



# Frequently Asked Questions About Universal Background Checks

February 10, 2021

*This fact sheet contains updates.*

## What is a firearm background check?

A firearm background check is the process by which a gun seller determines whether a prospective buyer is legally eligible to purchase a gun. Under both federal and state laws, certain individuals are barred from gun possession for reasons such as violent felony convictions or history of domestic violence.<sup>1</sup> The FBI operates the National Instant Criminal Background Check System (NICS) to conduct background checks.<sup>2</sup> In addition, some states elect to conduct firearm background checks through their own state system, functioning as what is known as a “point of contact” for these checks.<sup>3</sup>

## What is the current law on background checks?

Under current federal law, licensed gun dealers are required to conduct a background check before completing any gun sale. However, this requirement does not apply to anyone who is not a licensed gun dealer, meaning that private individuals are free under federal law to sell guns without first conducting a background check or taking any steps to verify that the prospective buyer is legally eligible to buy or possess a gun.<sup>4</sup>

To date, 22 states and the District of Columbia\* have acted to partially or fully close this gap in the law and require background checks for at least some sales by private sellers.<sup>5</sup>

## Why is the background check loophole a problem?

The lack of universal background checks undermines the effectiveness of nearly every other gun safety law. The private sale loophole allows individuals who are prohibited from buying guns to easily evade that law and buy as many guns as they want online, at a gun show, or anywhere else, with no questions asked and no records kept of the sale. This gap in the law also enables gun trafficking, as it allows secondary market sales to take place outside the notice of law enforcement and regulatory authorities. Finally, the failure to require universal background checks frustrates efforts to trace guns used in crimes—a crucial investigative tool that helps solve cases of homicide and other violent gun-related crimes.<sup>6</sup>

## How will requiring universal background checks reduce gun violence and illegal gun trafficking?

Universal background checks are a crucial foundation for a strong and effective system of gun laws. The experiences of states that have closed the background check loophole provide evidence that this is an effective policy to help reduce gun violence and illegal

gun trafficking. For example, when Connecticut implemented a law requiring individuals to obtain a permit and undergo a background check before buying a handgun, gun homicide rates in the state fell 40 percent.<sup>7</sup> Missouri took the opposite approach and repealed a similar law, leading to a 25 percent increase in gun homicide rates.<sup>8</sup> Similar beneficial effects have been seen on gun trafficking. A 2009 study found that intrastate gun trafficking was 48 percent lower in states that required background checks for private handgun sales than in states that did not.<sup>9</sup>

### Universal background checks wouldn't have prevented some recent mass shootings, so why is this a top priority?

One hundred and three\* people are killed with a gun every day in the United States, and hundreds more suffer devastating gunshot injuries.<sup>10</sup> While mass shootings tend to gain the most media attention, the reality is that many communities—particularly communities of color—suffer a daily toll of gun violence that often goes unrecognized.<sup>11</sup> There is no single policy solution that will end gun violence in this country; this public health crisis requires a comprehensive approach that includes policy, research, and investment in community-based programs.<sup>12</sup> However, universal background checks are a foundational element of that comprehensive approach upon which the effectiveness of other policies rests. Enacting this law is a crucial first step in strengthening the nation's gun laws and saving lives.

*\*Author's note: This fact sheet will be periodically updated to account for new policy developments. It was last updated on February 9, 2021.*

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## Endnotes

- 1 Giffords Law Center to Prevent Gun Violence, "Categories of Prohibited People," available at <https://lawcenter.giffords.org/gun-laws/policy-areas/who-can-have-a-gun/categories-of-prohibited-people/> (last accessed November 2018).
- 2 Federal Bureau of Investigation, "About NICS," available at <https://www.fbi.gov/services/cjis/nics/about-nics> (last accessed November 2018).
- 3 Ibid.
- 4 Giffords Law Center to Prevent Gun Violence, "Universal Background Checks," available at <https://lawcenter.giffords.org/gun-laws/policy-areas/background-checks/universal-background-checks/> (last accessed January 2021).
- 5 Ibid.
- 6 When a gun is recovered at a crime scene, local law enforcement can request that the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) trace that gun to try to determine its owner. Upon receiving a trace request, ATF contacts the licensed gun dealer who first sold the gun at retail. That dealer searches through its records and provides ATF with the name of the purchaser. This can be a crucial investigative lead; however, if that first retail purchaser subsequently sold the gun through a private transfer that did not require a background check, that investigative lead goes cold. Requiring background checks for these subsequent sales would fill in these gaps in crime gun tracing, helping law enforcement solve violent crimes. See Bureau of Alcohol, Tobacco, Firearms and Explosives, "Fact Sheet – National Tracing Center," May 2018, available at <https://www.atf.gov/resource-center/fact-sheet/fact-sheet-national-tracing-center>.
- 7 Kara E. Rudolph and others, "Association Between Connecticut's Permit-to-Purchase Handgun Law and Homicides," *American Journal of Public Health* 105 (8) (2015): 49–54, available at <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4504296/>.
- 8 Daniel Webster, Cassandra Kercher Crifasi, and Jon S. Vernick, "Erratum to: Effects of the Repeal of Missouri's Handgun Purchaser Licensing Law on Homicides," *Journal of Urban Health: Bulletin of the New York Academy of Medicine* 91 (3) (2014): 598–601, available at <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4074329/>.
- 9 Daniel W. Webster, Jon S. Vernick, and Maria T. Bulzacchelli, "Effects of State-Level Firearm Seller Accountability Policies on Firearms Trafficking," *Journal of Urban Health: Bulletin of the New York Academy of Medicine* 86 (4) (2009): 525–537, available at <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC2704273/>.
- 10 Centers for Disease Control and Prevention, "Injury Prevention & Control: Data & Statistics (WISQARS): Fatal Injury Data," available at [http://www.cdc.gov/injury/wisqars/fatal\\_injury\\_reports.html](http://www.cdc.gov/injury/wisqars/fatal_injury_reports.html) (last accessed December 2020). This figure is based on the past five years of available data.
- 11 Law Center to Prevent Gun Violence and PICO National Network, "Healing Communities in Crisis: Lifesaving Solutions to the Urban Gun Violence Epidemic" (2016), available at <https://lawcenter.giffords.org/wp-content/uploads/2016/11/Healing-Communities-in-Crisis-URL.pdf>.
- 12 Center for American Progress, "6 Ways to Reduce Gun Violence in America," March 28, 2018, available at <https://www.americanprogress.org/issues/guns-crime/news/2018/03/28/448565/gun-violence-united-states-public-health-crisis/>.