NO CHECK. NO GUN.
WHY BRADY BACKGROUND CHECKS SHOULD BE REQUIRED FOR ALL GUN SALES

Tragedy in Littleton
Coach Killed in Shooting Spree
Community Center Shooting
Phila. Police Officer Shot to Death

GUN SHOW
MARCH 13-14
County Fairgrounds
NO CHECK.
NO GUN.

WHY BRADY BACKGROUND CHECKS SHOULD BE REQUIRED FOR ALL GUN SALES

Brady Center to Prevent Gun Violence
April 2009
ACKNOWLEDGEMENTS

The Brady Center to Prevent Gun Violence is a national non-profit organization working to reduce the tragic toll of gun violence in America through education, research, and legal advocacy. Through its project Gun Industry Watch, the Brady Center works to monitor and publicly expose gun industry practices that contribute to gun violence, with the goal of bringing about life-saving industry reform. The programs of the Brady Center complement the legislative and grassroots mobilization efforts of its sister organization, the Brady Campaign to Prevent Gun Violence and its network of Million Mom March Chapters.

No Check. No Gun. Why Brady Background Checks Should Be Required For All Gun Sales, was written by Brian J. Siebel. Thanks to Jonathan Lowy, Dennis A. Henigan, Robyn Steinlauf, Colin Richard, Sarah McLemore, John Sorrenti, Amanda Koulousias, and Leila Nagibi for their assistance in preparing this report.

If you have questions about any part of this report, or would like a copy, please write to Gun Industry Watch, Brady Center to Prevent Gun Violence, 1225 Eye Street, N.W., Washington D.C. 20005. The report is also available at www.bradycenter.org/gunindustrywatch and www.gunlawsuits.org.

A Note About the Cover

The photographs on the cover, starting in the upper left, are of (1) Ricky Byrdsong, who was among 11 victims of a shooter armed through a no-check gun sale, (2) grieving survivors of the Columbine tragedy, whose shooters purchased guns through no-check sales at a gun show, (3) Sergeant Stephen Liczbinski, who was killed by a felon with a gun purchased at a gun show, and (4) children led away from a shooting at the Jewish Community Center in Los Angeles by a shooter armed through a no-check gun show sale. The center photo is a composite billboard drawn to illustrate a typical gun-show billboard. (Photo number 4 is courtesy of the Los Angeles Times.)

Thanks to The Focal Point LLC of Oakland, California for the cover artwork.

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Executive Summary

“Unfortunately, unlicensed sellers are permitted by law to sell firearms with no background check whatsoever. Millions of firearms change hands every year through this back-door, yet perfectly legal, method -- giving criminals and terrorists remarkably easy and undetectable access to weapons. This legal loophole must be closed immediately. We can no longer allow the purchase of firearms through the Internet or a newspaper ad, at a gun show or a flea market, or in any other type of sale from an unlicensed seller, without any background check or other record of purchase. The stakes are too high.”

Eric Holder, Jr., Op-Ed, October 29, 2001

For forty years we have prohibited felons and other dangerous people from buying or possessing guns. In 1994, we passed the Brady Law, putting an end to the days when criminals could “lie and buy” guns from dealers without a background check. The Brady Law requires that every person who wishes to buy a gun from a licensed gun seller undergo a background check to make sure that the buyer is not a criminal or other prohibited person. Brady background checks have been a resounding success. Background checks prevent dangerous people from arming themselves with guns from licensed dealers, without preventing law-abiding citizens from buying firearms, and they generally take only minutes.

However, the Brady background check system has a major gap. Because it requires background checks only for gun sales by licensed dealers, criminals can obtain guns with no questions asked from unlicensed sellers, as they are allowed to sell guns without conducting a check in most states. About 40% of gun sales are made without a background check to see if the purchaser is a criminal or otherwise prohibited from buying guns. In effect, we have two gun markets: A regulated one, where buyers are checked to see if they can legally buy guns, and an unregulated one, where they are not.

Why do we allow this unregulated system of no-check gun sales to flourish in this country? By requiring background checks on only about 60% of gun sales, with the rest almost completely unregulated, we make it too easy for dangerous people to obtain dangerous weapons. This leads to senseless gun violence harming tens of thousands of people, year after year. Imagine if we applied this same irrational policy to the sale of controlled drugs, where prescriptions were required for purchasing drugs from pharmacies, but drugs also could be legally sold by “unlicensed sellers” without a prescription, no questions asked. Or if airports only screened 60% of airline passengers and allowed anyone who wanted to pass through unscreened. Such loopholes would not be tolerated. Indeed, when gaps in those systems have been identified, the government has taken swift steps to close them.

The no-check loophole only helps criminals and other prohibited purchasers, and those who supply them with guns. We are long overdue for instituting the rational policy of requiring a background check before any gun is sold.

Not surprisingly, the no-check loophole has been exploited as a major supply source for criminals who want guns. Criminals purchase guns directly from private no-check sellers at gun shows and elsewhere with no questions asked. Also, gun traffickers buy
quantities of guns to resell to criminals at gun shows or on the streets, without any check
required. Moreover, the no-check loophole has encouraged some dealers to drop their licenses
and sell guns without checks, or to conspire with unlicensed sellers to move more guns. No-
check gun sales occur by the hundreds of thousands at gun shows held everyday all across
America. No-check sales also occur through classified ads, sales arranged through the internet,
and elsewhere.

As explained in this report, no check sales have armed countless criminals, including the
Columbine High School killers, the neo-Nazi spree killer of Ricky Byrdsong and others in Illinois
and Indiana, the Los Angeles Jewish Community Center shooter, killers of police officers, and
the notorious Mexican drug cartels. Terrorist organizations, including Hezbollah, have
attempted to exploit the no check loophole to amass their arsenals.

Fortunately, this is a problem that can be solved. So far, eighteen states and the
District of Columbia have taken steps to close the “gun show loophole,” with several requiring
background checks on all gun sales. Such universal background checks have worked for
almost two decades in our most-populous state, California. Since 1991, every gun sale in
California must first be run through the state’s background check system. Unlicensed sellers at
gun shows or elsewhere need only take their guns to a licensed dealer to run the check and
complete the sale.

While the gun lobby argues against a thorough system of background checks,
those arguments are unsupported. The gun lobby claims that requiring background checks
would lead to additional costs and inconveniences, and could shut down the gun show industry.
But the minimal cost and time of background checks is far less than the potential cost of
enabling criminals to have easy access to guns. Moreover, gun shows flourish in California,
where every sale is checked first, as well as in other states that have closed this loophole.

Brady background checks clearly work. So far, they have blocked well over 1.6
million prohibited purchasers – felons, the dangerously mentally ill, domestic violence abusers,
and others – from buying guns from licensed gun dealers. Many more prohibited buyers have
undoubtedly been discouraged from attempting to buy a gun to avoid having their record
revealed in a background check. Background checks have unquestionably saved lives. In the
seven years prior to the Brady Law’s enactment, the number and rate of violent firearm crimes
increased every year, while in the seven years after the law took effect, the number and rate of
violent firearm crimes declined precipitously.

Background checks are simple and quick. Checks merely require a phone call to the
FBI or the state police, and in the vast majority of cases they take mere minutes.

Background checks do not block law-abiding purchasers from buying guns. They
only keep criminals or those already prohibited from buying guns from acquiring them. The
public, including gun owners, overwhelmingly support requiring background checks on all gun
sales, as do many law enforcement groups and elected officials.

No check. No gun. The solution is as simple as that.
Brady background checks work. Since the Brady Law took effect in February 1994, more than 1.6 million prohibited gun buyers have been blocked from buying a gun from licensed gun dealers across America. Those prevented from buying guns have had felony records, domestic violence abuse histories, drug addictions, and mental illnesses that posed threats to others. A large number have been fugitives.

### Gun Purchase Applications Blocked by a Brady Background Check at Licensed Dealers, 1994-2007, by Reason

<table>
<thead>
<tr>
<th>Reason Purchase Was Blocked</th>
<th>Number of Blocked Purchases</th>
</tr>
</thead>
<tbody>
<tr>
<td>All Reasons</td>
<td>1,631,000</td>
</tr>
<tr>
<td><strong>Top Three Reasons:</strong></td>
<td></td>
</tr>
<tr>
<td>Felony</td>
<td>842,000</td>
</tr>
<tr>
<td>Domestic Violence</td>
<td>236,000</td>
</tr>
<tr>
<td>Fugitive from Justice</td>
<td>68,000</td>
</tr>
</tbody>
</table>

Background checks make it more difficult for criminals and other dangerous individuals to acquire firearms. Not only do background checks prevent prohibited buyers from walking away from a licensed dealer with a gun, and discourage some from even attempting a purchase, they block them from buying at a preferred source – a licensed gun dealer – where the largest selection of new firearms that criminals desire is available. The Brady Law is an important obstacle that helps keep dangerous weapons out of the hands of dangerous people.

Once our nation began requiring background checks by dealers, making it harder for criminals to acquire guns, we saw an immediate decline in societal gun violence. In the seven years preceding passage of the Brady Law, the number and rate of violent crimes in the United States committed with firearms increased every year. Beginning in 1994, the year the Brady Law took effect, those trends were reversed. For the next seven years, the rate of violent crime committed with firearms declined every year. During the same period, the number of gun murders dropped 40%. Since then, the total number and rate of violent firearm crimes, including gun homicides, has remained fairly steady and shown no signs of returning to pre-Brady levels. The Brady Law no doubt contributed to this dramatic decline in gun crime.
Number of Gun Robberies and Aggravated Assaults with a Gun
United States, 1984-2006

Rate (crimes per 100,000 population) of
Gun Robbery and Aggravated Assault with a Gun
United States, 1984-2006

No Check. No Gun.
Studies have confirmed that background checks make it harder for dangerous people to get guns, and prevent criminal activity. One study compared felons who were denied handgun purchases by a background check with persons who had been arrested and not convicted, and thus were able to legally pass a check. It found that those who were blocked by the checks were 20% to 30% less likely to engage in later criminal activity than those who were allowed to purchase a gun. A study analyzing California data found similarly that denying handgun purchases by violent misdemeanants effectively prevented gun-related and violent crime. Another study found that background checks prevented some domestic violence abusers from attempting to buy firearms.

Brady background checks also help reduce gun trafficking to criminals. Prior to the Brady Law, 32 states did not require a background check to purchase a handgun from a licensed dealer. Gun traffickers tended to buy guns in these 32 source states and bring them into the 18 states where checks were required. One study, Traffic Stop: How the Brady Act Disrupts Interstate Gun Trafficking, compared the interstate movement of crime guns pre- and post-Brady and found that after the Brady Law, guns were less likely to be trafficked from the source states where background checks were now being conducted. A separate analysis of Chicago crime guns found the same effect – after the Brady Law, traffickers were less likely to bring guns in from states that started conducting checks.
Background checks implemented through state permit-to-purchase and gun registration systems have also proven effective in preventing criminal access to guns. States using a permit-to-purchase system require buyers to undergo a thorough background check by local law enforcement to obtain the permit before they can purchase a gun. Researchers at Johns Hopkins University found that these systems make it more difficult for criminals to acquire guns, forcing criminals to obtain their guns in states with more lax laws. Using data from twenty-five communities, the study found that criminals in states that required gun buyers to first obtain a permit-to-purchase tended to obtain their crime guns from other states without those requirements. If gun registration was also required, this ratio was even more pronounced. The cities with the lowest proportion of homegrown crime guns – Boston, Jersey City and New York – were in the states with the toughest permits-to-purchase and registration laws, requiring fingerprinting of purchase applicants and longer waiting periods, as well as giving police greater discretion to deny licenses to buy guns. The Johns Hopkins researchers found “that comprehensive gun sales regulations that include permit-to-purchase licensing and registration can affect the availability of guns to criminals.”

In addition, a study by the Medical College of Wisconsin documented that those background checks conducted at the local level are associated with lower firearm suicide rates and lower homicide rates because, with access to local records, they block more prohibited buyers. Checks performed by local agencies were associated with a 27% lower firearm suicide rate and a 22% lower homicide rate.

These studies confirm that background checks reduce criminals’ access to guns. The problem, as discussed in Part Two, is that it is still far too easy for dangerous people to evade the Brady Law by buying guns from no-check sellers at gun shows or elsewhere.
“Gun shows provide a large market where criminals can shop for firearms anonymously. Unlicensed sellers have no way of knowing whether they are selling to a violent felon or someone who intends to illegally traffic guns on the streets to juveniles or gangs.”

Bureau of Alcohol, Tobacco, Firearms and Explosives

As valuable as Brady background checks are in blocking gun sales to criminals, their value is limited by a loophole that allows no-check gun sales in the vast majority of states. Because federal law and most states do not require unlicensed sellers to submit prospective purchasers to criminal background checks before selling them guns, criminals and other prohibited purchasers who are barred from buying guns can buy them from unlicensed sellers, no questions asked.

There are many venues where no-check gun sales take place. About 40% of gun sales are made without a background check. Guns are sold out of car trunks, from people’s homes, by using the internet or classified ads, and at other meeting places. But the biggest venues for no-check sales are gun shows.

There is no exact count of the number of gun shows held in America each year, but the most reliable accounts place the number at more than 5,000. Gun shows occur in every state and most draw an average of 2,500-5,000 people per show. Combining these estimates suggests there could be anywhere from 12.5 to 25 million attendees at gun shows annually. Indeed, promoters tout gun shows as a multi-billion dollar industry.

How many guns are sold at these shows? There is no precise count because no records are required. But a study by the Roanoke Times in Virginia found that 25% of the 10,456 gun transactions in the Roanoke Valley in 2004 were made at nine weekend gun shows. The average show had just over 290 recorded sales, with the busiest having more than 500, or 37 an hour. If these ratios held for gun shows across the country, it would suggest that more than 1.45 million recorded sales are made at gun shows each year.

Critically, however, these counts and estimates include only the sales by licensed dealers for which background checks were required. Sales by unlicensed sellers at these shows go uncounted, and unchecked. ATF has estimated that between 25% and 50% of gun vendors at gun shows are unlicensed. But researchers who attended 28 gun shows in California, Arizona, Nevada, Texas, and Florida found that 70% of gun vendors were unlicensed. Moreover, although licensed vendors had more guns for sale than unlicensed ones, “private party sales appeared about equal in number to sales involving licensed retailers” in the states where these sales are allowed. This suggests that the number of
unlicensed sales just at gun shows could be staggering. *Even the National Rifle Association has admitted that “hundreds of thousands” of firearms are sold each year by unlicensed sellers at gun shows.*

In whose hands do these “hundreds of thousands” of guns end up? The unrecorded nature of these sales makes it impossible to pinpoint all gun show sales, but we know gun shows are a major supply source for criminals.

**Criminals Exploit No-Check Sales at Gun Shows**

ATF’s major reports on the sources of guns trafficked to criminals or juveniles come to the same conclusion: *No-check sales at gun shows are a major source for supplying dangerous people with guns.* Indeed, these studies find that “cases involving gun shows and flea markets accounted for 30.7% of all trafficked guns in the US.”

One ATF report, *Gun Shows: Brady Checks and Crime Gun Traces,* discusses several hundred criminal investigations of firearms trafficking at gun shows. A second ATF report, *Following the Gun: Enforcing Federal Laws Against Firearms Traffickers,* analyzes 1,530 criminal investigations of firearms trafficking at gun shows and elsewhere. Together, the reports paint a picture of rampant gun trafficking by unlicensed sellers, most of it connected to gun shows.

*Overall, ATF identified gun shows as a “major trafficking channel.”* Among all trafficking sources, gun shows ranked second, behind corrupt licensed dealers, in the number of trafficked guns per investigation, with more than 130 guns per case, and second in the overall number of illegally diverted firearms, with approximately 26,000 guns. According to ATF: “A ... review of ATF gun show investigations shows that prohibited persons, such as convicted felons and juveniles, do personally buy firearms at gun shows and gun shows are sources of firearms that are trafficked to such prohibited persons.”

Unlicensed sellers linked to gun shows were involved in 170 of the investigations in ATF’s *Gun Shows* report. They trafficked 15,551 guns overall. In the larger number of investigations detailed by ATF in *Following the Gun,* unlicensed sellers were involved in 314 criminal trafficking investigations. *This made unlicensed sellers the second most prominent source of illegal trafficking.* They were linked to 22,508 trafficked guns – more than 25% of the total – and an average of 75 guns per investigation. Most of these criminal enterprises involved unlicensed traffickers selling at gun shows.
No Check Sales Supply the Drug War in Mexico

Unlicensed sellers supply many of the crime guns used by the drug cartels that are waging war in Mexico. ATF Assistant Special Agent in Charge of the Dallas Field Division, Michael Golson, said of trafficked weapons entering Mexico: “They’re coming from gun shows and flea markets.’ Often, he says, private collectors are selling their weapons because ‘they don’t have the same restrictions.”

Even the former U.S. Attorney General from the Bush Administration, Alberto Gonzales, has recognized that the gun show loophole supplies criminals in Mexico. In an op-ed about the drug wars in Mexico, Gonzales wrote that “gun shows are a market place for felons and other prohibited persons to buy firearms from unlicensed sellers without background checks. Because of this ‘gun show loophole,’ it is virtually impossible for ATF to identify large numbers of handgun purchases at border gun shows.”

ATF also found that when an unlicensed seller is able to conspire with a corrupt licensed dealer, the number of guns trafficked to prohibited buyers increased dramatically compared to when unlicensed sellers acted alone. Unlicensed sellers acting alone trafficked about 47 guns per investigation. But when paired with a corrupt licensed dealer, the number rocketed upwards to 576 guns per investigation. Similarly, the average trafficking scheme at gun shows and flea markets, without licensed dealer involvement, trafficked 88 guns, but with dealer involvement jumped to 316 guns.

This type of illegal activity is clearly fostered by the disparate treatment between unlicensed sellers allowed to sell guns without background checks and the requirement that licensed dealers run checks on all gun sales. By conspiring with an unlicensed seller, a dealer can attempt to tap the huge market for no-check gun sales, but make it very difficult for ATF to discover the illegal scheme, because on the surface, everything appears legal. This is one of the reasons that many dealers complain about unlicensed sales at gun shows and elsewhere.

A parallel problem identified by ATF is that some unlicensed sellers are formerly-licensed dealers who chose to let their federal licenses lapse so they could divert firearms at gun shows without running background checks or keeping records. This also suggests the incentives provided by no-check gun sales may entice some legal gun dealers to move into illegal activity.

To prosecute these high-volume gun trafficking schemes, ATF is often required to prove that the unlicensed seller was “engaged in the business” of selling guns without a license. Often ATF must prove that the seller sold so many guns that they could not be from the seller’s private collection. Since there is no paper trail and sales might be spread over several gun shows, ATF must often follow a seller and his gun sales through several gun shows, held at numerous times and locations. Law enforcement does not have the resources to engage in such time-intensive investigations of most gun show traffickers. For example, from fiscal year 2004 through fiscal year 2006, "At a recent gun show in Pharr, Bruce Schluderman of Round Rock was doing a brisk business in Russian rifles from World War II as well as brand-new AR-15s."

"As a licensed dealer, Schluderman had to call the FBI to run a criminal background check on every buyer. But nearby people were selling their private collections."

"I have had people that failed background checks, and yet they are carrying guns out of here that they bought from someone else,’ he said.”

Bruce Schluderman, Texas FFL
ATF was able to investigate only 195 gun shows, just a tiny fraction of thousands of shows occurring during those years. Still, they made 121 arrests, or, on average, an arrest every 1.6 gun shows. Given this ratio, and the fact that thousands of gun shows every year are not investigated, many corrupt sellers clearly go unpunished. Indeed, ATF has said that the effect of this weakness in the law has been “to frustrate the prosecution of unlicensed dealers masquerading as collectors or hobbyists but who are really trafficking firearms to felons or other prohibited persons.” When these schemes are uncovered, it is often only after a huge volume of guns has already been moved into the illegal market.

No-check gun sales provide excellent cover for felons and juveniles to buy guns. ATF’s Gun Shows report found that felons buying or selling guns were involved in 46% of its gun show investigations. Investigations involving unlicensed sellers found that 25% had at least one prior felony conviction. ATF has also indicated that unlicensed dealers are involved in 14.2% of all investigations involving gun trafficking to youths, much of which occurs at gun shows and flea markets.

In more than one-half of the large set of investigations detailed in ATF’s Following the Gun report, trafficked guns were also known to have been involved in additional crimes, including homicides, other violent crimes, and drug offenses. According to ATF, “[t]he gun trafficker … plays a critical role in the chain of violence.”

Traffic to felons, juveniles, and other prohibited persons could be reduced if background checks were required on all gun sales. Prohibited buyers would not be able to simply purchase a gun at a gun show or elsewhere, no questions asked. There would be no incentive for licensed dealers to pair up with unlicensed sellers to traffic guns without checks. Nor would there be an incentive for licensed dealers to let their licenses lapse so they could make no-check gun sales. All gun sales would be recorded, creating a paper trail that law enforcement could use to determine whether unlicensed sellers were illegally “engaged in the business” without a license. This same record would also help law enforcement trace guns recovered in crime, providing an important lead that could help catch violent criminals. Critically, when background checks are required, law enforcement – and gun show operators – can easily see when sales are made without a check, and stop illegal sales before a criminal is armed.
Case Examples: Victims of No-Check Gun Sales

The tragic consequences of no-check gun sales are that dangerous people are able to get their hands on guns far too easily, and people are often killed or are seriously injured as a result. This report is not intended to catalog all these stories, but we identify a few to highlight the deadly consequences of this loophole.

- **Chris Cutrone, Colorado State Patrol officer**

  On May 8, 2003, during a traffic stop, Officer Cutrone was shot several times by a convicted felon who was wanted in Texas on theft and assault charges, including an assault on a sheriff's deputy. Cutrone suffered a punctured lung, a near-severed finger, and a stroke. The assailant had obtained his gun, a .45 caliber Ruger semiautomatic, from an unlicensed private seller in New Mexico.\(^\text{75}\)

- **Raquel Soliz-Williams, mother**

  On April 27, 2003, Raquel Soliz-Williams was shot and killed in front of her 9-year-old daughter by her estranged husband, Mark Williams. Mark could not have passed a Brady background check both because he was a convicted felon and because he was subject to a domestic violence restraining order. However, he spotted a classified ad in the Sarasota Herald-Tribune for a Tokarev semi-automatic handgun, and bought it from the seller without a background check. That same day he murdered his estranged wife.\(^\text{76}\)

- **Ricky Byrdsong, former Northwestern University basketball coach, and 10 other victims**

  On the weekend of July 4, 1999, the nation witnessed a horrible rampage of hate-motivated gun violence. Over the course of three days, neo-Nazi Benjamin Nathaniel Smith drove across Illinois and Indiana, randomly targeting African-Americans, Asian-Americans and Jews. He left two dead and nine wounded in three days of shooting.\(^\text{77}\) Among his victims were Ricky Byrdsong, a former Northwestern University head basketball coach, who was shot and killed as he walked in his Skokie, Illinois neighborhood with his two daughters; and Won Joon Yoon, a Korean graduate student at Indiana University in Bloomington, Indiana, who was shot and killed as he walked to church services. Wounded survivors of the attacks include Steven Kuo, a student at the University of Illinois; Reverend Stephen Anderson, of Decatur, Illinois; and six Orthodox Jews on their way from temple in Chicago.\(^\text{78}\)

  A background check run by a federally licensed dealer in Peoria Heights, Illinois blocked Smith’s attempt to purchase a firearm, when it turned up an outstanding domestic violence restraining order against him.\(^\text{79}\) However, Smith was able to find an unlicensed seller in classified ads in a local paper, where Donald Fiessinger advertised guns for sale.\(^\text{80}\) Fiessinger would routinely buy handguns from a dealer in Pekin, Illinois, and then re-sell them. Over a two-year period, Fiessinger bought 72 cheap guns to resell them without running a background check.\(^\text{81}\) Smith purchased two handguns from Fiessinger, with no questions asked.\(^\text{82}\) He then used those guns to commence his shooting spree.
Daniel Mauser, 15-year-old high school student, and 35 other victims

On April 20, 1999, the attack at Columbine High School in Littleton, Colorado was forever seared into the nation’s consciousness. A teacher and twelve students were murdered by two students armed with multiple firearms bought from unlicensed sellers at gun shows; another 23 students were injured. Fifteen-year-old Daniel Mauser was one of those killed.83

Shooters Eric Harris and Dylan Klebold were both under age 18, the minimum age under federal law to buy a rifle or shotgun from a licensed gun dealer.84 Thus, they recruited Robyn Anderson, an 18-year-old Columbine High senior, to help them buy several guns used in the killings. She first tried to buy a firearm from a licensed dealer, but when she was told she would have to fill out a form for a background check she refused. She later said, “I would not have bought a gun for Eric or Dylan if I had had to give any personal information or submit to any kind of check at all.”85

<table>
<thead>
<tr>
<th>Columbine Victims</th>
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<tbody>
<tr>
<td>1. Brian Anderson, age 16, injured by flying glass.</td>
</tr>
<tr>
<td>2. Cassie Bernall, age 17, killed by a shot to the head.</td>
</tr>
<tr>
<td>3. Richard Castaldo, age 17, shot in the arm, chest, back and abdomen.</td>
</tr>
<tr>
<td>4. Steven Curnow, age 14, killed by a shot to the neck.</td>
</tr>
<tr>
<td>5. Corey DePooter, age 17, killed by shots to the chest and neck.</td>
</tr>
<tr>
<td>6. Jennifer Doyle, age 17, shot in the hand, leg and shoulder.</td>
</tr>
<tr>
<td>7. Austin Eubanks, age 17, shot in the head and knee.</td>
</tr>
<tr>
<td>8. Kelly Fleming, age 16, killed by a shot to the back.</td>
</tr>
<tr>
<td>9. Sean Graves, age 15, shot in the back, foot and abdomen.</td>
</tr>
<tr>
<td>10. Makai Hall, age 18, shot in the knee.</td>
</tr>
<tr>
<td>11. Anne-Marie Hochhalter, age 17, shot in the chest, arm, abdomen, back, and left leg.</td>
</tr>
<tr>
<td>12. Patrick Ireland, age 17, shot in the arm, leg, head, and foot.</td>
</tr>
<tr>
<td>13. Michael Johnson, age 15, escaped with wounds to his face, arm and leg.</td>
</tr>
<tr>
<td>14. Matthew Kechter, age 16, killed by a shot to the chest.</td>
</tr>
<tr>
<td>15. Mark Kintgen, age 17, shot in the head and shoulder.</td>
</tr>
<tr>
<td>16. Lance Kirklin, age 16, shot with wounds to the leg, neck and jaw.</td>
</tr>
<tr>
<td>17. Lisa Kreutz, age 18, shot in the shoulder, hand</td>
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<tr>
<td>18. Daniel Mauser, age 15, killed by a shot to the face.</td>
</tr>
<tr>
<td>19. Stephanie Munson, age 16, shot in the ankle.</td>
</tr>
<tr>
<td>20. Patti Nielson, age 35, hit in the shoulder by shrapnel.</td>
</tr>
<tr>
<td>22. Jeanna Park, age 18, shot in the knee, shoulder and foot.</td>
</tr>
<tr>
<td>23. Daniel Rohrbough, age 15, killed by a shot to the chest.</td>
</tr>
<tr>
<td>24. Kacey Ruegsegger, age 17, shot in the hand, arm and shoulder.</td>
</tr>
<tr>
<td>25. Dave Sanders, age 47, died of blood loss after being shot in the neck and back.</td>
</tr>
<tr>
<td>26. Valeen Schnurr, age 18, injured with wounds to the chest, arms and abdomen.</td>
</tr>
<tr>
<td>27. Rachel Scott, age 17, killed by shots to the head, torso, and leg.</td>
</tr>
<tr>
<td>28. Isaiah Shoels, age 18, killed by a shot to the chest.</td>
</tr>
<tr>
<td>29. Daniel Steepleton, age 17, shot in the thigh.</td>
</tr>
<tr>
<td>30. Mark Taylor, age 16, shot in the chest, arms and leg.</td>
</tr>
<tr>
<td>31. Evan Taylor, age 15, sustained injuries from the splintering of a desk he was hiding under.</td>
</tr>
<tr>
<td>32. John Tomlin, age 16, killed by multiple shots to the head and neck.</td>
</tr>
<tr>
<td>33. Lauren Townsend, age 18, killed by multiple gunshot wounds to the head, chest and lower body.</td>
</tr>
<tr>
<td>34. Kyle Velasquez, age 16, killed by gunshot wounds to the head and back.</td>
</tr>
</tbody>
</table>

The three then went to the Tanner Gun Show in Adams County, Colorado. A federal investigator later reported that:

Anderson stated that Klebold and Harris had been searching the gun show for private dealers so that they would not have to complete any paperwork. According to Anderson, after entering the gun show, Klebold and Harris went
directly to a private dealer. The dealer asked Klebold and Harris if they brought someone 18 years old this time. Klebold and Harris stated that they had.66

They went from private dealer to private dealer, and bought a semiautomatic assault rifle and two shotguns with cash.67 Klebold and Harris also bought an assault pistol from a private seller who had also purchased it at the Tanner Gun Show.68 These were the four guns used in the massacre.

Authorities later found that Harris had described his plan to purchase firearms in his journal, writing, “If we can save up about 200$ real quick and find someone who is 21+ we can go to the next gun show and find a private dealer and buy ourselves some bad-ass AB-10 machine pistols. [C]lips for those things can get really f***ing big too.”69

In the aftermath of the attack, Daniel Mauser’s father, Tom, helped lead an initiative drive that closed the gun-show loophole in Colorado, with 70% supporting requiring background checks at gun shows.70 “For years I favored gun control," Tom Mauser said. "But I never really acted on it in any meaningful way until my son was murdered. We ALL have to speak up," he said, "to counter those who would intimidate us, and to speak up for those who often cannot speak up. It does not have to be your own child to be a tragedy."

Joseph Ileto, mail carrier, and 5 other victims

In another hate-crime spree in 1999, mail carrier Joseph Ileto was gunned down in Los Angeles, California with a Glock pistol purchased from an unlicensed seller by a man who could not have passed a Brady background check because he was a convicted felon. On the same day that he killed Joseph Ileto, the shooter, Buford Furrow, had entered the Los Angeles Jewish Community center and shot five people, including three young children.71

The injured victims included Benjamin Kadish, a five-year old boy who was shot in the leg and abdomen, two 6-year-old boys, Joshua Stepakoff and James Zidell, a 16-year-old girl, Mindy Finkelstein, and 68-year-old receptionist Isabelle Shalometh. Police reported that the gun used by Furrow was sold without a background check at a gun show in Washington State.72

Case Examples: Gun Show Traffickers

Criminals, and those who intend to use guns for criminal purposes, obviously prefer a gun with no paper trail tying them to the weapon. No-check gun sales allow dangerous individuals to obtain dangerous weapons easily and anonymously. Gun traffickers exploit this loophole as buyers who utilize the fact there is no record of the sale for law enforcement to track. They also exploit this loophole as sellers, because they can unload guns as “private” sales, with no checks and no records, and none of the requirements that come with being a licensed dealer.

There have been many victims of guns sold at gun shows, including Stephen Liczbinski, Philadelphia Police Sergeant. On May 3, 2008, Sergeant Liczbinski, a 12-year veteran of the Philadelphia Police Department, was murdered by a bank robbery suspect just days short of his 40th birthday. He left a wife, Michelle, and three children, Matt,
Stephen and Amber. As he exited his patrol car, one of the robbers opened fire with an SKS assault rifle, striking him several times. Witnesses rushed to assist the officer and stop the bleeding. Sergeant Liczbinski told them "tell my wife and kids I love them" before he fell into unconsciousness. He died at a local hospital.

Sergeant Liczbinski was shot by convicted-felon Howard Cain. Despite several felony convictions, including armed-robbery, Cain was able to obtain an SKS assault rifle after it was sold at a gun show in Fayetteville, North Carolina.93

Below are just a few examples of cases involving traffickers who have exploited the gun-show loophole to funnel tens, hundreds, even thousands of guns into the illegal market. This happens in any number of ways, but one common method involves unlicensed sellers buying or selling many guns through no-check sales, often with these guns later recovered in subsequent crimes. In these examples, traffickers were ultimately arrested – usually for being “engaged in the business” without a license. However, because it was legal to sell guns without a background check, the gun traffickers were able to move numerous guns into criminal hands before law enforcement could stop the illegal enterprise. This is just the tip of the iceberg, as most gun show traffickers, who are not required to keep any records or run background checks, are never caught or identified.

- James Hancock and Eddie Ray Wilbanks – defendants in a ring that trafficked 70,000 guns

An investigation of two flea markets and a gun show in Alabama turned up 11 individuals engaged in a thriving business of selling guns without background checks or dealer licenses, either from booths or from their vehicles outside. In addition to being charged with dealing without a license, they were also charged with selling to felons and selling handguns to out-of-state residents. Undercover agents were able to purchase 166 guns, and search warrants issued for the indicted traffickers recovered 556 more. ATF’s investigation estimated that before they were stopped these 11 defendants had trafficked approximately 70,000 guns, including 267 linked to violent crimes and drug offenses. Guns sold by these unlicensed sellers were recovered after crimes committed in Mobile and Birmingham, Alabama, McAllen, Texas, Washington, D.C. (numerous), Chicago, Illinois (numerous), Buffalo, New York, Detroit, Michigan, Atlanta, Georgia, and Tennessee.94

- Thomas Timms – supplied criminals in many states

Timms used gun shows in Georgia to sell large quantities of guns with no background checks. Guns sold by Timms have been traced to crimes in New York, New Jersey, Michigan, and Washington, D.C. Federal agents found about 150 guns and 60,000 rounds of ammunition in their arrest of Timms.95

- Richard Clausen – trafficked hundreds of guns in no-check, no-record sales

Over five years Clausen and his partner regularly purchased guns from licensed dealers, then resold them, often only days later, at gun shows, swap meets or private residences.96
Overall, Clausen and his partner sold between 300 and 400 guns without conducting a single check. During a six-month investigation by ATF, Clausen sold 23 firearms – primarily inexpensive handguns – to federal agents operating undercover. The judge who sentenced him for dealing without a license observed: “This is a case that also has significant consequences for public safety. We have a system of registering at least the initial sales of firearms, and your five-year course of conduct had to have had the conscious awareness that you were frustrating the ability of law enforcement to identify sources of firearms. It was like spreading poison in the public water supply.”

- **Donald Lewis & Flenard Neal – international gun and drug smugglers**

  Lewis and Neal, two frequent customers of gun shows, ran an international gun and drug smuggling operation, buying guns at gun shows in the United States and smuggling them into Canada to trade for drugs. Lewis was a convicted felon, so Neal purchased the firearms. He frequented gun shows and purchased from unlicensed sellers in an attempt to keep the gun-running scheme from being detected by law enforcement. It was the purchase of 32 firearms, apparently from licensed dealers (who are required to send a multiple sale form to law enforcement), that brought Neal to the attention of authorities. ATF raided the apartment where the two men lived and recovered five rifles, two sawed-off shotguns, and eight handguns.

- **Philadelphia juvenile suppliers – bought guns from North Carolina gun shows**

  Trace requests from the Philadelphia Police Department led ATF agents to a large-scale trafficking operation that brought guns from North Carolina to Philadelphia. Police recovered guns with obliterated serial numbers from two 18-year-old high school students and found that the weapons had been purchased only 48 hours earlier in North Carolina. Further investigation revealed that the same trafficking operation had purchased between 50 and 70 guns with serial numbers removed, from an unlicensed dealer at a North Carolina gun show.

- **Charles Shushan – used “no paperwork” as his sales pitch**

  Shushan was a convicted felon who sold handguns and assault weapons at gun shows by using the lack of paperwork as a sales pitch. His arsenal kept growing, from 30 guns at one show, to 40 at the next, to 70 at a third, and 120 at a fourth. ATF agents recovered 214 firearms, including a machine gun and numerous assault weapons, during a raid on his home. One of the agents who tracked Shushan said “gun shows in Florida are like Turkish bazaars – you can get almost any weapon you want. No paperwork, nothing traceable, you’re out the door. It’s a huge loophole, and it’s ridiculous. People wonder why it’s hard to trace guns in some crimes – this is why.”

- **Ali Boumelhem – supplied Hezbollah**

  Boumelhem was able to purchase shotguns, assault weapon parts, and ammunition from numerous

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“[Y]ou were frustrating the ability of law enforcement to identify sources of firearms. It was like spreading poison in the public water supply.”

Federal Judge on trafficker

Gun shows in Florida are “like Turkish bazaars – you can get almost any weapon you want. No paperwork, nothing traceable, you’re out the door. It’s a huge loophole, and it’s ridiculous. People wonder why it’s hard to trace guns in some crimes – this is why.”

ATF agent
Michigan gun shows even though he was prohibited from possessing a gun due to a felony conviction. He attempted to ship the weapons to Lebanon in an effort to supply them to the terrorist organization Hezbollah.\(^ {105} \)

- Robert Farnsworth – supplied Lebanese criminal organization

Farnsworth, a prohibited purchaser due to an active arrest warrant based on the abduction of his seven-year-old daughter, was able to buy 29 guns at a Texas gun show. He then smuggled the guns into Canada, where he planned to resell them to a Lebanese criminal organization in Quebec.\(^ {106} \)

- Anthony Thompson – convicted felon

Thompson, who was a felon himself, sold four handguns, one shotgun, two single shot .22-caliber “pen guns,” and an AK-47, to a confidential police informant at a trading post, even though he thought the informant was a convicted felon and supplier for a local street gang.\(^ {107} \)

- John Orum – former dealer liked selling without checks

Orum used flea markets and gun shows to sell his firearms to any buyer, including people he knew were convicted felons, without running background checks. Orum previously held a federal license but gave it up because of his aversion to government intrusion.\(^ {108} \)

- Muhammad Navid Asrar – illegal immigrant linked to Al Qaeda bought at gun shows

Asrar, an illegal immigrant who was prohibited from buying guns, purchased numerous weapons, including a Ruger Mini-14 rifle, two pistols and a hunting rifle, at a variety of gun shows. Asrar was investigated for possible ties to al-Qaeda terrorists\(^ {109} \) even before the September 11th attacks.\(^ {110} \)

- Charles Kiles and Kevin Patterson – intended to blow up propane tanks

Charles Kiles had a firearms conviction, and he and Kevin Patterson were members of the San Joaquin County Militia. Nonetheless, Kiles was able to purchase guns at gun shows\(^ {111} \) and the two men shared an arsenal of more than 50 firearms and 50,000 rounds of ammunition.\(^ {112} \) At a gun show in Las Vegas, Kiles and Patterson also tried to buy a grenade launcher with the intention of blowing up two liquid propane storage tanks in Sacramento, California; the seller was going to make the sale but Kiles and Patterson did not have enough money.\(^ {113} \)

- Athens, Georgia traffickers – sold to felons at flea markets

An Athens, Georgia man and four accomplices trafficked guns at the J & J Flea Market in Jackson County, Georgia. They made no-check gun sales to convicted felons, illegal immigrants, and an undercover ATF agent posing as an out-of-state resident. ATF seized 130 firearms in the case. It is not known how many other guns were trafficked to prohibited purchasers before the traffickers were caught.\(^ {114} \)
Ten Tennessee dealers – teamed with unlicensed sellers to move thousands of guns

Two licensed dealers attempted to cover up the illegal sale of firearms to a group of unlicensed sellers, who bought an average of 30-70 guns a week and sold them in Tennessee, North Carolina, and Virginia. However, police recovered guns originating from the two dealers that had been used in murders, suicides, armed robberies, aggravated assaults and narcotics trafficking in Tennessee, Virginia, Maryland, Florida, Michigan, New York, and North Carolina. In all, the conspiracy moved more than 5,000 firearms before they were caught and charged with dealing in firearms without a license.  

Tucson dealer – “Private Sale, No Paper Work”

A private vendor working out of Tucson gun shows and his residence bought and sold 595 firearms over a two-year period. The trafficker purchased guns from three licensed dealers, then resold them, often to juveniles, at gun shows where he advertised: “Private Sale, No Paper Work, No City Sales Tax, Cash Only.” One of the guns trafficked by this unlicensed seller was recovered in a Los Angeles homicide.

No-Check Sales Outside of Gun Shows Also Arm Criminals

Gun shows are not the only venue where unlicensed sellers unload their firearms. Unlicensed gun sellers also peddle their wares on the streets, in parking lots, and through classified ads, without a check, no questions asked.

A few case examples illustrate the problem. Guns acquired through these no-check sales have led to murders and serious injuries, along with other crimes.

As noted earlier, Mark Williams, a convicted felon and spousal abuser, purchased a Tokarev semiautomatic handgun from a private seller advertising in the Sarasota Herald-Tribune, that he used to shoot and kill his estranged wife, Raquel Soliz-Williams. Also, Donald Fiessinger purchased 72 handguns over two years from a single licensed dealership and resold them through newspaper classified ads for up to double the retail price. One of his customers was Benjamin Smith, who used the Bryco pistols he bought from Fiessinger in a multi-day shooting spree in Illinois and Indiana. Smith had previously been turned away from a licensed gun dealer when a background check revealed that he was subject to a domestic violence restraining order.

In Louisville, Kentucky, a convicted felon and his accomplice purchased large numbers of guns from dealers that they resold without running checks by placing up to 20 ads per week in a local “Bargain Mart” trade publication. They bought 70 guns from one dealer. Louisville
police recovered 11 of these guns from crime scenes after they had been resold without checks.¹²²

**Prisoner Surveys Understate Gun Shows As Crime Gun Sources**

The gun lobby tries to minimize the danger posed by the gun show loophole by claiming that only a tiny percentage of criminals acquire their firearms from gun shows. The claim ignores the indisputable facts that several notorious killers, as well as numerous other criminals and traffickers, have obtained their guns from gun shows (as seen in this report), and is dubious at best. The claim is based on two surveys done of state and federal inmates in 1997 and 1991, in which 1.7-1.9% of inmates said they obtained their firearm at a gun show or flea market.¹²³ The biggest sources that criminals cited were friends or family and street/illegal, with nearly 40% each.¹²⁴ Retail dealers were third, with 14.7% in 1991, before the Brady Law took effect, and 8.3% in 1997, after background checks were required nationwide at gun dealers.¹²⁵

Even if one accepts these surveys of convicted criminals as credible, they do not disprove ATF’s conclusion that gun shows are a major source of guns for criminals. They cannot rebut the documented facts of people killed because criminals and juveniles were able to purchase firearms without a background check, or of gun show traffickers caught moving hundreds or thousands of guns into prohibited hands.

The anecdotal surveys of inmates do not rebut ATF’s *Following the Gun* report – the most comprehensive report the agency has ever issued on the sources of trafficked guns – which identified gun shows as a “major trafficking channel.”¹²⁶ Among all trafficking sources, gun shows ranked second in the number of trafficked guns per investigation, and second in the overall number of illegally diverted firearms.¹²⁷ In addition, unlicensed sellers were identified as the number two source of illegal gun trafficking.¹²⁸ This hard data sheds light on the true source of illegal guns in a way that criminal surveys do not.

These surveys of criminals also ignore the fact that many criminals obtain guns from traffickers who may have been supplied from gun shows, perhaps unbeknownst to the criminal-purchaser. But surveys only asked criminals to provide the immediate “source” of the gun they used in crime, not where that “source” got the gun. As neither “friends and family” nor “street/illegal” can produce guns themselves, they must acquire guns from other sources, and those sources are often unlicensed sellers at gun shows or elsewhere. As two prominent researchers have pointed out:

While an important question is whether prohibited persons personally buy firearms at gun shows, which might be answered by surveys, an equally important one is whether gun shows are sources of firearms that are trafficked to prohibited persons by straw purchasers, street dealers, and the like. However, this question cannot be answered by surveys. Firearms passing into the hands of criminals may be subsequently traded, stolen, and resold. When a criminal acquires a firearm from ‘street’ sources, he or she may not know where it came from; the gun may have been originally stolen through a burglary, straw purchased from a [licensed dealer], or purchased from an unlicensed dealer at a gun show.¹²⁹

The interstate trafficking of firearms also suggests that many criminals do not know the ultimate "source" of the firearms they use in crime. For example, ATF has published reports as
part of its Youth Crime Gun Interdiction Initiative program indicating that between 38%\textsuperscript{130} and 42%\textsuperscript{131} of guns recovered from criminals were trafficked from out of state. In one report, ATF provided a mileage estimate for how far crime guns travel, finding that a third of all trafficked crime guns were bought more than 100 miles from where they were recovered.\textsuperscript{132} Yet if criminals were asked about the source of their guns, many would likely answer “friends/family” or “street/illegal,” when in fact the gun was trafficked from an unlicensed seller or a licensed one that was willing to sell to a straw buyer.\textsuperscript{133} Indeed, it is highly likely that many criminals do not know the original “source” of their guns.
Part Three: A Simple Solution

“\textit{We can work together to enact common-sense laws, like closing the gun show loophole and improving our background check system, so that guns do not fall into the hands of terrorists or criminals.}”

President Barack Obama\textsuperscript{134}

“\textit{Despite the tragic lessons we have learned, it is still far too easy for a convicted felon to buy firearms at a gun show. That is wrong. This is not about what’s conservative and what’s liberal, what’s Republican and what’s Democrat. It’s about what’s right and what’s wrong. And quite simply, closing this loophole is the right thing to do.}”

Senator John McCain\textsuperscript{135}

Model Legislation Has Worked For Nearly Two Decades

We don’t have to go far to see how effective a no-check, no-gun system can be. Since 1991\textsuperscript{136}, California has required every purchaser of a firearm to undergo a background check.\textsuperscript{137} A private seller of a firearm must take the gun to a federally licensed dealer to sell it.\textsuperscript{138} For a small fee, the dealer calls law enforcement to complete the background check and keeps a record of the sale so that law enforcement can trace the weapon if it is recovered in connection with a criminal investigation.\textsuperscript{139}

If the sale is at a gun show, the same rules apply. An unlicensed seller must take the gun to a licensed dealer to complete the check and keep the paperwork before a gun can change hands after the mandatory ten-day waiting period for all firearm transactions.\textsuperscript{140} In our most populous state,\textsuperscript{141} this simple system has worked for almost two decades.

“\textit{These findings [from our study of gun shows in California where background checks are required and in states where they are not] suggest a basis for action by policy makers to regulate gun shows and prohibit undocumented private party gun sales.}”

Gun Shows study\textsuperscript{142}

A recent observational study of 28 gun shows across several states, led by Dr. Garen J. Wintemute, head of the Violence Prevention Research Program at the University of California, Davis, demonstrated that the California model exhibited several benefits over states where no-check sales were allowed at gun shows. The study found that 6.6 times fewer straw purchases were made at gun shows in California than in the four other studied states – Arizona, Nevada, Texas, and Florida – where checks are not required.\textsuperscript{143} No private party sales between attendees were observed in California.\textsuperscript{144} Elsewhere, such sales were about equal to sales by licensed dealers,\textsuperscript{145} increasing the risk that a prohibited person will acquire a gun. Moreover, 24 definite and 3 probable straw purchases were observed in states without universal background checks, while only one “straw purchase” and another probable one was observed in California.\textsuperscript{146} The researchers observed several transactions where a buyer negotiated a transaction only to break it off after learning the seller was a licensed dealer.
running a check. Their overall conclusion: “These findings suggest a basis for action by policy makers to regulate gun shows and prohibit undocumented private party gun sales.”

California’s system is not complicated or difficult to implement, and it provides several benefits. First, federally licensed dealers are already set up to run background checks, so there is no additional system that needs to be put in place to run private sale checks. Second, the federally licensed dealer is required to keep the firearm transaction record. This is critically important to law enforcement if the gun is ever stolen or used in a crime. Law enforcement investigating a crime needs to know who purchased the gun and when, and can only learn this if records are kept in the normal course of business. Crime gun trace data indicating the sales history of a specific firearm has also been immensely valuable to law enforcement efforts to crack down on gun trafficking. Third, California requires checks on all gun sales, and, unlike some states, has no exemption for persons with concealed carry licenses who get free passes while their licenses are in effect. This prevents licensees from buying guns if they commit crimes before their license is expired or revoked, as often happens. A uniform law modeled after California’s system would benefit law enforcement and the public immensely.

**Brady Background Checks Do Not Block Law-Abiding Purchasers**

While universal background checks would make it harder for criminals to obtain guns, they would not prevent law-abiding purchasers from buying guns, because they can pass the checks.

Even the NRA has acknowledged that law-abiding purchasers have nothing to fear from complete and thorough background checks. In 2008, after the horrific tragedy at Virginia Tech, in which a dangerous mentally ill person was able to buy a gun because his disqualifying records were not in the background check system, even the NRA joined with the Brady Campaign to support legislation that would close this gap. The National Instant Check System Improvement Act of 2008 provided new incentives to states to put the records of mentally defective and involuntarily committed persons into the NICS system. At the time, the NRA continually assured its members that this was not a “gun control” bill because it did not prevent law-abiding individuals from buying guns.

Indeed, most gun owners welcome checks as an effective and efficient crime-fighting tool. A 2008 poll found that 83% of gun owners approve of background checks for all firearms sales. Gun owners know that background checks are not only effective at preventing criminals from obtaining guns, but they are no hindrance to law-abiding gun purchasers. More than 70% of background checks are completed within 30 seconds and nearly 95% are completed within two hours. Of those that take more time, virtually all are delayed because red flags on the initial search require law enforcement to look up records that are not available at the touch of a button. Checks not approved right away are 20 times more likely to reveal a felony or other disqualifying record.

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*“Gun owners and dealers who are peaceable and law-abiding should have no problems with the minor inconvenience imposed by the Brady Law. Congress should make it apply to everyone.”*

The Tennessean

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No Check. No Gun.
Criminals and gun traffickers should not be able to purchase all the guns they want from unlicensed sellers without going through a background check.

**Brady Background Checks Do Not Harm Gun Shows**

The gun lobby argues that background checks should not be required on all gun sales because they would do away with gun shows. Of course, to suggest that gun shows rely on unrecorded, no-background-check sales to survive is a damning accusation that gun show supporters should be loathe to make. But the argument is also not true. Several studies have shown that gun shows flourish in states that require background checks on sales by unlicensed sellers. According to one report, there were more gun shows in states that had closed the loophole than in states that hadn’t. Moreover, 5 of the top 10 states with the most shows had taken steps to close the loophole: Pennsylvania, California, North Carolina, Illinois, and Michigan.

Data in another study suggests that gun shows can be regulated without diminishing attendance or commercial activity. Shows in comparison states were larger than those in California, but California gun shows had more customers per vendor.

**The Gun Lobby Pushes Loopholes, Not Solutions**

The gun lobby has fought to block legislation that would close the gun show loophole the two times it has come to a vote in Congress since the massacre at Columbine High School in April 1999. Each time, they have backed further loopholes, not solutions, to the problems posed by no-check gun sales to criminals.

For example, the NRA has supported a proposal that would limit law enforcement to 24 hours to complete a check. The problem with this is that the checks that need more than 24 hours to complete are the ones most likely to result in a red flag prohibiting the sale. As mentioned above, more than 95% of background checks are complete in minutes or a couple of hours. Only 1 in 30 checks requires longer than a day. But these checks are 20 times more likely to uncover a prohibited buyer. The NRA’s proposal, then, would make it easier for likely prohibited purchasers to obtain guns. Indeed, guns transferred without a completed check after expiration of a three-day waiting period have armed thousands of criminals. Between November 1998 and December 31, 2005, more than 26,600 such transfers have been referred to ATF for a follow up investigation. The FBI has noted, “[t]hese types of situations present ongoing public safety and law enforcement risks as, in many instances, the firearm must be retrieved.” California and other states have operated with systems that allow longer than 24 hours to complete a check, yet have hundreds of gun shows every year.

“[A]ll of us – left and right, Democrat and Republican, the NRA and its opponents – need to agree on this one issue, and support a nationwide requirement that all firearms transfers be approved by background checks at licensed gun dealers. It’s time to make background checks mandatory for all gun sales, and finally shut down the local arms dealers who have made our city streets so dangerous.”

Bob Mitchell, NRA member

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*No Check. No Gun.*
The gun lobby also has objected to background checks being required where a buyer and seller meet at a gun show but conduct the transfer in the parking lot, or off site. But the gun lobby’s proposed exception would enable criminals and sellers to meet at gun shows and then complete no-check sales outside. This would only enable criminal access to guns. Again, California and other states have closed this gap by requiring all gun sales to go through a dealer, regardless of where the sale is agreed to.

**There Is Broad Support for Extending Brady Background Checks**

Requiring a background check before any firearm is sold, at a gun show or elsewhere, makes sense. That is why the idea is supported by most citizens, law enforcement, and by politicians from both sides of the aisle. It has passed the U.S. Senate twice. Voters in Florida widely approved a referendum, and voters in Colorado and Oregon overwhelmingly passed ballot initiatives closing the gun show loophole.

The U.S. Senate passed amendments closing the gun show loophole as part of a broader crime bill in 1999. After the massacre at Columbine High School, Senator Frank Lautenberg’s amendment as part of Senate Bill 254 closed the gun show loophole by requiring background checks at all gun shows. The amendment passed by a vote of 51-50 with Vice President Gore providing the tie breaking vote. While S.254 passed the Senate, it failed in the House.

In March 2004, Senators John McCain, Jack Reed, and others proposed to close the gun show loophole as an amendment to a bill designed to shield the gun industry from litigation. This amendment passed by a vote of 53-46, and was included in the final text of the bill. After the McCain amendment was added, however, Senator Larry Craig (R-Idaho), the sponsor of the industry-protection bill (and an NRA board member), declared his own legislation a “much less than clean” bill and urged its defeat. Opponents of the industry-protection bill then joined opponents of closing the gun show loophole and defeated the legislation.

**States That Have Closed the Gun Show Loophole**

<table>
<thead>
<tr>
<th>No private sale checks</th>
<th>Checks on all gun sales</th>
<th>Checks on all gun show sales</th>
<th>Checks on all handgun sales</th>
<th>Checks on some private sales</th>
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<td>(2)</td>
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In addition to Congressional support, seventeen states and the District of Columbia have taken steps to close the gun show loophole. California, Rhode Island, and the District of Columbia require background checks on all gun sales, at gun shows and elsewhere. Colorado, Connecticut, Illinois, New York, and Oregon require background checks on all guns sold at gun shows. Hawaii, Maryland, New Jersey, and Pennsylvania have closed the gun show loophole for handgun sales; Hawaii and New Jersey also require a permit to purchase long guns. Florida, Iowa, Massachusetts, Michigan, Nebraska, and North Carolina have partially closed the gun show loophole. In Florida, counties are allowed to pass ordinances requiring background checks at gun shows. In Iowa and Nebraska, a permit to purchase for handguns is required, but a background check is not conducted prior to every transaction at a gun show. In Massachusetts, Michigan, and North Carolina, the purchase of a single handgun is allowed with a permit to purchase but concealed carry license holders are exempt from the provision.

An unprecedented coalition of more than 320 mayors from over 40 states, both Republicans and Democrats, have made closing the gun show loophole a major campaign effort. Led by New York Mayor Michael Bloomberg and Boston Mayor Thomas Menino, Mayors Against Illegal Guns held a summit in Washington, D.C. in April 2008 calling on Congress to close the gun show loophole.

Attorney General Eric Holder, Jr. has over his career strongly supported closing the gun show loophole and requiring background checks on all gun sales, stating in 1999:

[...]While the Brady law has done a lot to make this country safer, the law has a dangerous loophole that criminals and others who cannot legally buy guns at a licensed gun shop exploit. While everyone who buys a gun through a licensed dealer must undergo a background check to determine if they are eligible to buy a gun, the current law allows unlicensed sellers at gun shows to sell to anyone – with no questions asked. It’s not hard to see what kind of message that sends to criminals. But it is hard for me to believe that any reasonable person – including those who serve in Congress – could oppose taking the simple step necessary to close that gap.

The majority of Americans favor closing the gun show loophole. A 2008 poll found that 87% of people favor requiring everyone who sells guns at gun shows to conduct criminal background checks on the purchasers, as do 83% of gun owners.

Closing the loophole is popular among voters; large majorities of Americans – 78% – say that they would be more likely to vote for a candidate who wants to close the gun show loophole, while a sizeable block – 45% – say it would make them much more likely to support that candidate. In fact, among people who say they are more likely to vote for a candidate who wants to protect Second Amendment rights, 77% want to require all people who sell guns at gun shows to conduct criminal background checks.

Support for closing the gun show loophole cuts across political lines. Eighty-five percent of voters who supported John McCain in 2008 back closing the gun show loophole, as do 89% of people who supported Barack Obama or Hillary Clinton, according to a poll taken when all three candidates were in the nomination race. A November 2008 post-election poll found similar results, with 84% of McCain backers and gun owners supporting background checks on all gun sales.
After the Virginia Tech massacre, Virginia Governor Tim Kaine appointed a bi-partisan commission that included Tom Ridge, the first U.S. Homeland Security Secretary and former Pennsylvania governor, and former Virginia State Police Superintendent Lt. Gerald Massengill. To prevent similar shootings in the future, the panel recommended, among other things, that:

**Virginia should require background checks for all firearms sales, including those at gun shows.** In an age of widespread information technology, it should not be too difficult for anyone, including private sellers, to contact the Virginia Firearms Transaction Program for a background check that usually only takes minutes before transferring a firearm. The program already processes transactions made by registered dealers at gun shows. The practice should be expanded to all sales.\(^{217}\)

The Appendix to this report includes dozens of statements from some of the many elected officials, law enforcement officers, citizens, survivors of gun violence, media, and members of the gun industry who have voiced support for strengthening Brady Background checks and closing the gun show loophole.
Conclusion

For more than 40 years, criminals, juveniles, fugitives, the dangerously mentally ill, and other categories of persons have been prohibited from buying or possessing guns. There is a national consensus that criminals and other dangerous people should not be able to obtain guns. The best way to stop them is to not allow guns to be sold without first running a Brady background check to determine if the purchaser is prohibited from buying a gun.

Since 1994, the Brady background check system has stopped more than 1.6 million dangerous people from acquiring guns from licensed gun dealers. But because it is limited to licensed gun dealers, the law has a gaping loophole that enables felons, spousal abusers, the dangerously mentally ill, and other prohibited purchasers to obtain a steady pipeline of guns, which leads inevitably to more violent crime. In 33 states, a private seller at a gun show or elsewhere is allowed to sell guns without a background check, no questions asked.

We have seen some of the victims of gun show sales and other no check sales in this report: Philadelphia police sergeant Stephen Liczbinski, Northwestern basketball coach Ricky Byrdsong and ten others shot by a neo-Nazi spree killer in Illinois and Indiana, high school student Daniel Mauser and 35 others killed or injured at Columbine High School in Colorado, and victims of the Jewish Community Center shooter in Los Angeles. These are just a few of the victims that have paid dearly for this gap in the law.

Over 80% of Americans, including gun owners, support requiring background checks for all gun sales. Law enforcement has called for closing this loophole, as have political leaders from both parties. There is no reason to continue allowing a system that arms dangerous criminals, and costs countless lives. The NRA has recognized that background checks do not affect law-abiding gun purchasers, and has said they are not “gun control.” Background checks enable lawful purchasers to promptly obtain guns, adding only a few minutes to gun sales. This is less time than it usually takes to be screened before boarding an airplane.

Yet, more than fifteen years after the Brady Law passed Congress, and ten years after the Columbine massacre was committed with guns acquired by teenagers through no-check sales at a gun show, we still haven’t closed this loophole.

It is time to stop allowing a system that enables criminals and other dangerous persons to buy guns without a background check, no questions asked. Eighteen states have managed to require background checks on at least some private sales, and California has required them on all gun sales for almost 20 years. These states enable law-abiding citizens to buy guns, and even host gun shows as often as states that allow no-check sales.

No check, no gun. We need to extend Brady background checks to all gun sales at gun shows and elsewhere.
Appendix: Statements Calling for Extending Brady Background Checks

Below is a sampling of statements from some of those who have supported closing the gun show loophole, including elected officials, members of law enforcement, citizens, survivors of gun violence, the gun industry, and major newspapers. Many more have echoed these sentiments.

PRESIDENTS & FORMER PRESIDENTS

President Barack Obama
“We can work together to enact common-sense laws, like closing the gun show loophole and improving our background check system, so that guns do not fall into the hands of terrorists or criminals.”

President George W. Bush
“We ought to keep guns out of the hands of people who shouldn’t have them. That’s why I’m for instant background checks at gun shows.”

President Bill Clinton
“America cannot allow its gun shows to become illegal arms bazaars, where lawbreakers shop side-by-side with the law-abiding . . . . We must close the gun show loophole: no background check, no gun, no exceptions.”

LAW ENFORCEMENT

Steve Flaherty, Virginia State Police Superintendent
"This is about eliminating an opportunity for people to prey on folks ... and taking advantage of someone who unwittingly may find themselves selling a gun to someone who is not entitled to it."

Gerald Massengill, retired Virginia State Police Superintendent
"[The Virginia Tech shooter] very simply would have gone to a gun show and purchased the firearms without a background check from an unlicensed vendor."

Gil Kerlikowske, Director-Designate of Office of National Drug Control Policy
"If there is no record of the sale and no background check then there is little evidence of the number of sales that were denied or of the number of crime guns that come from gun shows. This legislation will fix that."

Curtis Lavarello, Executive Director, National Association of School Resource Officers
"It is impossible to tell precisely how many lives will be saved by applying the same background check system that applies to gun store sales to gun shows. We know, however, that without such equivalent treatment gun shows will continue to be the purchase points for murderers, armed robbers, and other violent criminals . . .
Patrick J. Sullivan, Jr., Chairman, Congressional Affairs Committee and Member, Executive Committee of the Board of Directors, National Sheriffs Association
"The Gun Show Loophole: So-called private collectors can sell guns without background checks at gun shows and flea markets thereby skirting the Brady Law which requires that federally licensed gun dealers initiate and complete a background check before they sell a firearm. No gun should be sold at a gun show without a background check and appropriate documentation."\(^{225}\)

Kenneth T. Lyons, President, International Brotherhood of Police Officers
"On behalf of the entire membership of the IBPO I wish to express our strong support of the gun-related provisions adopted by the senate as part of S.254. The IBPO knows that passage of these measures will keep guns away from children and criminals. The IBPO requests that the conferees continue to focus on the need for adequate time top [sic] conduct background checks at "gun shows . . . ."\(^{226}\)

Ronald S. Neubauer, President, International Association of Chiefs of Police
"I am writing to express our strong support for several vitally important firearms provisions that were included in S. 254 . . . . Specifically, the IACP strongly supports provisions that would require the performance of background checks prior to the transfer or sale of weapons at gun shows . . . ."\(^{227}\)

Richard J. Gallo, President, Federal Law Enforcement Officers Association
"The addition of provisions [to H.R. 1501] requiring background checks prior to the sale or transfer of weapons at gun shows, and the extending of the Brady Act requirements to cover juvenile acts of crime are essential."\(^{228}\)

Hubert Williams, President, Police Foundation
"We strongly believe that all gun sales—be they in gun stores or at gun shows—should be subject to a three-business-day background check requirement; without such standards, gun shows will continue to be major source of weapons for violent felons, straw purchasers, the dangerously unstable, and others who threaten our communities."\(^{229}\)

International Association of Chiefs of Police
"These private sales and transfers also contribute to illegal gun trafficking because, unlike an FFL, the seller is not required to conduct a background check to determine whether the purchaser is prohibited from purchasing and possessing a gun. Federal, state, local and tribal laws should be enacted to close these loopholes. If all gun sales proceed through an FFL, a single, consistent system for conducting gun sales, including background checks, will be established. In addition, the requirement that FFLs keep a record of gun sales would allow law enforcement to trace the gun to the last point of sale should it be criminally misused, lost or stolen."\(^{230}\)

Jeff Fulton, Assistant Special Agent In Charge, ATF St. Louis Bureau
"Crime guns originate at gun shows. That’s been documented."\(^{231}\)

Bruce Ritchey, head of San Antonio Police Department gang unit
"These gun shows and flea markets have made it so easy [for gangs to get firearms] that we only rarely ever find any stolen guns."\(^{232}\)
Joe Kenda, commander of Colorado Springs Police Department major crimes unit
“Look at it from the point of view of the criminal. He’s going to be drawn to places with reasonable prices where few questions are asked.”

Michael Golson, ATF Assistant Special Agent in Charge of the Dallas Field Division
Said of trafficked weapons entering Mexico from the U.S.: “They’re coming from gun shows and flea markets.’ Often, he says, private collectors are selling their weapons because ‘they don’t have the same restrictions.’”

CITIZENS

Scott Graef, Conservative Republican
“I am an American citizen. I am a conservative Republican. I believe in the constitutional right to bear arms . . . Now I read in the paper that in Virginia a Republican-dominated committee voted along party lines to kill legislation to require unlicensed sellers at gun shows to run criminal background checks on buyers. Voting this bill down continues to allow felons, domestic abusers and dangerously mentally ill individuals the right to obtain a gun. Particularly after the Virginia Tech disaster, I find this appalling.”

Bob Mitchell, NRA member
“Instead, all of us – left and right, Democrat and Republican, the NRA and its opponents – need to agree on this one issue, and support a nationwide requirement that all firearms transfers be approved by background checks at licensed gun dealers. It’s time to make background checks mandatory for all gun sales, and finally shut down the local arms dealers who have made our city streets so dangerous.”

Kailey Leinz, 11-year-old
“We need to close it for many reasons and also so kids like me won’t feel scared, scared that somebody could just come in our school and just start shooting. It is far too easy for criminals to get a gun in this state. All they have to do is show up at a gun show and they can buy a gun from an unlicensed dealer, any gun, without having to go through a background check.”

SURVIVORS OF GUN VIOLENCE

Mike White, father of Virginia Tech victim Nicole White
Kaine’s proposals [regarding closing the gun show loophole] only would affect “those who really should not have a gun to begin with. As a gun owner myself and a previously avid hunter, I believe this bill is a healthy compromise that will bring safety to our families. Of course, for our families, that’s already passed.”

Lily Habtu, Virginia Tech shooting victim
“A mentally ill person, a gang member can walk in there [referring to a gun show] and get an AK-47. This is what's happening.”

Lori Haas, mother of Virginia Tech victim Emily Haas
“It is imperative that we stop the illegal purchase of guns. There is nothing private about selling a gun to a stranger at a public gun show, where hundreds, possibly thousands of purchasers wander in completely unimpeded. No background check, no I.D. Is that buyer a terrorist? A felon ready to commit more crimes? Is that purchaser a mentally ill person on the verge of taking his life, his spouse’s life, or another loved one? A mentally ill person bent on causing...”
destruction at his place of business? Or sadly, killing his classmates? Unless there are background checks on all purchases at gun shows, we will never know.”

Andrew Goddard, father of Virginia Tech victim Colin Goddard
“[T]here are literally hundreds of ‘gun shows’ scattered around the country where you may rent tables, display your wares, sell what you please to whomever you please and once again the sale that is made with no records, no questions and no papers, earns the highest sales price. There will be the traveling gun show dealers from out of state in addition to our own black marketeer dealers to provide a plethora of firearms to please any desire.”

Bill Bridgewater, Former Executive Director, National Alliance of Stocking Gun Dealers
“After personally witnessing many illegal activites committed at gun shows, Bill Lockett refuses to go to them any more. He stated that he stopped going to gun shows “because [y]ou are who you associate with, and when I see things that are so blatant and looked at and winked at and grinned at and smiled at, as blatantly as they are at gun shows, I don’t choose to deal with those people.”

Merlin Scales, Western Virginia FFL and gun show participant
"See that guy over there? He's at every show. And he sells some of the same guns I do, only he charges more. Now why do you think some people are willing to pay more at his table than mine? Because he doesn't have to run them through a background check."

National Alliance of Stocking Gun Dealers (NASGD)
“The NASGD endorses the requirement that every firearm sale at a gun show be regulated and that every purchaser undergo a NICS check. They also support requiring unlicensed sellers to comply with the same standards as FFLs, which would include background checks for all sales, and maintaining firearm and NICS transaction records for all sales occurring at a gun show.”
EDITORIALS

Chicago Tribune
“Citizens in Illinois have to submit to background checks and a three-day waiting period if they buy a handgun from a licensed gun dealer. The same is true if they buy a handgun at a gun show. But when Joe Blow decides to sell his gun to John Doe, Joe pockets the money, John takes the gun and there is no background check.

“How many handguns change hands in the private market? Some experts believe they account for 40 percent of all gun transactions. There were nearly 190,000 background checks triggered by gun sales at Illinois stores and shows last year, according to the Illinois State Police. That indicates tens of thousands of guns are bought and sold privately each year, without a background check.

“The buyers could be law-abiding citizens or gangbangers. The state has no information on them or the guns they bought. When those guns kill or injure someone, it’s near-impossible to track their ownership trail.

“How important are background checks? Gun owners are required to have a firearm owner’s identification card, which must be renewed every 10 years. But each year more than 800 potential gun buyers—many with FOID cards—are prevented from buying weapons because a red flag pops up in a background check.

“Illinois wisely closed the gun-show loophole a couple of years ago. It’s time to do the same with private handgun sales. This is one more way to permit legal gun ownership but keep guns away from criminals.”

Virginia-Pilot
Virginia Citizens Defense League President Philip Van Cleave stated that “the gun show proposal would be too much of a distraction for private sellers. ‘There’s a small cost in running the check, but while they’re fooling with some little transfer, they’re missing opportunities to sell more guns and make a lot of money’ he said.

Van Cleave’s argument doesn’t hold up under the slightest scrutiny, but it doesn’t have to. All it has to do is inspire members to campaign against even the most reasonable gun regulation. Licensed dealers are already required to run background checks whether they sell guns in a store or at a show. By definition, they’re the ones making a living off gun sales. The bill Van Cleave opposes affects only private sellers who participate in shows as a hobby. If a private seller is worried about maximizing his cash flow, he needs to get a license and start doing background checks anyway. The truth is that Van Cleave and VCDL would prefer to abolish all background checks for gun sales, period.”

The New York Times
“Richmond lawmakers have callously rejected a gun control proposal sought as a memorial to the 32 students slain in the Virginia Tech massacre. Once more, state senators proved more beholden to the gun lobby’s propaganda and campaign money than to public safety.

“The measure, sought by Gov. Tim Kaine after the 2007 campus spree, would have reined in the unfettered sales of lethal weaponry – from backwoods to battlefield guns – at weekend ‘sportsmen’s shows.’
“With no background checks required on customers, the dealers present convicted felons and sociopaths an enormous loophole for mayhem. A federal study traced half of the crime guns in Washington, D.C., to Virginia.”

**The Washington Post**

“Licensed gun dealers in Virginia are required to conduct background checks on buyers, including those to whom they sell at gun shows. Yet, according to the Virginia State Police, up to 35 percent of vendors at the scores of gun shows throughout the state are unlicensed and thus are under no obligation to perform the checks. This makes no sense, and the public is put at risk because felons or the mentally ill are not screened out if they attempt to purchase guns.”

**Chicago Sun-Times:**

“Congress needs to close a legal loophole in many states that allows people at gun shows or flea markets to peddle their weapons without conducting background checks on potential buyers.

“Illinois has closed the loophole partly, but not entirely. In this state, gun show vendors must do background checks, but a person who simply sells a gun to a guy in the neighborhood or to someone answering an ad does not have to do a background check.

“It’s critical to close the gun show loophole across the country. Right next door in Indiana, the loophole is wide open.”

**Daily Herald (Chicago, Illinois)**

“We run background checks on our doctors, our nurses, our teachers. Even our cosmetologists must be licensed and registered. If we’re conducting criminal background checks on people who seek to purchase firearms in stores, then it stands to reason for practicality’s sake that we also should run criminal background checks on people who seek to buy them at trade shows or from dealers liquidating stock. Certainly the cost of closing these loopholes cannot be too great as the system already is in place to check the backgrounds of those who purchase from stores.

“We are kidding ourselves if we think criminals bent on violence aren’t aware of these gaping holes in the system. It seems reasonable and wise to close all these loopholes and require a uniform system that checks all purchasers and all sellers without regard to where the purchases happen to be occurring.”

**The Tennessean**

“A strong federal law is needed, if only to prevent interstate transportation of illegal weapons, and that means closing the loophole. Gun owners and dealers who are peaceable and law-abiding should have no problems with the minor inconvenience imposed by the Brady Law. Congress should make it apply to everyone.”

**Roanoke Times**

“Granted, Tech shooter Seung-Hui Cho did not buy his guns at a gun show. Another loophole, which kept his disqualifying mental health history out of the federal database, allowed him to buy firearms from licensed dealers at a gun shop and by mail. Gov. Tim Kaine ordered that loophole closed. Yet, had Cho been stopped, as he should have been, he easily could have circumvented the law by then taking his business to a gun show. That loophole, too, needs to be closed.”
“Virginia can change its law so that all gun-show sales would require the instant background check, leaving out other private sales. Laws will never be able to forestall every danger. They are meant to protect society from the obvious ones, though, such as a legal path a madman might easily take to purchase guns.”

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Endnotes

2 Videotape: A Tribute to Jim & Sarah Brady (June 2001).
3 DEPARTMENT OF JUSTICE, BUREAU OF JUSTICE STATISTICS, Background Checks for Firearm Transfers, 2007. This measures the denials through the end of 2007. With approximately 130,000 denials per year, the total denials as of the date of this report is likely more than 1.8 million.
4 Id., at Table 4 (providing reasons for denial of firearm transfer applications).
5 BRADY CENTER TO PREVENT GUN VIOLENCE, Brady Background Checks: 15 Years of Saving Lives 7 Nov. 30, 2008.
8 Id. The number of violent firearm crimes also declined every year except 2000.
9 Id.
10 Id. In 2006, violent crimes with firearms reached 388,897, the highest total since 1997. But the rate of firearm crimes per 100,000 population, 129.9, was still lower than it was in 1997, 154.9, and was far lower than during any pre-Brady year for which the statistic is available.
11 Brady Background Checks: 15 Years of Saving Lives, supra note 5, at 10-12.
12 M.A. Wright et al., Effectiveness of a Program to Deny Legal Handgun Purchase to Persons Believed to be at High Risk for Firearm Violence, 89 AM. J. PUB. HEALTH 88, 89 (1999).
16 Id. at 2 n. 10.
17 Id. at 4-11.
20 Id. at 188.
21 Id. at 184. Cities were divided into three groups: (1) those in states with permits-to-purchase and registration, (2) those in states with either permits-to-purchase or registration, and (3) those with neither requirement. In the five cities located in states with both requirements, a mean of 33.7% of crime guns were first sold by in-state gun dealers, compared with 72.7% in cities that had either requirement (seven cities) and 84.2% in cities with neither requirement (thirteen cities).
22 Id. at 188.
23 Id. at 189.
24 S.A. Sumner et al., Firearm Death Rates and Association with Level of Firearm Purchase Background Check, 35 AM. J. PREVENTIVE MED.1 (2008).
25 Id.
28 In testimony before Congress in 2006, Michael Bouchard, said that “more than 5,000 gun shows are held each year in the United States.” Bureau of Alcohol, Tobacco, Firearms and Explosives (BATFE): Gun Show Enforcement (Part I and II): Hearing before the Subcomm. on Crime, Terrorism, and Homeland Security, Comm. of the Judiciary, House of Representatives, 109th Cong. 34 (Feb. 28, 2006) (statement of Michael Bouchard, Assistant Director Field Operations, Bureau of Alcohol, Tobacco, Firearms and Explosives). ATF has also cited the Krause “Gun Show Calendar” as listing advertisements for 4,442 gun shows in 1998. Gun Shows: Brady Checks and Crime Gun Traces, supra note 26, at 4. However, this was certainly an undercount, as there are dozens of gun show calendars in addition to the Krause publication, and none of them is truly comprehensive. See, e.g., National Association of Arms Shows, Inc.; The Big Show Journal (printed publication listing gun shows); www.Gunshows-USA.com (listing shows by month); www.gunweek.com/shows.html (listing shows); www.migunshows.com (listing Michigan shows); Crossroads of the West Gunshow Calendar (listing some California, Arizona and Nevada shows); The Man at Arms
Exclusive National Gun Show Calendar (listing some shows); www.aubreyturner.org/gunshows (listing Dallas/Ft. Worth gun shows); South Carolina Arms Collector Association (listing S.C. shows); Parallax Bill’s Gun Show Calendar (providing internet board allowing posting of gun shows); Tanner Gun Show calendar (listing shows in Denver); www.buymlsurp.com (listing some Florida gun shows). A Google search of “Gun Show Calendar” at the time of this report yielded more than 9,000 returns.

26 Joanne Kimberlin, Gun sale rules can be easy to avoid, VIRGINIAN-PILOT, Mar. 3, 2008.
28 The estimate of 290 average gun sales per show was reached by dividing the number of guns sold at Roanoke gun shows – 25% of 10,456, or 2,614 – by the number of shows, 9.
29 Hammack, supra note 31.
30 This estimate is reached by multiplying the average of recorded sales for each of the 9 Roanoke valley gun shows just over 290 – times the estimate of 5,000 annual gun shows in the U.S.
31 Hammack, supra note 31.
33 Garen J. Wintemute, Gun shows across a multistate American gun market: observational evidence of the effects of regulatory policies, 13 INJURY PREVENTION 150, 152 (2007).
34 Id.
35 Id. at 17.
36 Gun Shows: Brady Checks and Crime Gun Traces, supra note 26, at Table 3.
37 Anthony A. Braga & David M. Kennedy, Gun Shows and the Illegal Diversion of Firearms, 6 GEO. PUB. POL’Y REV. 7, 19 Table 5 (2000) (researchers were asked by ATF to explain the findings that were also discussed in ATF’s Gun Shows: Brady Checks and Crime Gun Traces, supra note 26).
38 Following the Gun, supra note 41, at 11, Table 2.
39 Id.
40 Id. at 13, Table 3. Trafficking at gun shows and flea markets, which included these unlicensed sellers but also licensed dealers, was slightly higher, with 25,862 guns overall, and 130 guns per investigation. This average is raised because corrupt licensed dealers averaged 354 trafficked guns per investigation.
41 Id at 11, Table 2 & 13, Table 3. The separate category of trafficking from gun shows and flea markets includes many sales by unlicensed sellers, thus linking the two categories.
45 Id. at 15 & Table 5.
46 Id. at Table 5.
47 Id.
48 Id.
49 Gun Shows: Brady Checks and Crime Gun Traces, supra note 26, at 6. See also id. at 19 (citing National Alliance of Stocking Gun Dealers calling for every gun sold at a gun show to undergo a NICS check, and other reforms).
51 Gun Shows and the Illegal Diversion of Firearms, supra note 47, at 14.
52 Dealing without a license was the second most frequent violation identified by ATF in its investigations, behind only “straw purchasing.” Following the Gun, supra note 41, at 27, Table 14.
55 Id. This estimate is derived from dividing the number of arrests by the number of gun shows investigated.
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60 Gun Shows: Brady Checks and Crime Gun Traces, supra note 26, at 14.
61 This can be seen from the average numbers of gun trafficked in ATF’s criminal investigations. Following the Gun, supra note 41, at 13, Table 3. It is also supported by the fact that in half of ATF’s investigations, guns trafficked were known to have been involved in subsequent crimes. Id. at 20-21 & Table 9.
62 Investigative Operations at Gun Shows, supra note 64, at iv-v.
63 Gun Shows: Brady Checks and Crime Gun Traces, supra note 26, at Table 3.
64 Id.
65 Bureau of Alcohol, Tobacco & Firearms, Commerce in Firearms in the United States 22, Table 12 (Feb. 2000).
66 Id.
67 Following the Gun, supra note 41, at 20-21 & Table 9.
68 Id. at 2.
73 Id. See also, Amended Complaint, No. 00-L-7476 at ¶ 151. The domestic violence restraining order made Smith a prohibited purchaser under federal law. 18 U.S.C. § 922(g).
74 Id. See also, Amended Complaint, No. 00-L-7476 at ¶ 53-58.
75 Id. See also, Plaintiff’s Memorandum in Opposition to Defendant Old Prairie Trading Post’s Motion to Dismiss, 5-11, Anderson v. Bryco Arms, No. 00-L-7476 (Circuit Ct., Cook County, Ill., April 10, 2002).
76 Plaintiff’s Memorandum, No. 00-L-7476 at 1.
78 18 U.S.C. § 921(b)(1). Federal law prohibits licensed gun dealers from selling rifles and shotguns to anyone under 18 and handguns to anyone under 21. Id. Federal law prohibits unlicensed sellers from selling handguns to anyone they know or have “reasonable cause to believe” is under age 18, although they are not required to conduct a background check or even ask the age of the buyer. 18 U.S.C. § 922(x)(1). Federal law does not prohibit unlicensed sellers from selling rifles and shotguns, including semiautomatic assault rifles, to anyone under 18.
80 Gun Vendors Came Forward, Sale To Killer’s Friend Detailed, supra note 83.
81 Id.
82 Following The Guns, supra note 83.
85 Illetto v. Glock, 349 F.3d 1191, 1197 (9th Cir. 2003).
86 Id. at 1194-95.
87 Will Bunch, Officer’s death reignites fuse on gun-control debate, PHILADELPHIA DAILY NEWS, May 6, 2008.
90 Id.
92 Id.
96 Id.
98 Id.
100 Sue Montgomery, Gunrunner gets six years, THE GAZETTE (Que.), May 27, 2008.
See note 41, at 43-44.

Crime Gun Trace Reports (1999), supra note 101, at 11-12 (italics emphasis supplied, bold emphasis added).

Crime Gun Trace Reports (1999), supra note 101, at 35, Table 12.


Id. at 44, Table 18.

A study of Texas and California gun shows that claims no increase in homicides or suicides in their immediate aftermath (Mark Duggan et al., The Effect of Gun Shows on Gun-Related Deaths: Evidence from California and Texas, National Bureau of Economic Research Working Paper 14371, available at: http://www.nber.org/papers/w14371) has been discredited by a blue ribbon panel of experts including Garen Wintemute, David Hemenway, Daniel Webster, Glenn Pierce, and Anthony Braga. Not only did the study reflect a misunderstanding of gun shows and gun markets, but “[a]s it stands, the paper evaluates a straw man hypothesis and is not a serious test of the effect of gun shows on rates of gun violence.” The researchers reviewing the study urged its authors to retract the paper given all of its flaws. See Catherine Rampell, The ‘Gun-Show Loophole,’ Revisited, THE NEW YORK TIMES, Dec. 1, 2008.

Statement of Senator Obama on June 26, 2008, accessible at http://my.barackobama.com/page/community/post/stateupdates/gG5NxL. See also Obama Supports Some Gun Control, ATLANTA JOURNAL CONSTITUTION, Feb. 1, 2009 (White House spokesman says President Obama supports closing the gun show loophole); Keith Perine, Congress Unlikely to Respond to Call For Tighter Gun Control, CONG., QUARTERLY TODAY, Feb. 15, 2008 (“America must do a more effective job of enforcing our gun laws, strengthening our background check system, being able to trace guns that are used in violent crimes to unscrupulous gun dealers—so that we can crack down on them—closing gun show loopholes”).


The law as it stands today, Cal. Penal Code § 12072(d), was passed in 1990, effective January 1991. 1990 Cal. LEGIS. SERV. 9 (West).

Gun shows across a multistate American gun market: observational evidence of the effects of regulatory policies, supra note 37, at 151.


See Gun shows across a multistate American gun market: observational evidence of the effects of regulatory policies, supra note 37, at 151; CAL. PENAL CODE § 12076.
In 2006, the estimated population of California was more than 36 million people, or about 12% of the total U.S. population. See California QuickFacts from the U.S. Census Bureau, available at: http://quickfacts.census.gov/qfd/states/06000.html (last visited Feb. 9, 2009).

See Gun shows across a multistate American gun market: observational evidence of the effects of regulatory policies, supra note 37, at 154.

Id.

Gun shows across a multistate American gun market: observational evidence of the effects of regulatory policies, supra note 37, at 153. “A private party gun sale was defined as a sale between vendor and attendee, or between attendees, that did not include completing the forms required for a purchase from a licensed retailer.” Id. at 151.

Id. at 153.

Id.

Id. at 154.

Id.


See BRADY CENTER TO PREVENT GUN VIOLENCE, No Gun Left Behind: The Gun Lobby’s Campaign to Push Guns Into Colleges and Schools 22 (2007).

Loophole creates easy venue for criminals to lock, load, TENNESSEAN, Mar. 1, 2008.

Id.


Id. at 10.


Id.

Gun shows across a multistate American gun market: observational evidence of the effects of regulatory policies, supra note 37, at 150.

Id. at 152.


Id. (quoting statement from then-Deputy Attorney General Eric Holder).


See No Questions Asked: Background Checks, Gun Shows and Crime, supra note 163, at 11 (finding that 96.5% of background checks are completed in 24 hours).

The Gun Show Loophole and Crime, supra note 40, at 11.

See FEDERAL BUREAU OF INVESTIGATION, National Instant Criminal Background Check System (NICS): Operations 2005 12 (2006). This is often because felony arrest records may not indicate whether the person was convicted.

Id.

Id.

See The Gun Show Myth, supra note 162.

See Greenberg Quinlan Rosner Research and The Tarrance Group, supra note 158, at 3.

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227 Id.

228 Id.

229 Id.


233 Id.

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