



# FREQUENTLY ASKED QUESTIONS ABOUT BACKGROUND CHECKS

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## WHY WE NEED BACKGROUND CHECKS FOR ALL GUN SALES

### **Q: Why do you support criminal background checks for all gun sales and transfers?**

A: Background checks are the only systematic way to stop felons, domestic abusers, the seriously mentally ill, and other dangerous people from buying guns. The National Instant Criminal Background Check System (NICS) has blocked over 2 million gun sales to people who are prohibited from possessing guns. But the current system has a gaping loophole that criminals exploit. Prohibited purchasers can avoid background checks by buying firearms from unlicensed “private sellers” — often at gun shows or through anonymous online transactions — who are not required by federal law to conduct them. An estimated 6.6 million guns were transferred in 2012 without a federal background check, accounting for roughly 40 percent of all gun sales.

### **Q: Do dangerous people obtain guns through private sales?**

A: Yes. A survey of prisoners who committed crimes with handguns found that nearly 80 percent of them got those guns through private transfers. And undercover investigations have shown that 63 percent of private sellers at gun shows and 62 percent of private online sellers are willing to sell a gun to someone who said he probably couldn’t pass a background check. Many prohibited purchasers are evading background checks by acquiring guns through “private” channels. This is a serious problem that demands action.

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## BACKGROUND CHECKS REDUCE VIOLENCE

### **Q: Background checks didn’t stop the shooters at Tucson, Aurora and Newtown. Why burden private sellers if checks won’t stop mass shooters?**

A: Since the creation of the background check system in 1998, it has blocked more than 2 million gun sales to people prohibited from buying them. Imagine all the crimes that have been prevented in our communities because those 2 million guns were not sold to dangerous people. And imagine how many more we can prevent if we require background checks for all transfers.

### **Q: What is the evidence that background checks reduce crime?**

A: There is abundant evidence that background checks reduce crime and save lives. Sixteen states and Washington, DC, go beyond federal law and require a background check for private

handgun sales (CA, CT, IA, HI, IL, MD, MA, MI, NE, NJ, NY, NC, PA, RI, and as of 2013, CO and DE). Compared to the rest of the country:

- Gun trafficking in states with sufficient data is 48 percent lower.
- The rate at which women are killed with a gun by an intimate partner is 38 percent lower, even while the rate at which they are killed by other means is the same.
- The gun suicide rate is 49 percent lower.

**Q: How will background checks help stop gun traffickers and other gun criminals?**

A: Gun traffickers often hire “straw purchasers” to pass background checks at dealers and buy guns on their behalf, which they then hand over to criminals. Traffickers also buy guns in private sales where background checks aren’t required in the first place. If this bill passes, law enforcement will have a powerful new tool to prosecute straw purchasers for passing those guns to traffickers without background checks. It will help shut down the illegal market for guns that is driving violence in our cities.

**Q: Don’t criminals just buy their guns on the black market?**

A: The background check system has blocked more than 2 million gun sales to people prohibited from buying them. But some criminals attempt to avoid background checks, which is exactly why we need a law to make it harder to evade the system. Under current law, they can simply find a private seller online, at a gun show, or in a classified ad, and purchase a gun with no questions asked. The Fix Gun Checks Act will close off these channels to criminals. Some may look for guns on the black market but research shows this is no substitute for the easy access provided by the private sale loophole:

- Obtaining guns on the black market is expensive and risky: criminals report paying \$250 to \$400 on the black market for guns valued at only \$50 to \$100 in the legal market, the quality of firearms is uncertain, and conducting the transaction poses substantial risk of harm or arrest.
- A study of black market gun dealers found that more than one in three attempts to purchase a gun on the black market ended in failure.

A law making it a crime to sell guns without a background check will give law enforcement another tool to crack down on the gun traffickers and criminals who sell guns on the black market and flood our streets with illegal guns.

**Q: Is there support for criminal background checks?**

A: Yes, there is widespread support, even among gun owners. A 2012 survey by Republican pollster Frank Luntz found that 82 percent of gun owners — including 74 percent of NRA members — support criminal background checks for all gun sales.

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## HOW PRIVATE SALES CHECKS WILL WORK

**Q: How will private sellers conduct background checks?**

A: Private sellers will conduct background checks through licensed dealers using the same system we already have in place for sales made by those dealers. There will be reasonable exceptions, including for gifts to immediate family members, for law enforcement, and for transfers while hunting or during shooting competitions.

**Q: How will these checks affect law-abiding citizens?**

A: The rights of law-abiding gun owners will not be affected. They will still be able to buy the same guns they can buy today. They’ll simply have to pass an instant background check — the same check they would have to pass if they bought the gun from a licensed dealer. These checks only take a couple of minutes and more than 90 percent are resolved instantaneously. Most Americans agree that everyone should be willing to spend a couple of minutes on a back-

ground check if it means saving another person's life. And no law-abiding citizen wants to sell a gun to a dangerous person.

**Q: Are background checks expensive?**

A: No. The Fix Gun Checks Act caps the cost of background checks at \$15.

**Q: Will licensed dealers be required to conduct background checks for private sales?**

A: No. The Fix Gun Checks Act does not require dealers to serve as agents for private transfers. Any participation by dealers will be entirely voluntary.

**Q: Will dealers who conduct background checks for private sales face costs from staffing and record-keeping demands?**

A: No. Costs imposed by the Fix Gun Checks Act will be minimal, as dealers already have systems in place to conduct background checks and keep records. In fact, dealers that conduct background checks for private transfers stand to gain new customers and increased revenue through additional sales of popular incidentals such as ammunition and safety equipment.

**Q: Will dealers who conduct background checks for private sale be subject to new liability and safety concerns?**

A: No. Dealers will not be liable for defective weapons simply because they perform background checks for private sales. And in rare instances where the background check system returns a "yellow light," requiring the dealer to hold a private sale gun temporarily, dealer insurance will provide liability coverage for the gun. Most dealers sell used guns and many are gunsmiths, so they routinely serve walk-in customers with privately-owned guns and they routinely add guns to inventory for brief periods. But if a dealer decides that the benefits gained from fees and additional customers aren't worth the liability risk, that dealer can choose not to assist private transfers.

**Q: Will gun owners living in rural areas be forced to travel long distances to get a background check at a dealer?**

A: No. The Fix Gun Checks Act provides an exemption for exceptionally remote buyers. Moreover, getting to a gun dealer may be more convenient than getting to a post office. As of January 2013, there were 31,857 post offices in the U.S. and 58,344 licensed gun dealers. In fact, there are more licensed gun dealers than post offices, McDonald's, and Starbucks locations combined.

**Q: Can the background check system handle an expansion?**

A: Yes. Gun sales and permit registrations have grown rapidly over the past several years, and the NICS background check system has grown to accommodate the increase. In the last four years alone, the number of checks conducted per year has risen by 6,883,280 — an increase of 54 percent from 2008. At the same time, the background check databases have remained available over 99.8 percent of the time, and over 90 percent of checks conducted by the FBI have been completed immediately. That said, if an increase in traffic does slow the system, we must be prepared to invest more resources in the NICS system.

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## RECORD-KEEPING

**Q: Will background checks create a national registry of gun owners?**

A: Absolutely not. The federal government is prohibited by law from creating a registry of any kind. The Fix Gun Checks Act would simply make the current background check system and its sales records requirements applicable to private sales. Under that system, background checks submitted to NICS are destroyed within 24 hours. For forty years, gun buyers have

been required to fill out a Form 4473, certifying that they are not prohibited from purchasing a gun. For forty years, dealers have been creating and retaining records of those sales. Those records are held by close to 60,000 licensees across the country. They are not stored centrally, and they do not compromise the privacy of law-abiding gun owners.

**Q: Why do we need to keep sales records? Isn't it good enough that we run background checks on purchasers?**

A: Sales records serve two important purposes. First, they make the background check requirement enforceable: If police can't demand evidence of a check, they can't enforce the requirement to do them. A background check without a record would effectively create an honor system, burdening only law-abiding citizens and allowing criminals to continue buying guns freely. Second, sales records make it possible for law enforcement officers who recover guns in violent crimes to investigate the chain of custody, to figure out who bought the gun and when it was bought. And by establishing the chain of custody, those records also protect law-abiding gun owners from liability for crimes committed with guns no longer in their possession.

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**GETTING ALL THE RECORDS INTO THE SYSTEM**

**Q. Even if the law required a check for every gun sale, records missing from the system allow prohibited buyers to slip through the cracks and get guns. What should Congress do to get all appropriate records into the system?**

A: Five years ago, the Virginia Tech shooter was able to pass background checks and buy the guns he used to kill 32 people because his mental health records had not been forwarded to the background check system. Despite bipartisan legislation designed to improve this situation, nineteen states had still reported fewer than 100 mental health records as of October 31, 2012. Congress should create serious consequences for states that are failing and should give states the resources necessary to solve the problem.