

# Auditing the Cost of the Virginia Tech Massacre

How Much We Pay When Killers Kill

Anthony Green and Donna Cooper April 2012



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#### Remembering those we lost

The Center for American Progress opens this report with our thoughts and prayers for the 32 men and women who died on April 16, 2007, on the Virginia Tech campus in Blacksburg, Virginia. We light a candle in their memory. Let the loss of those indispensable lives allow us to examine ways to prevent similar tragedies.

### Contents

- 1 Introduction and summary
- 4 Determining the cost of the Virginia Tech massacre
- 7 Virginia Tech's costs
- 14 Commonwealth of Virginia's costs
- 16 U.S. government costs
- 17 Health care costs
- 19 What can we learn from spree killings?
- 24 Analysis of the background check system that failed Virginia Tech
- 29 Policy recommendations
- 36 The way forward
- 38 About the authors and acknowledgements
- 39 Appendix A: Mental history of Seung-Hui Cho
- 45 Appendix B: Brief descriptions of spree killings, 1984–2012
- 48 Endnotes

## Introduction and summary

Five years ago, on April 16, 2007, an English major at Virginia Tech University named Seung-Hui Cho gunned down and killed 32 people, wounded another 17, and then committed suicide as the police closed in on him on that cold, bloody Monday. Since then, 12 more spree killings have claimed the lives of another 90 random victims and wounded another 92 people who were in the wrong place at the wrong time when deranged and well-armed killers suddenly burst upon their daily lives. This carnage includes the very recent killing by Ohio high school student T.J. Lane of three of his fellow students with a gun he took out of his grandfather's barn, which also wounded two others. Lane's revolver held 10 bullets, and he fired all 10. As we went to press, still another spree killing took place on a university campus where at least seven were killed and three wounded. This most recent spree killing—the 13th, including Cho's rampage at Virginia Tech five years ago—occurred at a small religious college near Oakland, California, called Oikos University.

What links these tragedies? It's simple: histories indicating dangerousness combined with the lack of adequate gun control. Cho had a history of mental illness but was able to bypass the national gun purchase background check system and buy two weapons to accomplish his meticulously planned spree killing. He also bought a number of high-capacity magazines, which supersized his weapons. Well-armed, he was able to commit his carnage in no more than 15 minutes, pausing in between his two attacks.

The human toll of this, the worst spree killing in recent American history, is incalculable, but there are financial costs that can be calculated. In March 2012 a state court jury in Montgomery County, Virginia, found that Virginia Tech was negligent and awarded \$4 million each to two families of victims. The lawsuit was based on the families' allegations that the lives of the students could have been saved if the university warned the campus community more quickly after the first of the two killings, which took place on the same morning. The damage award may be reduced to \$100,000 for each family due to the state's cap on damages. But as we go to press, the issue of the damages is being argued by the parties before the trial court judge. Further, whether the university appeals the verdict is still an open question.

In a completely different legal action, the U.S. Department of Education fined the university \$55,000 under the Clery Act, which requires universities to give notice of dangers affecting students. The university appealed, the U.S. Department of Education rejected the appeal, and subsequently a federal administrative court judge in April 2012 ruled in favor of Virginia Tech.<sup>4</sup>

These possible courtroom costs, however, pale in comparison to the cost of negligence due to the failure of ambiguous gun control laws alongside the lack of any genuine effort by federal or state officials to clarify the laws so that state police and courts can enforce them to the fullest extent of the law. This lack of enforcement of poorly written laws enables mentally ill people to pass background checks and purchase guns legally even if they have a history indicating dangerousness, including those found by courts to be mentally ill or subject to orders of confinement to a mental health facility. This breakdown in our legal system results in the inestimable loss of life and its horror and consequence.

Sadly, we can calculate this cost another way. Another outcome of the lack of gun control is the taxpayer's bill for a spree killing. In this report we share the findings of our survey of the monetary costs incurred as a result of this murderous rampage at Virginia Tech five years ago. This paper assesses this cost at \$48.2 million for the taxpayers of the United States and the commonwealth of Virginia, and for Virginia Tech, a public university. This report also demonstrates how the background-check system, still rife with loopholes, failed to protect American citizens from an armed and dangerous Seung-Hui Cho, costing innocent lives—many of them young ones.

The loss of one innocent life to a mentally disturbed shooter should be reason enough to close the gaping holes in the system that permit gun purchases and access to high-capacity magazines that can cause such mayhem. The Virginia Tech tragedy drives this point home in the most dramatic of ways because of the sheer number of deaths and extraordinary financial costs. For this reason, we recommend several commonsense measures designed to curb gun violence without taking a single gun away from the great majority of Americans who have the right to own a weapon. These measures are detailed in main pages of our report, but briefly we recommend:

 Completing state compliance with requirements to post appropriate mental health records in the National Instant Criminal Background Check System<sup>5</sup>

- Establishing clear reporting guidelines for when and how mental health records are required to be posted in the National Instant Criminal Background Check System so that states can be held accountable for compliance
- Requiring a full background check in all gun transactions, including private sales at gun shows and those online, so that dangerous people cannot purchase guns legally in these nontraditional venues
- Fully funding state technology efforts to comply with the federal background check system requirements
- Requiring states to comply fully with the protocols of the National Instant Criminal Background Check System or taking away their federal funding if they do not
- Mandating federal compliance with a proposed presidential executive order directing all agencies to submit records to this instant background check system and certifying that they have done so twice yearly to the U.S. attorney general

In addition we offer two other recommendations for Congress to enact arising from the lessons of Virginia Tech:

- Outlawing high-capacity bullet magazines
- Requiring campuses to establish a threat assessment process

Taking these commonsense steps would go a long way toward ending the spree killing rampages that continue to haunt our nation.

## Determining the cost of the Virginia Tech massacre

Is the taxpayers' burden for the commission of gun violence something of concern? Take the word of Phillip J. Cook, a lead researcher of a study published in the *Journal of the American Medical Association* about the health care costs for treating gunshot wounds. Dr. Cook told *The New York Times*, "Because almost half of the cost is paid for by the government, it is clear that even though many people feel that gun violence is essentially someone else's problem, it is really everybody's problem."

The Center for American Progress undertook this first-ever study to estimate the cost to the public and the taxpayers of the Virginia Tech spree killing. Our research found that the bill to the public arising from the Virginia Tech massacre is at least \$48.2 million. These costs have been paid by parents, students, university donors, and state, local, and federal taxpayers.

We estimate that the cost to taxpayers totals \$22.25 million. These are the costs that were paid for directly by federal, state, or local government, with 99 percent of these costs borne by Virginia taxpayers. Our analysis in the next section of the report details how we arrived at these numbers. By way of comparison, the taxpayer costs are about 46 percent of all commonwealth of Virginia expenditures for Emergency Management Services and are five times the level of the commonwealth's direct state general fund expenditures for this purpose.<sup>7</sup>

In this section of the report, we present the cost of failing to prevent Cho's rampage to the public measured by the costs to the university, to the commonwealth of Virginia, and to the federal government. Examples of costs incurred by the university are as follows:

- \$3.3 million: Settlement with victims' families and injured survivors as compensation
- **\$2.9 million:** Five-year running cost for the addition of 11 full-time employees to the Virginia Tech Police Department, including seven sworn officers

- \$2 million: Adding locks to classroom doors and replacing door hardware to secure students from the inside in 150 major buildings and more than 1,000 door handles (Cho was able to block police from the building where he committed most of his shooting because of the configuration of the door hardware)
- \$1.8 million: Cleanup, staff and classroom relocation, and renovations to Norris Hall, where the second set of killings took place
- \$1.5 million: Five-year running cost for the addition of four full-time mental health professionals
- \$531,000: The response and investigation by the Virginia state police
- \$465,000: Expert research firm's fee to assist the Virginia Tech Review Panel appointed by then-Gov. Tim Kaine
- \$69,650: The performance of 33 autopsies (including Cho's)

The public cost of health care after the shooting rampage is based on a time-tested formula because the medical community takes the position that federal law prohibits the public disclosure of individuals' health care records. (see Table 1) With states and cities in fiscal crisis, these costs could not come at a worse time. In addition, public universities are already facing difficult budget challenges.<sup>8</sup>

## Tuscon: A spree killer lives

Surely, there was a similar economic shockwave impacting taxpayers in Tucson, Arizona, a city of about 520,000 people. At least one significant set of public costs implicated in the Tucson shooting are those relating to the survival of the shooter, Jared Lee Loughner. He has been pronounced incompetent to stand trial and is being hospitalized at the taxpayer's expense in California—there is no prediction on whether or when he would stand trial and how long he will remain incarcerated courtesy of the taxpayers. His courtappointed lawyer, Judy Clarke, who is experienced in representing high-profile and particularly notorious defendants, is being paid by the taxpayers.64

#### Calculating the cost of the Virginia Tech spree killing

Breakdown of the consequences of Seung-Hui Cho's rampage in April 2007, by category of payer

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VIII	,,,,,,,,,	a rec	C	0313

\$11,401,794
\$6,391,451
\$2,519,264
\$4,791,702
\$324,258
\$2,747,138
\$7,426,361
\$3,172,402
\$38,774,370

#### State of Virginia

Share of legal settlement	\$7,800,000
Virginia Tech Review Panel	\$465,000
Virginia medical examiner	\$69,650
Virginia state police	\$531,000
Governor's campus preparedness conferences	N/A
State subtotal	\$8,865,650
Running subtotal	\$47,640,020

#### Virginia Local Government

Running subtotal	\$47,643,601
Virginia local government subtotal	\$3,581
Roanoke City Police Department **	\$1,347
Roanoke County Police Department	\$2,234

#### **Federal Government**

U.S. Department of Justice grant	\$2,650,000
U.S. Department of Education grant	\$960,685
U.S. Department of Justice grant	\$51,000
Federal government subtotal ***	\$3,661,685
Running subtotal	\$47,643,601

#### **Health Care Costs**

Based on formula (see page 17)	\$590,042
Running subtotal	\$48,233,643
Total	\$48,233,643

<sup>\*</sup> Letter from Virginia Tech Associate Vice President for University Relations Lawrence Hincker to Anthony Green, October 27, 2011.

Source: Center for American Progress based on a variety of data presented in this report

<sup>\*\*</sup> Reimbursed by Bureau of Alcohol, Tobacco & Firearms.

<sup>\*\*\*</sup> The grants were embedded in the Virginia Tech accounting and not double-counted in the federal costs section.

## Virginia Tech's costs

At the request of the Center for American Progress under the Virginia Freedom of Information Act, Virginia Tech conducted an accounting of the costs it sustained as a result of the April 16, 2007, massacre, obtained from various departments of the university. We used this accounting and subsequent interviews to provide examples of the significant costs in each category, though our report does not include every individual cost. The school estimated the cost to be at least \$38,774,370, including the expenditure of federal funds it received. This was the first time for which these extraordinary costs were accounted.

In its accounting, the university divided the costs related to the shooting into eight function categories, and those categories were divided in three ways based on the kind of spending involved:

- Base costs are traditional, ongoing university costs that increased significantly based on university decision making as a result of the shooting. Example: increases to staffing in both the Virginia Tech Police Department and mental health counseling.
- One-time costs are nonrepeating costs incurred solely because of the massacre. Example: changing the hardware to university doors based on the way the shooter secured the building where most of the killings took place.
- **Grants** are the expenditure of funds from the federal government for purposes the university would have had to incur even if the grants were not forthcoming. The total (\$48.2 million) does not count these costs twice. Example: the U.S. Department of Education grant for the development of a threat-assessment model, which could be used for other similarly situated institutions.

The university stated that at least one significant cost was not included in the estimates: the costs to Virginia Tech's staff at all levels who responded to the tragedy, from caring for distraught students to dealing with hundreds upon hundreds of

journalists, from helping families cope with their loss to negotiating a settlement with the families and the wounded. 10 Just as the Center for American Progress sought to be conservative in its analysis of cost, so did the university. 11 There are several significant examples of large costs it did not account for that demonstrate its careful, prudent estimates.<sup>12</sup>

In this report, relating to Virginia Tech costs, we focused on the costs clearly calculable based on the university's accounting. The following are brief explanations with examples of what went into the eight categories of costs sustained by Virginia Tech. The items included in each section are based on several interviews with university officers.<sup>13</sup>

Safety and security: \$11,401,794

#### University safety and security costs

Base	One-time	Grants	Total
\$8,104,095	\$2,476,683	\$821,016	\$11,401,794

The safety and security cost elements (along with the campus health and wellness category detailed below) are the most significant expenditures in terms of dollars. 14 Examples included in the safety and security category for the university are:

- The increased size of the Virginia Tech Police Department, with 11 new fulltime employees, bringing the number of sworn officers up to 53 on campus. The five-year cost was \$2,872,685.15
- The funding for an Office of Emergency Management. The five-year cost was \$903,525.<sup>16</sup>
- The \$555,000 spent to plan for a joint Virginia Tech, Blacksburg, and Montgomery County police dispatch office. This is necessary because some university-based 911 calls go to the town and county police forces, rather than to the Virginia Tech Police Department. This impedes the expedited response to 911 calls. A coordinated system—not fully in place yet—would prevent that confusion and decrease response time.<sup>17</sup>

• The help with victim recovery. The U.S. Department of Justice, Office for Victims of Crime, provided Virginia Tech with a \$2.65 million grant to fund assistance and recovery resources for victims of the shootings, among other necessary costs. 18 The Department of Justice grant was split between different university departments into the categories for security, health and wellness, and family services. 19

Facilities and equipment: \$6,391,451

#### University facilities and equipment costs

Base	One-time	Grants	Total
\$1,872,146	\$4,356,094	\$163,211	\$6,391,451

This category included renovations, cleanup, and relocations involving Norris Hall, the building where most of the killings took place. The second floor of Norris Hall remained dormant for months before a decision was made on what to do with it because there was considerable debate on campus as to what to do with Norris Hall. Should it be demolished? Should it be transformed into a memorial site? Should it be renovated and reopened for educational purposes? In the end the university decided to renew the 1960s-era limestone Norris Hall but not for general-purpose classes.<sup>20</sup>

In addition, the university made sure that West Ambler Johnston Hall, the dorm where Cho committed his first two murders, was cleaned up and returned to its original condition.<sup>21</sup>

The Norris Hall costs—\$1.84 million—included the relocation of numerous classrooms to other buildings, renovation costs, and building the offices for a newly created Center for Peace Studies and Violence Prevention. The Center for Peace Studies opened April 10, 2009. In addition to the Peace Center, six rooms were converted into a student center for science and mechanics students—the Dr. Liviu Lebrescu Student Engagement Center, named after one of the professors who was slain in the massacre.<sup>22</sup>

One of the largest capital expenditures was the replacement of handles and the addition of locks for the doors of the university's 150 major buildings (more than 20,000 square feet in size)—more than 1,000 doors. This was done so

that a future perpetrator could not trap students in a building and prevent law enforcement from entering, as Cho did on April 16. University door upgrades cost around \$2 million.

In addition, the student access system for residential halls was changed so that building and mailroom access are separately compartmentalized.<sup>23</sup> Previously a keycard was programmed on a singular basis, allowing access to mailrooms and dorm hallways of student rooms. The single-coded keycards were what allowed Cho to enter the dorm building where his first two victims lived.

Communications: \$2,519,524

#### **University communications costs**

Base	One-time	Grants	Total
\$640,219	\$1,879,045	\$0	\$2,519,264

An adept crisis communications and calming dialogue with students and families was critical to Virginia Tech's recovery as a 140-year-old institution of higher learning. The national media descended upon Blacksburg and the university campus right after the shooting and on milestone dates afterwards. For the two weeks following the tragedy, more than 1,000 reporters and 140 television satellite trucks were on campus. At commencement in 2007 more than 400 journalists returned to the campus.<sup>24</sup>

To cope with the intense media presence on campus, the university retained a consultant to help with press relations and logistics. The firm was retained for a year, and its fees were \$600,000.25

Like almost any complex (except for a military base), there was no uniform system in place to alert the Virginia Tech community of emergencies—whether it be a crime, storm, or other crisis. To remedy this, "VT Alerts" was created at a one-time cost was \$986,700.26.27 The alert system is very advanced. It reaches six university locations in Virginia—as far away as remote campuses in Arlington and Richmond.<sup>28</sup> Its messages are available in multiple ways: on the Virginia Tech website's homepage,<sup>29</sup> on digital message boards in classrooms and in frequented public spaces, and on mobile phones and computers.<sup>30</sup>

Legal and data retention: \$4,791,702

#### Legal and data retention costs

Base	One-time	Grants	Total
\$535,000	\$4,256,702	\$0	\$4,791,702

The university and the Virginia attorney general's office negotiated a settlement with attorneys representing the families for \$11.1 million, which fulfilled several concerns important to the victims' families. At the end of the negotiations, all but two of the families of the deceased agreed to participate in the fund and not file lawsuits. The university's share that was paid into the \$11.1 million settlement was \$3.3 million. The \$7.8 million balance came from the commonwealth of Virginia, which we account for on pages 14-15.

There are two outstanding and unaccounted-for costs that fall into this category. The university was fined \$55,000 by the U.S. Department of Education under the Clery Act, which requires universities to report known dangers in an expeditious fashion. The department rejected the university's appeal but an administrative judge reversed the fine, saying the school was not at fault.<sup>31</sup> A civil jury then ruled in favor of the families of two of the victims. The jury awarded each family \$4 million each, but the damages may be reduced to \$100,000 each under Virginia's cap for negligence awards. This has not been included in costs sustained by the university because, at this date, the case is still in litigation.<sup>32</sup> But it is clear that the appeal regarding the Clery Act and the civil action causes the costs of legal time on the part of the university and commonwealth to continue rising.

In addition, the university did not have a policy for keeping records of the hours attorneys spent on a matter the way that attorneys in private law firms log "billable hours." Thus the university's legal personnel time is not accounted for here. But hundreds of hours of work in the aftermath of the massacre were logged and continue to be logged.

Archiving: \$324,258

#### **Archiving costs**

Base	One-time	Grants	Total
\$0	\$324,258	\$0	\$324,258

Under the \$11.1 million family settlement, the university was required to put in place an extensive system for capturing, organizing, storing, and making accessible hundreds of thousands of documents, emails, interviews, police documents, and other materials. This was also required for legal reasons—to preserve records for outstanding litigation. The one-time costs were \$324,258 in addition to costs included in the legal and data retention category.

Family services: \$2,747,138

#### Family services costs

Base	One-time	Grants	Total
\$154,348	\$1,253,638	\$1,339,152	\$2,747,138

The university established an Office of Recovery and Support that continued its role as liaison to the families and especially the surviving students.<sup>33</sup> The families of the deceased and the survivors rushed to Blacksburg, and the university made various efforts to accommodate them. The Inn at Virginia Tech, a hotel and conference center, partially became a refuge for families to mourn, worry, and seek the help of counselors and clergy. It is owned by the university and was managed at the time by Hilton Hotels. The family center was open for 10 days and was operated by university staff and volunteers.

Campus health and wellness: \$7,426,361

#### Campus health and wellness costs

Base	One-time	Grants	Total
\$4,837,966	\$936,431	\$1,651,964	\$7,426,361

The university fulfilled a number of emergency mental health functions after the tragedy, sending counselors and professionals wherever there were people, students, and staff who may have been affected. This was done under the auspices of the Cook Counseling Center, a university entity. These professionals visited hospitals where survivors were recovering and went to speak at classes in which victims were students. From April through the summer, they covered 712 triages (a triage is an immediate psychological evaluation and placement based on condition) and more

than 120 calls from parents. In the year before the shootings, there were 14 hospitalizations based on mental health; in the year afterward the number swelled to 50.34

At the time of the massacre, the Cook Counseling Center had 27 people on staff, including senior management, psychologists, nurses, medical interns, and other staff.35 Four full-time mental health staff members were added at a total cost of \$1,540,246 over five years.<sup>36</sup> The university established a separate network to counsel staff and other campus community members affected by the loss.

All of the surviving victims returned to the university and ultimately graduated. The university believes that its extensive support system for the students was in part responsible for this achievement.<sup>37</sup>

Among the federal grants was a September 2007 award of \$960,685 from the U.S. Department of Education "to help the university improve its efforts to identify and help troubled students and staff." The goal was to develop a model for assessing and helping troubled students and staff that would be shared with other schools across the country. The study was released in November 2009.<sup>38</sup>

#### Other operational costs: \$3,172,402

#### Other operational costs

Base	One-time	Grants	Total
\$900,000	\$2,272,402	\$0	\$3,172,402

This miscellaneous category includes the following:

- As part of the settlement, the university paid for the lifetime health insurance costs for the survivors who sustained serious injuries totaling \$1,679,001. Not all of the survivors received the lifetime insurance benefit.<sup>39</sup>
- The operating costs for the new Center for Peace Studies and Violence Prevention, a cost of \$900,000 over four years.
- After the shooting the university needed full use of The Inn at Virginia Tech. This required the inn to cancel meetings and reservations at the hotel and conference center. This so-called business interruption cost was \$266,000.40

#### Volunteer services

Not all of the costs of the Virginia Tech massacre were covered by taxpayers. The outpouring of charity in the wake of the killings began almost immediately—the support and volunteers that helped it begin the process of recovery. Spontaneous gifts began to flow in from alumni and others in what would become the \$8 million Hokie Spirit Memorial Fund. 41 The memorial fund was administered on a pro-bono basis by Kenneth B. Feinberg, one of the nation's leading practitioners of mediation and alternative dispute resolution, who performed similar duties for the 9/11 Fund after the September 11 terrorist attacks.42

For family services and student counseling, more than 300 psychology professionals volunteered through the American Counseling Association and the Northern Virginia Campus Marriage and Family Therapy and Counselor Education clinics.43 We have not included the funds raised and spent by this memorial fund as part of the public or university cost of the massacre.

## Commonwealth of Virginia's costs

#### Calculating the costs to the commonwealth of Virginia

One-time costs	Total
\$9,465,500	\$9,465,500

Timothy Kaine, Virginia's governor at the time of the shootings, reacted vigorously to what happened at the largest university in his state. The state government and the university negotiated the \$11.1 million settlement with the families, along with university counsel. The commonwealth's share of the settlement was \$7.8 million.<sup>44</sup>

On April 18, 2007, two days after the massacre, Gov. Kaine appointed the Virginia Tech Review Panel to study the tragedy and come up with recommendations. Former Homeland Security Secretary Tom Ridge was on the panel, as well as a retired chief of the Virginia state police, W. Gerald Massengill, among others. Two firms helped the panel with its work—law firm Skadden, Arps, Slate, Meagher & Flom, 45 which did the work pro bono, and Tri-Data, a public-safety consulting firm. Tri-Data had previously conducted a similar research project about the Columbine High School shootings.<sup>46</sup>

The original cap on Tri-Data's work was \$400,000 but that ceiling was raised to \$465,000. When the work continued, culminating in the addendum report,<sup>47</sup> Tri-Data did the additional work valued at \$50,000 on a pro-bono basis.<sup>48</sup>

The Office of the Chief Medical Examiner estimated that the cost for performing the 32 autopsies on the victims, as well as one on Cho, was \$69,500. This included costs for supplies and travel.<sup>49</sup> The state also made reforms in the Office of the Chief Medical Examiner because of criticism that the number of deceased led to delays and further anguish for parents. Among other things, the panel criticized the medical examiner for not seeking outside help sooner.<sup>50</sup>

Immediately following the massacre, Virginia state police assigned a cost code to the event, which allowed them to maintain an accurate record of funds going toward the response and investigation. Upon completion of their involvement, the Virginia state police calculated their total expenditures at \$531,000.51 The state also developed a crisis-intervention training program so law enforcement would more effectively respond to emergency situations when mental illness is involved. This cost was \$600,000.52

## U.S. government costs

#### Calculating the cost to the U.S. government

One-time costs	Total
\$3,661,685	\$3,661,685

Departments of the federal government made several grants to the university to help it recover. These grants were embedded in Virginia Tech's Freedom of Information response and not double-counted in the \$48.2 million total.<sup>53</sup> Specifically:

- The U.S. Department of Justice, Office of Victims of Crime Services, provided a \$2.65 million grant to Virginia Tech to help it deal with the mental health issues of students and others affected by the tragedy.<sup>54</sup>
- The university received another grant from the U.S. Department of Justice of \$51,000 for the purchase of law enforcement hardware. 55

The U.S. Department of Education also awarded Virginia Tech a \$960,685 grant to help the university improve its efforts to identify and help troubled students and staff. The grant money was used to identify, treat, and monitor students, faculty, and staff with mental health issues who may be a danger to themselves or others. In addition, the funds have been used to improve coordination of mental health services. 56

### Health care costs

As stated earlier, the authors of this report sought to obtain the actual costs spent by agencies funded by taxpayers. This was not possible in all cases.

Medical care stemming from gun violence was one of the largest cost items that we were unable to obtain in exact terms, specifically the total cost of care for the 17 individuals who sustained gunshot wounds. A true cost might have violated the privacy of individual patients even if they were not named because the pool is relatively small—17 gunshot victims plus eight who were otherwise seriously wounded.

But there is another way to calculate these costs. A seminal study on the cost of gun violence was conducted by a team of experts and published in the Journal of the American Medical Association in 1999 titled, "The Medical Costs of Gunshot Injuries in the United States."57 The study is the most viable starting point for estimating the medical costs of Cho's spree killing.

This study estimated that the average costs involving a shooting is \$14,600 for emergency room treatment and \$35,400 for long-term care—or approximately \$50,000 per person.<sup>58</sup> If you apply this estimate to the 17 Virginia Tech victims wounded by gunfire, the total medical cost is \$850,000. The medical care inflation rate for the years between 1999 and 2007 was 40 percent. That means that when adjusted for inflation, the average medical cost of treating someone with a gunshot wound was \$70,000 in 2007, which brings the cost of treating all 17 people who were wounded and survived to \$1,190,000. These costs are all approximate.

The Journal of the American Medical Association study concluded that U.S. taxpayers pay 49 percent of the cost of caring for the victims of gun violence. Thus the taxpayers' bill in the Virginia Tech spree killing was \$583,100 (\$34,320 per shooting victim), adjusted for inflation.<sup>59</sup>

In addition to the 17 students and staff who were treated for gunshot wounds, another eight surviving victims were provided care at emergency room facilities for a range of injuries sustained during the shooting. Some students jumped from the second-floor window in Norris Hall. The average cost for an emergency room visit was \$1,265 per visit. Using the national estimate for emergency room visits, the total cost for the eight patients was \$10,120.60 The taxpayers' share is \$4,958, and after adjusting for inflation the cost is \$6,942.

Thus the total health care costs for 2007 are \$590,042.

#### Estimated health care costs

The cost of treating the wounded in the Virginia Tech killing spree based on the Journal of the American Medical Association's 1999 study, "The Medical Costs of Gunshot Injuries in the United States"

Years	Total	Taxpayers' share
1999–2007	\$1,190,00	\$590,042
2007–2011	\$1,368,500	\$670,565

If the exact same spree killing were to happen again in 2011, the total cost of health care would be \$1,317,520. The share of these costs borne by the federal and state government would be at least \$645,585—or \$37,976 per victim of the incident.<sup>61</sup>

These are difficult estimates to make because there are so many variables. For one, the amount of therapy, physical and emotional, needed to recover from a gunshot wound is unpredictable. The pace of the recovery of Rep. Gabrielle Giffords (D-AZ) after she suffered a bullet to the head in a January 2011 spree killing in Tucson, Arizona, is instructive. Rep. Giffords is still undergoing significant rehabilitation care. Little more than a year after the shooting, she decided to retire from Congress to devote full time to her recovery.<sup>62</sup>

Rep. Gifford's recovery is instructive on how different injuries vary, as do their costs. Ted R. Miller, who participated in the conduct of the Journal of the American Medical Association study, also conducted a study for estimating the health care costs involved in the Tucson spree killing. He said that "the high costs of treating firearm injuries stem more from long-term care, such as rehabilitation services, than from acute care, such as a visit to an emergency room."63 That was certainly true in the Tucson shooting.

## What can we learn from spree killings?

The massacre at Virginia Tech was, according to *The New York Times*, the deadliest spree killing in U.S. history.<sup>65</sup> But sadly, this massacre was not the last one of its kind experienced by our nation, even in the five-year period since April 2007, and all of which involved guns. One year ago there was the shooting in Tucson, Arizona, at a town meeting of Rep. Giffords called "Congress on the Corner," which left six dead and 13 wounded, including a gravely injured Rep. Giffords. In Carson City, Nevada, in September 2011 Eduardo Sencion killed five people and wounded seven, including National Guard members. In October 2011 Scott Evans Dekraai killed eight and wounded one at the Salon Meritage in Seal Beach, California, in a domestic dispute that grew into a spree killing.

In fact, including Cho's rampage, there have been a total of 13 spree killings that have left 127 dead and 109 injured since April 2007.

One of the reasons for looking at the Virginia Tech spree killing was that it gives us an opportunity to examine gaps in the system and the real-life economic consequences of those failures. The message is as loud as a gunshot from any of the 13 spree killings since 2007, including the Virginia Tech massacre—the post-Virginia Tech tragedy reforms are not enough. 66 The reforms we offer in this paper, however, would reduce gun violence—whether it's a campus spree killing leaving 32 dead or one that ends a single law enforcement officer's life.<sup>67</sup> Our reforms can reduce rampages such as the killing of eight at a hair salon arising from a domestic dispute or the shooting of a mother held up at a drive-through ATM and shot dead.<sup>68</sup>

Another reason we focus on spree killings is because they capture the attention of the nation. This is similar to other shootings that receive national—and sometimes worldwide—attention. It is dispiriting that Americans are numb to the much more common examples of gun violence, but these headline-grabbing jolts

to the nation have brought reform. They broke the nation's hearts and led to the common-sense gun control laws detailed on page 22 of this report.

In addition, spree killings are a magnified mirror of what triggers gun violence generally by disturbed individuals. The three main categories are as follows (see Appendix B on page 46 for the details of each spree killing listed below):

- Alienated students in either high school or college (Oikos University, 2012; Chardon High School, 2012; Northern Illinois University, 2008; Virginia Tech, 2007; Columbine High School, 1999; Thurston High School, 1998)
- Domestic conflict (Salon Meritage, 2011; Grand Rapids, 2011; Luby's Cafeteria, 1991)
- Workplace issues (University of Alabama, 2010; Hartford Distributors, 2010; Edgewater Technology, 2000; Xerox, 1999; Connecticut Lottery, 1998; CalTrans, 1997; Standard Gravure, 1989; Edmonds Post Office, 1986)

Just as there is a strong link between severe mental illness and Cho's massacre, mental illness is a common denominator in gun violence generally. A study by the University of Pennsylvania reported that there were 148,300 people in our nation's state prisons who had been sentenced for murder. Of those, approximately 16 percent had severe mental illness. A more comprehensive and reliable background check system will no doubt have a positive effect on gun violence across the board.<sup>69</sup>

The group of young people ages 15 to 24 who commit suicide is another tragic example of the consequences of allowing a gun to be put into the wrong hands. As of 2005 in the 15-24 age group, suicide was the third-leading cause of death, behind accidental death and homicide. A firearm was the most commonly used method for suicide, constituting 49 percent of deaths in this age group.<sup>70</sup>

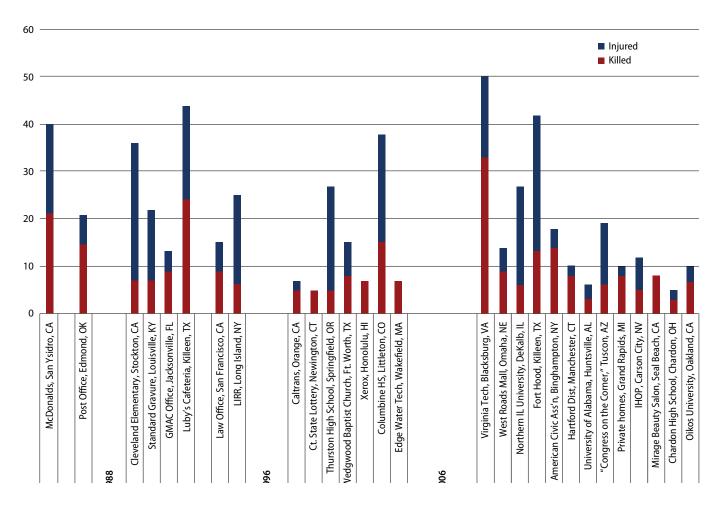
It is our hope that this first-ever study on the public costs of a spree killing may be part of a new call to action to fill the gaps that persist in the background check system. Commonsense solutions can fulfill the 43-year (since the Gun Control Act of 1968) consensus about the small minority of people in America who should not be able to buy a gun. Saving lives is worth keeping at it until we get it right.

#### The rise of spree killings in America

The date and location of spree killings with the number of dead and injured between 1984 and 2012

#### The rise of spree killings in America

The date and location of spree killings with the number of dead and injured between 1984 and 2012



These senseless massacres leave in their wake a tsunami of hurt and pain; severe collateral damage; and the loss of precious, irreplaceable lives. Shootings of this type are called "spree killings" because they involve continual gunfire (usually from semiautomatic pistols with super-sized ammunition clips and less often with automatic weapons) in a concentrated period of time.<sup>71</sup> That's why gun control laws—and governmental practice—must be consistent with the realities of gun violence, spree killings, and individual homicide.

#### The development of federal gun laws

We now turn to a discussion of how the ambiguity in federal law and the way state and local government and the courts interpret it (or try to) failed in the Virginia Tech massacre—and, in some ways, the other spree killings that occurred afterward. The starting place is the evolution of the law governing the ownership of firearms.

The possession of guns is one of the most contested issues in America, but there is consensus that mentally troubled individuals and those with crime records should not be able to have a gun. This agreement has been engraved in federal law since the Gun Control Act of 1968, refined in the Brady Act in 1993, and then again in the law signed by former President George W. Bush following the Virginia Tech spree killing. The law has evolved in the following ways:

- The Gun Control Act of 1968: The assassinations of former President John F. Kennedy, civil rights leader Martin Luther King Jr., and former Sen. Robert Kennedy (D-NY) in the 1960s inspired passage of the 1968 gun control law. This law sets out nine categories of people who, because of their potential future dangerousness, are banned from purchasing a firearm. They include those "adjudicated as a mental defective," who have "been committed to a mental institution," who are mentally ill (worded as "mental defected"), who have been convicted of certain serious crimes, fugitives, drug abusers, and individuals involved in domestic abuse.<sup>72</sup>
- The Brady Handgun Violence Prevention Act of 1993: The "Brady Law" was named after former President Ronald Reagan's irrepressible press secretary James Brady. Brady was severely wounded by a mentally disturbed gunman who tried to assassinate the president. The law created a program called the National Instant Criminal Background Check System, or NICS, which collects data from state governments and federal agencies of individuals who sit in the nine categories identified in the 1968 law. 73 In a political environment hostile to gun control laws, it could even be argued that some states took advantage of the vague set of laws to enforce them loosely.
- The National Instant Criminal Background Check System Improvement Amendments Act of 2007: This post-Virginia Tech massacre law seeks to improve compliance with the background check system by giving the U.S. attorney general the authority to make grants to states to enable them to build the capacity and incentivizes state compliance to submit a complete inventory of

all required records to this background check system. It was passed in late 2007 and signed into law by former President George W. Bush in January 2008.<sup>74</sup> The Virginia Tech tragedy brought to the negotiating table not only the Brady Campaign to Prevent Gun Violence but also the National Rifle Association—no one could close their eyes to what had happened.

But the background check system is only as good as the records that are in it—and when it comes to mental health records, the system is not meeting the vision of the Brady or Gun Control acts. In addition, the laws remain murky so that the states end up not meeting the law requirements. (see sidebar)

#### How the background check system works today

The Federal Bureau of Investigation administers the National Instant Criminal Background Check System. Licensed gun dealers must conduct background checks before selling to a prospective purchaser and must refuse sale to people who fall into one or more of the following categories:

- Felons
- · Fugitives from justice
- People addicted to or unlawfully using controlled substances
- · Individuals adjudicated as a "mental defective" or who have been "committed to a mental facility"
- People in the country illegally
- Dishonorably discharged soldiers
- People who have renounced U.S. citizenship
- Domestic violence abusers subject to a protective order
- Domestic violence abusers convicted of a misdemeanor crime of domestic violence

This is how the background check system works from the purchaser's point of view: An individual seeks to purchase a gun from a federally licensed firearms dealer. The dealer will call the National Instant Criminal Background Check System directly to process the request or submit the individual's requisite information to the NICS e-check system. In turn, the system will search the databases and report back to the dealer approving the sale, denying it, or issuing a three-day hold to conduct a final determination.

The FBI says that a background check can be completed in 30 seconds in most cases. On the NICS e-check system, 92 percent of inquiries are given an instant answer. In unusual cases a purchaser may have to wait up to three business days for an approval or denial. In 2007 the system denied 66,817 purchases. In 2009, one year after the National Instant Criminal Background Check System Improvement Act went into effect, the system denied 67,324 purchases. In 2010, 72,659 purchases were denied.75

The most significant gap, however, is that the states are failing to report mental health disqualifications. In a report reissued following the Virginia Tech tragedy, the think tank Third Way reported that states are failing to report some 2.1 million records that would disqualify people because of mental illness. That means that 91 percent of those found to be mentally ill would be able to buy guns from licensed dealers.<sup>76</sup> In its most recent report, titled "Fatal Gaps," Mayors Against Illegal Guns stated that there has been improvement since 2007, but 1.5 million records that should be in the system still are not reported. The report states that "twenty-three states and the District of Columbia have submitted fewer than 100 mental health records as of October 31, 2011."77

Thus the key is whether the National Instant Criminal Background Check System receives a disqualifying record from the states or federal agencies.

## Analysis of the background check system that failed Virginia Tech

Our report now looks specifically at how the background check system failed in the Virginia Tech case by examining Cho's purchases and mental health history. We also look at how background checks failed us in other cases, including the January 2011 Tucson tragedy.

#### Cho's mental health history

To purchase a weapon in America, we all must pass a background check that tests mental illness and criminal history, among other factors. Cho was mentally ill and was found to be so in a written court order. A detailed summary of Cho's mental health history can be found in Appendix A, on page 40.

Seung-Hui Cho, an extremely quiet boy, was diagnosed with selective mutism when he was in eighth grade. He went to counseling centers, but his anxiety disorder related to talking made traditional talk therapy impossible, and he was treated with art therapy. The antidepressant Paroxetine was prescribed for him. His writings were violent and ominous. In high school he celebrated the April 1999 shootings at Columbine High School in Jefferson County, Colorado—the spree killing by two mentally disturbed students that resulted in 15 dead and 23 wounded. He called the Columbine killers "martyrs."

Cho's mental state—at least as evidenced by his experiences with the Northern Virginia mental health services and in his writings—did not interfere with his ability to finish high school, graduating with a 3.5 grade point average and getting accepted into Virginia Tech. His parents and counselors opposed this choice because the school is so large—official enrollment is more than 28,000 students. Because Cho's socialization skills were so meager, the question was: Could he make it there?

It soon became clear he could not. One of his professors, the noted poet Nikki Giovanni, threatened to resign if Cho was not pulled from her class because she found his classroom demeanor "menacing." After a struggle, Cho withdrew from Giovanni's class rather than being ejected. Cho also wrote disturbing text messages to two female classmates, which were rebuffed. The sequence of events in December 2005 involving this rejection is important in understanding how Cho's encounters with the mental health and law enforcement worlds failed to react:

- Police told him to cease contact with a woman he seemed to be stalking. After this, he told a suitemate he "might as well kill himself."
- Cho's suitemate reported his suicidal comments to the Virginia Tech Police Department.
- Police took him to the VTPD headquarters.
- A campus police prescreener evaluated him as being a danger to himself or others. She called a magistrate who agreed to issue a "temporary detention order" which stated he was mentally ill and ordered him to stay at an overnight mental health facility, the Carilion St. Albans Behavioral Health Center, where he spent the night.
- The next day he was evaluated, and a special justice held a commitment hearing. The special justice checked a box indicating that Cho was an "imminent danger to himself as a result of mental illness." But the special justice decided on the "least restrictive" alternative—outpatient care—and it was recorded as an order.
- Specifically, the special justice filled out the "Certification and Order for Involuntary Admission to a Public or Licensed Private Facility" as follows. Under that, Barnett checked the box that said, "There is a less restrictive alternative to involuntary hospitalization in this case," and wrote by hand, "court ordered OP" [outpatient care].
- The outpatient order was not reported to the state police because the practice in Virginia was to report only inpatient involuntary commitments.<sup>78</sup>
- Cho's encounter was not added to the FBI's National Instant Criminal Background Check System.

The order for outpatient care issued by the special justice received a great deal of attention in the wake of the Virginia Tech massacre, but there was another order that did not receive as much scrutiny.<sup>79</sup> On the evening of December 15, 2005, the Virginia Tech Police Department picked up Cho and took him to the department headquarters. Voluntarily, he submitted to an interview with a prescreener. The prescreener obtained a "temporary detention order" by phone from a magistrate. 80 That order stated the following:

- Cho was mentally ill.
- He was in need of hospitalization.
- He was an imminent danger to self or others.
- He was "incapable of volunteering or unwilling to volunteer for treatment."

The order—which directed the police department to the Carilion St. Albans Behavioral Facility—was issued at 10:12 p.m., and Cho was transported to the Carilion facility, where he spent the evening.<sup>81</sup>

The rationale for why the December 17 order issued by the special justice was not reported was that it was an order for outpatient treatment and therefore was not sent to the state police for processing in the National Instant Criminal Background Check System. But the "temporary detention order" is more specific. It stated that Cho was mentally ill and ordered him to be taken to an overnight facility. It is hard to understand why this was not forwarded for inclusion in the FBI's instant background check system.

An FBI spokesperson told *Newsweek* that while they depend on the states to interpret what records need to be sent, "based on what we now know, it would seem that it would have been a record that should have been in the NICS."82 After reviewing this sequence of events, the review panel appointed by Gov. Kaine following the massacre concluded that "Cho, a person disqualified from purchasing firearms, was readily able to obtain them." (see box on next page)

#### Cho's weapon and ammo purchases

Found mentally ill by court officials who issued orders to that effect, Seung-Hui Cho should never have been able to purchase a gun. But he did. In 2007 Cho started to plan something big.

Cho ordered a .22-caliber Walther P22 handgun online from TGSCOM, Inc. He passed his first background check on February 9. Cho picked up the handgun at a pawnbroker in Blacksburg called JND Pawnbroker, directly across the street from the Virginia Tech campus.

One month later, on March 13 Cho purchased a 9mm Glock 19 handgun at Roanoke Firearms and a box of 50 9mm full metal jacket rounds. This purchase was subject to the Virginia law 30-day waiting period because of the prior purchase of the Walther. Roanoke Firearms initiated the background check. The report came back without any reasons why Cho should not be able to buy this gun.

Donna Tate of the Virginia state police told The New York Times, "we determined Mr. Cho to be lawfully eligible to purchase a gun on two occasions," referring to the Glock 9mm handgun and .22-caliber Walther pistol recovered after the shootings. She said it was the court's responsibility to determine which records go to the state police.83

On March 22, 2007, Cho made his first purchase of high-capacity magazines. He practiced at an indoor pistol range. On April 8 Cho spent the night at a motel and videotaped his furious diatribes. On April 14 a faculty member spotted an Asian American male wearing a hooded

garment in Norris Hall in the northern part of the campus but did not report any suspicions. That day Cho bought even more ammunition.

The short history of Cho's gun and ammo purchases is evidence of his careful planning. Under the law at the time, Virginia gun purchasers cannot buy two guns within a 30-day period.84 He picked up the first gun (the Walther) on February 9 and then bought the Glock on March 13—a time gap of 32 days. This may indicate that he had researched the gun laws and knew about the 30-day waiting period.

To achieve his mission, Cho needed the loaded magazines. In the second shooting in Norris Hall, he had a little less than 400 rounds of ammunition in preloaded 15-bullet magazine holdings. Police estimated that he fired 174 bullets, leaving behind 17 magazines and 2 full ones. The Norris Hall shooting occurred in no more than 12 minutes.85

Finally, Cho selected 9mm hollow point ammunition, which increased the severity of the injuries. The bullets are especially dangerous because the hollow aspect makes the tip split, causing severe injury. The purpose of a hollow point bullet is so that it will be more likely to remain in the target's body and maximize internal injuries. In a survivor (even a momentary one) the pain is excruciating, and Cho knew it. In one of the communications he sent to NBC News, he referred to his use of the hollow point bullets: "All the [shit] you've given me, right back at you with hollow points."86 This aspect of Cho's methodical planning is evidence of the gravity of his mental breakdown and bitterness. (See Appendix B on page 45 for a timeline of Cho's spree killing)

#### Background checks: Ambiguity and haphazard application

In Cho's case the criminal justice system had two bites of the apple to prevent Cho from buying a gun, both based on his mental illness. First, a magistrate issued an order saying he was mentally ill and directed in an order that he stay overnight at a mental health facility. That order was never sent to the state police or the National Instant Criminal Background Check System.

The second bite happened when the special justice issued an order saying he was mentally ill and ordered outpatient treatment. This, too, was never sent to be placed in the background check system. In spite of the language in the federal law, the bureaucracy and concerns about vagueness in what is intended as a reportable mental health record caused the system to fail.

In the days following the killings, Gov. Kaine sought to clarify how the law would be administered in the state post-tragedy. He ordered executive branch employees, including the state police, to gather information on outpatient orders and to treat such orders as a disqualification from buying a covered firearm. As a result, the court forms were amended to make it clear that outpatient orders must be reported to the state police.87

#### Tucson shooter Loughner also slipped through the gaps

The spree killer who shot Rep. Giffords, Jared Lee Loughner, also slipped through gaps in the background check system. Loughner purchased his Glock 19 from Sportsman's Warehouse on November 30, 2011. Loughner was able to walk into the chain retailer and leave the same day with the Glock and a 33-round high-capacity magazine, along with the ammunition he used to kill six people and wound 13 others,88 including Rep. Giffords.

Pima Community College in Tucson connected the dots enough in Loughner's case to request that he get a mental health report saying he was not a danger to others after reports of his increasingly alarming conduct. When the report was not forthcoming, the school told him to leave based on his violent conduct in classes. The police

arrested him on a drug paraphernalia charge but he was placed in a pretrial diversion program, which led to dismissal of the case.89

He was then rejected by the U.S. Army because he admitted he used drugs to recruiters, but the Army did not report this to the National Instant Criminal Background Check System. 90 Federal law requires all federal agencies to report information about drug abuse, among other indicators.91

And so he was able to buy his Glock and 33-bullet high-capacity magazines. He fired 31 bullets, killing six, including a federal judge and 9-year-old Christina-Taylor Green. He wounded 13 others, including Rep. Giffords.92

## Policy recommendations

The extraordinary human toll and monetary costs incurred from the Cho spree killing are substantial and suggest that either the background check system or those responsible for its enforcement aren't working. In the case of the Virginia spree killing, we conclude that there were two main causes for Cho's ability to perpetrate the worst mass gun killing in American history: the ambiguities and the application of the background check system—in this case relating to mental health records—and the once-again-legal use of the high-capacity magazines.

Spree killings, and gun violence in general, can be reduced with commonsense reforms to the National Instant Criminal Background Check System for those seeking to purchase guns. Similarly, banning high-capacity ammunition clips—as federal law did from 1994 to 2004—is a reasonable solution that we should enact again.

The Center for American Progress recommends the following policy initiatives based on the lessons of the Virginia Tech experience. They improve upon or return to tested measures where there had been some consensus on an issue on which consensus has been elusive.93

#### Improving the background check system

The precise policy recommendations are described in more detail below but are outlined here:

- Ensure state compliance with requirements to post appropriate mental health records in the National Instant Criminal Background Check System<sup>94</sup>
- Establish clear reporting guidelines for when and how mental health records are required to be posted in the National Instant Criminal Background Check System so that states can be held accountable for compliance

- Require that all gun transactions, including private sales at gun shows and those online, include a full background check so that dangerous persons cannot purchase guns legally in these nontraditional venues
- Fully fund state technology efforts to comply with the federal background check system requirements
- Require states to comply with National Instant Criminal Background Check System protocols or lose federal funding as a consequence
- Mandate all federal agencies to comply with a proposed presidential executive order directing all agencies to submit records to National Instant Criminal Background Check System and certify that they have done so twice yearly to the U.S. attorney general

In addition, at least two other recommended congressional actions arise from the lessons of Virginia Tech.

- Outlaw high-capacity bullet magazines
- Require campuses to establish a threat assessment process

We further believe our analysis proves conclusively that the recommendations that close this paper must be enacted quickly before more killers with a mental health history and those with criminal records strike again. These recommendations would also prevent perpetrators of gun violence—perhaps not engaged in spree killing but should not legally be able to own a gun—from purchasing a firearm. In addition the taxpayers will not be burdened with the huge costs of gun violence.

Two factors enabled Seung-Hui Cho to carry out his plan for a mass killing at Virginia Tech: the ambiguity in the background check system about what states, localities, and courts are required to report, and the sunset of the law barring the purchase of high-capacity magazines. The legal-again magazines enabled him to turn two semiautomatic pistols—surely legal if purchased by a qualified buyer—into killing machines. These are ingredients common to many spree killings. The same gaps are available to individuals who have a history of dangerousness based on criminal activity or mental health illnesses who go on to commit a one-person homicide or gun violence arising from other crime (drugs, gangs, domestic arguments).

The Virginia Tech massacre—and other spree killings—offer vivid examples of the problems that occur because of gaps and uncertainties in terms of cost and human loss. This report presents several policy recommendations. Many of the recommendations are included in legislation introduced by Sen. Charles Schumer (D-NY) and Rep. Carolyn McCarthy (D-NY), called the Fix Gun Checks Act of 2011.95 That legislation seeks to ensure that all individuals prohibited from gun ownership be listed in the National Instant Criminal Background Check System database. We were also guided by recent report, titled "Fatal Gaps," issued by Mayors Against Illegal Guns and led by New York City Mayor Michael Bloomberg and Boston Mayor Thomas Menino.<sup>96</sup>

Finally, the Massengill Report on Virginia Tech made similar recommendations as we do above, including the following:

- Virginia should require background checks for all firearms sales, including those at gun shows.
- A voluntary admission to a mental facility should be reported.
- Federal incentives should ensure compliance so that all of the indications of dangerousness are reported to the National Instant Criminal Background Check System.
- Virginia should have the power to bar guns on campus—a tug of war between the commonwealth and Virginia Tech, but in July 2011 the state attorney general ruled that universities lacked the authority to bar guns, which was overruled by the state Supreme Court. In March 2012 Virginia Tech imposed a ban on firearms on campus, close to five years after the spree killing.<sup>97</sup>

On the incentives recommendation, the report said, "In a society divided on many gun control issues, laws that specify who is prohibited from owning a firearm stand as examples of broad agreement and should be enforced.98

Improving the National Instant Criminal Background Check System Improvement Act of 2007

There needs to be an upgrade of the law governing the background check system. The post-Virginia Tech massacre law was a good incremental advance, mostly by "providing assistance to States to improve the completeness, automation and

transmittal to state and federal systems," according to the Department of Justice.99 But it is time for another look at the background check system. The way Seung-Hui Cho traveled easily under the radar to purchase guns is just one route an individual with a history of mental health issues can take. Jared Lee Loughner's purchase and preparation for his own spree killing is another.

First and foremost, reporting records to the National Instant Criminal Background Check System must be boosted and accelerated. Computers can only do so much, even today. Every time a record of mental illness or a police record does not make it to its final destination at the background system's headquarters in Clarksburg, West Virginia, the likelihood of gun violence increases. The problem is not that the indicators of violence encompassed in records are too narrow. In fact, the Gun Control Act of 1968 did a good job of enumerating the nine categories of people who are barred from purchasing guns. 100 With those principles in mind, we recommend the following reforms:

- Issuing clear guidance on reporting requirements
- Creating the most direct routes for record reporting
- Requiring background checks for all commercial gun exchanges
- Fully funding state compliance with federal law using money appropriated by Congress

Let's detail each recommendation briefly in turn.

#### Making reporting requirements guidance more clear

The U.S. Department of Justice should issue clear guidelines to states and all agencies and institutions in the record-reporting pipeline about which records must be submitted for inclusion in the database. A clear example of the need for this is the experience at Virginia Tech. An ambiguity arose in the Virginia Tech massacre about an order that said Cho was mentally ill, but a bureaucratic distinction was made between inpatient and outpatient treatment, and Cho's record never left Blacksburg, Virginia. Such an ambiguity can be lethal, and it was.

Moreover, an order was issued which did contain an order for confinement based on a finding of mental illness. It must be clear that an order that disqualifies a buyer based on state or federal law must be reported, even if an order is limited in time relating to involuntary confinement. Mentally ill is mentally ill.

#### Creating the most direct routes for record reporting

The long and winding road of how a record gets into the system must be made more direct. For mental records it may be beneficial if mental health practitioners and facilities were required to send the records directly to the National Instant Criminal Background Check System. This would make for a more comprehensive NICS database and would speed up the process.

It may be that the Health Insurance Portability and Accountability Act of 1996 and the Family Educational Rights and Privacy Act of 1974 would need to be amended or its regulations clarified. The purpose: A gun purchaser should be required to waive any privacy rights in the form required for purchase of a gun. In the United Kingdom after a spree killing in western Great Britain, the medical community agreed to report individuals with mental illness who they know to possess a gun.<sup>101</sup>

#### Requiring background checks for all commercial gun exchanges

Background checks must be expanded to all commercial gun purchases, including those at gun shows, flea markets, private sales, sales though newspaper advertisements, and online purchases. 102 In addition, President Barack Obama should issue an executive order directing all federal agencies to submit records to the National Instant Criminal Background Check System and certify that they have done so twice yearly to the U.S. attorney general. The federal government must be a leader in the reporting process—in the effort to save lives. How can it credibly press states to report gun purchase disqualifications if it is not doing so itself?

#### Fully funding state compliance with federal law using money appropriated by Congress

Congress must provide full federal funding to enable states to comply with the background check aspects of federal gun control laws. In fiscal years 2009, 2010, and 2011, Congress authorized spending \$937.5 million to help states improve their reporting to the National Instant Criminal Background Check System. 103 Yet Congress only appropriated a total of \$50 million for those three years, or about \$1 million short of the public costs we accounted for in the Virginia Tech massacre.

In addition, at least two other recommended congressional actions arise from the lessons leading up to the Virginia Tech massacre:

- Outlawing high-capacity bullet magazines
- Requiring campus threat assessment processes

Below are the details of these two recommendations.

#### Outlawing high-capacity bullet magazines

The ban on the sale of high-capacity bullet magazines (11 bullets or more) expired on September 13, 2004, when Congress failed to renew the law. Congress must act to reinstate the ban, which was effective in Virginia until it lapsed. The Washington Post analyzed a database maintained by the Virginia state police and found that the number of weapons seized with high-capacity rounds declined markedly during the 10 years the ban was in effect but increased in 2004 once the law lapsed. "Of the seized Virginia weapons, 2,000 had magazines with a capacity of 30 or more bullets," said the newspaper. In 2010, six years after the law lapsed, 22 percent of the weapons recovered by police had magazines. As the law was expiring in 2004, the rate was at a low of 10 percent.<sup>104</sup>

Legislation has been introduced to reinstate the assault weapons ban, and there is also legislation to specifically ban the high-capacity bullet magazines. The Large Capacity Ammunition Feeding Device Act, H.R. 308, was introduced by Rep. Carolyn McCarthy (D-NY) in the 112th Congress immediately following the shooting of Rep. Giffords. Sen. Frank Lautenberg (D-NJ) introduced the same legislation in the Senate. 105 Six states limit access to high-capacity magazines already— California, Hawaii, Maryland, Massachusetts, New Jersey, and New York. 106

#### Requiring campus threat assessment processes

Universities and similar educational institutions receiving federal funds should be required to put in place a mental health threat assessment system to identify individuals in the campus community who might present a danger to others. The idea behind the threat assessments is to pick up conduct by a student (or other members of the campus community) that is unreasonable and outrageous. A threat assessment team would monitor the student and intervene with resources if/when necessary.

In Cho's case there were numerous examples of hostile actions such as his conduct in the class of poet Nikki Giovanni. The professor found Cho's conduct "menacing," and other students failed to attend the class because of Cho's behavior. Under a threat assessment system—such as the one recommended for Virginia Tech once a student is identified as being in distress, there would be a system linking a troubled student to appropriate medical and counseling services.

Moreover, parameters should be established that guide how and when professors who encounter aberrant, dangerous, or threatening behavior should be required to report that behavior to the dean of their departments, and it should be clear that the professor would not be violating any student privacy regulations. 107

## The way forward

A range of scholars and law enforcement professionals argue that upgrading the background check system and renewing the ban on high-capacity magazines would be effective in curbing gun violence. Following the "Congress on the Corner" spree killing in Tucson earlier this year, for example, two Georgetown University law professors, Lawrence O. Gostin and Katherine L. Record, wrote an article republished in the Journal of the American Medical Association. It said the existing background check system is ineffective, but that there are ways to reform it, including withholding federal funding for incomplete reporting to the National Instant Criminal Background Check System, and ensuring more rapid and reliable background checks.

The two professors also support banning high-capacity magazines and closing the gun show loophole. The authors believe these commonsense measures would be upheld by the U.S. Supreme Court. 108 On high-capacity magazines, even the attorney arguing against the D.C. gun law before the U.S. Supreme Court, Robert A. Levy of the libertarian CATO Institute, has said, "I don't see any constitutional bar to regulating large-capacity magazines. Justice [Antonin] Scalia made it quite clear some regulations are permitted. The Second Amendment is not absolute."109

New York City Mayor Michael Bloomberg is a fierce advocate for measures to end gun violence, including ways to improve background checks. John Feinblatt, a top policy assistant in Mayor Bloomberg's office, said, "We have a background check system that's like Swiss cheese. There are more holes than cheese."110

On high-capacity magazines, Los Angeles Police Chief Charlie Beck told a press conference that "there is no reason that a peaceful society based on the rule of law needs its citizenry armed with 30-round magazines." He said they transform a gun into a weapon of mass death rather than a home-protection-type device."

High-capacity ammunition is also not needed or appropriate for hunting. According to the Brady Campaign, "They are useful for criminals and others intending violent attack, but are not needed for hunting or self-defense."112

Public opinion also is overwhelmingly supportive of banning high-capacity ammunition, including gun owners. Following the Tucson shooting, Mayors Against Illegal Guns released a public opinion survey conducted on a bipartisan basis. Ninety percent of gun owners surveyed favored correcting the "gaps in government databases that are meant to prevent the mentally ill" from acquiring firearms.  $^{113}\,$ 

Clearly, it is time to act—before another individual as mentally troubled as Cho or Jared Lee Loughner, guns in hand, commits the next spree killing.

#### About the authors

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## Acknowledgements

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# Appendix A: Mental history of Seung-Hui Cho

Seung-Hui Cho, born in Seoul, South Korea, was a shy, quiet and troubled boy. When he was 9 months old, whooping cough progressed to pneumonia, and he had health problems from then until he was 3 years old. The family moved to the United States in 1993, when he was 8 years old. They settled in Maryland and then moved to Fairfax County in Northern Virginia. 114 His parents told Virginia Gov. Kaine's review panel, through Cho's sister as translator, that he was quiet but sweet and responsive at home.115

### Cho's mental health in primary and secondary school

In sixth grade, Cho was observed as withdrawn and at times would not talk at all. He was sent for counseling at the Center for Multicultural Human Services near his home. 116 He was diagnosed with selective mutism, a childhood disorder characterized by an inability to speak in certain settings such as at school while able to speak in more intimate places, such as at home with family. 117 He was also diagnosed with "social anxiety disorder."

In 1999 his writings in eighth grade first revealed his suicidal and homicidal "ideations;" his words celebrated the mass killing at Columbine High School. 118 According to an ABC News report, a student saw him write in his notebook, "'F' you all, I hope you all burn in hell," which the student assumed meant his fellow students. The classroom teacher saw the writing and took Cho out of the room. A member of the review panel who spoke to Cho's family, Dr. Bela Sood, told ABC News that Columbine "set off in his mind the fantasies around suicide and homicide." 119

Cho received a psychiatric evaluation and was prescribed the antidepressant Paroxotine. At Westfield High School in Fairfax, Virginia, he was classified with an "emotional disability" and was enrolled in an Individual Educational Program to deal with his shyness and refusal to talk in a classroom setting. He was treated with art therapy because his selective mutism made talk therapy impossible. He

continued counseling with the Multicultural Center for Human Services through his junior year. There are reports that Cho was the subject of bullying and teasing, according to students who knew him. Notwithstanding his social issues, he scored well on the SATs and graduated from high school with a 3.5 grade point average.

Cho decided to go to Virginia Tech. This concerned his parents because they did not feel his quiet nature would thrive in such a large school environment, but Cho won out. In records the high school transmitted to Virginia Tech, they did not check boxes indicating Cho had any emotional or mental issues—specifically the boxes for "discipline" or "special education" were not checked. The review panel did not criticize the school for the way it filled out the record but questioned the policy. 120

## The question mark kid: Cho's mental health history at Virginia Tech

Cho's parents were right that their son was not set out to be a Hokie. Virginia Tech is a big school in a small town called Blacksburg, Virginia. The university is home to the famed Hokie football team and has a tradition of vigorous student involvement in campus and community life that is embodied in its motto, "That I May Serve." The on-campus student enrollment is a 28,650, and including personnel the university community swells to 40,000.121 Its broad and diverse student body includes a significant percentage of people from the Asian American community—7.3 percent—and the nonresident foreign population makes up another 7.7 percent. 122

Virginia Tech is the largest university in the state. It sits on 2,600 acres. There are 150 major buildings, and it has its own airport. The university is more than 40 miles from the more metropolitan city of Roanoke, and some 250 miles from Cho's family home in Fairfax County. Thus Virginia Tech is intensely campuscentric, and its large student population can be challenging to someone with less experience and talent in socialization such as Cho.

Cho would go to parties at school but would inevitably sit by himself in a corner. Cho's inability to integrate into this environment led to increasing isolation, and his behavior became progressively troubling to students, faculty, and, eventually, the police. He was developing a history of mental health issues on campus, which ultimately resulted in contact with the Virginia Tech Police Department. The following are milestones in Cho's mental health history while at Virginia Tech.<sup>123</sup>

#### 2003 to 2006

In August 2003 Cho began as a business information systems major but later switched to an English major due to his interest in writing and literature. In October 2003 Cho became a student in the class of noted poet Nikki Giovanni. Some of his poems were violent and upsetting. He came to her class wearing reflector sunglasses and a hat covering his face. Students stopped attending Giovanni's class, and when she asked why, the answer was that they were scared of Cho. Giovanni threatened to resign if the department didn't remove Cho from the class. Ultimately, Cho dropped out.

The instinct of Giovanni's students to feel fear was well-founded. His bitterness towards them was profound. He ranted, "You had everything you wanted. Your Mercedes wasn't enough, you brats. Your golden necklaces weren't enough, you snobs. Your trust fund wasn't enough. Your vodka and cognac weren't enough. All your debaucheries weren't enough."124

In the fall of 2004, he submitted an idea for a book to a publishing house. But in the spring of the next year, his sister saw a letter from a New York publishing house rejecting his idea. This seemed to depress him. In the fall of 2005, things turned for the worse. The review panel titled this chapter "Storm Clouds Gather."

He went to a party and then joined a smaller group of students in a woman's dorm room. He sat alone and took out a knife, stabbing the rug. Then on November 27, 2005, Cho sent an uninvited and inappropriate text message to a female student, and she reported the "annoying" communications. He went to her room appearing at the door wearing his mirrored sunglasses and a hat, reading "I'm Question Mark." The student and her roommate told him they were going to call the police.

Later the student reported receiving unsigned messages on Facebook from someone she thought to be Cho. She asked if it was Cho, and the reply was anonymous—"I don't know who I am." Someone wrote on an eraser board outside her room, lines from Shakespeare's "Romeo and Juliet"—"By a name, I know not how to tell thee who I am."

On December 12, 2005, the female student complained to the Virginia Tech Police Department. On December 13, 2005, the Virginia Tech Police Department met with Cho and directed him to have no more contact with her. Cho then told a suitemate that "I might as well kill myself now," and the suitemate alerted the campus

police. Police officers took Cho to the police department and then New River Valley Community Services Board. A prescreener evaluated him as being an "imminent danger to himself and others." A magistrate issued a "temporary detention order," and he was transported to the Carilion St. Albans Behavioral Health Center.

On December 14, 2005, at Carilion a prescreener concluded that Cho was mentally ill but not a danger to others or himself, and did not require involuntary hospitalization. Special justice Paul Barnett held a commitment hearing and followed the counselor's recommendation about dangerousness. When he filled out the order, a "Certification and Order for Involuntary Admission to a Public or Licensed Private Facility," he checked a box that said Cho was an "imminent danger to himself as a result of mental illness." Under that, Barnett checked the box that said, "There is a less restrictive alternative to involuntary hospitalization in this case," and wrote by hand, "court ordered OP" [outpatient care]. 125 Cho appeared for an appointment at the Cook Counseling Center and was "triaged" for the third time in 15 days. 126 Cho's parents were not told of this chain of events.

In 2006 the storm clouds receded somewhat, but they were still there. That academic year Cho wrote a story for a writing class about a self-professed loser "who can't do anything" and who is plotting to kill students who seem not to share his angst. 127 There were at least two other similar stories. The New York Times suggested, [I]t was his intellectual failure that may have driven him to kill. Mr. Cho's ambition to become a 'great writer' was stamped out during college by the negative reactions of professors and students, and also by rejection of a book proposal he wrote." 128

In the spring of 2006, Cho criticized the teaching methods of one of his writing professors and then followed him to his office raising his voice in anger, but the professor did not report the encounter to Virginia Tech police or officials. Cho continued to have problems with writing professors and wrote more violent pieces. Cho decided to write "an objective real-time" experience based on Macbeth tied to serial killings.

### The Virginia Tech massacre timeline

On April 15, 2007, Cho and his parents had their usual Sunday evening phone call. He told them he did not need any more money. His mother told him that she loved him. His parents told the review panel that he sounded like his "regular" self. That was a brief moment of calm and normalcy before the storm. The following is a detailed account of the massacre at Virginia Tech. On April 16, 2007, Cho exploded. This timeline is based on the report of the review panel appointed by Gov. Kaine two days after the killings. 129 There are several other thorough moment-by-moment accounts of the tragedy, 130 but here we present a concise timeline necessary to demonstrate the consequences that can happen when a mentally ill individual such as Cho is able to purchase guns capable of taking highcapacity magazines.

7:15 a.m. The day was cold, overcast, and there were snow flurries. 131 The first shooting occurred on the morning of April 16. Cho used his keycard to enter the West Ambler Johnston dorm building, which was close to his own room in Harper Hall, both in the southern part of the campus. There he killed one student and the dorm resident adviser.

7:17 a.m. There was a gap of approximately 2 hours and 40 minutes before the second and much more lethal stage of the rampage. During that time, Cho went to the Blacksburg Post Office to mail materials to NBC News. The package included an 1,800-word manifesto, 43 photos of himself, some of which showed him posing with guns, and 27 QuickTime videos of his angry statements.

The content of the materials he sent revealed the intensely angry and scorned young man Cho had come to be by April 16, 2007. He referenced his planned actions in the past tense, declaring, "When the time came, I did it. I had to." 132 The tirades perhaps emerged from Cho's outwardly flat demeanor, including his attempt to justify the shooting with the notion that he had given the world "a hundred billion chances."133

If the gap in time gave officials and law enforcement any feeling that the worst was over, that ended at about 9:40 a.m. The second phase of the tragedy was far more lethal.

9:15 a.m. – 9:30 a.m. Cho is seen outside Norris Hall.

9:40 a.m. Cho walked into Norris Hall, which sits on the northern part of the campus across from the large drill field, at about this time and chained the doors shut using the L-shaped handles for leverage. Cho mounted the Norris Hall stairs to the second floor and entered four classrooms. The shooting started.

9:40 a.m. – 9:45 a.m. Frenzy. Cho entered room 206, a graduate engineering class in advanced hydrology with 13 students. He killed the professor and nine students, and wounded three others. Cho entered room 207 across the hall, a beginner German class. He shot the teacher and students near the front of the classroom. In room 205 Haiyan Cheng was teaching a class on scientific computing, and when the class heard the shooting, they barricaded the door, preventing Cho from entering as he fired his gun.

Jocelyne Couture-Nowak was teaching French in her classroom, but when the class heard the gunfire, she told a student to call 911. Students barricaded the door with the teacher's desk but Cho nudged it open and walked down the outer aisle of the room, shooting students. He shot the student who called 911 in his leg and another student, a woman, picked up his cell phone and implored the police to hurry. Cho grazed her head twice, and she fell, playing dead. Other students played dead, an instinctual way to survive.

9:45 a.m. The first police officers arrived at Norris Hall but had trouble entering because of the chained doors. Cho, meanwhile, returned to several of the rooms that he had already hit. In the French class he shot the student making the 911 call two more times. Cho proceeded to room 204, where Professor Liviu Librescu, a 76-year-old Holocaust survivor, held the door shut for as long as he could, yelling for students to use the windows to escape. Librescu was shot and killed through the door. Ten students jumped from the window and Cho shot the remaining two. He then returned to room 206, the engineering class, and shot more students.

9:50 a.m. Police used a shotgun to enter Norris Hall and followed the sound of bullets firing.

9:51 a.m. Police reached the second floor and, in the French class, Cho shot himself in the head.

The frenzy lasted 11 minutes. <sup>134</sup> At Norris Hall, in 11 minutes, Cho killed 25 students and five faculty members. He wounded 17 by gunshot, and eight others were injured as well. He was able to fire off 174 rounds.

## Appendix B: Brief descriptions of spree killings, 1984-2012

Oikos University, Oakland, California: 43-year-old nursing student One Goh killed seven on the campus of this conservative Christian university, and wounded three on April 2, 1012.

Chardon High School, Chardon, Ohio: T.J. Lane, a 17-year-old student, killed three of his fellow students and wounded three others, on February 29, 2012.

Salon Meritage, Seal Beach, California: In an incident that appears to have stemmed from a custody dispute, Scott Dekraai shot and killed his ex-wife, along with seven others in October 2011.

Carson City IHOP, Carson City, Nevada: In September 2011 Eduardo Sencion, a diagnosed paranoid schizophrenic, engaged in a spree killing, killing four before taking his own life.

**Grand Rapids, Michigan:** In a spree killing that began at the home of his ex-girlfriend and spread to become an indiscriminate rampage, Rodrick Shonte Dantzler killed seven people with a Glock 9mm in July 2011.

Congress on the Corner, Tucson, Arizona: Jared Lee Loughner used a Glock 19 to kill six and gravely injure 13, including Rep. Giffords in January 2011.

Hartford Distributors, Manchester, Connecticut: Omar Thornton, a recently dismissed employee of Hartford Distributors, shot and killed eight of his former co-workers before turning his gun on himself in August 2010.

University of Alabama-Huntsville, Huntsville, Alabama: In a spree killing seemingly rooted in a denial of tenure at University of Alabama-Huntsville, Dr. Amy Bishop, a woman with a history of violence, shot and killed three colleagues at a department meeting in February 2010.

Fort Hood, Texas: Major Nidal Malik Hasan, a psychiatrist in the U.S. Army, killed 13 and wounded 29 in November 2009.

American Civic Association, Binghamton, New York: Jiverly Wong attacked the Binghamton American Civic Association, where he killed 13 before turning his gun on himself in April 2009.

Northern Illinois University, DeKalb, Illinois: During a deadly attack at Northern Illinois University in February 2008, Steven Kazmierczak killed six and wounded more than 20 others with an arsenal that included a Glock 19 and a shotgun.

Westroads Mall, Omaha, Nebraska: Robert Hawkins, a Nebraska teen with a criminal and mental health record, shot and killed eight in Westroads Mall before taking his own life in December 2007.

Virginia Tech University, Blacksburg, Virginia: Seung-Hui Cho killed 32 and wounded 17 on April 16, 2007, before killing himself.

Edgewater Technology, Wakefield, Massachusetts: Michael McDermott shot and killed seven coworkers at Edgewater Technology before surrendering to police in December 2000.

Xerox, Honolulu, Hawaii: Bryan Uyesugi, a Xerox employee with a history of workplace violence, shot and killed seven co-workers with a Glock 17 in November 1999.

Wedgwood Baptist Church, Fort Worth, Texas: Larry Gene Ashbrook opened fire on a teen prayer rally at Wedgwood Baptist Church, killing eight and injuring seven before taking his own life in April 1999.

Columbine High School, Columbine, Colorado: Teenagers Eric Harris and Dylan Klebold murdered 15 classmates and injured two dozen more before taking their own lives in April 1999.

Thurston High School, Springfield, Oregon: Fifteen-year-old Kip Kinkel murdered his parents and, the following day, killed four classmates in May 1998, with an arsenal including a Glock and a rifle.

Connecticut State Lottery, Newington, Connecticut: Matthew Beck, a Connecticut State Lottery employee who had just returned from a psychiatric leave, shot and killed four of his supervisors with a Glock handgun before taking his own life in March 1998.

Caltrans Maintenance Yard, Orange, California: Arturo Reyes Torres, having recently been fired by Caltrans, returned to a maintenance yard, where he murdered four former co-workers before dying in a shootout with police in June 1997.

Long Island Railroad, Long Island, New York: Colin Ferguson opened fire in a train car on the Long Island Rail Road, killing six and wounding 19 before being subdued by passengers in December 1993.

101 California Street, San Francisco, California: Gian Luggi Ferri killed eight and injured six at the office of Petit and Martin in July 1993, a law firm he had been employed at 10 years prior to the shooting.

Luby's Cafeteria, Killeen, Texas: George Hennard killed 24 people and injured 20 more with a Glock 17 in October 1991.

Standard Gravure, Louisville, Kentucky: Joseph Wesbecker, former employee of the Standard Gravure printing company, killed eight and injured a dozen more before taking his own life in September 1989.

Cleveland Elementary School, Stockton, California: Patrick Purdy, a drifter with a long criminal history, attacked a Stockton, California, elementary school in January 1989, killing five and injuring 30 before taking his own life.

Edmond Post Office, Edmond, Oaklahoma: Patrick Sherrill, a part-time Postal Service employee, shot and killed 14 co-workers before turning his gun on himself in August 1986.

McDonald's, San Ysidro, California: James Huberty, a man with a history criminal and mental health issues, opened fire in a San Ysidro, California, McDonald's, killing 21 and injuring 19 before being fatally shot by police in July 1984.

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