



NATIONAL ASSOCIATION FOR GUN RIGHTS

STANDING UP FOR FREEDOM
DEFENDING THE SECOND AMENDMENT

Universal Gun Registration

“How the so-called background check system amounts to a national gun registry”

The Process

To purchase a firearm from a Federal Firearms Licensee (FFL), an individual fills out an ATF Form 4473, which requires name, address and biometric data about the purchaser.

Additionally, the Form 4473 records the make, model and serial number of the firearm(s) being purchased.¹

The FFL then contacts the NICS system via phone to verify the individual is legally eligible to purchase the firearm. The FBI administers the NICS system² for states that comply with the Brady Act. Some states, including Colorado, maintain Baby Brady Systems, and their state bureau of investigation handles this portion of the check.

Background checks are de facto gun registration:

- The National Instant Check System (NICS) “background check” is only one part of the process to purchase a firearm through a firearms dealer.
- ATF Form 4473s exist for every firearm purchased from a Federal Firearms Licensee. Put another way: the federal government has access to a list of every firearm, purchased through a dealer, who purchased it, what they look like, and where they live.
- Form 4473 cannot be destroyed. Physical copies must be maintained by the FFL.³ Should the FFL go out of business, 4473 forms must be turned over to another FFL or the ATF.⁴
- Physical logbooks⁵ were long the standard, but the ATF has recently permitted FFL’s to maintain electronic log books.⁶
- FFL log books are open to inspection, including copying, by the ATF at any time.⁷

Myth vs. Fact

MYTH: The government can’t track purchases without a centralized, electronic database.

FACT: The ATF currently brags that they can complete a serial number search within 24 hours, with a nearly 90% success rate. This amount of time will likely decrease with the recent rule change to permit electronic FFL log books.⁸

Last year the center traced about 344,000 guns for 6,000 different law enforcement agencies. Houser has a success rate of about 90 percent, so long as enough information is provided. And he boasts that every successful trace provides at least one lead in a criminal case.

...

In more urgent situations, including the immediate aftermath of a mass shooting in Connecticut last year, ATF agents run a trace within about 24 hours. Oftentimes, that involves sending agents to the gun dealer that first sold the weapon to quickly find the paperwork listing its original buyer.⁹

MYTH: NICS checks can only be maintained for 24 hours and then the FBI destroys them. There is no record that a background check was run.

FACT 1: The FBI refuses to permit an audit for the process, and has repeatedly been caught keeping records longer than 24 hours.¹⁰ Additionally, the Justice Department has been caught keeping NICS data for much longer than the 24 hours permitted by law.¹¹

FACT 2: Not true. Purchase through an FFL is a two-step process. Physical, and in many cases electronic, copies of Form 4473 are maintained by the FFL whom the individual purchased his firearm(s) from. Those 4473 forms include name, address, social security number and biometric data for the purchaser.¹² Additionally, these forms include the make, model and serial number of the firearm(s) purchased.¹³

Clearly, Form 4473 lays the ground work, if not serving as a proxy for, a national registry or database of firearms and firearms owners. Universal background checks would only serve to further expand the government's ability to catalog all firearms and firearms owners in the United States.

FACT 3. The FBI maintains a permanent record of all NICS applicants whose purchases are denied.¹⁴

MYTH: NICS system doesn't infringe upon the rights of law-abiding citizens.

FACT 1: The NICS often fails, often for hours at a time, preventing ANYONE from purchasing a firearm through a FFL.

On "Black Friday" in 2012, NICS outages prevented thousands of individuals from purchasing firearms due to volume of background checks requested.¹⁵ Banning private firearms sales will likely dramatically increase these outages, as demand for access to the NICS will increase.

FACT 2: The number of FFL's has sharply declined since 1993 due largely to increasingly stiffer requirements and larger fees to receive the license.¹⁶ Between 1993 and 2012, the number of FFL's decreased from over 250,000 nationally, to less than 60,000.

FACT 3: The 2019 UBC bill, H.R. 8, requires almost all firearms sales and loans to be conducted by a federally-licensed dealer. Because federal law prohibits licensed dealers from transferring handguns to persons under 21 years of age, young adults are barred from acquiring handguns.¹⁷

FACT 4: H.R. 8 mandates that loans, gifts, and firearm sales be processed at a gun store. The same bureaucratic rigmarole—fees, paperwork, and record-keeping—applies to the purchase of new guns at stores as well. If you loan a gun to a friend without going to the gun store, you will receive the same penalty as someone who knowingly sells a gun to a convicted violent felon.¹⁸

MYTH: Violent criminals will be denied access to firearms because of universal background checks.

FACT: By definition, criminals don't purchase guns through gun stores or other FFL dealers.

Reports from the National Criminal Justice Reference Service for 2006¹⁹, 2007²⁰, 2008²¹, 2009²² and 2010²³ show that the total number of people convicted of violations of the Brady Act during this five-year period totaled 209.

In that same five-year period there were 347,455 denials, which resulted in a conviction rate of 0.06%. Extrapolating the data across the 14 years NICS has existed produces only 594 total denial convictions, or 42 per year.

Through various studies, John Lott has observed that states that have passed UBCs did not witness any notable decline in crime rates. In the War on Guns, Lott's research on Missouri's UBC law found the following:

“Between 1981 and 2007, Missouri had “universal background checks” in addition to the federal “Brady Law” background checks.

...In the five years after 2007, when universal background checks were abandoned, Missouri's murder rate rose by 17 percent. However, in the five years before that change, it had actually increased by 32 percent. Missouri was already on an ominous path and the rate of increase slowed after the law was eliminated.”²⁴

Clearly, the NICS system is merely an impediment to law-abiding citizens exercising their rights, not a block on criminal's access to firearms.

MYTH: Anti-gunners claim that the NICS system works because 1.9 million people have been denied the right to purchase.

FACT: Analysis by scholar John Lott indicates that for sample year 2009, nearly 94.2% of denials were false positives²⁵, meaning that law-abiding citizens were denied the right to purchase, not criminals.

From Lott's study, only 6.6% (4,681) were even referred to the ATF for further investigation. The remaining 66,329 (93%) of denials didn't meet referral guidelines or were overturned after review.²⁶

¹ U.S. Department of Justice, Bureau of Alcohol, Tobacco, Firearms, and Explosives, *Firearms Transaction Record*,

² Department of Justice, Federal Bureau of Investigation, *National Instant Criminal Background Check System (NICS) Federal Firearms Licensee Manual*,

³ 18 U.S.C. § 923(g)(1)(A)

⁴ ATF National Firearms Act Handbook, 14.1.2 Transfer of the firearms business to a new owner,

⁵ 27 C.F.R. § 478.125(e).

⁶ 2016-1 Requirements to Keep Firearms Records Electronically

⁷ ATF, FFL Compliance Inspections

⁸ Ibid.

⁹ "Gun control: Tracing a firearm is a low-tech process", *The Oregonian* 1/29/13,

¹⁰ "Manhunt Continues for Three Siblings Sought in Armed Bank Robbery", *Fox News* 8/7/11

¹¹ "Glitches mar gun law's 'insta-check' system", *Chicago Tribune* 12/4/1998

¹² U.S. Department of Justice, Bureau of Alcohol, Tobacco, Firearms, and Explosives, *Form 447*

¹³ Ibid.

¹⁴ *Survey of State Procedures*, *supra* note 3, at 17

¹⁵ "FBI says Black Friday gun sales highest ever despite system glitch", *Sun Journal* 11/27/12

¹⁶ "The Problem with Universal Background Checks – Part 1", *The Truth About Guns* 2/3/2013

¹⁷ Quick Takes — The Democrats's Coming Assault on the Second Amendment, *The Political Hat* 1/17/19

¹⁸ Ronald Frandsen, *Enforcement of the Brady Act*, 2006

¹⁹ Ronald J. Frandsen, *Enforcement of the Brady Act*, 2007

²⁰ Ronald J. Frandsen, *Enforcement of the Brady Act*, 2008

²¹ Ronald J. Frandsen, *Enforcement of the Brady Act*, 2009

²² Ronald J. Frandsen, *Enforcement of the Brady Act*, 2010

²³ John R. Lott Jr., *The War on Guns: Arming Yourself Against Gun Control Lies*

²⁴ John Lott, *False Positives' From Brady Law Bar Gun Ownership*, *Newsmax*, 6/14/11

²⁵ Ibid.