has taken the right amount of action, or has not gone far enough to change the nation’s gun laws?”</th>
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CNN/ORC Poll, December 17-21, 2015: “When it comes to gun control laws, do you think Barack Obama has gone too far, has taken the right amount of action, or has not gone far enough to change the nation’s gun laws?”

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**Anticipated Impact of Executive Order**

The executive order is, by nature, limited. Since there are “clear legal limitations on [President Obama’s] authority,” the impact of the executive order is modest. It clarifies existing law instead of creating new ones. In a statement made in January regarding the executive order, the President said: “We have to be clear that this is not going to solve every violent crime in this country. It’s not going to prevent every mass shooting; it’s not going to keep every gun out of the hands of a criminal.”

The onus for change is now on Congress, which has the power to make legislative changes that President Obama does not. However, considering the derision and dismay expressed by prominent Republicans, the majority party in both the House and the Senate, it is impossible to think that they will buttress the executive order with legislation of their own any time soon.

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516 Ibid.
518 Ibid.
II. Future Outlook for Federal Gun Control Measures

Much of the future outlook for gun control policy depends on who will become elected representatives in the United States. Three out of four of the front-running presidential candidates in the 2016 elections have weak or actively hostile policy positions on gun control. 34 Senators are either retiring or up for re-election in 2016, as are all 435 seats in the House of Representatives.\(^{519}\) Most of the Congressional seats that are up for reelection belong to Republican incumbents.\(^{520}\)

Although incumbents usually have an advantage in elections, it is possible that some members of Congress who have blocked federal gun control measures in the past will be replaced by representatives who are more supportive of gun control policy, increasing the feasibility of federal gun control legislation being passed through Congress. Gun-friendly Republican Senators who are up for reelection who have competitive challengers include Kelly Ayotte of New Hampshire, Ron Johnson of Wisconsin, and Rob Portman of Ohio. All three of them “…voted against background checks in 2013, face competitive Democratic challengers, and received intense scrutiny for their votes.”\(^{521}\)

Congressional Support for Gun Control

Although the 2016 election cycle has the potential to influence Congressional action on gun control, it seems unlikely that Congress will take action on gun control, even if the balance of Republicans to Democrats in Congress changes. Bipartisanship in Congress is at an all-time low, according to the Bipartisanship Index, a project maintained by Georgetown University’s


\(^{520}\) Ibid.

McCourt School of Public Policy and the Lugar Center, which tracks how often each member of Congress works across party lines.\textsuperscript{522} The Index shows that cooperation on legislation has been declining since 1999.\textsuperscript{523} The measures of bipartisanship between 2013 and 2015 have been the three lowest scores of the eleven for which the Index has compiled data.\textsuperscript{524}

In 2014, CQ Roll Call reviewed the Congressional vote studies that the organization had performed since the 1950s and found that “…comparing the results year over year and as six-decade trend lines offers positive proof that partisanship and polarization are the drivers of legislative behavior more than in any other period since at least the start of the Eisenhower Administration.”\textsuperscript{525} In a political environment defined by “partisanship and polarization,” it is clear that little action can be taken on gun control, a policy area that can be easily characterized by those two words.

Congress’ failure to pass the Manchin-Toomey Bill, which has been put to a vote twice, once in 2013 and once in 2015, is an illustrative example of what the future will likely hold for any potential federal gun control measures. The bill was co-sponsored by Senator Joe Manchin, a Democrat from West Virginia, and Pat Toomey, a Republican Senator from Pennsylvania, in an effort to show a bipartisan front and attract support from both sides of the aisle.\textsuperscript{526} It was created in the wake of the Newtown, Connecticut elementary school shooting in 2012, when levels of public support for increased gun-control measures were elevated. The key provision of the bill was the expansion of background checks to cover commercial sales, including over the

\textsuperscript{522} The Lugar Center, “Bipartisan Index,” The Lugar Center, http://www.thelugarcenter.org/ourwork-Bipartisan-Index.html.
\textsuperscript{524} Ibid.
internet and at gun shows. This particular policy proposal has consistently attracted high levels of approval in public opinion polls. A Gallup poll on the issue taken before the 2013 vote indicated that 91 percent of Americans favored passing a law that would require criminal background checks for all gun sales.

The first time the bill was put to a vote in the Senate, in 2013, the vote was, at 54 votes in favor to 46 opposed, incredibly close to the 60 needed to move forward. Of the four Democrats who defected, three of them faced reelection in 2014 and all represented “rural states with strong gun cultures.” Only four Republican Senators voted for the bill.

After the San Bernardino shootings in December 2015 and the renewed outcry about gun control that followed, Senators Manchin and Toomey revived the bill. This time, the vote failed in the Senate with 48 votes in favor and 50 opposed. Advocating in favor of reviving the bill, particularly in the light of the San Bernardino shooting, Senator Manchin said that:

It’s for law-abiding gun owners and it’s a good piece of legislation and it’s most reasonable and it’s been accepted by people around the gun community. We have an opportunity to do it now with the height of everything happening. For us not to do anything, just sit here and be mum, would be just as bad.

In 2015, a Pew poll found that 85 percent of Americans supported background checks for sales made both privately and at gun shows. Although an overwhelming majority of

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527 Ibid.
529 Aaron Blake, “Manchin-Toomey Gun Amendment Fails.”
530 Ibid.
531 Ibid.
533 Ibid.
Americans supported this bill, members of Congress did not represent the desires of their constituents on this issue without any public outcry or disapproval. The apathy of a large majority of Americans, coupled with Congress’ fear of the NRA and a reluctance to compromise on legislation, is a toxic combination that will prevent further federal policy innovation on this issue. As Vizzard concludes in *Shots in the Dark*, his own book about gun control policy, “without a change in the political environment, the gun-control issue will remain indefinitely stalemated. Little to no evidence exists that a natural, incremental process will eventually resolve the issue or bring about comprehensive policy.”

**Likelihood of Support for Gun Control from Current Presidential Candidates**

Although campaign promises are not always indicative of future executive action, only one of the candidates in the 2016 presidential race has come out decisively in favor of stronger gun control measures. Hillary Clinton, after the shooting in Roseburg, Oregon, said “what is wrong with us, that we cannot stand up to the NRA and the gun lobby, and the gun manufacturers they represent?” She has been endorsed by both the Brady Campaign and former Congresswoman Gabrielle Giffords, who started Americans for Responsible Solutions. Clinton released an action plan for gun violence prevention in October of 2015. Her campaign promises regarding gun control include “comprehensive federal background check legislation,” taking administrative action to tighten the gun show and internet sales loophole, and “closing the Charleston loophole”—so-called because the shooter in the Charleston, South Carolina church

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shooting in June 2015 was able to purchase a gun in spite of his criminal record. A provision in the National Instant Criminal Background Check System allows a gun sale to proceed without a background check if it has not been completed within 72 hours.

Clinton’s campaign promises also involve “ensuring that the safety of our communities is prioritized over the profits of the gun lobby.” She is the only candidate that has publicly spoken out against the power of the gun lobby and made campaign promises to try to minimize its influence in Congress. One of the points of her plan is her promise to “repeal the gun industry’s unique immunity protection,” referring to the 2005 Protection of Lawful Commerce in Arms Act, which prohibits “…civil liability actions from being brought or continued against manufacturers, distributors, dealers, or importers of firearms or ammunition for damages, injunctive or other relief resulting from the misuse of their products by others.” Her other promise on this aspect of gun control is to “revoke the licenses of bad-actor dealers,” by increasing funding to the ATF for inspections of gun stores and “aggressively enforce current law by revoking the licenses of dealers that knowingly supply straw purchasers and traffickers.”

The third aspect of her campaign promises regarding gun control involves enacting new laws and enforcing current laws that “keep guns out of the hands of domestic abusers, other violent criminals, and the severely mentally ill.” Clinton says that she would fight for legislation that expands federal laws preventing domestic abusers from buying or owning guns to

539 Ibid.
540 Ibid.
541 Ibid.
544 Ibid.
“convicted stalkers and people in dating relationships.” She also would urge Congress to “make straw purchasing a federal crime.”

These promises, should they come to fruition, would do a great deal to limit gun violence in the United States. Many of them are the middle-of-the-road, “common-sense” measures that the majority of the public supports, like closing the internet and gun show loophole and making background checks for gun buyers more stringent. However, most of these promises rely on the goodwill of Congress to pass legislation that will curb the power of the gun lobby and create more restrictions for gun purchasers. Should Mrs. Clinton be elected and the balance of Republicans to Democrats in Congress remain relatively static, she will likely face the same resistance to new gun policy measures that President Obama has encountered in his two terms as president. The failure of the bipartisan background check bill in 2013 shows that Congress has very little interest in acting decisively on this issue, even when the policy would be supported by the majority of the American public and in response to a major, well-publicized shooting incident where mobilization for further gun control measures had occurred.

The other Democratic frontrunner, Senator Bernie Sanders, has had a far less decisive stance on gun control than former Secretary of State Clinton. As a senator from Vermont, a rural state that, although heavily Democratic, is also pro-gun-rights, his voting record on gun control measures reflects the desires of many of his constituents. Senator Sanders voted against the Brady Bill five times during his time in Congress and voted in favor of the NRA-backed instant background check bill that, had it been passed, would have killed the Brady Bill. He did,

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545 Ibid.
546 Ibid.
however, vote for the failed 2013 bipartisan bill that would have expanded background checks for all firearms sales and prohibit straw purchasers.\textsuperscript{548}

He also voted for the 2005 Protection of Lawful Commerce in Arms Act, which former Secretary of State Clinton seeks to repeal should she be elected. Senator Sanders has previously described the Protection of Lawful Commerce in Arms Act as “protecting gun manufacturers from being held responsible if a murderer uses a gun to kill someone—just as a hammer company should not be held responsible if somebody used a hammer as a weapon.”\textsuperscript{549} This is a gross mischaracterization of the Act. It actually provides gun manufacturers a legal shield from liability in negligence claims that most other manufacturers of consumer goods do not have.\textsuperscript{550} Additionally, Senator Sanders voted against the appropriation of funding for the Centers of Disease Control and Prevention to research the public health effects of gun violence.\textsuperscript{551} Overall, his voting record on gun control during his time in Congress is abysmal.

He has since adapted his position to be more pro-gun-control for his presidential campaign, but he is still to the right of Mrs. Clinton on this issue. It is notable that Senator Sanders does not include gun control in the “issues” section of his campaign website, but does include detailed summaries of his policy stance on matters such as “General Electric paying to restore the Hudson River” and “fighting for the rights of Native Hawaiians.”\textsuperscript{552} On a volunteer-run website, feelthebern.org, which has collected quotes from Senator Sanders about gun control, among other issues, he positions himself as someone who believes in “…a middle-ground solution in the national gun debate.”\textsuperscript{553} His views on gun control relegate legislative

\textsuperscript{548} Ibid.
\textsuperscript{549} Ibid.
\textsuperscript{550} Ibid.
\textsuperscript{551} Ibid.
responsibility to “individual states, with the exception of instant background checks to prevent firearms from finding their way into the hands of criminals and the mentally ill, and a federal ban on assault weapons.” Regarding manufacturer liability, he believes that “gun manufacturers should not be held liable for the misuse of their products, just as any other industry isn’t held accountable for how end-consumers use their products.” In this statement, he wilfully ignores the true implications of the Protection of Lawful Commerce in Arms Act, which expands protections of gun manufacturers from liability which manufacturers of other products do not share.

The two front-runners for the Republican nomination, Donald Trump and Ted Cruz, are strongly against further gun control measures being enacted. The page on Trump’s website that discusses his policy stance on guns is titled “Protecting our Second Amendment Rights Will Make America Great Again.” He advocates for enforcing current laws by “get[ting] serious about prosecuting violent criminals” and “empower[ing] law-abiding gun owners to defend themselves” through concealed carry, among other measures.

Ted Cruz is campaigning on his record of uncompromising support for gun rights. He is endorsed by Gun Owners of America, a group that is to the right of the NRA, and holds an A+ rating from the NRA itself. In televised debates, he has highlighted his role in blocking the 2013 Manchin-Toomey bill, saying in January during a GOP Fox Business Network Debate, that “there’s a reason when Barack Obama and Chuck Schumer came after our right to keep and bear

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554 Ibid.
555 Ibid.
557 Ibid.
arms, that I led that opposition. Along with millions of Americans, we defeated that gun control legislation.\textsuperscript{559}

He has consistently been in favor of expanding and protecting gun rights. While he served as the Solicitor General of Texas, he wrote an amicus brief for \textit{D.C. v. Heller}, the 2008 Supreme Court case that struck down the District of Columbia’s handgun ban, in support of the respondent.\textsuperscript{560} Should either Republican candidate be elected, it seems clear that there will be no action to enact gun control measures in the next four years.

\textbf{III. Potential Policy Strategies}

\textbf{Focus on “Common-Sense” Gun Laws that Can Be Supported by Gun Owners}

Michael Bloomberg’s PAC, Everytown for Gun Safety, and Gabrielle Giffords’ PAC, Americans for Responsible Solutions, are two policy actors that have come more recently to the gun control issue. Although these organizations are relatively new, they have quickly realized the importance of framing their missions in a way that seeks to harness the support of gun owners. Everytown for Gun Safety has focused on “common-sense steps that will save lives,” and has created specific initiatives to include “mayors, moms, cops… gun owners, and everyday Americans” in the group’s efforts—not all of them constituencies traditionally regarded as pro-gun-control.\textsuperscript{561} Their policy goals are, for the most part, the very same issues that receive majority approval in public opinion polls. The organization’s key initiatives are “requir[ing] a criminal background check for every gun sale,” “pushing Congress and state legislatures to close the loopholes that make it easy for domestic abusers to get guns without a background check,” “develop[ing] technology and laws that make safe storage [of guns] the norm,” and the passage

\textsuperscript{559} Ibid.
\textsuperscript{560} Ibid.
of “a strong federal trafficking law [that would] enable law enforcement to crack down on gun traffickers—and keep guns off our streets.” Everytown’s justifications for their policy goals are all carefully framed in a way that links irresponsible gun use to criminals only, protects the safety of vulnerable women and children, and enables police officers to enforce the law—goals that, theoretically, everyone should be able to support.

Gabrielle Giffords’ PAC, Americans for Responsible Solutions, also emphasizes “commonsense [sic] solutions to protect our communities from gun violence.” Like Everytown for Gun Safety, Americans for Responsible Solutions advocates for expanding the background check system by closing the gun show and private seller loopholes, preventing domestic violence homicides by “…extending current firearms prohibitions to abusive dating partners and those convicted of misdemeanor stalking,” encouraging Congress to “work to make gun trafficking a federal crime and ensure enhanced penalties for kingpin gun traffickers, corrupt gun dealers and straw purchasers,” and investing in dedicated funding for research about the causes and impact of gun violence. Ms. Giffords and her husband, Mark Kelly, emphasize their own status as “gun owners and strong supporters of the Second Amendment…[who] know we must protect the rights of Americans to own guns for collection, recreation, and protection.”

Since these two groups target demographics that are not normally involved in gun-control, it is possible that they could help normalize a centrist approach to gun control and turn their policy goals into legislative norms.

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562 Ibid.
Targeting Elections

Some pro-gun control groups have begun to engage in campaign funding for candidates sympathetic to their goals, while also funding attack ads against opponents of gun control. These are tactics that the NRA has been using since the late 1970s with great success, but pro-gun-control groups have only recently begun to replicate these strategies. Michael Bloomberg’s super PAC, Independence USA, has directed millions of dollars since its creation in October 2012 to pro-gun-control candidates, helping them to win elections. As previously discussed in Chapter 2, Independence USA contributed more than $2 million to Robin Kelly, a Congressional candidate from Illinois who ran against Debbie Halvorson, the incumbent, who held an “A” rating from the NRA, in 2013.566 Kelly won 52% of the vote.567

After its initial success in 2013 with Congresswoman Kelly, Independence USA furthered its involvement in supporting candidates who are willing to act decisively on gun control, but has shifted its attention to state and local candidates. A 2014 statement from Howard Wolfson, an advisor to Bloomberg’s PAC, said that:

Earlier this cycle, Mike Bloomberg concluded that a broken Washington would likely remain broken…and decided to direct significant resources to assist moderate Democrats and Republicans instead. This strategy paid off…No other individual spent as much money in support of both Republican and Democratic candidates, and no one had as much success at the state level in backing successful candidates from both parties.568

In the 2014 election cycle, Independence USA spent over $20 million to support the gubernatorial campaigns of Dan Malloy and John Hickenlooper, among others, who “…acted

567 Ibid.
after the Newtown shooting to pass commonsense gun safety measures—and showed that they could be re-elected despite attacks from the gun lobby.”^569 Independence USA also supported a ballot measure in Washington State to strengthen criminal background checks for gun buyers.^570

After Everytown for Gun Safety was founded in 2014, Bloomberg pledged $50 million to the organization. ^571 Both Everytown for Gun Safety and Americans for Responsible Solutions are 501(c)(4) organizations which a CNN report characterizes as an “…IRS classification used to raise unlimited amounts of money to influence voters.”^572 This classification for these two organizations allows them to have the same fundraising capabilities as the lobbying arm of the NRA. The financial and ideological commitment to gun control of these two groups are finally on par with that of the NRA, which spent over $32.5 million on campaigns and lobbying in 2015. ^573 The funding that these two groups are able to commit to supporting pro-gun control candidates and “common-sense” gun control policies that are uncontroversial among the American public could allow gun-control policy to escape the toxic stigma that elected representatives fear will end their careers should they support it.

A Way Forward Through the Courts?

In a way forward that could potentially bypass Congressional paralysis on gun control, some gun-control advocates have begun to work around federal laws that protect the gun lobby. Families of ten of the children who were murdered in the 2012 Sandy Hook Elementary School shooting have sued Remington Arms, the manufacturer of the Bushmaster assault rifle that Adam

^569 Ibid.
^570 Ibid.
^572 Ibid.
Lanza used in the shooting, as well as Camfour, Remington’s distributor, and Riverview Gun Sales, where Lanza’s mother purchased the assault rifle. The wrongful death lawsuit ultimately seeks an injunction that would prevent the Bushmaster from being sold to the public because “…it is a military assault weapon designed for war.”

Although Bushmaster had the case moved to federal court after it was filed, hoping to find a more sympathetic ear, the U.S. District Judge who heard the case, Robert Chatigny, sent it back to Bridgeport, Connecticut’s State Superior Court in September 2015. Remington has sought to have the case dismissed, saying that the company is immune under the 2005 Protection of Lawful Commerce in Arms Act, but the plaintiffs have put forward an entrustment exemption, which can hold a party liable should that party entrust its product to a second party who uses it to harm someone else. Although Remington is still fighting to have the case dismissed, a trial date has been set for April 2018 and the judge administering the case has allowed discovery to proceed.

Should this case continue, it will be the first to make it to the discovery phase since the 2005 Protection of Lawful Commerce in Arms Act was signed into law. This case has the possibility to create a precedent for other victims’ families to work around the Protection of Lawful Commerce in Arms Act and legally challenge gun manufacturers in the future. If these cases continue to be litigated, and if they are ever won, they have the potential to become an impetus for gun safety laws and restrictions on who is eligible to buy certain classes of firearms.

575 Ibid.
576 Ibid.
577 Ibid.
579 Ibid.
or even subject certain firearms to a ban. If gun manufacturers are found liable for the injuries and deaths of shooting victims, it seems likely that the gun lobby could be more of an embarrassment than a friend to members of Congress.

Although the current outlook for Congressional action on gun control is grim, action from PACS and through the courts could potentially compel elected representatives to act on this issue while minimizing the political backlash involved when taking a decisive stance on gun control.
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