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FACT SHEET: New Executive Actions to Reduce Gun Violence and Make Our Communities Safer

Gun violence has taken a heartbreaking toll on too many communities across the country. Over the past decade in America, more than 100,000 people have been killed as a result of gun violence – and millions more have been the victim of assaults, robberies, and other crimes involving a gun. Many of these crimes were committed by people who never should have been able to purchase a gun in the first place. Over the same period, hundreds of thousands of other people in our communities committed suicide with a gun and nearly half a million people suffered other gun injuries. Hundreds of law enforcement officers have been shot to death protecting their communities. And too many children are killed or injured by firearms every year, often by accident. The vast majority of Americans – including the vast majority of gun owners – believe we must take sensible steps to address these horrible tragedies.

The President and Vice President are committed to using every tool at the Administration's disposal to reduce gun violence. Some of the gaps in our country's gun laws can only be fixed through legislation, which is why the President continues to call on Congress to pass the kind of commonsense gun safety reforms supported by a majority of the American people. And while Congress has repeatedly failed to take action and pass laws that would expand

background checks and reduce gun violence, today, building on the significant steps that have already been taken over the past several years, the Administration is announcing a series of commonsense executive actions designed to:

1. Keep guns out of the wrong hands through background checks.

- The Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) is making clear that it doesn't matter where you conduct your business – from a store, at gun shows, or over the Internet: If you're in the business of selling firearms, you must get a license and conduct background checks.
- ATF is finalizing a rule to require background checks for people trying to buy some of the most dangerous weapons and other items through a trust, corporation, or other legal entity.
- Attorney General Loretta E. Lynch has sent a letter to States highlighting the importance of receiving complete criminal history records and criminal dispositions, information on persons disqualified because of a mental illness, and qualifying crimes of domestic violence.
- The Federal Bureau of Investigation (FBI) is overhauling the background check system to make it more effective and efficient. The envisioned improvements include processing background checks 24 hours a day, 7 days a week, and improving notification of local authorities when certain prohibited persons

unlawfully attempt to buy a gun. The FBI will hire more than 230 additional examiners and other staff to help process these background checks.

2. Make our communities safer from gun violence.

- The Attorney General convened a call with U.S. Attorneys around the country to direct federal prosecutors to continue to focus on smart and effective enforcement of our gun laws.
- The President's FY2017 budget will include funding for 200 new ATF agents and investigators to help enforce our gun laws.
- ATF has established an Internet Investigation Center to track illegal online firearms trafficking and is dedicating \$4 million and additional personnel to enhance the National Integrated Ballistics Information Network.
- ATF is finalizing a rule to ensure that dealers who ship firearms notify law enforcement if their guns are lost or stolen in transit.
- The Attorney General issued a memo encouraging every U.S. Attorney's Office to renew domestic violence outreach efforts.

3. Increase mental health treatment and reporting to the background check system.

- The Administration is proposing a new \$500 million

investment to increase access to mental health care.

- The Social Security Administration has indicated that it will begin the rulemaking process to include information in the background check system about beneficiaries who are prohibited from possessing a firearm for mental health reasons.
- The Department of Health and Human Services is finalizing a rule to remove unnecessary legal barriers preventing States from reporting relevant information about people prohibited from possessing a gun for specific mental health reasons.

4. Shape the future of gun safety technology.

- The President has directed the Departments of Defense, Justice, and Homeland Security to conduct or sponsor research into gun safety technology.
- The President has also directed the departments to review the availability of smart gun technology on a regular basis, and to explore potential ways to further its use and development to more broadly improve gun safety.

Congress should support the President's request for resources for 200 new ATF agents and investigators to help enforce our gun laws, as well as a new \$500 million investment to address mental health issues.

Because we all must do our part to keep our communities safe, the Administration is also calling on States and local

governments to do all they can to keep guns out of the wrong hands and reduce gun violence. It is also calling on private-sector leaders to follow the lead of other businesses that have taken voluntary steps to make it harder for dangerous individuals to get their hands on a gun. In the coming weeks, the Administration will engage with manufacturers, retailers, and other private-sector leaders to explore what more they can do.

New Actions by the Federal Government

Keeping Guns Out of the Wrong Hands Through Background Checks

The most important thing we can do to prevent gun violence is to make sure those who would commit violent acts cannot get a firearm in the first place. The National Instant Criminal Background Check System (NICS), which was created by Congress to prevent guns from being sold to prohibited individuals, is a critical tool in achieving that goal. According to the Bureau of Justice Statistics, the background check system has prevented more than 2 million guns from getting into the wrong hands. We know that making the system more efficient, and ensuring that it has all appropriate records about prohibited purchasers, will help enhance public safety. Today, the Administration is announcing the following executive actions to ensure that all gun dealers are licensed and run background checks, and to strengthen the background check system itself:

- **Clarify that it doesn't matter where you conduct your business – from a store, at gun shows, or over the Internet: If you're in the business of selling**

firearms, you must get a license and conduct background checks. Background checks have been shown to keep guns out of the wrong hands, but too many gun sales – particularly online and at gun shows – occur without basic background checks. Today, the Administration took action to ensure that anyone who is “engaged in the business” of selling firearms is licensed and conducts background checks on their customers. Consistent with court rulings on this issue, the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) has clarified the following principles:

- A person can be engaged in the business of dealing in firearms regardless of the location in which firearm transactions are conducted. For example, a person can be engaged in the business of dealing in firearms even if the person only conducts firearm transactions at gun shows or through the Internet. Those engaged in the business of dealing in firearms who utilize the Internet or other technologies must obtain a license, just as a dealer whose business is run out of a traditional brick-and-mortar store.
- Quantity and frequency of sales are relevant indicators. There is no specific threshold number of firearms purchased or sold that triggers the licensure requirement. But it is important to note that even a few transactions, when combined with other evidence, can be sufficient to establish that a person is “engaged

in the business.” For example, courts have upheld convictions for dealing without a license when as few as two firearms were sold or when only one or two transactions took place, when other factors also were present.

- There are criminal penalties for failing to comply with these requirements. A person who willfully engages in the business of dealing in firearms without the required license is subject to criminal prosecution and can be sentenced up to five years in prison and fined up to \$250,000. Dealers are also subject to penalties for failing to conduct background checks before completing a sale.
- **Require background checks for people trying to buy some of the most dangerous weapons and other items through a trust or corporation.** The National Firearms Act imposes restrictions on sales of some of the most dangerous weapons, such as machine guns and sawed-off shotguns. But because of outdated regulations, individuals have been able to avoid the background check requirement by applying to acquire these firearms and other items through trusts, corporations, and other legal entities. In fact, the number of these applications has increased significantly over the years – from fewer than 900 applications in the year 2000 to more than 90,000 applications in 2014. ATF is finalizing a rule that makes clear that people will no longer be able to avoid background checks by buying NFA guns and other items through a trust or corporation.

- **Ensure States are providing records to the background check system, and work cooperatively with jurisdictions to improve reporting.** Congress has prohibited specific categories of people from buying guns – from convicted felons to users of illegal drugs to individuals convicted of misdemeanor crimes of domestic violence. In the wake of the shootings at Virginia Tech in 2007, Congress also created incentives for States to make as many relevant records as possible accessible to NICS. Over the past three years, States have increased the number of records they make accessible by nearly 70 percent. To further encourage this reporting, the Attorney General has written a letter to States highlighting the importance of receiving complete criminal history records and criminal dispositions, information on persons disqualified for mental health reasons, and qualifying crimes of domestic violence. The Administration will begin a new dialogue with States to ensure the background check system is as robust as possible, which is a public safety imperative.
- **Make the background check system more efficient and effective.** In 2015, NICS received more than 22.2 million background check requests, an average of more than 63,000 per day. By law, a gun dealer can complete a sale to a customer if the background check comes back clean or has taken more than three days to complete. But features of the current system, which was built in the 1990s, are outdated. The Federal Bureau of Investigation (FBI) will take the following steps to ensure NICS operates more

efficiently and effectively to keep guns out of the wrong hands:

- FBI will hire more than 230 additional NICS examiners and other staff members to assist with processing mandatory background checks. This new hiring will begin immediately and increase the existing workforce by 50 percent. This will reduce the strain on the NICS system and improve its ability to identify dangerous people who are prohibited from buying a gun before the transfer of a firearm is completed.
- FBI has partnered with the U.S. Digital Service (USDS) to modernize NICS. Although NICS has been routinely upgraded since its launch in 1998, the FBI is committed to making the system more efficient and effective, so that as many background checks as possible are fully processed within the three-day period before a dealer can legally sell a gun even if a background check is not complete. The improvements envisioned by FBI and USDS include processing background checks 24 hours a day, 7 days a week to improve overall response time and improving notification of local authorities when certain prohibited persons unlawfully attempt to purchase a firearm.

Making Our Communities Safer from Gun Violence

In order to improve public safety, we need to do more to

ensure smart and effective enforcement of our gun laws and make sure that criminals and other prohibited persons cannot get their hands on lost or stolen weapons. The Administration is therefore taking the following actions:

- **Ensure smart and effective enforcement of our gun laws.** In a call earlier today, the Attorney General discussed the importance of today's announcements and directed the Nation's 93 U.S. Attorneys across the country to continue to focus their resources – as they have for the past several years under the Department's Smart on Crime initiative – on the most impactful cases, including those targeting violent offenders, illegal firearms traffickers, and dangerous individuals who bypass the background check system to acquire weapons illegally. During the call, the Attorney General also emphasized ongoing initiatives to assist communities in combating violent crime, including ATF's efforts to target the "worst of the worst" gun crimes. These efforts will also complement the following actions announced today:
 - The President's budget for FY2017 will include funding for 200 new ATF agents and investigators who can help enforce our gun laws, including the measures announced today. Strategic and impactful enforcement will help take violent criminals off the street, deter other unlawful activity, and prevent guns from getting into the wrong hands.
 - ATF is dedicating \$4 million and additional personnel to enhance the National Integrated Ballistics

Information Network (NIBIN). The NIBIN database includes ballistic evidence that can be used by analysts and investigators to link violent crimes across jurisdictions and to track down shooters who prey on our communities. In February 2016, ATF is standing up the National NIBIN Correlation and Training Center – which will ultimately provide NIBIN matching services at one national location, rather than requiring local police departments to do that work themselves. The Center will provide consistent and capable correlation services, making connections between ballistic crime scene evidence and crime guns locally, regionally, and nationally. These enhancements will support ATF’s crime gun intelligence and enforcement efforts, particularly in communities most affected by violent crime.

- ATF has established an Internet Investigations Center (IIC) staffed with federal agents, legal counsel, and investigators to track illegal online firearms trafficking and to provide actionable intelligence to agents in the field. The IIC has already identified a number of significant traffickers operating over the Internet. This work has led to prosecutions against individuals or groups using the “dark net” to traffic guns to criminals or attempting to buy firearms illegally online.
- **Ensure that dealers notify law enforcement about the**

theft or loss of their guns. Under current law, federal firearms dealers and other licensees must report when a gun from their inventory has been lost or stolen. The regulations are ambiguous, however, about who has this responsibility when a gun is lost or stolen in transit. Many lost and stolen guns end up being used in crimes. Over the past five years, an average of 1,333 guns recovered in criminal investigations each year were traced back to a licensee that claimed it never received the gun even though it was never reported lost or stolen either. Today, ATF issued a final rule clarifying that the licensee shipping a gun is responsible for notifying law enforcement upon discovery that it was lost or stolen in transit.

- **Issue a memo directing every U.S. Attorney's Office to renew domestic violence outreach efforts.** In the event of an emergency, victims of domestic violence should call 911 or otherwise contact state or local law enforcement officials, who have a broader range of options for responding to these crimes. To provide an additional resource for state, local, and tribal law enforcement and community groups focused on domestic violence, the Attorney General is issuing a memo directing U.S. Attorney's Offices around the country to engage in renewed efforts to coordinate with these groups to help combat domestic violence and to prevent prohibited persons from obtaining firearms.

Increase Mental Health Treatment and Reporting to the Background Check System

The Administration is committed to improving care for Americans experiencing mental health issues. In the last seven years, our country has made extraordinary progress in expanding mental health coverage for millions of Americans. This includes the Affordable Care Act's end to insurance company discrimination based on pre-existing conditions, required coverage of mental health and substance use disorder services in the individual and small group markets, and an expansion of mental health and substance use disorder parity policies, all of which are estimated to help more than 60 million Americans. About 13.5 million more Americans have gained Medicaid coverage since October 2013, significantly improving access to mental health care. And thanks to more than \$100 million in funding from the Affordable Care Act, community health centers have expanded behavioral health services for nearly 900,000 people nationwide over the past two years. We must continue to remove the stigma around mental illness and its treatment – and make sure that these individuals and their families know they are not alone. While individuals with mental illness are more likely to be victims of violence than perpetrators, incidents of violence continue to highlight a crisis in America's mental health system. In addition to helping people get the treatment they need, we must make sure we keep guns out of the hands of those who are prohibited by law from having them. Today, the Administration is announcing the following steps to help achieve these goals:

- **Dedicate significant new resources to increase access to mental health care.** Despite our recent significant gains, less than half of children and adults with diagnosable mental health problems receive the

treatment they need. To address this, the Administration is proposing a new \$500 million investment to help engage individuals with serious mental illness in care, improve access to care by increasing service capacity and the behavioral health workforce, and ensure that behavioral health care systems work for everyone. This effort would increase access to mental health services to protect the health of children and communities, prevent suicide, and promote mental health as a top priority.

- **Include information from the Social Security Administration in the background check system about beneficiaries who are prohibited from possessing a firearm.** Current law prohibits individuals from buying a gun if, because of a mental health issue, they are either a danger to themselves or others or are unable to manage their own affairs. The Social Security Administration (SSA) has indicated that it will begin the rulemaking process to ensure that appropriate information in its records is reported to NICS. The reporting that SSA, in consultation with the Department of Justice, is expected to require will cover appropriate records of the approximately 75,000 people each year who have a documented mental health issue, receive disability benefits, and are unable to manage those benefits because of their mental impairment, or who have been found by a state or federal court to be legally incompetent. The rulemaking will also provide a mechanism for people to seek relief from the federal prohibition on possessing a firearm for reasons related to mental health.

- **Remove unnecessary legal barriers preventing States from reporting relevant information to the background check system.** Although States generally report criminal history information to NICS, many continue to report little information about individuals who are prohibited by Federal law from possessing or receiving a gun for specific mental health reasons. Some State officials raised concerns about whether such reporting would be precluded by the Privacy Rule issued under the Health Insurance Portability and Accountability Act of 1996 (HIPAA). Today, the Department of Health and Human Services issued a final rule expressly permitting certain HIPAA covered entities to provide to the NICS limited demographic and other necessary information about these individuals.

Shaping the Future of Gun Safety Technology

Tens of thousands of people are injured or killed by firearms every year – in many cases by guns that were sold legally but then stolen, misused, or discharged accidentally. Developing and promoting technology that would help prevent these tragedies is an urgent priority. America has done this in many other areas – from making cars safer to improving the tablets and phones we use every day. We know that researchers and engineers are already exploring ideas for improving gun safety and the tracing of lost or stolen guns. Millions of dollars have already been invested to support research into concepts that range from fingerprint scanners to radio-frequency identification to microstamping technology.

As the single largest purchaser of firearms in the country, the Federal Government has a unique opportunity to advance this research and ensure that smart gun technology becomes a reality – and it is possible to do so in a way that makes the public safer and is consistent with the Second Amendment. Today, the President is taking action to further this work in the following way:

- **Issue a Presidential Memorandum directing the Department of Defense, Department of Justice, and Department of Homeland Security to take two important steps to promote smart gun technology.**
- Increase research and development efforts. The Presidential Memorandum directs the departments to conduct or sponsor research into gun safety technology that would reduce the frequency of accidental discharge or unauthorized use of firearms, and improve the tracing of lost or stolen guns. Within 90 days, these agencies must prepare a report outlining a research-and-development strategy designed to expedite the real-world deployment of such technology for use in practice.
- Promote the use and acquisition of new technology. The Presidential Memorandum also directs the departments to review the availability of smart gun technology on a regular basis, and to explore potential ways to further its use and development to more broadly improve gun safety. In connection with these efforts, the departments will

consult with other agencies that acquire firearms and take appropriate steps to consider whether including such technology in specifications for acquisition of firearms would be consistent with operational needs.

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