

UNIVERSAL BACKGROUND CHECKS & THE ENFORCEMENT PROBLEM

Universal background check proposals often impose background checks on all transfers of firearms, with varying exceptions. However, without a gun registry, it's virtually impossible to enforce the universal background check system.

MYTH: There are “gun show” and “online sales” loopholes that allow criminals to obtain firearms.

FACT: Bureau of justice statistics show that 77% of criminals in state prison for firearm crimes get firearms through theft, on the black market, from a drug dealer or “on the street, or from family members and friends. **Less than 1% get firearms at “gun shows.”**¹

ATF has said that nearly half of all illegally trafficked firearms originate with “straw” purchasers who buy guns for criminals. This is ALREADY ILLEGAL.

All federal dealers² - regardless of location (gun show, gun shop, online) have to run a background check³ before selling or transferring a firearm to a person who is not a dealer. This INCLUDES online sales and occurs regardless of where a sale takes place.⁴

MYTH: Background checks will reduce mass shootings.

¹ Michael Planty and Jennifer Truman, *Firearm Violence, 1993-2011*, Bureau of Justice Statistics (BJS), May 2013, p. 13. See also Marianne W. Zawitz, *Guns Used in Crime*, BJS, July 1995; Caroline Wolf Harlow, *Firearm Use by Offenders*, BJS, November 2001. In 1985, the Department of Justice reported that only about one in five convicted felons obtained guns through legal channels such as retail stores. (“Few criminals get guns through legal channels,” *The Spokesman-Review*, October 14, 1985.)

² The Gun Control Act (1968), *18 USC 923(a)*, requires anyone “engaged in the business” of manufacturing, importing or dealing in firearms to be licensed. The Firearms Owners Protection Act (1986), *18 USC (921)(a)(21)(C)*, stipulates that “engaged in the business,” “as applied to a dealer in firearms,” refers to . . . “a person who devotes time, attention, and labor to dealing in firearms as a regular course of trade or business with the principal objective of livelihood and profit through the repetitive purchase and resale of firearms, but such term shall not include a person who makes occasional sales, exchanges, or purchases of firearms for the enhancement of a personal collection or for a hobby, or who sells all or part of his personal collection of firearms.”

³ The background check requirement is established by *18 USC 922(t)*. Checks are required on non-dealers other than those in certain states, who have certain kinds of firearm permits (see Bureau of Alcohol, Tobacco, Firearms and Explosives, *Permanent Brady Permit Chart*) and those who have already passed an FBI background check to acquire a firearm regulated by the National Firearms Act.

⁴ Under *18 USC 923(j)*, a dealer may conduct business at gun shows and similar events, but the background check requirement in paragraph (t) still applies.

FACT: Most mass shooters pass background checks to acquire firearms.⁵ Robert Card passed numerous background checks to obtain his firearms. In fact, Robert Card was blocked from buying a suppressor months before the shooting because he self-reported that he was in a mental health facility on the form that the dealer is required to review.

Important facts about suppressors:

Purchasing a suppressor is not like purchasing a firearm.

Suppressors need to be registered by the Bureau of Alcohol, Tobacco and Firearms. You need to be approved to purchase and registered as an owner of a suppressor prior to taking possession of it.

The process: Fill out required BATF forms, get fingerprints done and photographs. Submit the paperwork and pay the \$200 transfer/registration fee (tax stamp). When you are approved, the dealer is authorized to transfer the suppressor to the individual **WITH ANOTHER BACKGROUND CHECK.**

Robert Card not only passed a NICS background check, but he also successfully obtained a tax stamp (\$200 registration fee). **The only reason he was denied the suppressor was because he self-reported his stay in the mental health facility.**

SO - WHAT DOES FEDERAL LAW ALREADY DO?

- **Requires firearms dealers, manufacturers, and importers to initiate background checks on any non-dealer who wants to purchase a firearm.**
- **Federal law prohibits possession by 9 categories of prohibited persons:** [felons, fugitives, persons with qualifying mental health histories, illegal drug users and addicts, illegal aliens, people dishonorably discharged, people who have renounced US citizenship, persons convicted of DV misdemeanors, and people under certain types of DV restraining orders].⁶

Can you advertise a firearm on the internet?

Yes, but the following still applies:

- Federal law prohibits the transfer of a firearm to anyone known or believed to be prohibited.

⁵ James Alan Fox, criminology professor at Northeastern University, [Top 10 myths about mass shootings](#),” Boston.com, December 19, 2012.

⁶ Persons convicted of felonies punishable by more than a year or misdemeanors punishable by more than two years in prison, fugitives, persons with disqualifying mental health histories, illegal drug users and addicts, illegal aliens, persons dishonorably discharged from the armed forces, persons who have renounced their U.S. citizenship, persons convicted of domestic violence misdemeanors, and persons under certain kinds of domestic violence-related restraining orders ([18 USC 922\(g\)](#)).

- Federal law prohibits a non-dealer from acquiring a handgun outside his state of residence and prohibits a non-dealer from acquiring a rifle or shotgun from a non-dealer outside his state of residence.
- Federal law prohibits anyone from transferring a handgun to a non-dealer who resides in another state (with rare exceptions), and prohibits a non-dealer from transferring a firearm to a non-licensee who resides in another state.
- Federal law prohibits the acquisition of a firearm on behalf of a person who is prohibited from possessing firearms.
- Federal law prohibits anyone from providing a handgun to a juvenile (person under age 18), and prohibits juveniles from possessing handguns, with limited exceptions.

If background checks are instant, why are universal background checks such a big deal?

Because it's not about a background check. It's about establishing a gun registry which is prohibited by state and federal law.

Universal background checks are unenforceable without a gun registry because you count on people to "do the right thing." Of course, law-abiding individuals will. However, criminals will not - we already know that.

In 2013, the Obama Department of Justice acknowledged that requiring universal background checks "depends on... requiring gun registration."⁷

⁷ Greg Ridgeway, Deputy Director, National Institute of Justice, [Summary of Selected Firearm Violence Prevention Strategies](#), January 4, 2013.