

## What type of gun control will actually make us safer?

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It is important that something be done about mass public shootings, but much of the current public discussion isn't very serious. Proposals are constantly being put forward that would do nothing to stop these attacks, and those that would make a difference, despite wide agreement by academics, are ignored.

The focus on mental illness is understandable, but psychiatrists and psychologists have a very poor record in identifying people who are likely to engage in these types of attacks. As to Red Flag Laws/Extreme Risk Protection Orders, people ignore that we already have Baker Act laws that deal explicitly with mental illness. It is also a mistake to focus on guns when there are so many other ways for people to commit suicide.

Universal background checks, meaning background checks on the private transfer of guns, have been mentioned for years by gun control advocates. It was by far the most frequently mentioned proposal by former President Obama.<sup>1</sup> But there has not been a single mass public shooting this century that such a law would have stopped.<sup>2</sup> These laws also have real costs. In Washington, DC, for example, it costs \$125 to do a background check on a privately transferred gun. That may stop the people who are most likely to be victims of violent crimes, often poor blacks who live in high crime urban areas, from being able to legally obtain guns for self-defense.

Assault weapon bans have been studied extensively, but even researchers funded by the Clinton administration, which enacted the 1994 federal ban, were unable to find evidence that such a ban reduced any type of violence.<sup>3</sup> It doesn't make any sense to ban so-called "military-style" weapons, when there are other functionally identical semi-automatic hunting rifles available.

There's also no evidence that crime rates were affected by the 1994 federal ban on magazines that hold more than 10 bullets. Even the Urban Institute, with funding from the Bill Clinton administration, was unable to find any such evidence.<sup>4</sup> In that report, criminologists Chris Koper and Jeff Roth concluded: "The evidence is not strong enough for us to conclude that there was any meaningful effect (i.e., that the effect was different from zero)." Koper and Roth found in a 2004 follow-up report: "We cannot clearly credit the ban with any of the nation's recent drop in gun violence. And, indeed, there has been no discernible reduction in the lethality and injuriousness of gun violence."

But while most of the discussion has been focused on policies that won't stop these attacks, we have generally ignored that since 1950 94% of the mass public shootings have taken place in areas where law-abiding citizens have been banned from having guns.<sup>5</sup> Many academics say reducing the number of gun-free-zones – which can leave people as sitting ducks – is an important gun policy that could save lives.

Finally, the last three sections of this testimony address the concern that more guns mean more murder and homicide. In fact, as we will see the opposite is more clearly the case.

### **1. Limits on identifying people who are a danger to others**

Identifying someone as mentally ill is a far cry from deciding that the person poses a danger. Psychiatrists themselves have a poor record of knowing who will become violent. But psychiatrists know that they can't predict the future.

Look at the inability of psychiatrists to identify who will turn out to be a mass public shooter. It's [very common](#) for mass public shooters to be seeing psychiatrists before their attacks. This includes Elliot Rodger (Santa Barbara), Ivan Lopez (the second Fort Hood shooter), Adam Lanza (Sandy Hook elementary school), James Holmes (Aurora movie theater showing Batman), Seung-Hui Cho (Virginia Tech), Robert Stewart (Carthage, North Carolina nursing home), and Esteban Santiago-Ruiz (Fort Lauderdale–Hollywood International Airport).<sup>6</sup> Indeed, 45 percent of the mass public shooters from January 1998 through June 2019 were seeing mental health care professionals within six months of their attacks. Major Nidal Malik Hasan, who murdered 13 people at Fort Hood in November 2009, was himself an Army psychiatrist.

Rodger had been receiving top-quality counseling for years. One of his psychiatrists, Charles Sophy, is nationally renowned and the medical director for the Los Angeles County Department of Children and Family Services.<sup>7</sup>

The Army psychiatrist who last saw Lopez found no “sign of likely violence, either to himself or to others.”<sup>8</sup> While Holmes's psychiatrist warned University of Colorado officials about his patient's violent fantasies, she “rejected the idea” that the threat was sufficiently serious for him to be taken into custody.<sup>9</sup>

As for Seung-Hui Cho, neither a court-appointed, independent psychologist nor a hospital psychiatrist found him to be “a danger to himself or others.”<sup>10</sup> The judge decided it was not necessary to have Cho involuntarily committed.

These killers didn't lack mental-health care. In 45 percent of mass public shootings between 1998 and June 2019, the killers had been receiving professional mental-health treatment. Even good psychiatrists failed to identify real threats.

Psychiatrists have every incentive to get the diagnosis right. Besides their own professional pride and desire to help, they are legally obligated to inform authorities of cases that they believe represent threats.

There is a whole academic literature devoted to this diagnostic failure. It has been suggested that psychiatrists become desensitized to danger or seek to prove their fearlessness. It's possible that added training would help to improve diagnoses of unusual cases.

But it will always be hard to predict mass public shootings, which are extremely rare events. What seem like obvious telltale signs in retrospect are often not so obvious before the attack.

In any given year, Schizophrenia alone can be found in [roughly 1.6 million people](#) nationwide.<sup>11</sup> Yet over the last twenty years only a couple of mass public shooters may have had this illness.

Mentally ill people tend to be less violent on average than the general population and they are also more likely to themselves be victims of crime.

There is another real cost to linking gun violence with mental illness. Dr. Renee Binder, President of the American Psychiatric Association and herself a strong gun control advocate, rightly points out that, "People with mental illness are far more likely to be victims of violence...the majority of individuals with mental illness will never be violent toward others."<sup>12</sup> The mentally ill already have a hard enough time in our society, and treating them as potential murderers will not help matters.

However, if we really believe that a mentally ill individual poses a danger to others, simply prohibiting that person from buying a gun isn't likely to solve anything. If someone can get his hands-on illegal drugs, he can also get his hands-on illegal guns. Indeed, drug gangs usually sell both.

If the issue is suicide, there are many effective ways for people to kill themselves. Simply taking away their guns isn't a useful way to prevent someone from killing themselves.

If someone is really a danger to others, the most effective solution is to send him to a secure mental health facility.

All this raises the issue of what one does when we fail to identify these killers before they attack.

## **2. Red Flag Laws versus Baker Act**

Baker Act type statutes (or the Federal version of 302s), which have been around since the beginning of the 1970s, allow police, doctors, and family members to have someone typically held in most states for a 72-hour mental health examination based upon a simple reasonableness test – little more than a guess or a hunch. The hold in Pennsylvania is longer.

These laws focus on mental illness, and they require the individual be evaluated by mental health care experts. If a person can't afford a lawyer, a public defender is provided. While judges can involuntarily commit an individual who they believe is a danger to themselves or others, in practice there is a range of options that judges can take, with the threat that other options can be followed up with involuntary commitment.

Seventeen states have now adopted Red Flag laws. Thirteen states passed them since Parkland last year. While Red Flag laws are often discussed in terms of mental illness and they are frequently used in connection with concerns about suicide, only one of the states with these laws even mentions mental illness and none of the states have a requirement that a mental health expert be involved in evaluating the person. And unlike Baker Act type statutes, there are none of the safeguards such as providing people who can't afford a lawyer with a public defender.

Little certainty is needed. Initial confiscations often require just a "reasonable suspicion," which is little more than a guess or a hunch. When hearings occur weeks or a month later, about a third of these initial orders are overturned, but the actual error rate is undoubtedly much higher. These laws make no provisions to cover legal costs, and many people facing these charges do not retain counsel.

During the first nine months after Florida passed its Red Flag law last year, judges granted more than 1,000 confiscation orders. In the three-months after Maryland's law went into effect on October 1st, more than 300 people had their guns taken away. In one case in Arundel County, a 61-year-old man died when the police stormed his home at 5 AM to take away his guns. Connecticut and Indiana, which have had these laws in effect for the longest time, have seen significant increases in confiscation orders as time has gone by.

These laws let the government take firearms away from people arrested but not convicted of crimes. Even simple complaints without arrests have been enough. That is quite a change in people's rights, and don't be surprised if courts strike down that provision. Gun control advocates have resisted making this rule explicit in the laws, presumably out of fear that this would create problems in the courts, but presentations before the State Uniform Law Commission that briefly looked into making a model state law made it clear that these actions are quite common. Also, courts frequently take into account other factors such as gender and age in predicting the chances someone will commit a crime or commit suicide.

It has always been possible to take away someone's guns, but all 50 states have required testimony by a mental health expert before a judge. Hearings could be conducted very quickly in urgent cases, but under Red Flag laws expert testimony will no longer be used. Gun control advocates argue that it's essential not even to alert the person that his guns may be taken away. Hence, the 5 AM police raids.

When people really pose a clear danger to themselves or others, confine them to a mental health facility. Simply denying them the right to buy a gun legally isn't a serious remedy. If you think you are any more likely to stop criminals from getting guns than illegal drugs, good luck. The same drug dealers sell both and are a major source of guns. And there are other weapons such as cars.

Nor are guns the only way for mentally unstable people to commit suicide. Many substitutes are as effective. Very effective poisons such as cyanide are readily available.

These laws may damage trust between people. In the absence of a Red Flag law, a person contemplating homicide or suicide might speak to a friend or family member and be dissuaded from that course of action. But now there may be a fear that the authorities will be tipped off and restrict the person's ability to defend themselves and their family. The result may be that such individuals don't seek help and go on to kill themselves or others.

Take the case of a woman who saw her husband murdered in front of her by a stalker.<sup>13</sup> Understandably, she was incredibly depressed, but still fearful for her safety she wouldn't have talked to those closest to her about her feeling because she would worry about losing her ability to protect herself. As it was, she was even reticent to speak to a psychiatrist about her depression for similar reasons. Police are also often depressed on the job, but would we be better off if they worried that sharing their feeling might have their guns taken from them and them losing their jobs?

Liberals understand this point when it comes to something like AIDS. they know that the threat of quarantining may discourage infected people from seeking medical help. But they seem unaware that the threat of leaving people defenseless might engender similar problems.

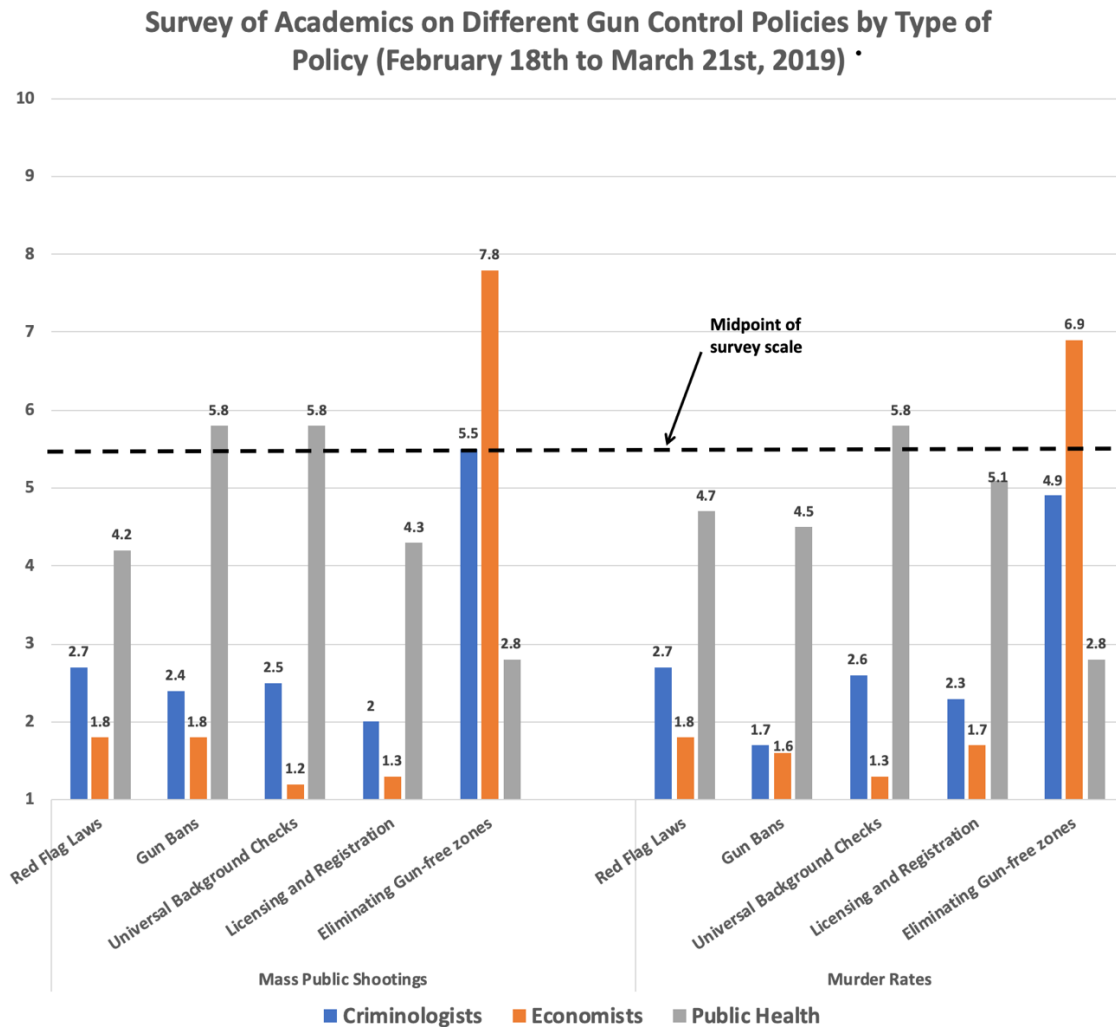
Despite the sacrifices, the evidence shows no benefits from these laws. Looking at data from 1970 through 2017, Red flag laws had no significant effect on murder, suicide, the number of people killed in mass public shootings, robbery, aggravated assault, or burglary.<sup>14</sup> There is some evidence that rape rates rise. These laws do not save lives.

A couple options are possible here. Given the civil rights protections that are already built into Baker Act statutes as well as the mental health evaluation requirements, one possibility is to start with those laws as a basis and amend them as needed.

### **3. Survey of Academic Researchers**

Criminologists and economists are the most interested in eliminating gun-free zones, while public health researchers tend to favor traditional gun control methods. But outside of economists who favor eliminating gun-free zones, none of the groups are significantly above the midpoint (5.5) in supporting any type of gun control. Nor are any of these groups of researchers particularly supportive of Red Flag Laws as a way of preventing either mass public shootings or lowering murder rates.

The following chart shows the results of a survey of researchers who had published peer-reviewed empirical publications on firearms policy were surveyed.<sup>15</sup> It was conducted from February 18<sup>th</sup> through March 21<sup>st</sup> 2019. The survey was the largest yet conducted, with a response rate of over 43%, or 120, from the 277 researchers. On a 1-to-10 scale, with 10 being very effective and 1 being not effective at all, criminologists, economists, and public health researchers were asked 33 different questions on gun control.



#### 4. How does the US Compare to other Countries in terms of Mass Public shootings?

We follow the FBI's definition of mass public shootings.<sup>16</sup> The list of all of our 2,818 cases from 1998 to 2017 is provided on our website. Of those, 61 occurred in the United States and 2,757 happened in the rest of the world. While the US had about 4.6 percent of the world's population during this period, it had just 2.16 percent of the mass public shootings.

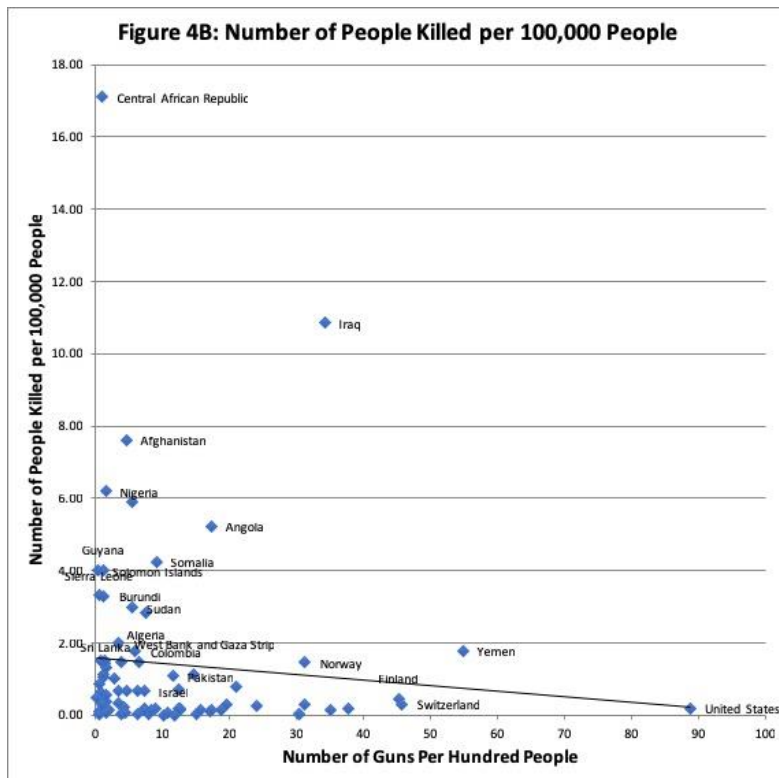
Just as we compare crime rates across the United States by adjusting for different state populations, we report the population-adjusted rates across countries. It makes no more sense to compare the raw number of murders in Wyoming with the number in California than it is to compare raw numbers of murders from mass public shootings for the United State and India, a country with almost 4 times the US population.

The United States was host to a still smaller share of people killed in these attacks. Worldwide mass public shooting murders totaled 31,418 people, and the US accounted for 553 (1.8%) of

these.

By both measures, the US is substantially below the world average. Per capita, mass public shootings occur with 53.9 percent less frequency and result in 32.2 percent fewer casualties.

The US ranks 66<sup>th</sup> in attack rate and 56<sup>th</sup> in murder rate. Norway, Finland, France, and Switzerland are major European countries with much higher rates of murder from mass public shootings than the United States. Indeed, France's rate is 49.7 percent higher than the US's. The rates in Pakistan and India are respectively 475% and 13% higher than the US rate.



## 5. Conclusion

Criminologists, economists, and public health people are generally skeptical of Red Flag laws. There is also little overall support for background checks or other types of gun control regulations will reduce either mass public shootings or murder rates.

The most obvious policy to stop the vast majority of mass public shootings is to eliminate gun-free zones and encourage people to carry their permitted concealed handgun.

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<sup>1</sup> Juliet Eilperin, "Obama weighs expanding background checks through executive authority," Washington Post, October 8, 2015 ([https://www.washingtonpost.com/politics/obama-weighs-expanding-background-checks-through-executive-authority/2015/10/08/6bd45e56-6b63-11e5-9bfe-e59f5e244f92\\_story.html](https://www.washingtonpost.com/politics/obama-weighs-expanding-background-checks-through-executive-authority/2015/10/08/6bd45e56-6b63-11e5-9bfe-e59f5e244f92_story.html)).

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<sup>2</sup> Crime Prevention Research Center, “Breaking down Mass Public Shooting data from 1998 through June 2019: Info on weapons used; gun-free zones; racial, age, and gender demographics,” Crime Prevention Research Center, June 15, 2019 (<https://crimeresearch.org/2019/07/breaking-down-mass-public-shooting-data-from-1998-through-june-2019-info-on-weapons-used-gun-free-zones-racial-age-and-gender-demographics/>).

3 Jeffrey A. Roth and Christopher S. Koper, “Impacts of the 1994 Assault Weapons Ban: 1994–96,” National Institute of Justice, March 1999 (<https://www.ncjrs.gov/pdffiles1/173405.pdf>). This was later published as Christopher S. Koper and Jeffrey A. Roth, “1994 Federal Assault Weapon Ban on Gun Violence Outcomes: An Assessment of Multiple Outcome Measures and Some Lessons for Policy Evaluation,” *Journal of Quantitative Criminology*, Vol. 17, No. 1 (March 2001), pp. 33-74. See also their later report Christopher S. Koper, Daniel J. Woods, and Jeffrey A. Roth, “An Updated Assessment of the Federal Assault Weapons Ban: Impacts on Gun Markets and Gun Violence, 1994-2003,” Report to the National Institute of Justice, United States Department of Justice, June 2004 (<https://www.ncjrs.gov/pdffiles1/nij/grants/204431.pdf>).

4 Jeffrey A. Roth and Christopher S. Koper, “Impacts of the 1994 Assault Weapons Ban: 1994–96,” National Institute of Justice, March 1999 (<https://www.ncjrs.gov/pdffiles1/173405.pdf>). This was later published as Christopher S. Koper and Jeffrey A. Roth, “1994 Federal Assault Weapon Ban on Gun Violence Outcomes: An Assessment of Multiple Outcome Measures and Some Lessons for Policy Evaluation,” *Journal of Quantitative Criminology*, Vol. 17, No. 1 (March 2001), pp. 33-74. See also their later report Christopher S. Koper, Daniel J. Woods, and Jeffrey A. Roth, “An Updated Assessment of the Federal Assault Weapons Ban: Impacts on Gun Markets and Gun Violence, 1994-2003,” Report to the National Institute of Justice, United States Department of Justice, June 2004 (<https://www.ncjrs.gov/pdffiles1/nij/grants/204431.pdf>).

<sup>5</sup> Crime Prevention Research Center, “UPDATED: Mass Public Shootings keep occurring in Gun-Free Zones: 94% of attacks since 1950,” Crime Prevention Research Center, June 15, 2019 (<https://crimeresearch.org/2018/06/more-misleading-information-from-bloombergs-everytown-for-gun-safety-on-guns-analysis-of-recent-mass-shootings/>).

<sup>6</sup> Crime Prevention Research Center, “UPDATED: Why we shouldn’t depend on mental health professionals to detect mass killers: Elliot Rodger’s slipping “under the radar” is hardly rare,” Crime Prevention Research Center, February 11, 2019 (<https://crimeresearch.org/2019/02/why-we-shouldnt-depend-on-mental-health-professionals-to-detect-mass-killers-elliott-rodgers-slipping-under-the-radar-is-hardly-rare/>).

<sup>7</sup> Arthur Berg and John R. Lott, Jr., “Why psychiatrists fail in stopping mass killers,” *New York Post*, June 2, 2014.

<sup>8</sup> Yamiche Alcindor, “Fort Hood Shooter had mental health problems,” *USA Today*, April 2, 2014 (<https://www.usatoday.com/story/news/nation/2014/04/02/fort-hood-shooter-had-mental-health-problems/7237489/>).

<sup>9</sup> David Wagner, “James Holmes’ Psychiatrist Just Got Sued for Not Having Him Locked Up,” *The Atlantic*, January 15, 2013 (<http://www.thewire.com/national/2013/01/james-holmes-psychiatrist-just-got-sued-not-having-him-locked/61042/>).

<sup>10</sup> Virginia Tech Review Panel (p. 47): The evaluator completed the evaluation form certifying his findings that Cho “is mentally ill; that he does not present an imminent danger to (himself/others), or is not substantially unable to care for himself, as a result of mental illness; and that he does not require involuntary hospitalization.” The independent evaluator did not attend the commitment hearing; however, **both counsel for Cho and the special justice signed off on the form certifying his findings.**”

<sup>11</sup> Arthur Berg and John R. Lott, Jr., “Why psychiatrists fail in stopping mass killers,” *New York Post*, June 2, 2014.

<sup>12</sup> American Psychiatric Association, “APA President Calls for Gun Control Measures in Wake of Oregon Tragedy,” *Psychiatric News Alert*, October 3, 2015.

<sup>13</sup> Nikki Goesser, “Denied a Chance: How gun control helped a stalker murder my husband,” *White Feather Press* (November 21, 2013).

<sup>14</sup> John R. Lott, Jr. and Carl Moody, “Do Red Flag Laws Save Lives or Reduce Crime?” *Social Science Research Network*, January 27, 2019 ([https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=3316573](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3316573))

<sup>15</sup> Arthur Berg, John Lott, and Gary Mauser, “Do Researchers From Different Fields Have a Consensus on Gun Control Laws and Do Registered Voters Agree With Any of Them?,” *Social Science Research Network*, September 7, 2019 (<http://ssrn.com/abstract=3443290>).

<sup>16</sup> John R. Lott, Jr. and Carlisle E. Moody, “Is the United States an Outlier in Public Mass Shootings?” *Econ Journal Watch*, March 2019, pp. 37-68 (<https://econjwatch.org/articles/is-the-united-states-an-outlier-in-public-mass-shootings-a-comment-on-adam-lankford?ref=articles>).



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This is the same definition that was used by Lott and Landes (2001) and the work done by the Crime Prevention Research Center.

*We looked at attacks from 1970 to 2017 (Global Terrorism Database, 2017 and LaFree et al, 2015).*

Crime Prevention Research Center. See also Lott and Landes (2003) and Lott (2010). *The only categories that sometimes meet our criteria for mass public shootings are “terrorism”, “other crime type,” and “intra/inter-group conflict.” Government sponsored or directed/ordered killings or state terrorism (the “State Actor” category) are completely excluded.*

*We then reviewed each case using Nexis and web searches to determine whether they met our definition. Less than 50% of the terrorism shooting cases identified by the GTD met the definition of mass public shootings.*

*Over the **twenty** years studied here, the GTD also misses 39 cases in Europe.<sup>16</sup> The GTD also missed all of the cases for some countries such as the Solomon Islands.*

*To obtain these additional cases missed by the GTD, at the CPRC we used our own Nexis and web searches for mass shootings for Europe and the United States and for large-scale mass public shootings where at least 15 people were killed. We have also hired people who can speak Chinese, French, Polish, Russian, and Spanish.*