



GLOBAL ACTION
ON GUN VIOLENCE

Submitted to ohchr-registry@un.org
December 31, 2023

Global Action on Gun Violence (GAGV) submits this report in response to the call for inputs by the United Nations Office of the High Commissioner for Human Rights (OHCHR) “on the impact of arms transfers, including the diversion of arms and unregulated or illicit arms transfers, on the enjoyment of human rights, with a focus on the role of access to information in preventing, mitigating and responding to the negative human rights impact thereof” (pursuant to HRC resolution 53/15), for use in an OHCHR report to be presented to the Human Rights Council at its fifty-sixth session (June 2024).

I. **Background on GAGV**

Global Action on Gun Violence is a nonprofit civil society organization focused on working with the international community to stop gun trafficking from the United States, to end the U.S. gun violence epidemic, and prevent it from becoming a pandemic that spreads around the globe.¹ GAGV is the only civil society organization providing litigation and advocacy to the international community to stop gun trafficking and violence. GAGV builds on strategies used by its founder, Jonathan Lowy, as a leading litigator and advocate for the past 25 years working to stop the illegal trade in arms. GAGV represents the Government of Mexico in anti-gun trafficking litigation against gun manufacturers and dealers.

II. **Arms Transfers Negatively Impact Human Rights**

This report incorporates and builds on GAGV’s January 31, 2023 submission to the OHCHR, which explained in detail how reckless gun industry practices, enabled by lax United States firearms laws, facilitate rampant diversion and trafficking of guns, including large-scale trafficking of guns from the U.S. to Mexico and CARICOM nations, which results in repeated and widespread infringements on human rights, including on the right to live.² That submission focused on the diversion of arms from the legal gun market to the illicit market, often as a result of reckless or corrupt sales to gun traffickers and straw purchasers.³ The United Nations Office

¹ Who We Are, GLOBAL ACTION ON GUN VIOLENCE, <https://actiononguns.org/the-organization/who-we-are/>.

² See GAGV submission to OHCHR, January 31, 2023, accessible at <https://actiononguns.org/wp-content/uploads/2023/03/2023.01.31.GAGV-OHCHR-Report.pdf>.

³ *Id.*

of Drugs and Crime *Global Study on Firearms Trafficking 2020* also explains the dangerous phenomenon of gun trafficking.⁴

GAGV's January 31, 2023 submission did not distinguish between domestically-made arms (arms that were manufactured in the United States) and arms transfers (those arms that were imported into the United States). However, the January 31 submission's discussion of irresponsible gun industry practices and weak laws that lead to infringements on human rights also explain how arms transfers to the U.S. lead to human rights infringements. That is because a significant number of firearms enter the United States as a result of arms transfers, imported from other countries. While those guns are manufactured in countries that regulate the sale and possession of guns far more strongly than in the U.S., when they are imported for civilian use they are sold at retail in the U.S. under the same lax U.S. laws and reckless industry practices that lead to such rampant diversion and human rights violations, including trafficking to other countries from the U.S.

The United States Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) reported that in 2020 (the most recent year reported) over 6.8 million firearms were imported into the United States.⁵ Thus, imported guns are a significant share of U.S. guns; by comparison, the number of guns manufactured in the U.S. totaled 7.01 million in 2019 (the most recent year reported).⁶

Further, foreign-based manufacturers are a significant source of crime guns in the U.S. By way of example, ATF found that Austrian-based Glock was the top manufacturer of pistols that were recovered and traced in the U.S. from 2017-2021.⁷ While the study did not distinguish between firearms made by Glock in its Austrian or U.S.-based facilities, given that 1.2 million handguns were imported from Austria to the U.S. in 2020,⁸ it is likely that a significant number of Glock crime guns were imported to the U.S.

As laws regulating the sales and use of civilian firearms are uniquely lax in the United States, guns that are imported to the U.S. are often sold in a manner that leads to diversion, and would be illegal in the country in which those guns are manufactured.⁹ For example, in the United States guns can be sold to civilians who do not provide any legitimate reason to buy

⁴ United Nations Office of Drugs and Crime, *Global Study on Firearms Trafficking 2020*, accessible at https://www.unodc.org/documents/data-and-analysis/Firearms/2020_REPORT_Global_Study_on_Firearms_Trafficking_2020_web.pdf.

⁵ ATF, *Firearms Commerce in the United States: Annual Statistical Update 2021*, accessible at <https://www.atf.gov/firearms/docs/report/2021-firearms-commerce-report/download> at 6.

⁶ *Id.* at 2.

⁷ ATF, *National Firearms Commerce and Trafficking Assessment: Crime Guns – Volume Two (Part III: Crime Guns Recovered and Traced Within the United States and Its Territories)* (2023), at 19, accessible at <https://www.atf.gov/firearms/docs/report/nfcta-volume-ii-part-iii-crime-guns-recovered-and-traced-us/download>. See also Everytown, *Who is Manufacturing Crime Guns?*, at <https://everytownresearch.org/report/city-level-data-crime-gun-recoveries/#city-crime-gun-data-by-manufacturer>.

⁸ See *supra* n. 5 at 9.

⁹ See *id.* listing firearms imported into the U.S. by country.

guns, and who are not be licensed, and whose guns are not registered.¹⁰ Civilians may buy 10, 20, or 100 or more guns at any time; AR-15 or AK-47 style assault weapons may be legally sold to 18 year olds; licensed gun dealers are only required to subject purchasers to a minimal background check; unlicensed persons may sell guns without conducting even a minimal check to determine if the buyer can legally possess a gun.¹¹ These permissive gun policies are generally not permitted in other countries.¹² Studies have found that irresponsible sales practices in the U.S., such as multiple sales of guns, straw purchases, and indiscriminate sales of assault weapons, lead to gun trafficking.¹³

Lax U.S. gun laws thereby enable guns that are imported into the U.S. via arms transfers to be diverted into the criminal market, and used to deprive persons of their human rights, including their right to live.

III. Access to Information Is Critical To Preventing Negative Impacts on Human Rights from Arms Transfers

Access to information is critical to preventing negative human rights impacts from arms transfers. Most importantly, trace data and other information about crime guns sales is needed to identify the methods by which guns are obtained by people who use them to negatively impact human rights, so that strategies can be implemented to prevent the supply of crime guns to the criminal market.

Tracing data – that details the complete commercial history of guns recovered in criminal investigations -- informs experts, the public, and policy makers about the sources of crime guns. Over 20 years ago ATF analysis of trace data established that about 5% of gun dealers sell about 90% of crime guns in the U.S.; about 1 % of dealers sell almost 60% of crime guns; while about 90% of gun dealers sold no crime guns in a given year.¹⁴

Experts used trace data to identify which gun dealers sold most crime guns, to enable policy focus and pressure to force those companies to reform their business practices and stop supplying criminals.¹⁵ For example, one study identified one gun dealer who sold 2,370 guns traced to crime between 1996 and 2000.¹⁶ This information informed policy and enforcement focus, and helped support legal action against negligent gun dealers and the manufacturers

¹⁰ See GAGV January 31, 2023 submission, *supra* n. 2, at 8-14.

¹¹ *Id.*

¹² See generally Jonathan Masters, *U.S. Gun Policy: Global Comparisons*, COUNCIL ON FOREIGN RELATIONS, June 10, 2022, accessible at <https://www.cfr.org/backgrounders/us-gun-policy-global-comparisons>.

¹³ See *supra* n. 2 especially at 15-17.

¹⁴ ATF, *Commerce in Firearms* (2000), accessible at http://www.joebrower.com/RKBA/RKBA_FILES/GOV_DOCS/BATF_report_020400.pdf.

¹⁵ See, e.g., Americans for Gun Safety Foundation, *Selling Crime: High Crime Gun Stores Fuel Criminals* (January 2004), <https://www.yumpu.com/en/document/view/19263899/selling-crime-high-crime-gun-stores-fuel-criminals>.

¹⁶ *Id.* at Appendix 1.

who negligently chose to utilize those high crime gun selling dealers with no standards, oversight or supervision.¹⁷

Analysis of crime gun data also helps explain buying methods that lead to diversion of guns to the criminal market, and craft solutions that can prevent gun trafficking. For example, a 1996 study of crime gun data determined that a Virginia law limiting handgun purchases to one per month per individual disrupted interstate trafficking.¹⁸ Analyzing ATF trace data obtained via FOIA request, the researchers concluded that within 18 months of the law's enactment, illegally trafficked firearms recovered in the Northeast that were sourced from Virginia dropped from 34.8% to 15.5% of all firearms seized. *Id.*

IV. Information Shows Negative Impact on Human Rights from Cross-Border Gun Trafficking

The United States government has recognized the importance of data analysis to combat gun trafficking, and has used trace data to establish that many crime guns in Mexico and other nations are trafficked from the U.S.¹⁹ For example, as explained in GAGV's January 2023 submission, "almost all guns recovered at crime scenes in Mexico—70% to 90% of them—were trafficked from the U.S."²⁰ 85% of crime handguns in Toronto that could be traced were traced to the U.S.²¹ ATF tracing data has confirmed these large-scale illicit firearms flows, finding that in 2021 the percentage of seized guns traced back to the United States was 92.6% in Canada, 67.5% in Mexico, 99.2% in the Bahamas, 84.8% in Haiti, 86.2% in the Dominican Republic, 69.4% in Jamaica, 52.0% in Panama, 62.0% in Honduras, and 49.2% in El Salvador.²²

V. U.S. Laws Restrict Access to Information on Crime Guns and Thereby Hinder Policy Responses

In the United States, the gun lobby has successfully lobbied Congress to restrict access to information about the sources of crime guns and potential solutions to gun violence. In the late 1990's and early 2000's trace data was effectively used in litigation against the gun industry, by showing that gun manufacturers chose to sell their guns through dealers who they knew – or easily could know – sold virtually all crime guns.²³ In response, rather than reforming their sales and distribution practices to reduce the supply of guns to the criminal gun market, the

¹⁷ See, e.g., *City of Gary v. Smith & Wesson*, 126 N.E.3d 813 (Ind. App. 2019), at <https://casetext.com/case/city-of-gary-v-smith-wesson-corp-1>.

¹⁸ See Douglas S. Weil & Rebecca C. Knox, *Effects of Limiting Handgun Purchases on Interstate Transfer of Firearms*, 275 J. AM. MED. ASS'N 1759 (1996).

¹⁹ See U.S. Government Accountability Office, *Firearms Trafficking: U.S. Efforts to Disrupt Gun Smuggling Into Mexico Would Benefit from Additional Data and Analysis* (2022) at 2, 13-22, accessible at <https://www.gao.gov/assets/gao-21-322.pdf>.

²⁰ See *supra* n. 2.

²¹ *Id.* at 25.

²² *Id.* at 5-6.

²³ See, e.g., *NAACP v. Accusport*, 271 F.Supp. 2d 435 (E.D.N.Y. 2003), accessible at <https://casetext.com/case/national-assn-for-the-advancement-v-acusport-inc-edny-2003>.

gun industry successfully lobbied Congress to keep important damning evidence from public view.

A. Tiahrt Amendment

In 2003, Congress first attached to ATF appropriations legislation the “Tiahrt Amendment,” (named after their Congressional sponsor, Rep. Todd Tiahrt (R-KS)), which prohibits ATF from releasing certain information from its firearms trace database to anyone except law enforcement or prosecutors in connection with a criminal investigation.²⁴ This keeps much crime gun data hidden from the public, and severely hinders study and analysis of the sources and movement of guns.²⁵ In sum, much of the expert analysis conducted in the 1990’s that established how gun industry practices supply the crime gun market has become difficult if not impossible for researchers and policymakers today. The Tiahrt restrictions have been altered over the years, but they remain law.

The Tiahrt restrictions were intended to benefit the gun industry. Rep. Tiahrt himself explained that he “wanted to make sure I was fulfilling the needs of my friends who are firearms dealers,” and that National Rifle Association officials “were helpful in making sure I had my bases covered.”²⁶ As noted John Hopkins University researcher Daniel Webster, explained, “The only thing that the Tiahrt Amendment did was protect the bad gun dealers.”²⁷

As a result of the Tiahrt restrictions, researchers, policymakers and the public are generally denied access to information that shows which dealers and manufacturers are selling crime guns, multiple handgun sales reports, as well as other data that can demonstrate causes and solutions to the crime gun problem.²⁸ A Rand study found that analysis of trace data could enable policymakers to assess anti-gun trafficking policies, but that the Tiahrt Amendments “denied most researchers access to firearm trace data since 2003; therefore, while law enforcement agencies may analyze such data, the information generally has not been available for research purposes (Krouse, 2009).”²⁹

These restrictions also have emboldened the gun industry to double down on irresponsible practices that supply the criminal market. A Johns Hopkins study found a

²⁴ William J. Krouse, *Gun Control: Statutory Disclosure Limitations on ATF Firearms Trace Data and Multiple Handgun Sales Reports*, Congressional Research Service, May 27, 2009, accessible at <https://sgp.fas.org/crs/misc/RS22458.pdf>.

²⁵ See *supra* n. 2.

²⁶ Juliet Eilperin, *Firearms Measure Surprises Some in GOP*, WASHINGTON POST, July 21, 2003, accessible at <https://www.washingtonpost.com/archive/politics/2003/07/21/firearms-measure-surprises-some-in-gop/8d6d4334-2585-47c9-8485-5446334229df/>.

²⁷ WBUR, *Why Data on Tracing Guns Is So Difficult To Find*, April 3, 2018, accessible at <https://www.wbur.org/hereandnow/2018/04/03/gun-research-trace-data>.

²⁸ See *supra* n.24

²⁹ Rosanna Smart, et. al., *The Science of Gun Policy*, Rand Corporation (2020) at 151, accessible at https://www.rand.org/content/dam/rand/pubs/research_reports/RR2000/RR2088-1/RAND_RR2088-1.pdf.

significant increase in crime guns sold by a high crime gun-selling dealer after Tiahrt became law.³⁰

While legislation to repeal the Tiahrt restrictions have been introduced in Congress, it is unlikely to be enacted in the current Congress.³¹

B. Protection of Lawful Commerce in Arms Act

In 2005, the U.S. Congress enacted the Protection of Lawful Commerce in Arms Act (“PLCAA”) at the behest of the gun industry.³² PLCAA shields gun manufacturers, distributors and dealers from some civil liability for their contribution to gun violence. As PLCAA has been led courts to dismiss numerous lawsuits against gun companies before discovery, it has the effect of preventing much litigation discovery, which is otherwise a critical source of information about how the illegal gun market is supplied.

C. The Dickey Amendment

Gun industry lobbying led the U.S. Congress to prevent federally-funded research into gun violence for over 20 years under the so-called Dickey Amendment, first implemented in 1996 to bar the Centers for Disease Control and Prevention from using any funds “to advocate or promote gun control.”³³ While Congress began to allow some funding for gun violence research in 2019, research is decades behind as a result of the longstanding bar.³⁴

VI. Conclusion

The gun industry, enabled by uniquely weak U.S. gun laws, cause significant violations of human rights. Full access to crime gun data is needed to support effective policies and industry reforms to reduce diversion of guns to the criminal market. Unfortunately, the United States Congress has taken actions to restrict access to such information. The Tiahrt Amendment and PLCAA should be repealed to enable access to important information, and to enable accountability for human rights violations.

³⁰ See Daniel W. Webster, Jon S. Vernick, Maria T. Bulzacchelli, Katherine A. Vittes, *Temporal association between federal gun laws and the diversion of guns to criminals in Milwaukee*, J. URBAN HEALTH 2012 Feb, accessible at <https://pubmed.ncbi.nlm.nih.gov/22218834/>

³¹ See S. 598, Gun Records Restoration and Preservation Act (118th Congress), accessible at <https://www.congress.gov/bill/118th-congress/senate-bill/598/text?s=1&r=43>.

³² 15 U.S.C. §7901 et. seq.

³³ See generally Allen Rostron, *The Dickey Amendment on Federal Funding for Research on Gun Violence: A Legal Dissection*, Am. J. Public Health (2018), accessible at <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC5993413/>.

³⁴ See Rachel Roubein, *Now the government is funding gun violence research, but it's years behind*, WASHINGTON POST, May 26, 2022, accessible at <https://www.washingtonpost.com/politics/2022/05/26/now-government-is-funding-gun-violence-research-it-years-behind/>.