

Gun Dealer Code of Conduct

Gun dealers are crucial gatekeepers that stand as the front line of defense to prevent criminals, and the straw purchasers and traffickers who supply them, from obtaining guns. Most gun dealers, like most gun owners, are responsible people, who want to do all they can to ensure that firearms are only possessed by responsible, law-abiding people. Responsible gun sellers know that their families, friends and communities are safer when they keep guns out of the wrong hands.

Although the names of the victims, criminals, straw purchasers and traffickers change with each shooting, the source of most crime guns remains the same. A small percentage of America's gun dealers are where criminals get guns. However, by employing responsible business practices a gun dealer can reduce criminals' access to guns—and, correspondingly, gun crime, deaths and injuries.

This Code of Conduct defines some policies and practices gun dealers should adopt to prevent the diversion of guns into the illegal market. Each element of the proposed Code has either been suggested by the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), imposed as a legal requirement in certain states, accepted by dealers as part of litigation settlements, or urged as a standard by major gun industry trade associations.

The Code cannot—and does not—contemplate the unique circumstances a particular gun seller faces in his community or the discrete facts of any particular sale. Nor does it include every reasonable business practice that gun dealers should employ to prevent dangerous people from obtaining guns, nor remove the gun dealers' duty to exercise reasonable care in selling firearms. But, implementing the Code, in addition to following all applicable federal, state and local laws regarding gun sales, will dramatically decrease the probability that a dealer will be a source of guns for criminals, gun traffickers, straw purchasers and other prohibited or dangerous people.

The gun dealer commits to do all that it reasonably can to prevent dangerous people from obtaining and using firearms, including, but not limited to, doing the following:

1. Prevent sales of guns to straw purchasers or gun traffickers.

Law enforcement has long recognized that many criminals obtain guns through straw purchasers and gun traffickers who buy guns from licensed gun dealers in order to supply the criminal market. It is the duty of gun dealers to deny sales where there is a sufficient likelihood or suspicion that it is a

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straw purchase—that is, that the gun is not intended for the person completing the required federal form (Form 4473). Gun dealers should therefore do all they reasonably can to prevent sales to straw purchasers or gun traffickers, including, but not limited to:

- Screen for and refuse to sell to straw purchasers, including by observing and asking questions of prospective purchasers to determine if they are buying for someone else.
- Maintain records of all trace requests received from ATF and all purchasers that bought a gun later traced to crime to identify such potential purchasers if they attempt to purchase another firearm.
- Screen for and refuse to sell guns or ammunition to purchasers that exhibit signs of alcohol intoxication, drug use or possession, or mental instability.
- Prohibit dealer personnel from directing a customer as to how to answer questions or forms required to be completed in connection with the sale.
- Limit purchases of handguns to one per 30 days per civilian, non-law enforcement customer.

2. Prevent sales to persons prohibited from buying guns or too dangerous to possess guns.

As a result of the landmark Brady Law, federally-licensed gun dealers must check the buyer's background to make sure that he or she is not prohibited from possessing guns. Brady background checks have stopped more than 2.1 million gun sales to prohibited purchasers including convicted felons, domestic abusers, fugitives from justice, and other dangerous individuals. Gun dealers should therefore do all they reasonably can to ensure that background checks are as effective as possible, including, but not limited to:

- Refuse to transfer a firearm until a background check has been completed and the purchaser is cleared to purchase the firearm.
- Search state court and criminal government databases that may provide information on whether the potential purchaser is prohibited.
- Refuse to sell a firearm to a potential purchaser if the dealer has information that the purchaser may be a danger to themselves or others.
- Refuse to sell firearms at gun shows unless all firearm sales at such shows are conducted only upon completion of a background check.
- Perform background checks for private sellers for a reasonable fee.

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3. Prevent criminals from obtaining firearms through thefts.

Criminals sometimes obtain guns from gun dealers through theft, and those guns, necessarily, end up in the hands of criminals. Gun dealers should therefore do all they reasonably can to develop a safety plan to protect the dealership and deter theft, including, but not limited to:

- Develop a plan that includes adequate locks, exterior lighting, surveillance cameras, alarm systems and other anti-theft measures and practices. The plan shall address the safe storage of weapons and ammunition that is displayed during business hours
- Electronically record the make, model, caliber or gauge, and serial number of all firearms that are acquired no later than one business day after their acquisition and electronically record their purchaser no later than one business day after their disposition. Monthly backups of these records shall be maintained in a secure container. All firearms acquired but not yet disposed of must be accounted for through a daily electronic inventory check that is maintained at a secure location.
- Provide immediate notification of any and all loss or theft of any firearms to local and federal law enforcement authorities.

4. Ensure that employees are responsible, law-abiding people that are prepared to be effective gatekeepers.

To be an effective gatekeeper, gun dealers should employ responsible, diligent, law-abiding people, and develop and provide resources to equip its employees with the tools to keep guns out of the wrong hands. Gun dealers should therefore do all they reasonably can to employ responsible people that are trained to adhere to comprehensive and current compliance policies and procedures, including, but not limited to:

- Conduct pre-employment background checks on all potential employees, including contacting references and prior employers, as well as conducting a criminal history check that is the same as what gun buyers have to complete.
- Require that all new employees attend a training session prior to selling any firearms, and on an annual basis thereafter. The training sessions shall cover, at a minimum, the law governing firearm transfers; how to recognize straw purchases; how to recognize indicators that a person is attempting to purchase firearms illegally and may be diverting them for later sale or transfer, and how to respond to those attempts.
- Review the circumstances surrounding each firearm at issue in each ATF Trace Request, including a review of the videotape or electronic recording of the sale. Any sales person who participates in a clear or obvious straw purchase in violation of store policy or law will be terminated and dealer will seek and support criminal prosecution, as appropriate.

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- Annual review and update of compliance policies, procedures and training materials; develop new policies, procedures and training materials that would have detected and prevented past sales to gun traffickers, straw purchasers or other dangerous people.
- Produce a bi-annual report of the store's safety and compliance record, and make it available to the public; specifically highlighting the total number of guns traced to the store in the prior 6 months broken down by month; the number of known straw purchases either attempted or completed within the past 6 months broken down by month; and the number of violations cited by the ATF over the past 6 months.

5. Assist law enforcement to investigate and prevent criminal access to guns.

A gun dealer is the principal agent of federal enforcement in restricting criminals' access to firearms. Law enforcement relies on gun dealers to provide information to initiate, expand and pursue successful prosecutions of criminals that are unlawfully trying to obtain firearms. The gun dealer is often the "eyes and ears" for law enforcement and will be in possession of unique information that will be of vital assistance to law enforcement. Gun dealers should therefore do all they reasonably can to assist law enforcement, including, but not limited to:

- Immediately notify local and federal authorities of any suspected straw purchasers, prohibited purchasers or dangerous individuals who attempt to obtain guns.
- Immediately notify local and federal authorities of any multiple handgun purchases that occur within any ninety day period.
- Videotape (including audio) and/or electronically record (including audio) the point-of-sale of all firearms transactions and maintain the videos or electronic recordings for at least 5 years.

6. Maintain insurance for victims who are entitled to compensation.

Most businesses maintain adequate insurance to potentially compensate victims of wrongful conduct who are entitled to compensation. Victims of gun violence whose injury or loss was caused by the irresponsible practices of a gun dealer deserve to be compensated for their injuries. A responsible gun dealer should not keep profits that resulted from its failure to keep guns out of the wrong hands. Gun dealers should therefore secure liability insurance that will insure the dealer against liability for damage to property and for injury to, or death of, any person as a result of the sale, lease or transfer of a firearm or ammunition.

Participating retailers will phase in the provisions of Code of Conduct within 6 months.

SIGNED: _____ DATE: _____