



# The Gun Debate 1 Year After Newtown

## Assessing Six Key Claims About Gun Background Checks

By Arkadi Gerney and Chelsea Parsons     December 13, 2013

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### Introduction

The tragedy at Sandy Hook Elementary School in Newtown, Connecticut, on December 14, 2012, reignited the debate on whether to strengthen federal and state gun laws. Soon after the massacre, the top priority for advocates for stronger gun laws became broadening background checks to apply to all gun sales. Under current federal law, vendors in the business of selling guns must get a license, conduct background checks, and keep records. But unlicensed “private” sellers—persons who maintain they sell only occasionally at gun shows, online, or anywhere else—are able to sell guns with no questions asked. In some ways, the debate’s emphasis on the universal background checks proposal was surprising—after all, the Newtown shooter would not have been subject to federal prohibitions, other than the one that blocks handgun sales to persons under 21, and background checks were only tangentially related to the shooting.<sup>1</sup> The ascendance of background checks as the primary policy proposal to combat gun violence reflects a shift in gun-reform advocates’ strategy from tightening regulations on guns themselves to strengthening laws that keep guns away from dangerous people. The shift had already begun before Newtown; after, it only accelerated.

Both policy research and political realities informed this shift in priorities. As a policy matter, most research suggests that making it more difficult for dangerous people to acquire guns will have a significant impact in reducing the more than 30,000 gun deaths that happen every year in America.<sup>2</sup> As a political matter, polling conducted before and after Newtown show that 80 percent to 90 percent of Americans support expanding background checks, including most gun owners.<sup>3</sup>

As the debate over the universal background checks proposal heated up before the Senate voted on the matter in April, discussion of the substantive benefits of this policy proposal was mostly lost in the fray. The background checks debate far too often devolved into sound bites, which gave rise to a number of widespread misunderstandings about the universal background checks proposal and its potential effects on gun violence in the United States.

In this issue brief, we assess six key claims that have been made about background checks in the past year:

- 40 percent of gun sales occur without a background check.
- Few criminals visit gun shows to acquire guns illegally.
- Universal background checks will not work because criminals will not submit to them.
- Efforts to prevent gun violence should focus on straw purchasing from gun dealers, not gun transfers among unlicensed buyers and sellers.
- We should not enact new laws on background checks until the federal government starts prosecuting violations of the current laws.
- Universal background checks would harm gun dealers.

Some of the claims are true, some are false, and some fall in the middle. But all of these common talking points, whether for or against background checks, have become divorced from their context, making them difficult to understand. Our goal in the pages that follow is to assess each of these six key claims regarding the proposal to require background checks for all gun sales in order to provide a deeper analysis and contextualize the claims.

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## 1. Claim: 40 percent of gun sales occur without a background check.

*An estimated 40 percent of the gun transfers that occur each year in the United States—more than 6 million gun transfers—originate from private sellers.*

– Center for American Progress report, January 14, 2013<sup>4</sup>

Throughout the gun debate, proponents of universal background checks, including the authors of this issue brief, have repeatedly cited this statistic.<sup>5</sup> Most notably, President Barack Obama used the statistic in his remarks to the nation announcing a set of gun-violence initiatives on January 16, 2013, when he identified universal background checks as his top legislative priority, and has repeated it a number of times since.<sup>6</sup> Opponents of background checks and independent fact checkers, such as *The Washington Post's* Glenn Kessler, have pored over the 40 percent statistic and criticized the president's and others' repeated use of it.<sup>7</sup> Kessler gave the president “Three Pinocchios” for what he described as a misleading statistic,<sup>8</sup> and PolitiFact fact-checked the statistic and determined that it was “half true.”<sup>9</sup>

So what are we to make of the statistic and its relevance to the debate? Let us begin by acknowledging that this statistic has clear limitations. It is derived from a 1994 survey of gun owners conducted by the National Institute of Justice. In this survey, 251 respondents—a relatively small sample of gun owners—were asked numerous questions about their guns, including how they were acquired.<sup>10</sup> Researchers analyzing the survey results in 1996 found that 35.7 percent of respondents indicated that they obtained their gun from a source other than a federally licensed firearms dealer—for example, through a private sale, gift, trade, or other transfer between individuals.<sup>11</sup> In a longer report analyzing the survey, these researchers characterized the results as indicating that 30 percent to 40 percent of gun transfers did not involve a licensed dealer.<sup>12</sup> In summary, the statistic is based on a survey that is nearly 20 years old, the sample size was small, and there was some ambiguity in the respondents' answers—respondents were given the option of saying their gun was “probably” obtained in a particular way.<sup>13</sup>

The 40 percent estimate is just that—an estimate—and the debate about it speaks to the challenge of trying to assess the volume of transactions that are completely unregulated and take place anonymously, with no questions asked and no records kept. Despite its flaws, many researchers agree that 40 percent is likely a rough approximation of the number of gun transfers that occur without a background check.<sup>14</sup> Additionally, data from one state that requires a background check for all handgun sales—Michigan—provide further support for this statistic. According to an analysis conducted by the Michigan State Police in 2012, private party sales comprised 48 percent of handgun sales in the state.<sup>15</sup> Nevertheless, proponents of universal background checks, including this report's authors, would be well served by acknowledging the limitations of the statistic.

However, the lack of information about the exact size of the overall private marketplace for guns is not particularly important. The more crucial question is: How frequently do criminals acquire guns in this marketplace? For that question, we have reliable data demonstrating the real dangers inherent in no-background check sales. A survey conducted by the Bureau of Justice Statistics, or BJS, of thousands of state and federal prison inmates found that more than two-thirds—68.8 percent—of those who had used a gun in a crime had acquired it from a source other than a licensed dealer in a transaction that did not require a background check.<sup>16</sup> This number becomes more significant when paired with another statistic from this survey of inmates: 84 percent of criminals who used a gun in a crime reported that they were already prohibited from possessing them at the time of their gun crime.<sup>17</sup> This means that they could not have passed a background check had they sought to buy a gun from a licensed dealer, and therefore relied on friends, street sellers, and unlicensed private sellers to obtain guns. While this 1997 survey is also relatively old, it involved a very large sample size of more than 18,000 respondents, and data from this survey are widely deemed to be reliable. Indeed, the National Rifle Association, or NRA, and other gun lobby groups often cite this study as support for its arguments about gun shows,<sup>18</sup> as the following section discusses in detail. The BJS survey shows that no-background check transfers are the top way that criminals obtain guns.

**Bottom line:** The unregulated and anonymous nature of the private marketplace for guns makes it impossible to know for certain how many gun sales occur through private transfers without background checks, though the best available evidence suggests that it is a significant portion of gun transfers, involving millions of guns per year. More importantly, however, there is reliable data indicating that a substantial majority of criminals obtain their guns through no-background check transfers.

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## 2. Claim: Few criminals visit gun shows to acquire guns illegally.

*Well, gun shows, right now are—according to all the surveys, are not a source of crime guns, anyway. It's 1.7 percent.*

– NRA Executive Vice President Wayne LaPierre testifying before the U.S. Senate Judiciary Committee, January 30, 2013<sup>19</sup>

The same BJS study that suggests that criminals rely on private no-background check transfers to acquire guns in more than two-thirds of cases also suggests that only 1.7 percent of those criminals visited gun shows to obtain those guns.<sup>20</sup> The NRA and other gun lobby groups have repeatedly cited this study to suggest that concerns about no-background check gun sales at gun shows are overblown and that private sales at gun shows are not a significant problem.<sup>21</sup> The argument goes, if so few criminals go to gun shows to get guns, why regulate private sales at these events?

Advocates for stronger gun laws typically make the case for the risks of no-background check sales at gun shows by pointing to a different statistic from a different federal report. A 2000 report released by the Bureau of Alcohol, Tobacco, Firearms and Explosives, or ATF, looked at every federal gun-trafficking prosecution over a two and a half year period—1,530 cases involving 84,128 illegal guns.<sup>22</sup> The report found that cases involving 25,862 of the illegally trafficked guns—30 percent of the total—had a gun-show connection.<sup>23</sup> So how can we reconcile the BJS and ATF studies? The two studies are roughly contemporaneous, but point in seemingly opposite directions. Are private sales at gun shows a problem or not?

We can assume that both findings are directionally accurate and together they paint a picture of the role gun shows play in providing criminals easy access to guns. The BJS survey asked criminals, the end users of illegal guns, how they themselves acquired their firearms. That is, the survey asked about the *proximate* source of the gun. The findings suggest that few criminals go directly to gun shows to acquire guns. So who and what is more typically the proximate source for the guns used in crimes? Sixty-nine percent of criminals surveyed reported acquiring guns from a friend, family member, or street seller.<sup>24</sup> (Licensed gun dealers and thefts were the proximate sources 12 percent and 10 percent of the time, respectively.<sup>25</sup>) The question that remains is where did many of those proximate sources—the illegal street gun dealer who sells guns in an alley, or the friend who does not commit armed robberies himself but is willing to supply a gun to his buddy who does—buy these guns? The ATF report largely answers that question: Gun shows are, in fact, a major source of guns to the illegal market. It suggests that 3 out of 10 guns that criminals use in crimes changed hands at a gun show somewhere in their chain of custody. These gun-show sales may be the critical moment in the chain of custody for many guns, the point at which they move from the somewhat-regulated legal market to the shadowy, no-questions-asked illegal market.

Such a finding makes sense. By way of analogy, until its recent displacement by Peru,<sup>26</sup> Colombia was the world's leading supplier of cocaine, accounting for an estimated 42 percent of the world's cocaine production in 2011.<sup>27</sup> It is unlikely that many drug dealers operating in U.S. cities have physically travelled to Colombia to acquire cocaine; nevertheless, Colombia has been a major source for the dealers' product, first acquired through international trafficking networks then sold on the streets. So it is with guns. For gun traffickers, gun shows are a convenient, safe venue to shop for guns that they will later illegally transfer to criminals. Every weekend, there are dozens of gun shows taking place around the country,<sup>28</sup> mixing licensed gun dealers and unlicensed private sellers who sell without conducting background checks or keeping any sales records. While most gun-show visitors are law-abiding citizens, these shows provide an easy venue for gun traffickers to shop for guns. Traffickers can buy guns in bulk in anonymous transactions without a background check or paper trail.

**Bottom line:** Gun shows are an important venue where guns are easily diverted into the illegal market, later ending up on the streets for criminal use.

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### 3. Claim: Universal background checks will not work because criminals will not submit to them.

*Criminals won't participate in a "universal" system. They'll always steal or get their guns, and everything else they want, on the black market. Reasonable people know that criminals will never be part of the "universe."*

– Wayne LaPierre, USA Today op-ed, February 10, 2013<sup>29</sup>

Opponents of universal background checks lodge one primary complaint against the proposal: It will only impact law-abiding individuals because criminals will not follow the law and submit to background checks when trying to acquire guns. This argument reflects a fundamental misunderstanding of the criminal justice system and the very purpose of criminal laws. Criminals are, by definition, individuals who do not follow the law. We enact criminal laws to set expectations for conduct that a society will not tolerate and provide a legal means for apprehending, prosecuting, and convicting those who refuse to comply and thereby threaten public safety. The fact that a law will inevitably be broken does not obviate the need to enact it. By this reasoning, we should not enact *any* criminal laws because there will always be some individuals who refuse to abide by them.

It is true that if universal background checks legislation were passed, many criminals would break this law and buy guns illegally, just as they do now. But when they attempt to do so, having such a law in place would make it much easier to catch them. Under a system of universal background checks, every sale conducted without a background check—with the exception of transfers between family members and other transfers typically exempted by such laws—would be illegal. Such a system would provide law enforcement with the means to stop individuals from participating in suspicious transactions and interdict guns before they make it into criminals' hands. This approach would be a significant improvement over the current system, in which police are powerless to intervene when they observe what appear to be suspect sales, such as an individual selling guns out of the trunk of his car in a crime-ridden neighborhood.

Certainly not every criminal who purchases a gun without submitting to a background check will be caught and prosecuted. But the fact that some people will not be caught breaking this law does not mean that the policy is bad or that the law should not be enacted. By analogy, consider laws that prohibit speeding. Obviously, not every driver who violates the law by surpassing the speed limit is pulled over and given a ticket. But the fact that this law is in place gives police the authority to pull over speeders and provides a means for enforcing this law. Likewise, universal background checks—like radar detectors on a highway—provide police with a necessary tool to help sort out transfers between law-abiding citizens and transfers of guns to dangerous criminals.

Additionally, requiring background checks for all guns sales would dramatically shrink the size of the market for guns available for sale without a background check. If background checks were required for all gun sales, including those by private sellers, prohibited purchasers would no longer be able to easily buy guns at gun shows, on the Internet, or through other sales by well-intentioned, law-abiding private sellers. Instead, the only option for criminals to acquire guns would be through the black market or theft. Contrary to the assertion of many in the gun lobby, obtaining guns on the black market is not particularly easy and comes with high risk.<sup>30</sup> Closing off other channels to acquire guns without a background check would therefore make it much more difficult for criminals to easily obtain guns when they cannot submit to a background check.

Finally, it is worth noting that while it may seem illogical, a significant number of individuals prohibited from gun ownership do, in fact, attempt to purchase a gun from federally licensed dealers who conduct a background check. Since November 1998, when the National Instant Criminal Background Check System, or NICS, went into operation, more than 2 million prohibited individuals have been prevented from buying a firearm because of a background check.<sup>31</sup> Extending background checks to private sales would likely add tens of thousands of additional blocked sales each year.

**Bottom line:** Universal background checks are crucial to preventing prohibited people from easily buying guns in the secondary market. Additionally, enacting this law would provide law enforcement with a necessary tool to more easily identify and apprehend criminals who engage in illegal gun sales.



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#### 4. Claim: Efforts to prevent gun violence should focus on straw purchasing from gun dealers, not gun transfers among unlicensed buyers and sellers.

*Rather than restricting the rights of law-abiding Americans, we should be focusing on keeping guns out of the hands of violent criminals ... While the Obama Administration continues to politicize a terrible tragedy to push its anti-gun agenda, I am proud to stand beside my fellow senators to present common-sense measures that will increase criminal prosecutions of felons who try to buy guns, criminalize straw purchasing and gun trafficking ...*

– Sen. Ted Cruz (R-TX), April 17, 2013<sup>32</sup>

Some opponents of universal background checks argue that private sales of guns do not cause guns to be diverted to criminals. Instead, they argue that policymakers and law enforcement should focus on one of the primary ways that criminals do obtain guns: straw purchases. A straw purchase is when an individual with a “clean” background purchases a gun from a licensed dealer on behalf of someone who is legally prohibited from firearm ownership for reasons such as felony conviction, fugitive status, or domestic violence misdemeanor conviction or restraining order. Think of it like a teenager asking an adult to buy him beer. Engaging in a straw purchase is a felony under current law.<sup>33</sup>

Straw purchasing of firearms is a significant problem and is among the most common ways that criminals acquire guns. Of the trafficking cases studied by ATF in the 2000 report—cases that involved 84,128 illegally trafficked firearms—46 percent involved a straw purchase.<sup>34</sup>

Certainly, law enforcement should focus on identifying and prosecuting individuals who participate in straw purchases. And proposals such as the one offered by Sen. Kirsten Gillibrand (D-NY)<sup>35</sup> and the one supported by Sen. Chuck Grassley (R-IA) in committee<sup>36</sup> to expand the definitions and penalties for straw purchasing and gun trafficking would greatly aid these efforts. In contrast, the proposal supported by Sen. Cruz would have made it harder to prosecute straw purchasers by imposing a prohibitively high burden of proof that would be nearly unenforceable—proof of actual knowledge on the part of the straw purchaser or trafficker that the person for whom they were buying the gun was prohibited from firearm ownership or intended to use it in a crime.<sup>37</sup>

But what Sen. Cruz and others fail to understand or acknowledge is that every straw purchase involves a private transfer. The straw purchaser goes through a background check, buys the gun from a dealer, then gives or resells the gun to the prohibited person for whom it was bought. Under the current system, it is extremely difficult to prove that this handoff violated the law. One must prove that the purchaser either bought the gun with the specific intent of transferring it to someone else—other than as a bona-fide gift—or that he or she knew that the ultimate recipient was legally prohibited from gun owner-

ship. After all, because of the lack of background checks on secondary market sales, right now it is perfectly legal for someone to buy a gun from a licensed dealer and decide a week later to sell the gun to a stranger in a no-questions-asked transaction. Prosecutors seeking to convict someone of a straw purchase face a particularly challenging burden of proof because they must demonstrate that the secondary transaction fell into the former category rather than the latter, which turns on what was in the person's mind at the time they purchased the gun from the dealer.

A universal background check requirement is therefore crucial to effective prosecution of straw purchasers. This change in the law would make it much easier for law enforcement to assess the straw purchaser's mindset at the time they made the purchase from the dealer. If that person quickly transfers that gun without a background check, then not only has he violated the new background check requirement, but he has also demonstrated his unlawful intent regarding the entire transaction.

**Bottom line:** Straw purchasing is a major avenue through which guns are diverted into the illegal market and no-background check transfers are part of every straw purchase. A universal background check law—along with a law that toughens penalties for straw purchasing and illegal trafficking—will greatly assist law enforcement's ability to crack down on straw purchasing.

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5. Claim: We should not enact new laws on background checks until the federal government starts prosecuting violations of the current laws.

*[W]e need to enforce the thousands of gun laws that are currently on the books. Prosecuting criminals who misuse firearms works ... out of more than 76,000 firearms purchases denied by the federal instant check system, only 62 were referred for prosecution and only 44 were actually prosecuted. Proposing more gun control laws—while failing to enforce the thousands we already have—is not a serious solution to reducing crime.*

– Wayne LaPierre testifying before the U.S. Senate  
Judiciary Committee, January 30, 2013<sup>38</sup>

One mantra of the gun lobby during the past year is that there are already sufficient laws in place to address criminal use of firearms, and that rather than enact new laws, federal prosecutors should focus on prosecuting individuals who violate those laws. In particular, opponents of stronger gun laws point to the relatively low prosecution rate of individuals who are prohibited from gun ownership but attempt to purchase a gun from a federally licensed dealer anyway and lie on the form required for such a purchase—conduct that constitutes a felony.

It is true that there are relatively few federal prosecutions of these “lie-and-try-to-buy” cases. The 2010 data are often used to support this argument: In 2010, 76,142 gun sales were denied by the NICS system for reasons such as felony conviction, fugitive status, or domestic violence misdemeanor conviction or restraining order. After further investigation by ATF and the U.S. Attorney’s Offices, only 44 of these cases were ultimately prosecuted in federal court.<sup>39</sup> Both advocates for stronger gun laws—including the authors of this issue brief—and gun-law opponents have long called for enhanced federal prosecutions of such cases and additional referrals to state and local law enforcement.<sup>40</sup>

The statistics regarding federal prosecutions, however, do not account for the entire universe of NICS denial cases. Many of these cases are prosecuted in state court. For example, from 2006 to 2010, law enforcement in Pennsylvania arrested 962 individuals who sought to buy a firearm and were denied because of a state law prohibition and obtained convictions of 703 such individuals.<sup>41</sup> In Virginia during this period, law enforcement arrested 4,029 individuals after attempts to purchase a gun despite a state law prohibition.<sup>42</sup>

Additionally, “lie-and-try-to-buy” cases are only a small sliver of federal gun-related prosecutions in the United States. From 2005 to 2012, 113,541 individuals were indicted in federal court for gun crimes investigated and referred for prosecution by ATF, including possession of a gun by a felon and illegal firearms trafficking.<sup>43</sup> In 2012 alone, more than 8,600 defendants were prosecuted in federal court for firearms offenses, including possession by a prohibited person and using a firearm in furtherance of a violent or drug-trafficking crime.<sup>44</sup> Additionally, the bulk of gun-related crimes are prosecuted in state courts as part of cases involving other violent crimes.<sup>45</sup>

Federal prosecutors should pursue more federal cases of prohibited purchasers who try to buy guns in addition to pursuing the thousands of other federal gun-law violations they already prosecute each year. However, it does not logically follow that universal background checks legislation should be put on a back burner until that happens. We should take every available step to ensure that dangerous people do not continue to have easy access to guns. Strong enforcement of current laws and enactment of new laws are not mutually exclusive and, as discussed in the preceding section, a universal background checks law would aid in efforts to identify and effectively prosecute criminals who buy guns illegally.

**Bottom line:** Enforcement of current gun laws and enactment of new laws to prevent dangerous people from easily accessing guns would be mutually reinforcing, not mutually exclusive. Both better laws and tougher enforcement should be pursued.

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## 6. Claim: Universal background checks would harm gun dealers.

*I can tell you that just the logistics of the legislation, the Toomey-Manchin one, the way it prioritized gun show checks over retailers. I mean just on a sort of implementation level. A lot of concern from retailers about that their [sic] the way they prioritized it putting aside the checking of it, that amongst retailers there was a lot of concern from just actually gun shop owners.*

– Sen. Kelly Ayotte (R-NH), April 18, 2013<sup>46</sup>

In the lead-up to the April vote on expanded background checks in the Senate—even with the NRA’s vocal opposition to the proposal—there was a question of whether others in the gun lobby, particularly groups representing gun retailers, would take a position on the bill. Then, on March 5, *The Washington Post* reported that the National Shooting Sports Foundation, or NSSF—the firearm industry’s trade association—was supportive of the background checks proposal.<sup>47</sup> The *Post* story quoted the president of NSSF, Steve Sanetti, as saying that opposition to background checks was “more the NRA’s issue” and that “[f]rom the commercial side, we’re already there, and we’ve been there, and we were the ones that have been the strongest proponents of an effective, complete background check.”<sup>48</sup>

But the following day, NSSF changed course, contesting the veracity of the *Post* article and asserting that “there is no conflict” between themselves and the NRA. In a statement on its website, the NSSF stated that it supported improvements to the NICS system, but shared concerns with other groups about expanding background checks beyond retail sales.<sup>49</sup> And later, in a statement the day before the Senate vote, NSSF sent an email blast to supporters taking an even stronger stance against expanded background checks: “The National Shooting Sports Foundation (NSSF), as the firearms industry’s trade association, has consistently opposed the concept of so-called ‘universal background checks.’”<sup>50</sup>

But the question remains: Does the NSSF’s most recent position accurately reflect the views of the nation’s gun dealers? A new survey answers this question—and the answer is no.

A survey of gun dealers conducted by the University of California, Davis, in 2011 and released last month shows that 55.4 percent of gun dealers support expanding background checks to all guns sales, with 37.5 percent expressing strong support.<sup>51</sup> This support makes intuitive sense. Under the existing federal law, private sellers, who are permitted to conduct gun sales without having to perform background checks or keep paperwork, constitute competition for licensed gun dealers who are legally required

to do so. Moreover, a universal background check, at least as implemented in the states that already require it, would require private buyers and sellers to meet at a gun store to conduct the exchange and do the background check. These transactions will bring foot traffic into gun stores—and those private buyers and sellers may buy ammunition, holsters, or other gear while in the stores.

**Bottom line:** Imposing a background checks requirement on private sales would not impose an undue burden on gun dealers, and a majority of dealers support this proposal.

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## Conclusion

The question of how to address the problem of gun violence in this country is a complicated one, and there is no single solution or easy fix. Over the past year, the national debate on guns has been sometimes robust, and at other times oversimplified. But when you scrape away all of the bluster and rhetoric, the basic argument underlying all of the recent proposals to strengthen the nation's gun laws is actually quite simple: Dangerous people should not be able to easily acquire guns. The question then becomes, how do we prevent them from doing so?

The solution is a comprehensive approach to preventing dangerous people from acquiring guns that addresses multiple facets of the issue. Such an approach has four elements:

- **Prohibit all dangerous people from owning guns.** All potentially dangerous individuals need to be identified as such and prohibited from gun ownership. Many such people are already covered by the federal law—including felons, fugitives, some domestic abusers, and the dangerously mentally ill—but there are additional categories of people who should also be barred from possessing guns, such as violent misdemeanants,<sup>52</sup> convicted misdemeanor stalkers, and certain domestic abusers who are not covered by the current law.<sup>53</sup> Many states have already acted to bar such persons from possessing guns under state laws.<sup>54</sup>
- **Ensure that all relevant records are submitted to NICS.** All of the records pertaining to prohibited purchasers must be submitted to NICS to ensure that the system catches every person who attempts to illegally purchase a firearm. Great progress has been made in encouraging states to submit records regarding people prohibited from gun possession due to mental illness. In 2004, there were only 126,000 mental health records in NICS<sup>55</sup>—that number has grown to more than 3 million records as of

October 2013.<sup>56</sup> But there is still more work to be done: There are 15 states that have still submitted fewer than 100 mental health records to NICS to date.<sup>57</sup> There are also gaps in the submission of domestic violence records.<sup>58</sup>

- **Require background checks for all gun sales.** This is the only means of preventing prohibited individuals from easily buying guns from private sellers with no questions asked.
- **Impose strong penalties for violating gun laws.** There must be meaningful penalties for those who break the law. This means increased investigations of individuals who “lie and try to buy” and prosecution of the most dangerous among those who pose a significant risk to public safety when armed, such as felons, fugitives, and domestic abusers. We also need to enact stronger laws with tougher penalties for straw purchasing and firearms trafficking. Federal prosecutors face serious challenges prosecuting these cases under current law, and when they are successful, the defendants are often sentenced to little more than probation.

Taking action on each of these four components will put us in a much stronger position to prevent gun violence in our communities.

Finally, in regards to how our country conducts this debate on guns in the future, we should acknowledge that in the past year, both sides in the debate have made misstatements and taken facts out of context in a manner that has too often confused more than it has informed. But readers should not conclude that the authors make any sort of false equivalence between the case typically made by advocates for stronger gun laws and the case made by those who oppose such laws. By any measure, gun-law opponents have abused the facts in this debate more frequently and egregiously.

To be sure, there is much we do not know about guns and gun crime in this country. Much of the best available research is 10 to 20 years old and it is very difficult to understand the unregulated, undocumented marketplace of private gun sales. Our national debate on gun background checks would be greatly aided by more research and information about how guns are diverted out of the lawful stream of commerce and into criminal hands. But the lack of this information should not derail efforts to enact common-sense legislation to make it difficult for criminals to access guns. And lastly, as independent-minded people consider this debate and the limits of information available to inform it, an important question to consider is: Who is working to keep that information hidden? For years, advocates for stronger gun laws have called for greater research and data collection,<sup>59</sup> while at the same time the NRA has been pushing budget restrictions aimed at muzzling federal and state funded research on gun violence.<sup>60</sup> It is perhaps worth asking: What facts are they so afraid of?

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## Endnotes

- 1 The proposal to ban assault weapons and high-capacity magazines was directly responsive to the Newtown shooting, as well as a number of other recent mass shootings. But this proposal received only tepid support in public opinion polls and in Congress.
- 2 Arkadi Gerney, Chelsea Parsons, and Charles Posner, "America Under the Gun: A 50-State Analysis of Gun Violence and Its Link to Weak State Gun Laws" (Washington: Center for American Progress, 2013), available at <http://www.americanprogress.org/wp-content/uploads/2013/04/AmericaUnderTheGun-4.pdf>; Mayors Against Illegal Guns, "Gun Background Checks Reduce Crime and Save Lives," available at [http://libcloud.s3.amazonaws.com/9/a2/3/1982/MAIG\\_-\\_2\\_-\\_Background\\_checks\\_national\\_charts\\_-\\_b.pdf](http://libcloud.s3.amazonaws.com/9/a2/3/1982/MAIG_-_2_-_Background_checks_national_charts_-_b.pdf) (last accessed December 2013); Garen J. Wintemute and others, "Prior Misdemeanor Convictions as a Risk Factor for Later Violent and Firearm-Related Criminal Activity Among Authorized Purchasers of Handguns," *Journal of the American Medical Association* 280 (24) (1998): 2,083–2,087, available at <http://jama.jamanetwork.com/article.aspx?articleid=188297>; Daniel W. Webster and others, "The Case for Gun Policy Reforms in America" (Baltimore: Johns Hopkins Center for Gun Policy and Research, 2012), available at [http://www.jhsph.edu/research/centers-and-institutes/johns-hopkins-center-for-gun-policy-and-research/publications/WhitePaper102512\\_CGPR.pdf](http://www.jhsph.edu/research/centers-and-institutes/johns-hopkins-center-for-gun-policy-and-research/publications/WhitePaper102512_CGPR.pdf).
- 3 Margie Omero and others, "What the Public Really Thinks About Guns" (Washington: Center for American Progress, 2013), available at <http://www.americanprogress.org/wp-content/uploads/2013/03/GunPolling-5.pdf>.
- 4 Neera Tanden and others, "Preventing Gun Violence in Our Nation" (Washington: Center for American Progress, 2013), available at <http://www.americanprogress.org/wp-content/uploads/2013/01/GunViolenceBrief-1.pdf>.
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- 6 The White House, "Remarks by the President and Vice President on Gun Violence," available at <http://www.whitehouse.gov/the-press-office/2013/01/16/remarks-president-and-vice-president-gun-violence> (last accessed December 2013).
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