



BACKGROUND CHECKS FOR ALL GUN SALES WILL SAVE LIVES AND HELP POLICE CATCH CRIMINALS

Background checks prevent felons, domestic abusers, the severely mentally ill, and other dangerous people from buying guns. But they also serve another purpose. When licensed gun dealers perform these checks, they retain a paper record including the names of the buyer and seller and identifying information about the gun. These records provide a vital paper trail for police to combat gun traffickers and track down criminals before they strike again.

But today, federal law only requires licensed gun dealers to conduct checks and keep sales records. Criminals can — and do — avoid background checks by avoiding licensed dealers, instead buying guns from unlicensed “private sellers” who are not required to conduct background checks. These transfers — which account for 6.6 million guns sold each year — generate no sale record and no paper trail for police to follow if the gun is later used in a crime. Because murder weapons can only be traced as far as their first private sale, investigations often run cold, and wrongdoers remain on the loose.

Background checks block criminals from getting guns, and they help law enforcement catch criminals by leaving a trail to trace guns recovered at crime scenes.

The National Instant Criminal Background Check System (NICS) has blocked over two million attempted purchases by people prohibited by law from buying or possessing guns.

When a gun is found at a crime scene, law enforcement can use the serial number to trace it back to its manufacturer, and then to the dealer who first sold it. Because dealers keep records of sales to buyers who pass background checks, investigators can identify the first buyer. This provides a critical lead for tracking down violent criminals. Twenty-nine percent of ATF gun trafficking investigations are initiated through analysis of firearms trace data, multiple sales records, or both, and tracing is used as an investigative tool in 60 percent of investigations.¹

¹ U.S. Department of Treasury, Bureau of Alcohol, Tobacco and Firearms, *Following the Gun: Enforcing Federal Laws Against Firearms Traffickers*, 2000, available at: <http://maig.us/NowJfH>

Trace data from private transfers can mean the difference between catching a killer and leaving a crime unsolved. In the states that go beyond federal law to require checks for private sales, data from those sales allow law enforcement to trace the gun to the private market and solve crimes.

- Jose Sandoval was convicted in 2003 of the gun murders of four bank employees and a customer in Norfolk, NE. Law enforcement had identified him as a suspect after tracing the firearm he used through five previous owners, from a gun dealer through three young men with criminal backgrounds.²
- Dr. Mark Trach, an Orlando physician, bought a 9mm Beretta handgun for self-defense and took the atypical step of having the firearm traced. Police determined the firearm had been stolen from a car in March 1998, used to kill Lee Bradley on March 17, 1998, and then sold or transferred a half-dozen more times before being sold to Trach.³

When private sales are conducted without background checks, as federal law currently allows, those sales cut off police leads and turn cases cold.

If a gun is sold privately without a background check or a basic record of the sale and later recovered at a crime scene, law enforcement officers hit a dead end on the road to catching criminals and killers.

Almost 60 percent of ATF trace investigations involve secondhand guns, which are difficult to trace because unlicensed sellers are not required by federal law to keep records of the transfers.⁴

- Twenty-five-year old Darien Richardson was murdered during a home invasion on January 8, 2012. The police were able to trace the murder weapon, a .45 caliber handgun, to a Maine gun show, but because the gun was sold there in a private transfer, the police declared it a cold case. "There's no documentation, no bill of sale, no background check," said Portland Police Chief Michael Sauschuck. "So we have no idea where that weapon went after that (sale) [sic] or how many times it exchanged hands."⁵
- In 2011, the infamous James "Whitey" Bulger, who had lived for almost two decades as a fugitive, was arrested and indicted for 19 murders. Bulger had relied on private sales to arm himself during his years on the lam. Police seized 29 firearms from his apartment and used their serial numbers to trace them from their first sale, but lost the trail for most of them when they were exchanged in private transfers without sales records.⁶
- Trevor Saunders used a .45 caliber Beretta handgun to kill his former girlfriend Louissa Thompson, her co-worker, and himself in Pullman, WA, in December 2005. The investigation of how he acquired the gun ran cold when law enforce-

² Joe Duggan, "Gun trail is key in the case against Sandoval," *Lincoln Journal Star*, Nov. 21, 2003, at P1-2.

³ Henry Pierson Curtis, "Gun took twisting path after theft," *Orlando Sentinel*, July 14, 2002, at A14.

⁴ U.S. Department of Treasury, Bureau of Alcohol, Tobacco and Firearms, *Following the Gun: Enforcing Federal Laws Against Firearms Traffickers*, 2000, available at: <http://maig.us/NowJfH>

⁵ Kevin Miller, "Many sales of firearms in Maine fall under the radar," *Maine Sunday Telegram*, Feb. 10, 2013.

⁶ Shelley Murphy, "US traces, tells of Whitey Bulger's arsenal on the run," *Boston Globe*, Feb. 8, 2013, available at: <http://b.globe.com/ZjIUx3>

ment discovered that the firearm had been exchanged in a private sale with no record. “They have the initial sale, and after that it went into a private sale,” said Pullman Police Commander Chris Tennant. “And then after that we lost track of it, so that particular lead isn’t any good.”⁷

- In 2003, Jaki Marion killed Kirk Bickham, Jr., and two other people outside a bar in Milwaukee, Wisconsin. He purchased the firearm, a .380 caliber Bryco handgun, in a private transfer for \$150. ATF traced the weapon to the man who first bought the weapon in 1995, Charles Anglemeyer, who reported selling it at a gun show in Milwaukee a few years later. Milwaukee police said that, given the time elapsed between initial purchase and homicide, it had likely been exchanged in several subsequent private transfers and the chain of possession would never be fully traced.⁸

Private transfers are an easy way for criminals to get guns — and they frustrate law enforcement’s efforts to track down killers.

Gun traffickers exploit the private sale loophole to flood our streets with guns. Some private sellers transact tens or hundreds of guns each year for profit, without complying with any of the regulations that licensed gun dealers follow, and with the freedom to sell guns to anyone, including those willing to pay a premium to avoid a background check. In a national survey of inmates who committed gun crimes, 80 percent admitted that they got their guns through a private transfer.⁹

Because the vast majority of crime guns have traveled through the private market, access to private market trace data is critical for connecting murder weapons to the killers who used them.

- On December 19, 2012, David Lewisbey was indicted for buying dozens of guns in private sales at Indiana gun shows and then reselling them in high-crime neighborhoods in Chicago, never once conducting a background check. Investigators allege that Lewisbey trafficked hundreds of guns during the four years in which he was engaged in the scheme.¹⁰
- James Nigel Bostic bought 250 handguns at Ohio gun shows in 2000 and then resold them for a profit in private transfers on the streets of Buffalo, NY. By 2005, over one hundred of the guns purchased by Bostic had been recovered at crime scenes.¹¹

Again and again, dangerous people have skirted the background check system by acquiring guns in unregulated private sales, and innocent people have paid the price.

- On December 30, 2012, convicted felons David Jackson and Midarreon Cook bought a 9mm handgun from a private seller without a background check at an Oklahoma City gun show. They were only intercepted because a vigilant police officer noticed a distinctive tattoo on one man’s face and checked a criminal database to determine that he was a prohibited purchaser.¹²

7 Joel Mills, “Trail runs cold on gun used in Pullman crime,” *Lewiston Morning Tribune*, Jan. 28, 2006.

8 Tom Sheehan, “Shooting victim’s mother wants better tracking of guns,” *The Chippewa Herald*, March 20, 2005, available at <http://bit.ly/130cwm9>.

9 Complaint, *United States v. Lewisbey*, Case No. 1:12-CR-0989 (N.D. Ill. Dec. 19, 2012), available at <http://bit.ly/XjFrgk>.

10 U.S. Department of Justice, Bureau of Justice Statistics, *Survey of Inmates in State and Federal Correctional Facilities*, 2004, February 28, 2007.

11 *Buffalo News*, “Gun by gun – Five years of damage done by weapons James Nigel Bostic bought from Ohio Gun Dealers.” June 12, 2005.

12 Deanne Stein, “Three Men Arrested After Buying Gun At Gun Show In OKC,” *NewsOn6.com*, Jan. 2, 2013, available at: <http://bit.ly/YQ5mtr>

- In October 2012, Zina Daniel obtained a restraining order against her husband, who had a history of domestic abuse. The restraining order prohibited him from buying a gun under federal law, but several days later he met a private seller on Armslist.com and bought a Glock .40 caliber semiautomatic handgun without a background check. The following day, Haughton went to the spa at a mall in Brookfield, WI, where Zina worked and murdered her and two other women and injured four others before killing himself.
- In March 2012, Jason Lee Morrill purchased a 9mm Taurus handgun from a private seller in Portland, ME, who had advertised his gun in the classified periodical *Uncle Henry's*. Morrill was prohibited from purchasing the gun due to a previous felony conviction, but the private seller was not required to conduct a background check. Morrill immediately resold the gun, and two months later it was recovered from a crime scene in the Bronx where a suspect had exchanged fire with a New York City police officer.¹³
- On February 23, 2012, Joshua Blake used a .40-caliber Smith & Wesson to shoot and kill state trooper Tony Radulescu during a routine traffic stop on State Route 16 near Gorst, WA. The last documented sale of the weapon took place at a gun show in Monroe, WA, in 2009. Investigators said it exchanged hands in at least two private transfers before being acquired by Blake, who was a convicted felon and would not have passed a background check.¹⁴
- In 2011, John Shick tried to purchase a gun in Portland, OR, but he failed the background check because he had been adjudicated mentally ill. Four months later, he bought two handguns from a private seller in New Mexico without a background check. In March 2012, Shick used these guns to kill one person and injure five others at the Western Psychiatric Institute and Clinic in Pittsburgh, PA before he was fatally shot by police. The Albuquerque resident who sold him the gun, John Karnis, later said that because of his link to the Western Psych shooting, he would never sell or buy a gun again.¹⁵
- On January 23, 2011, Lamar Moore walked into a Detroit police precinct office and opened fire with a 20-gauge Mossberg 500 shotgun, injuring four officers before being killed by return gunfire. Moore had a criminal record that should have prohibited him from buying a gun. According to court documents, convicted felon Elijah Gayden had bought the gun the previous spring in a private transfer from an acquaintance. He claimed to have resold it three weeks later in another private transfer, although he denied having sold it to Moore.¹⁶
- In 2011, Canadian citizen Dmitry Smirnov entered the U.S., responded to a posting for a .40 caliber handgun on the website Armslist.com, and bought the

¹³ Kevin, Miller, "Many sales of firearms in Maine fall under the radar," *Maine Sunday Telegram*, Feb. 10 2013.

¹⁴ *The Seattle Times*, "Troopers killer may have bought gun at show, ATF reported," Sep. 9 2012, available at: <http://bit.ly/YQ5dpQ>

¹⁵ Michael A. Fuoco and Sadie Gurman, "New Mexico man regrets selling guns used in Western Psych shootings," *Pittsburgh Post-Gazette*, Mar. 31, 2012, available at: <http://bit.ly/X64Y12>

¹⁶ Gina Damron, M.L. Elrick, and Elisha Anderson, "Detroit precinct shooter suspected in girl's kidnapping," *Detroit Free Press*, Jan. 25, 2011, available at: <http://on.freep.com/X0lkr2>

gun from private seller Benedict Ladera outside a Washington casino. Smirnov was prohibited from purchasing or possessing a gun because he was not a U.S. citizen or lawful permanent resident,¹⁷ and he had a history of stalking and harassing Jitka Vesel, a woman he had briefly dated years earlier. On April 13, 2011, he followed Vesel to an Oak Brook, IL, parking lot and used the gun to shoot her 11 times, killing her.¹⁸

- In March 2010, John Patrick Bedell shot two Pentagon police officers with a Ruger 9mm handgun. Although Bedell was prohibited from purchasing a gun due to his severe mental illness, he bought the gun without a background check from a private seller at a Las Vegas gun show.¹⁹
- David Devenny allegedly bought large numbers of firearms from licensed dealers and then resold them in private sales without background checks, including a rifle sold to Christopher Monfort, who used it one week later to kill Seattle Police Officer Timothy Brenton and wound Officer Britt Sweeney in October 2009.²⁰
- On April 20, 1999, Eric Harris and Dylan Klebold entered Columbine High School in Littleton, CO, with four firearms. The pair shot and killed a teacher and 12 students, injured 23 additional students, and then committed suicide. All four guns were bought at gun shows from private sellers. Because they were too young to purchase a gun, Harris and Klebold convinced Robyn Anderson, an 18-year old senior, to purchase three of the guns from three separate private, unlicensed dealers at a gun show in Adams County, CO. Anderson later testified before the Colorado House Judiciary Committee, "I wish it would have been more difficult. I wouldn't have helped them buy the guns if I had faced a criminal background check."²¹

¹⁷ Note that in 2012 the Obama Administration reinterpreted the nonimmigrant alien provision of the Gun Control Act. Short-term visitors from countries like Canada who do not need visas to enter the U.S. are now able to purchase and possess guns in the U.S.

¹⁸ Christopher Placek, "Gun control group sues website that sold gun in Oak Brook murder," *Daily Herald*, Dec. 12, 2012, available at <http://bit.ly/W1POYP>.

¹⁹ Devlin Barrett, "Guns turned on officers traced to Memphis police," *The Virginian-Pilot*, March 6, 2010, at A5.

²⁰ "Cop targeted in ATF gun-dealing probe," *Seattle Post-Intelligencer*, Dec. 8, 2010.

²¹ Lynn Bartels, "Gun Dealers Rejected Columbine Killers," *Rocky Mountain News*, Jan. 27, 2000, at 4A.