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TO: Friends of Third Way
FROM: Jim Kessler, Matt Bennett, Jon Cowan, and Nancy Hale
RE: Some Answers on Gun Violence

Preventing gun violence is not an easy public policy task. But for too long, this nation has let excuses stand in the way of progress. In his remarks in Newtown, the President asked: “Are we really prepared to say that we’re powerless in the face of such carnage, that the politics are too hard? Are we prepared to say that such violence visited on our children year after year after year is somehow the price of our freedom?”

We are not. As founders of Third Way and leaders of Americans for Gun Safety before that, we offer this menu of policy ideas with broken hearts and deep humility, but in the spirit of progress.

The old excuses are just no longer enough.

Yes, we are a gun culture. There are between 250 million and 300 million guns in private hands, and every year roughly 16 million people purchase firearms—44,000 per day. About 40% of U.S. households have a gun in the home. But virtually all of those guns are there legally. And the overwhelming majority of gun owners support most laws to keep guns out of the wrong hands.

Yes, we have a Second Amendment. It confers an individual right to possess and use firearms. But the Supreme Court has made it abundantly clear that almost all current gun laws—indeed, anything short of an outright ban on all firearms possession—are constitutional.

Yes, gun politics are tough. The NRA is powerful. But when the public and the President decide that enough is enough, big things happen. Witness the victories that President Clinton had over the NRA with the Brady Act and the Assault Weapons Ban. And in 2004, the United States Senate passed legislation to close the gun show loophole and renew the assault weapons ban. No one paid a political price.

And yes, our gun laws are mostly designed to prevent the “normal” gun crime—those committed for economic gain. But children die almost every day in such violence, and we must tighten the laws to stop the violence. There are plenty of things we can do to prevent another mass murder.

In the face of this unbearable horror, the answer that “there’s nothing we can do” is both morally inadequate and factually incorrect. Below are six ideas that would prevent some future gun violence. In offering these, we note that all sane Americans, law-abiding gun owners and non-gun owners alike, are grieving the murders at Sandy Hook. And we underscore that each of these ideas will seem perfectly reasonable to the vast majority of all Americans.

1. Making Guns Safer

We should redefine what safety means for firearms. Over the years, the trend with firearms has been focused on speed and power. Nearly every handgun is now a semiautomatic, and the lethality of the firearm is a typical selling point. Yet in the design of firearms, there is almost no trend toward safety beyond measures that keep firearms from jamming or going off accidentally.

In particular, this is true of theft. Guns are often stolen, and many stolen guns end up being used in crime. (Even the NRA estimates that 10% of all gun crimes are committed with stolen firearms.) Yet the gun industry has done virtually nothing to help responsible gun owners prevent the theft and reuse of their property.

This stands in sharp contrast to the trend in other consumer products. If an iPhone is stolen it can be disabled. Car thieves can be thwarted by modern ignitions that shut the engine down. Some habitual drunk drivers must breathe into a device to get the motor to turn over. Bankcards require PINs. We have personalized the use of dozens of everyday consumer products and have made them more safe—safe from theft and safe from irresponsible use. Why hasn't this happened with guns?

The headquarters of the firearms industry's trade association is in Newtown; it sits just across the highway from Sandy Hook Elementary School. Its leaders are no doubt feeling this loss acutely. It is time now for policymakers and the industry to work together to develop and implement new safety measures for guns. Future firearms should only be usable by their owners. Tinkering with a safety lock should make the firearm inoperable. Recognition features should personalize the gun to its owner. Ballistic fingerprinting should pair a crime scene casing or round to a particular firearm.

The gun industry has said that all of this is too difficult, but biometric or other recognition technology is being used everywhere. And it would prevent crimes. The Connecticut school shooter, like so many before him, used another's firearms in the commission of murder. Technology could make that impossible, and it is time we use it.

2. Requiring Universal Background Checks

Current federal law requires that any gun sold through a licensed firearms dealer must include a background check. Further, anyone "in the business" of selling firearms must become a federally licensed dealer. But this is a difficult-to-prove designation that is often ignored by individuals who regularly sell large quantities of guns.

That's because the sale of firearms by unlicensed sellers is essentially free of federal rules. This has created a massive loophole in the Brady Act, whereby licensed gun dealers must perform background checks but individual sellers may dispose of their firearms as they please. This is ludicrous. All stranger-to-stranger sales of firearms should require a background check.

Much of the policy debate has focused on the loophole involving gun shows. Visit a gun show in many states and it's easy to find sellers offering large quantities of guns of every type for sale "no questions asked." This simply must stop. Any sale of a firearm at a commercial location should require a background check. Evidence emerged after

the Columbine massacre that a background check might have stopped the killers. And gun shows are without question the source of thousands of guns used in everyday crimes. Moreover, a number of states have imposed this rule already, and it hasn't had the slightest impact on the ability of legitimate buyers and sellers to enjoy gun shows.

But it is time to move beyond closing the loophole just for gun shows. Congress and state governments should require that all sales of firearms (excluding those to family members) include a background check. Background checks are quick (less than 2 minutes), easy (by phone or internet), and important (tens of thousands of illegal buyers are stopped every year). We must make them universal.

3. Demanding Responsibility in Gun Sales

Gun sellers should pay the price for an irresponsible decision to sell or transfer a firearm to a person without a background check. Congress should legislate that those who do so be considered an accessory if the gun is later used to commit a crime.

Such a law could help to end the practice of "straw" purchasing, which is how most ordinary criminals get their guns. In a straw purchase, a prohibited individual might come into a store and point to the gun while their girlfriend fills out the paperwork. Gun stores that routinely look the other way in such sales should pay the price.

Moreover, we should require more information sharing in the sale of used guns. When a gun is recovered in a crime and is traced by the FBI, the trace only uncovers the original purchaser of the firearm, as well as the date and location of the purchase. As a result, criminals often purchase used guns because they are more difficult to trace.

Since many gun owners sell their used guns to licensed dealers, Congress should require gun dealers to notify the manufacturer of the firearm when they purchase a used gun. Gun tracing begins with law enforcement contacting the manufacturer when a crime gun is found. This small change would mean that the trace of a crime gun would uncover the most recent sale of the firearm, not the first. These changes in law and procedure would make gun trafficking and gun crime far riskier.

4. Fixing the Background Check System

Background checks stop thousands of gun crimes, but they are only as good as the data in the system, and that data could be better. According to news reports, the Department of Justice conducted a review last year finding that fixes are needed in the system. That study recommended that data be shared by all federal agencies, which could be achieved by executive order. It also recommended steps that would require legislation, such as increasing the funding to help states automate their records and get them into the federal system.

At Americans for Gun Safety, we helped draft legislation to begin this process, and it drew broad bipartisan support in Congress and was co-sponsored by NRA champions like former Senator Larry Craig (R-ID). In the wake of this tragedy, it seems likely that legislation to improve background checks could move even in a House controlled by NRA supporters.

5. Punishing Gunrunning and Gun Crime

Of the 21 major federal gun laws, 18 are used so rarely that they might as well not exist. This is less the fault of federal prosecutors and more the result of badly drawn laws that miss the source of crime guns. For example, even though in 90% of gun crimes the criminal is not the original purchaser of the gun, there still is no federal gun trafficking statute. That should be corrected.

Congress should create a gun trafficking law that includes stiff penalties for engaging in the trade of selling firearms to those who would be stopped by a background check—such as felons, terrorists, minors, domestic abusers, and the severely mentally ill. The statute would make it illegal to sell any firearm without a background check or to sell to anyone prohibited under federal law from possessing guns. In addition, it should be considered gun trafficking – and punishable by long prison sentences—to sell any gun with an obliterated serial number or a stolen gun.

In addition, the Justice Department should make it a priority to crack down on gun traffickers, who routinely move guns from states with weak gun laws into states with stronger laws. And federal authorities should work with local law enforcement to crack down much harder on criminals in possession of firearms. Richmond's "Project Exile" was a good example of federal prosecutors using the threat of long sentences for felons in possession. That should be revived, emulated elsewhere, and used aggressively.

6. Regulating the Lethality of Guns

The 1994 Assault Weapons Ban likely didn't have a dramatic impact on the overall number of gun crimes. But it virtually ended crimes with these military-style weapons. Congress should renew the ban. This time, the law should do a better job of banning copycat assault weapons—those that perform much like a banned gun but with a few cosmetic modifications to allow it to pass muster.

Another aspect of the Assault Weapons Ban was a prohibition on high-capacity clips. Opponents of the ban argue that there are so many in circulation today that a new prohibition would be useless. But a ban on selling high-capacity clips would relegate the current stock of clips to existing owners.