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Press Release

Americans Against Gun Violence Responds to Mass Shooting at San Jose Valley Transit Authority

Sacramento California, May 27, 2021: Americans Against Gun Violence extends heartfelt sympathy to the friends, family, and coworkers of the of the victims who were killed in the mass shooting at the San Jose Valley Transit Authority (VTA) maintenance facility on Wednesday, May 26. We also send sincere wishes for a prompt and complete recovery to the victims who were wounded, at least one of whom is reported to be in critical condition.

Following the mass shooting, California Governor Gavin Newsom visited the VTA facility where the shooting occurred and asked, "What the hell is wrong with us?"¹ The Governor should know the answer to this question. Americans Against Gun Violence president, Dr. Bill Durston, spoke with him in person several years ago about the reasons why the United States is the only high income democratic country in the world in which mass shootings occur on a regular basis and why our rate of gun deaths, day in and day out, is ten times higher than the average rate in other advanced democracies, and Dr. Durston described the steps necessary to stop our shameful epidemic of gun violence.

The United States is the only high income democratic country in which the default for gun acquisition is that the person who seeks to acquire a gun can legally do so if the person is of a certain age and can pass a rudimentary background check, done instantaneously by computer in most cases. This guiding principle is termed, "permissive."² In all other advanced democracies, the default is that individuals cannot legally acquire a gun unless they can prove that they have a good reason to own one and can handle one safely. This guiding principle is termed, "restrictive." And many other democratic countries, including Australia, New Zealand, and the United Kingdom, recognizing that there is no net protective value in owning or carrying a gun, do not accept "self defense" as a legitimate reason for owning one.³ California and the rest of the United States should adopt a "restrictive" guiding principle for gun acquisition and disallow the mistaken notion that owning a gun is necessary for "self defense" as a legitimate reason for owning one.

Background checks in other high income democratic countries like Australia, New Zealand, and the UK are done in person, not instantaneously by computer, and involve interviews with the prospective gun purchaser, with past and present domestic partners, and with coworkers, friends, and other people who have knowledge about the prospective gun purchaser's character.* Samuel J. Cassidy, who was reported by his ex-wife, ex-girlfriend, and a neighbor to be mentally unstable and prone to angry outbursts,⁴ would never have been allowed to legally acquire a gun in other advanced democratic countries. California and the rest of the United States should conduct background checks in person as they are done in other democratic countries.

Other high income democratic countries, including Australia,⁵ New Zealand,⁶ and the UK,⁷ reacted swiftly and definitively to mass shootings by completely banning civilian ownership of the classes of weapons used in the shootings. Australia and New Zealand decided within less than two weeks to ban civilian ownership of all automatic and semi-automatic long guns – not just so-called “assault weapons” – after the 1996 Port Arthur and 2019 Christchurch mass shootings, respectively; and the UK, which already had such a long gun ban, also banned civilian ownership of all handguns after the 1996 Dunblane Primary School mass shooting. The rates of gun deaths in Australia and New Zealand are 1/10th to 1/12th the rate in the United States, and the rate of gun deaths in the UK is 1/60th the U.S. rate.⁸ California and the rest of the United States should enact a complete ban on civilian ownership of all handguns and all automatic and semi-automatic long guns, with no “grandfather clause” for individuals who already own them.

Prior to 2008, there was no constitutional obstacle, Second Amendment or otherwise, in California or the rest of the United States to the adoption of stringent gun control laws of the type described above.⁹ In 2008, a narrow 5-4 majority of the Supreme Court created a constitutional right to keep a handgun in the home for “self defense” in the rogue *Heller* decision.¹⁰ In *Heller*, the five member majority joined the gun lobby in claiming that the first half of the Second Amendment, which refers to a “well regulated militia,” is irrelevant to the second half of the Amendment, which describes a “right to keep and bear arms.” The late Supreme Court Chief Justice, Warren Burger, had described such an interpretation of the Second Amendment as “one of the greatest pieces of fraud – I repeat the word, ‘fraud’ – on the American public by special interest groups” that he had ever seen in his lifetime.¹¹ The Supreme Court has agreed to hear another Second Amendment case, *New York State Rifle and Pistol Association v. Corlett (NYSRPA v. Corlett)*, later this year. Given the current composition of the Court, it's expected that instead of overturning the *Heller* decision,

* Personal communications, Philip Alpers (Australia and New Zealand), Michael North (UK)

the Court will probably expand the right it created in *Heller*. The State of California and the U.S. Department of Justice should join Americans Against Gun Violence in filing an *amicus* brief in *NYSRPA v. Corlett* calling on the Court to take the opportunity of this case to overturn *Heller*, and President Biden should put the Court on notice that if it does not overturn *Heller*, he will “pack the Court” with enough additional judges to overturn *Heller* in the near future.

If California and the rest of the United States don't promptly take the steps described above to stop our country's shameful epidemic of gun violence, we shouldn't be surprised when the next horrific mass shooting occurs.

References

¹ Carla Marinucci, “Newsom after Mass Shooting: ‘What the Hell Is Wrong with Us?’,” Politico, May 26, 2021, <https://politi.co/2R0joSc>.

² George D. Newton and Franklin E. Zimring, “Firearm Licensing: Restrictive v Permissive,” Firearms & Violence in American Life: A Staff Report Submitted to the National Commission on the Causes and Prevention of Violence (Washington, D.C.: U.S. Government Printing Office, January 1, 1969).

³ “Gun Law and Policy: Firearms and Armed Violence, Country by Country,” GunPolicy.org, accessed November 18, 2019, <https://www.gunpolicy.org/>.

⁴ Thomas Fuller et al., “Victims’ Names Are Released After California Shooting,” *The New York Times*, May 26, 2021, sec. U.S., <https://www.nytimes.com/live/2021/05/26/us/san-jose-shooting>.

⁵ Rebecca Peters, “Rational Firearm Regulation: Evidence-Based Gun Laws in Australia,” in *Reducing Gun Violence in America: Informing Policy with Evidence and Analysis* (Baltimore: The Johns Hopkins University Press, 2013), 195–204; Philip Alpers, “The Big Melt: How One Democracy Changed after Scrapping a Third of Its Firearms,” in *Reducing Gun Violence in America: Informing Policy with Evidence and Analysis* (Baltimore: The Johns Hopkins University Press, 2013), 205–11; Joel Negin et al., “Australian Firearm Regulation at 25-Successes, Ongoing Challenges, and Lessons for the World,” *New England Journal of Medicine* 384, no. 17 (2021): 1581–83.

⁶ Josh Hafner, “Gun Control Bill in New Zealand Passes in Early Vote Following Attacks,” USA Today, April 2, 2019, <https://www.usatoday.com/story/news/world/2019/04/02/gun-control-bill-new-zealand-vote-parliament-mosque-attacks/3341240002/>; “2019 Firearm Law Changes (Arms Amendment Bill 2),” New Zealand Police, accessed August 27, 2020, <https://www.police.govt.nz/advice-services/firearms-and-safety/2019-firearm-law-changes-arms-amendment-bill-2>.

⁷ Michael J. North, “Gun Control in Great Britain after the Dunblane Shootings,” in *Reducing Gun Violence in America: Informing Policy with Evidence and Analysis* (Baltimore: The Johns Hopkins University Press, 2013), 185–93.

⁸ “Gun Law and Policy: Firearms and Armed Violence, Country by Country.”

⁹ John Paul Stevens, *The Making of a Justice: Reflections on My First 94 Years* (New York: Little, Brown, 2019), 481–87.

¹⁰ *District of Columbia v. Heller*, 554 US (Supreme Court 2008).

¹¹ Warren Burger, PBS News Hour, December 16, 1991, c.