



Gun Background Checks: Myths and Facts

MYTH #1: Background check expansion could lead to a national gun registry.

FACT: The Manchin-Toomey compromise bill reaffirms that a Federal registry is illegal.

- The bill includes a 15-year prison term for attempting to create a Federal registry.
- A federal registry of gun ownership is already prohibited under existing Federal law.
- Penalties for creating a registry are even stricter than current federal law: In addition to 15 years in prison, officials who create a gun registry or misuse federal records on gun sales or ownership would face a monetary fine.

MYTH #2: Expanding background checks violates the Second Amendment.

FACT: The Supreme Court has found that background checks do not violate the Second Amendment.

- In the 2008 Supreme Court case, *District Of Columbia v. Heller*, the Court ruled that “...[N]othing in our opinion should be taken to cast doubt **on longstanding prohibitions on the possession of firearms by felons and the mentally ill, or laws forbidding the carrying of firearms in sensitive places such as schools and government buildings, or laws imposing conditions and qualifications on the commercial sale of arms.**”

MYTH #3: The background check system doesn't prevent criminals from obtaining weapons. Criminals won't submit to background checks, so the system will not prevent shootings.

FACT: Even the current weak federal background check system has prevented the sale of almost 2 million firearms, largely to criminals and the mentally ill.

- Requiring background checks for private sales at gun shows and sales via the Internet would further curb access to firearms by criminals and those with serious mental illness.

MYTH #4: Proposals to expand background checks would place onerous burdens on the transfer of firearms between family members.

FACT: Every major legislative proposal to strengthen background checks has exempted these transfers.

- The Manchin-Toomey proposal exempts firearms transfers to family, friends and neighbors.

MYTH #5: There is no such thing as the private sales loophole.

FACT: Private sales without background checks are extremely common, particularly at gun shows and online.

- 40% of firearms are acquired from unlicensed sellers, who are not required to perform background checks.
- A June 2000 ATF report found that unlicensed sellers were involved in about a fifth of the trafficking investigations and associated with nearly 23,000 guns diverted into the illegal market.

MYTH #6: Supporting background check expansion is a "risky" political move for members of Congress.

FACT: Americans overwhelmingly support expanding the background check system.

- National polls show massive public support for expanding background checks:
 - 90% of Americans support gun background checks.
 - 80% of gun owners – including 74 percent of National Rifle Association members – support requiring criminal background checks for anyone purchasing a gun.

MYTH #7: The Federal government doesn't currently perform background checks on gun purchasers.

FACT: While there is no federal background check requirement for private transactions, sales through licensed gun dealers are checked--and these checks frequently catch criminals looking to buy guns.

- The National Instant Criminal Background Check System (NICS) is used by Federal Firearms Licensees (FFLs) to instantly determine whether a prospective buyer is eligible to buy firearms or explosives.
- Before ringing up the sale, cashiers call in the check to the FBI or to other designated agencies to ensure that the customer does not have a criminal record or isn't otherwise ineligible to make a gun purchase.

MYTH #8: The Federal government is not enforcing the gun laws that are currently on the books, and very few people who fail background checks are prosecuted. Therefore, legislation expanding background checks would be ineffective.

FACT: The Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF)--the Federal agency responsible for enforcement of gun laws--has been hamstrung by successful gun lobby efforts to limit the agency's ability to fulfill some of its most basic responsibilities. The gun lobby has pushed Congress to limit resources for the ATF, even going so far as to block the appointment of a Director--leaving the agency leaderless for more than seven years. In addition, Congress, at the behest of the gun lobby, has created an unusually high standard for prosecution of individuals who lie on background check forms, making it harder for U.S. Attorneys to prosecute prohibited purchasers who illegally attempt to buy firearms.