



The National Rifle Association's Outlined Opposition to the Proposed Universal Background Check for the Private Transfer of Firearms in Pennsylvania

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Introduction

The National Rifle Association (NRA) would like to thank Chairman Marsico and Chairman Caltagirone for including our organization in the House Judiciary Committee public hearing on the Pennsylvania procedure for firearm transfers. During the 2013 session, numerous pieces of legislation have been introduced aimed at expanding Pennsylvania's background check system to include the private transfer of long guns. The expansion of the current background check system to all firearm transfers, under the guise of "universal" background checks, will never be truly "universal" because criminals will not submit themselves to the system. For this reason, the NRA and its hundreds of thousands of members in the state of Pennsylvania strongly oppose the unnecessary and restrictive expansion of background checks to include private transfers, as it will unduly burden law-abiding citizens with negligible benefit to public safety.

Background

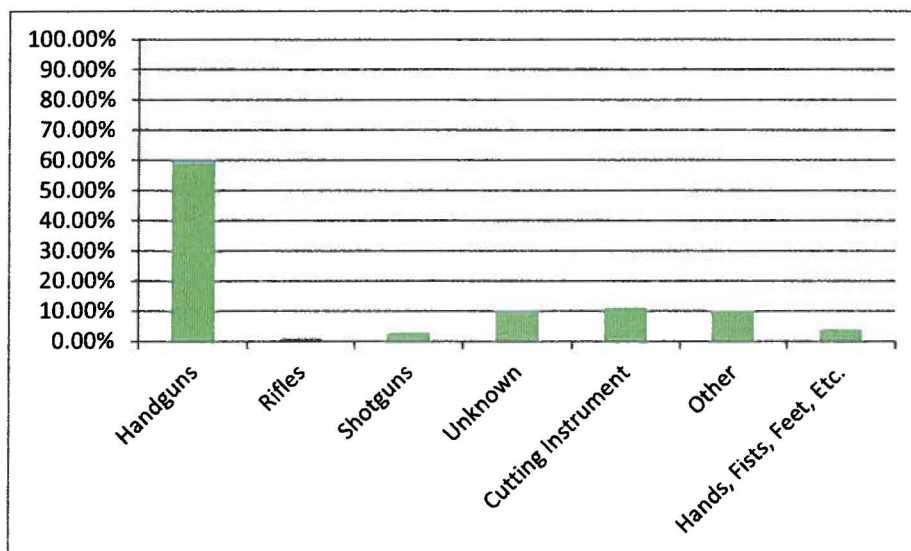
The Gun Control Act of 1968 created the Federal Firearms License (FFL) and mandated the licensing of individuals and companies engaged in the business of selling firearms. Additionally, the law created a carve-out for private transfers between unlicensed individuals who are residents of the same state provided such transfers do not violate the other existing federal and state laws.

FFLs nationwide have used the National Instant Criminal Background Check System (NICS) to screen prospective buyers since 1998. On July 1, 1998, Pennsylvania established the duplicative Pennsylvania Instant Check System (PICS), under the auspices of the Pennsylvania State Police, to meet the federal firearm background check requirements for firearm purchases.

In addition to the Federal mandate, Pennsylvania statute also requires a "universal" background check on the private transfer of all handguns. It is currently illegal to sell a handgun to a person in a private transfer without obtaining a PICS background check conducted by an FFL. A violation of this process would subject both parties to felony penalties. Despite these restrictions, the majority of criminals continue to obtain their firearms through illegal means, not through purchases from firearm dealers.

Handgun Regulation Has Had Negligible Impact on Decreasing Crime

The “universal” background check for handgun purchases in Pennsylvania has been ineffective in reducing the number of murders committed with handguns. In 2011, handguns were used in 60% of murders in Pennsylvania, considerably more than any other weapon. During this time, no firearm was used in 26% of murders committed in Pennsylvania, including 11.5% committed with knives. By comparison, rifles were used in less than 1.3 % and shotguns were fewer than 3.0%, less than the national average of 5.4%. See the chart below:



There is no empirical evidence to show that a significant percentage of murders are committed with a rifle or shotgun acquired through a lawful private transaction. Thus, a “universal” background check will be ineffective in reducing crime by placing burdensome restrictions on law abiding citizens, failing to address the fact that criminals obtain firearms through illegal means, and expanding the failed policy already in place for private handgun purchases.

Pennsylvania would make more of an impact on the relatively few criminals who use long guns by enforcing existing laws and penalties for straw purchases, theft of stolen guns, and possession of stolen firearms.

Universal Background Checks Create Defacto Registration

Subjecting firearm sales to “universal” background checks is an unconstitutional regulatory scheme that undermines the Second Amendment. These proposals mandate the government collection of personal data on lawful gun buyers and sellers, amounting to universal gun registration and gun owner licensing.

In a white paper dated January 4, the deputy director of the National Institute for Justice, the Department of Justice’s research and evaluation agency, said that the “universal” background check proposals before Congress are unlikely to have an effect unless they are made even more draconian. The document makes clear that the implementation of “universal” background checks “depends on ... requiring gun registration.”

The California Example

California prohibited the private transfer of handguns in 1991 and rifles and shotguns in 1994, along with imposing mandatory handgun registration, and rifle and shotgun sale recordation. But, the sharp increase in crime that took place prior to those laws, and the return of the crime rate to pre-surge levels, concurrent with the imposition of those laws, was accounted for mostly by juveniles, who are already prohibited from buying or possessing handguns. According to the California Department of Justice:

“Between 1986 and 1999 the crime rate increased (peaking in 1991 nationally and in 1992 in California) and then decreased. The increased crime rate was largely due to the crack cocaine epidemic, while the subsequent decrease was largely related to the decline in the use of crack. The use of handguns by juveniles and youth (increasing then decreasing) accounted for most of the changes in the rate of violent crime. Violent crime by adults over 30 years of age and property crime by individuals of all ages did not go through this cycle of increase and decrease, and generally decreased over the entire period.”

Below are the crime data statistics in California as compared to the United States:

| | USA | | California | |
|------|-------|--------|------------|--------|
| | Total | Murder | Total | Murder |
| 1991 | 758.2 | 9.8 | 1,089.9 | 12.7 |
| 1992 | 757.7 | 9.3 | 1,119.7 | 12.7 |
| 1993 | 747.1 | 9.5 | 1,077.8 | 13.1 |
| 1994 | 713.6 | 9.0 | 1,013.0 | 11.8 |
| 1995 | 684.5 | 8.2 | 966.0 | 11.2 |
| 1996 | 636.6 | 7.4 | 862.7 | 9.1 |
| 1997 | 611.0 | 6.8 | 798.3 | 8.0 |
| 1998 | 567.6 | 6.3 | 703.7 | 6.6 |
| 1999 | 523.0 | 5.7 | 627.2 | 6.0 |
| 2000 | 506.5 | 5.5 | 621.6 | 6.1 |
| 2001 | 504.5 | 5.6 | 615.2 | 6.4 |
| 2002 | 494.4 | 5.6 | 595.4 | 6.8 |
| 2003 | 475.8 | 5.7 | 579.6 | 6.8 |
| 2004 | 463.2 | 5.5 | 527.8 | 6.7 |
| 2005 | 469.0 | 5.6 | 526.0 | 6.9 |
| 2006 | 473.6 | 5.7 | 533.3 | 6.8 |
| 2007 | 466.9 | 5.6 | 522.6 | 6.2 |
| 2008 | 457.5 | 5.4 | 506.2 | 5.9 |
| 2009 | 431.9 | 5.0 | 473.3 | 5.3 |
| 2010 | 403.6 | 4.8 | 440.6 | 4.9 |
| 2011 | 386.3 | 4.7 | 411.1 | 4.8 |

The above numbers illustrate the overriding trend that crime and murder rates in the last two decades have continued to decline on average at a similar rate in California and nationwide. Advocates of a “universal” background check law, prohibiting private transfers of firearms, consider California’s such law to be a model for the nation. However, according to the California Department of Justice, no gun control law was among 18 short-and long-term factors that may have contributed to that state’s decrease in violent crime after the early 1990s, reinforcing the fact that most criminals obtain firearms by theft or black market transactions, or from straw purchasers.

Cost-Benefit Analysis Lacks Persuasive Evidence

As discussed above, it is unlikely that the implementation of a “universal” background check in Pennsylvania will have any effect on mitigating crime. However, the implementation of a “universal” background check would have a significant fiscal impact for stakeholders.

In addition to the absurdity of having to conduct background checks on individuals you know are not criminals, is it unreasonable for gun owners to be charged a fee to give your grandson a shotgun, lend a hunting rifle to your best friend, or give your Mom a gun for protection. Transfer fees alone could run between \$50.00 and \$100.00. Firearms dealers, like other businesses, charge as much as the market will bear. Therefore, background check fees for a state mandated program can be uncapped.

Additionally, in 2011 there were approximately 739,682 PICS checks initiated. Increasing this number by including long guns, firearms used in less than 5% of murders, would be a massive expansion of the current system, imposing exorbitant costs on the Pennsylvania State Police. The expansion of the current system would be a detriment to Pennsylvania taxpayers, while providing negligible public safety benefit.

Summation

Proposals to expand Pennsylvania’s current background check system to include all firearm transfers is misguided and ineffective policy because criminals do not acquire firearms through legal means. The implementation of a “universal” background check will add yet another intrusive and unnecessary regulation for law abiding citizens in Pennsylvania. In contrast, Pennsylvania should continue to focus efforts on the criminal element by aggressively enforcing existing laws and penalties for straw purchases, illegal possession of firearms, theft of stolen firearms, and possession of stolen firearms.