



# FELON SEEKS FIREARM, NO STRINGS ATTACHED

HOW DANGEROUS PEOPLE EVADE BACKGROUND CHECKS  
**AND BUY ILLEGAL GUNS ONLINE**





# FELON SEEKS FIREARM, NO STRINGS ATTACHED

A REPORT BY MAYORS AGAINST ILLEGAL GUNS  
SEPTEMBER 2013

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## EXECUTIVE SUMMARY

The online marketplace for guns is vast — and growing. Each year, millions of people connect through online ads to buy and sell firearms. And because many of the transactions are conducted by so-called ‘private sellers’ who are not required by federal law to conduct background checks, guns routinely change hands with no questions asked. In the digital age, convicted felons, domestic abusers and other dangerous people who are legally barred from buying guns can do so online with little more than a phone number or email address.

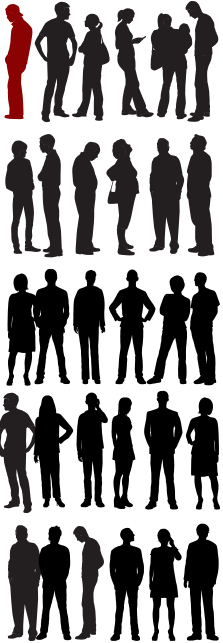
And they do. Countless tragedies have demonstrated that determined criminals are exploiting this ‘private sale loophole’ to acquire guns online and murder innocent people.

In October 2012, a Wisconsin state judge issued a restraining order to protect Zina Daniel from her abusive husband, Radcliffe Haughton. The order prohibited him from buying firearms, so he would have failed the background check a licensed dealer is required to conduct. Instead, he turned to the popular gun classifieds site Armslist.com, where tens of thousands of guns are listed for sale and 90 percent are offered by private sellers. In a matter of hours, he located a nearby seller and bought a .40 caliber semi-automatic Glock handgun with no background check. The next day, he drove to Zina’s workplace, murdered her and two of her co-workers, and injured four others before killing himself.

In Illinois, Jitka Vesel’s stalker, Dmitry Smirnov, was also prohibited from purchasing a gun. But he was willing to pay a premium to get one from a private seller on Armslist. On the night of April 13, 2011, he followed Jitka to her workplace and shot her at least 11 times in the parking lot, where she died.

The National Rifle Association, which once supported the National Instant Criminal Background Check System (NICS), has recently opposed efforts to close this growing loophole. One argument often recurs: criminals won’t submit to background checks.

1 IN 30 BUYERS ON  
**ARMSLIST** HAS A  
**CRIMINAL RECORD**  
THAT PROHIBITS  
GUN OWNERSHIP



This report demonstrates that their claim is both false and true. Criminals undeniably do submit to background checks: in 2010 alone, federal and state checks blocked more than 150,000 gun sales to prohibited buyers. But criminals also undeniably avoid background checks — by exploiting the private sale loophole. Indeed, one measure of NICS’s success is that it appears to have forced a growing number of criminals to seek out private sellers since the system was established in 1998.

**Mayors Against Illegal Guns conducted an investigation to measure the scale of the problem. Our findings suggest that tens of thousands of criminals now use the online private sale loophole to acquire illegal guns:**

- **One in thirty** would-be buyers on Armslist have criminal records that bar them from owning guns. To put this number in context, if 1 in 30 people on a typical Boeing 747 were on a terrorist watch list, the plane would have 22 suspected terrorists aboard.
- **More than 25,000** guns may be transferred to criminals each year through Armslist alone — a single corner of a sprawling online marketplace for firearms.
- The share of criminals purchasing guns on Armslist is **nearly four times higher** than the share attempting to purchase guns at licensed dealers.

The investigation reached these conclusions by analyzing a unique data set: the contact information prospective gun buyers voluntarily provided in ‘want-to-buy’ ads they placed on Armslist in search of gun sellers. We examined 13,000 listings posted between February and May 2013, matched contact information to criminal records, and found that at least 1 in 30 would-be gun-buyers had felony or domestic abuse records that barred them from purchasing or possessing guns. And this does not include those prohibited due to serious mental illness, drug abuse, immigration status or other non-criminal prohibiting criteria, which accounted for 25 percent of the sales blocked by a federal NICS check in 2012.

THE SHARE OF  
WOULD-BE BUYERS  
WHO ARE **CRIMINALS**  
IS **NEARLY 4 TIMES**  
**HIGHER ONLINE** THAN  
AT GUN DEALERS



**0.87%**  
AT LICENSED DEALERS



**3.3%**  
ON ARMSLIST.COM

Alarming as this snapshot is, it badly understates the true scope of the problem. Only 5 percent of the postings on Armslist are want-to-buy ads: the vast majority of buyers — prohibited and otherwise — respond to ‘for-sale’ ads, and therefore remain completely anonymous. By focusing on want-to-buy ads, the investigation necessarily examined a small slice of the online market that criminals may be least likely to occupy, because doing so requires posting a public ad and entails a degree of exposure. Furthermore, the investigation examined only the 5 percent of want-to-buy ads in which the poster disclosed a contact phone number or email, thereby dropping the cloak of anonymity. There are twenty times this number of want-to-buy ads on the website — and a thousand times more ads in total. And Armslist is only one of the thousands of sites on which guns are sold every day.

These findings underscore the urgent need to close the private sale loophole. In April 2013, a majority of the U.S. Senate voted to do so by requiring background checks for all private sales in commercial settings, including online. But a minority of senators blocked the bill, and the U.S. House has yet to consider companion legislation.

After the Newtown shooting massacre in December 2012, several state legislatures moved to close this loophole on their own, bringing the number of states that require background checks for private handgun sales to 16. But until Congress makes background checks for all sales the law of the land, criminals will continue to exploit states with weak laws to arm themselves with guns — guns later recovered at crime scenes across America, abandoned near the bodies of the dead.

## INTRODUCTION

In an era of bitter partisan divides, there is remarkable unity on one point: 92 percent of American voters support requiring a background check before every gun sale.<sup>1</sup>

And the evidence is clear that background checks save lives. Sixteen states have gone beyond federal law to require checks for private handgun sales. In those states with enough data to analyze, 38 percent fewer women are shot to death by their intimate partners, 39 percent fewer police officers are murdered with handguns, 17 percent fewer firearm aggravated assaults are committed, and 49 percent fewer suicides are committed with guns.<sup>2</sup>

Conversely, when Missouri eliminated its background check requirement for private sales, crime rates jumped. In 2007, the state repealed its 'permit to purchase' system for private handgun sales — which required potential buyers to pass a background check — and the state's gun murder rate climbed 25 percent while murders committed with other weapons declined. The share of guns found at Missouri crime scenes that were bought in Missouri increased 25 percent. And Missouri crime guns that were recovered within two years of their first sale — a key trafficking indicator — rose by 113 percent.<sup>3</sup>

Despite the near unanimous approval of voters and the overwhelming weight of evidence, Congress has refused to require background checks for all gun buyers. Under federal law, licensed dealers must conduct checks, but 'private sellers' — any unlicensed individual with a gun to sell — are exempt. Because around 40 percent of U.S. gun transfers do not involve a dealer, this constitutes an enormous loophole — and one that has grown exponentially larger as the gun trade has moved online.<sup>4</sup> Criminals and other dangerous people who are prohibited from buying guns can and do seek out private sellers — notably online and at gun shows — to evade checks, limit personal interaction, and avoid leaving a paper or electronic trail.

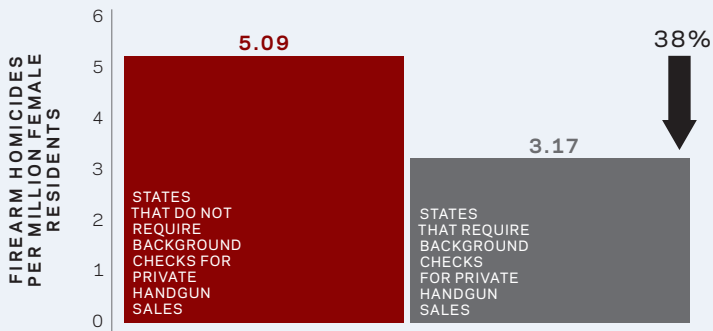
The purpose of this investigation was to determine (1) whether prohibited individuals are more likely to seek out private sellers than licensed dealers; and (2) how many criminals are exploiting this gap in federal law.

The investigation found that prohibited gun buyers are clearly turning to the online marketplace. Individuals looking for guns on Armslist are nearly four times more likely to have prohibiting criminal records than buyers at licensed dealers. Where fewer than 1 in 100 prospective buyers at a dealer fails a federal background check due to a criminal history, 1 in 30 prospective buyers on Armslist is prohibited for that reason, and no background check prevents them from completing the sale.

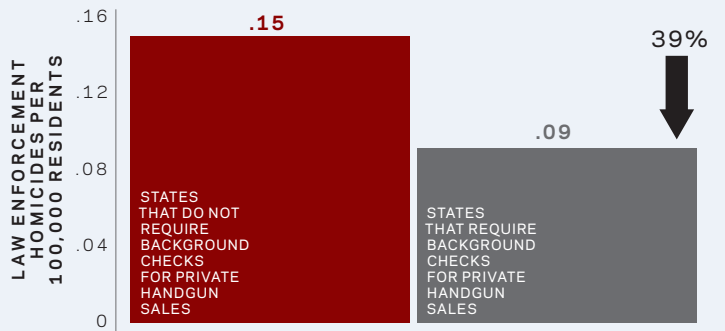
Until Congress closes this loophole, tens of thousands of prohibited purchasers will continue to acquire guns this way each year.



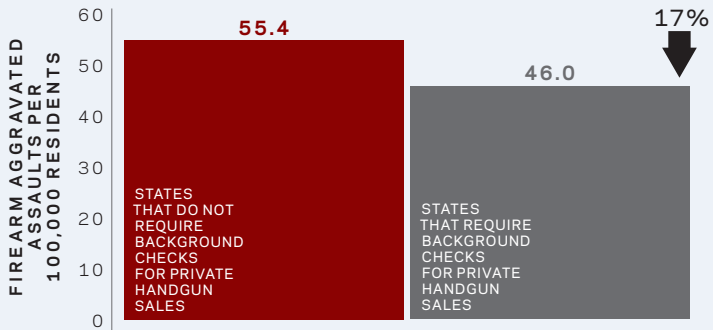
WOMEN SHOT TO DEATH BY INTIMATE PARTNERS<sup>A</sup>



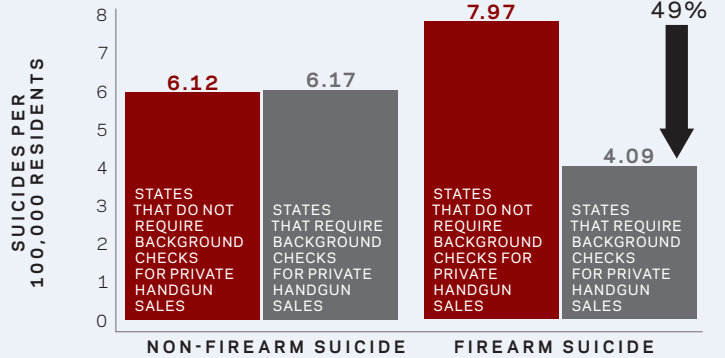
LAW ENFORCEMENT KILLED WITH HANDGUNS<sup>B</sup>



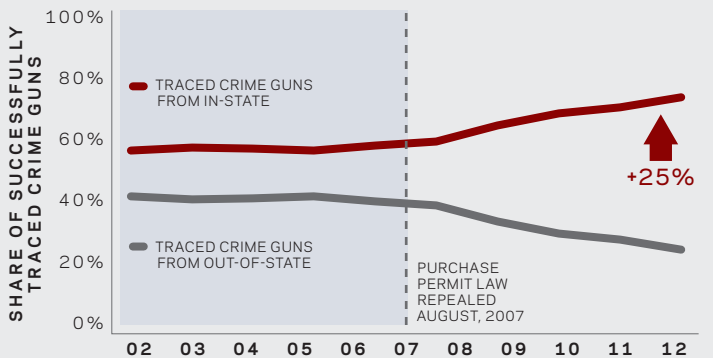
ASSAULTS<sup>C</sup>



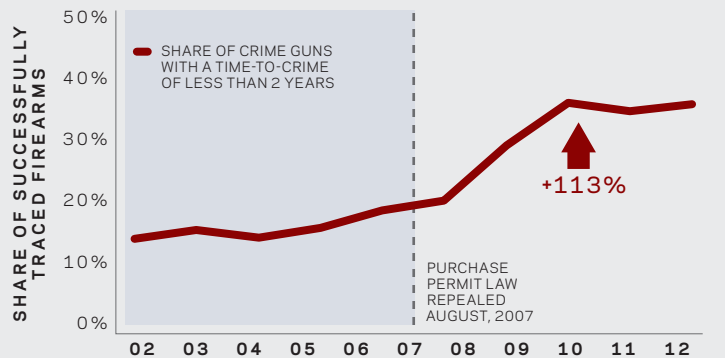
SUICIDE<sup>D</sup>



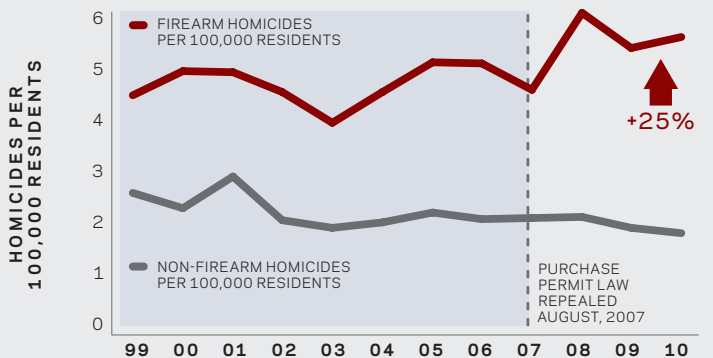
SOURCE OF GUNS USED IN CRIMES IN MISSOURI<sup>E</sup>



SHARE OF MISSOURI CRIME GUNS THAT ARE TRAFFICKED<sup>F</sup>



FIREARM HOMICIDES IN MISSOURI<sup>G</sup>



DATA SOURCES

- A FBI SUPPLEMENTARY HOMICIDE REPORT AND FLORIDA DEPARTMENT OF LAW ENFORCEMENT, 2010. NEW YORK EXCLUDED DUE TO INCOMPLETE DATA.
- B FEDERAL BUREAU OF INVESTIGATION, 2001-2011. LAW ENFORCEMENT KILLED WITH HANDGUNS THAT WERE NOT THEIR OWN.
- C FBI UNIFORM CRIME REPORTS, 2011. NY, IL, HI, AND MS EXCLUDED DUE TO INSUFFICIENT DATA.
- D U.S. CENTERS FOR DISEASE CONTROL AND PREVENTION (CDC), 2010.
- E BUREAU OF ALCOHOL, TOBACCO, FIREARMS AND EXPLOSIVES (ATF).
- F BUREAU OF ALCOHOL, TOBACCO, FIREARMS AND EXPLOSIVES (ATF).
- G U.S. CENTERS FOR DISEASE CONTROL AND PREVENTION (CDC).

# THE BACKGROUND CHECK SYSTEM AND THE PRIVATE SALE LOOPHOLE

Under federal law, several classes of particularly dangerous individuals are prohibited from firearm possession — including felons, the seriously mentally ill, domestic abusers and drug addicts.<sup>5</sup> The names of prohibited purchasers are contained in NICS, a system of databases operated by the Federal Bureau of Investigation, and licensed gun dealers are required to run the names of would-be buyers through NICS before they complete their sales.

This system is efficient and effective. Despite the gun lobby's claims that checks impose a burden on buyers, filling out the paperwork and completing a background check takes just a few minutes.<sup>6</sup> During an attempted purchase, the dealer phones the NICS call center or submits the buyer's information to NICS through its web-based E-Check system. Phone calls to NICS are answered within seven seconds, on average, and more than 90 percent are resolved immediately while the dealer is on the phone.<sup>7</sup> If a buyer's name is in NICS because he is federally prohibited, NICS will instruct the dealer to deny the sale, without revealing any other information about the would-be buyer.

Since its creation in 1998, NICS has blocked more than two million gun sales to criminals and other prohibited purchasers.<sup>8</sup>

But not all gun sellers are required to conduct background checks. Under federal law, licensed firearms dealers must do so, but unlicensed sellers who are not "in the business" of selling firearms are exempt.<sup>9</sup>

This two-tiered system has created a vast secondary market, leaving a large share of firearms sales completely unregulated. National telephone surveys and law enforcement data suggest that some 40 percent of gun transfers do not involve a licensed dealer — meaning an estimated 6.6 million guns were transferred without background checks in 2012.<sup>10</sup> The National Survey on Private Ownership and Use of Firearms, a telephone survey of 2,568 individuals funded by the Department of Justice, showed that 37 percent of recent gun buyers had obtained their gun in a transfer that did not require a check.<sup>11</sup> Similarly, according to Michigan State Police, 48 percent of state handgun transfers are conducted without a licensed dealer. This amounts to more than 50,000 private-party handgun transfers each year in Michigan alone.<sup>12</sup>

OAK BROOK, IL: APRIL 2011



In 2011, Canadian citizen Dmitry Smirnov entered the U.S., responded to a posting for a .40 caliber handgun on Armslist, and bought the gun from a private seller outside a Washington casino.

Smirnov was prohibited from purchasing or possessing a gun because he was not a U.S. citizen or lawful permanent resident. He also had a history of stalking and harassing Jitka Vesel, a woman he had briefly dated years earlier.

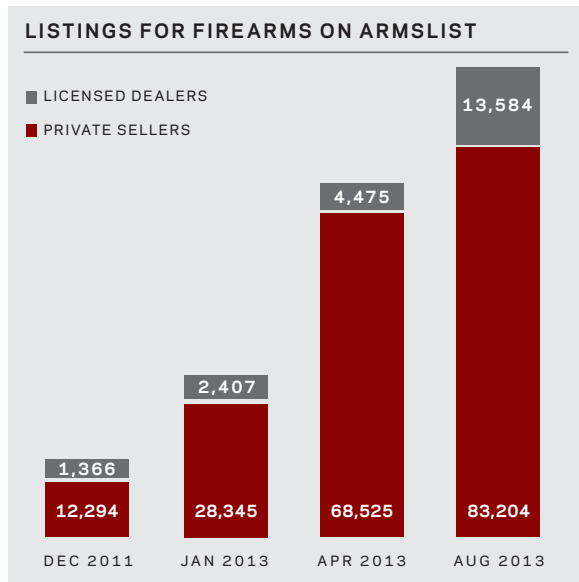
On April 13, 2011, Vesel was walking to her car in a parking lot in Oak Brook, Illinois when Smirnov appeared with the gun and shot her at least 11 times, killing her.

## THE ONLINE MARKET FOR GUNS

The unregulated private market for guns is flourishing in a range of commercial settings, including gun shows — temporary exhibitions where firearms and accessories are bought and sold in person — and websites, where a buyer needs little more than a phone number or email address to buy a gun.

Online sales are a vast and growing share of the firearms market. More than a decade ago, the Justice Department estimated that guns were sold online at 80 firearm auction sites and about 4,000 other websites.<sup>13</sup> The number of active sites has grown immeasurably in the years since.

A simple web search will return hundreds of online storefronts operated by individual licensed dealers; online brokers like eBay that mediate sales between buyers and sellers; and classified aggregators where would-be buyers and sellers post ads, such as Armslist, the 'Craigislist' for guns. While there is no authoritative estimate of the total number of firearms sold online each year, the number of gun ads listed by private sellers on Armslist has expanded almost sevenfold within the last twenty months — from 12,000 in December 2011 to 83,000 active ads in August 2013.<sup>14</sup>



**THE MECHANICS OF AN ONLINE GUN SALE**

In most respects, online gun sales are subject to the same rules as other gun sales. If a prospective buyer wants to buy a gun online from a licensed dealer, the buyer must pass a background check — typically conducted in person at a local dealership — before taking possession of the gun. Transferring a gun between people from different states also usually involves a background check because federal law prohibits private sellers from shipping guns across state lines directly to would-be buyers. In such cases, the seller typically ships the gun to a licensed dealership in the buyer’s state, where the dealer runs a check on the buyer before giving them the gun.

But federal law does not require private sellers to conduct background checks when they sell to in-state buyers: they can meet face-to-face and exchange guns for cash with no questions asked. And websites like Armslist — where the vast majority of the listings are posted by private sellers — are designed to help buyers find private sellers in their home states.

**ILLEGAL ONLINE SALES BY PRIVATE SELLERS**

Without conducting a background check, private sellers have no way of knowing if they are selling to a prohibited purchaser. A first-of-its-kind investigation by New York City in 2011 shed light on how online private sales play out in practice. The investigation found that a majority of private online sellers have no qualms about selling guns to people who admitted they were prohibited purchasers.

The City’s investigators called 125 private sellers in 14 states advertising guns on 10 websites, including Armslist. During each conversation, the investigators told the sellers that they probably could not pass a background check. Fully 62 percent of these sellers agreed to sell the gun anyway, though it is a felony to sell a firearm to a person the seller has reason to believe is a prohibited purchaser. Fifty-four percent of the private sellers who posted ads on Armslist were willing to sell guns to people who admitted they were prohibited purchasers.<sup>15</sup>

In the wake of the 2011 investigation and the subsequent mass shooting at Sandy Hook Elementary School in Newtown, Connecticut, one of the websites the City examined — KSL, managed by Deseret Media Companies — suspended firearms listings on its classified ads pages.<sup>16</sup> Craigslist, which had officially barred firearm sales but still featured thousands of gun ads at the time of the investigation, also appears to have strengthened its system for flagging and removing firearms listings.<sup>17</sup>

While the 2011 investigation demonstrated that online private sales provide ample opportunity for prohibited purchasers to buy guns, there has been no measure of how many criminals are exploiting this loophole. This investigation provides the first snapshot of the problem.

BROOKFIELD, WI: OCTOBER 2012  
 In October 2012, Zina Daniel obtained a restraining order against her husband, Radcliffe Haughton, who had a history of abusing her. The restraining order prohibited him from buying a gun under federal law.  
 But several days later, he placed a ‘want-to-buy’ ad on Armslist.com, met a private seller, and bought a Glock .40 caliber semiautomatic handgun without a background check.  
 The following day, Zina was at her job in a spa in a Brookfield, Wisconsin mall when Haughton burst in, shooting and murdering her and two other women and injuring four others before killing himself.

## THE INVESTIGATION

Despite the size and significance of the private firearms market, little public data is available about private online gun sales, including the extent to which prohibited purchasers use websites to avoid background checks.

The vast majority of ads on sites like Armslist are posted by sellers, but would-be buyers can also post ads that describe the guns they seek (known as 'want-to-buy' or WTB ads). These ads offer a window on would-be buyers in the private online gun market.

To learn more about would-be gun buyers online, this investigation reviewed a **unique data set: the identifying information voluntarily provided by would-be gun buyers in want-to-buy ads on Armslist.**

### DATA COLLECTION

Armslist is a large, national online marketplace where private sellers and buyers exchange guns. The website hosts tens of thousands of gun ads from every state, and nearly all of them are posted by private sellers. In want-to-buy ads, the prospective buyer typically describes a firearm he is seeking and sellers make contact through the website; some want-to-buy ads also provide a phone number or email address.

Our investigators 'scraped' (a software technique for extracting online data) 13,298 want-to-buy ads for firearms posted on Armslist from February 11, 2013 to May 10, 2013, and examined them for identifying information. Unique phone numbers or email addresses were found in 1,430 of the ads. Using reverse lookup phone data, 607 of those identifiers could be linked to an individual living in the state where the ad was placed.

Investigators then conducted criminal record checks on each individual by searching court records in the geographic areas where the individual was known to have maintained a current or past address. Any felony convictions, domestic violence misdemeanor convictions, bench warrants or orders of protection that could be linked to the individual were subjected to legal analysis to determine if they prohibited possession of firearms under federal law.

To ensure that matches between would-be gun buyers and criminal records were valid, investigators called the phone number posted in each ad to confirm that the subscriber had placed the ad, and that their name and date of birth matched the criminal record. This step eliminated six individuals who had placed ads but were incorrectly linked to prohibiting criminal records — for example, because they listed a phone number that belonged to someone else, or because a former phone subscriber had a criminal record but the person who posted the ad did not.<sup>18</sup>

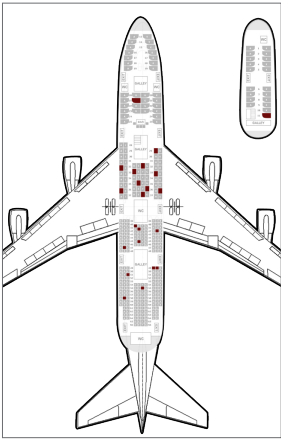
Due to unavoidable limitations of this methodology, the investigation's results considerably understate the actual scope of the problem:

**Conservative sample.** Criminal gun buyers seeking to remain anonymous are more likely to browse for-sale ads and contact sellers directly rather than posting their own ads and divulging their contact information. As a result, the share of want-to-buy ads placed by criminals almost certainly underestimates the total share of online gun buyers that are prohibited from purchasing guns.

**Limited scope of records reviewed.** Investigators only examined criminal records in the jurisdictions where the subscriber was known to have maintained a residence, so individuals who committed prohibiting crimes in other jurisdictions were not identified. Nor did the investigators examine records of non-criminal prohibiting criteria, including serious mental illness, drug abuse, dishonorable discharge from the Armed Forces and immigration status.

**Mismatched records.** Criminal gun buyers may have posted ads online but listed the phone number of a friend or family member with a clean record. In such cases, they would not have been identified as prohibited, resulting in an undercount of criminal buyers. Investigators did not make follow-up calls to apparently non-prohibited buyers to ensure that they were, in fact, the person who placed the ad.

IF 1 IN 30 PEOPLE ON  
A BOEING 747 WERE  
ON **A TERRORIST  
WATCH LIST...**



...THE PLANE WOULD  
HAVE **22 SUSPECTED  
TERRORISTS ABOARD**

RESULTS

**Of 607 would-be gun buyers, 3.3 percent — 1 in 30 — had committed crimes that prohibited them from possessing a firearm.<sup>19</sup> To put this number in context, if 1 in 30 people on a Boeing 747 were on a terrorist watch list, the plane would have 22 suspected terrorists aboard.<sup>20</sup>**

Looking at other scenarios in which government assigns risks and takes steps to ameliorate them is also insightful. Regulators and private industry routinely intercede when consumer products present hazards to health or safety that are far smaller than those posed by the online private sale loophole.

In 2010, Toyota recalled more than two million vehicles after receiving complaints of unintended acceleration at a rate of 72 per 100,000 vehicles sold — a 1 in 1,389 risk of failure.<sup>21</sup> In January 2013, Fisher-Price voluntarily recalled 800,000 Newborn Rock ‘n Play Sleepers because of concerns about mold after receiving 600 complaints — 1 in 1,333 at risk.<sup>22</sup> And in November 2010, the Food and Drug Administration recalled the drug propoxyphene because it appeared to increase the risk of drug-related deaths over a five-year period by 6 per 100,000 compared to an alternative medication — a 1 in 16,667 increase in absolute risk.<sup>23</sup>

The 1-in-30 chance of selling a gun to a criminal on Armslist is an order of magnitude greater than these.

EDEN VALLEY, MI: FEBRUARY 2012



In January 2012, Rochelle Inselman tried to obtain a handgun purchase permit from the Eden Valley, Minnesota police department but was denied due to her history of violating restraining orders.

Instead, she found a private seller online and bought a 9mm handgun without a background check.

On February 12, 2012, she went to the house of Bret Struck, who she had dated several years earlier, and shot him to death with the gun.

Many of the prohibited buyers identified in the investigation had lengthy criminal histories that included recent violent crimes:

- A 25-year-old male in Louisiana posted an ad on March 21, 2013 offering to “meet face to face” and promising “cash in hand.” A review of his criminal record revealed that a month earlier, he had been charged with aggravated assault with a firearm, a felony. Two days prior to posting the ad, he had been charged with illegally carrying a weapon, also a felony. A month after posting the ad, he received a third charge, for domestic abuse battery. Each of these offenses was sufficient to disqualify him from possessing firearms.<sup>24</sup>
- A 25-year-old male in Columbus, Ohio posted an ad on March 24, 2013 offering “cash, ammo, or a combo of both for payment.” Criminal records indicate that he was named as a defendant in 15 felony or misdemeanor cases between 2007 and 2013, including pending charges for aggravated robbery and drug possession and repeated charges of illegal gun possession.<sup>25</sup> He also pled guilty to possession of crack cocaine in 2010, a felony that prohibited him from buying guns.
- A 27-year-old male in Fort Collins, Colorado posted an ad on March 30, 2013 seeking an M&P22 handgun. In 2005, the would-be buyer had attacked his ex-girlfriend and was found guilty of domestic violence harassment; he later violated an order of protection. Both offenses barred him from purchasing or possessing firearms.<sup>26</sup>
- A 35-year-old male in North Carolina posted an ad for an M1A SOCOM 16 rifle on March 27, 2013, insisting on meeting “face to face ONLY.” The would-be buyer had been arrested as a fugitive in Iowa in 2003 and extradited to North Carolina; he was also found guilty of a series of felony charges, including robbery with a dangerous weapon, in 1996. These offenses rendered him a prohibited purchaser.<sup>27</sup>
- A 27-year-old in Louisville, Kentucky posted an ad on March 28, 2013 in search of an XDM 3.8” handgun, promising “will pay cash.” In 2006, he had been found guilty in Ohio of misdemeanor assault against the mother of his child, which prohibited him from possessing firearms. He had also been convicted twice for drug abuse.<sup>28</sup>

## COMPARING ONLINE SALES TO SALES BY LICENSED DEALERS

The estimated share of criminals seeking guns in private online sales is dramatically higher than those who try to buy from licensed gun dealers. In 2012, licensed dealers conducted 8,725,425 federal background checks. 76,260 of these potential sales—0.87 percent — were blocked because the check revealed a history of crime or domestic violence.<sup>29</sup> By contrast, the share of buyers seeking guns on Armslist who are prohibited for those reasons is **nearly four times higher.**

One likely explanation for this disparity is that the background check system is successfully deterring criminals from attempting to buy from licensed dealers and driving them to private online sales. Indeed, sites like Armslist makes it easy to avoid background checks by allowing users to limit searches to ads listed by private parties with the click of a button.

This explanation is consistent with another development: the share of background checks conducted by licensed dealers that results in denial has been declining since the system became operational in 1998, even though the NICS database has become more comprehensive. It is possible that this decline reflects a migration of prohibited purchasers away from licensed dealers — and background checks — and toward unregulated private sellers.

Laws that require background checks for private sales close off this avenue to criminals. And indeed, states that have passed their own laws requiring background checks for private sellers have lower rates of gun violence and crime than states that have not.

### ARMSLIST POWER SEARCH

Location:

Category:

Listing Type:

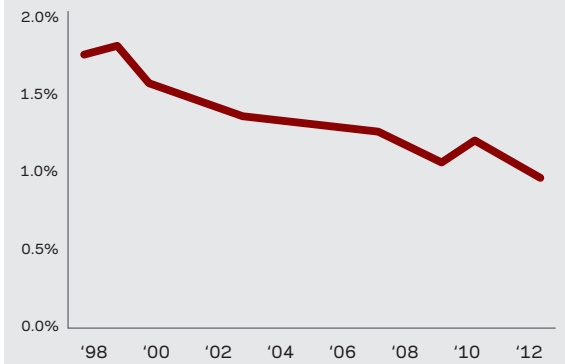
Seller Type:

Keywords:

Price  to

*Sites like Armslist make it easy to avoid background checks by allowing users to limit searches to ads placed by private parties with the click of a button.*

SHARE OF FEDERAL BACKGROUND CHECKS THAT RESULT IN DENIALS



Critics of the background check system sometimes suggest that if the system were expanded to cover private sales, some persistent criminals would simply take their search to the black market. This may be true. But research shows that, contrary to conventional wisdom, buying guns on the black market is neither cheap nor easy. Criminals report paying \$250 to \$400 on the black market for guns valued at only \$50 to \$100 in the legal market; the quality of these firearms is less reliable; and conducting these transactions poses substantial risk of harm or arrest. A study of underground gun markets in Chicago found that more than one in three attempts to buy a gun from a black market dealer ended in failure.<sup>30</sup>

## ARMING CRIMINALS

On an average day, more than 2,000 new gun ads are posted on Armslist. At the present rate, Armslist alone will host 790,000 unique firearm ads in 2013.

This investigation of would-be gun buyers who post ads and voluntarily include identifying information suggests that a minimum of 1 in 30 gun buyers on the website have committed crimes which prohibit them from purchasing guns.

**At this prevalence, gun sales transacted on a single website may put at least 25,000 guns into the hands of criminals — and likely many more — this year alone.**

## RECOMMENDATIONS

Congress must act to close the loophole that allows criminals to buy guns online without a background check. And the Bureau of Alcohol, Tobacco, Firearms & Explosives (ATF) and the websites that host these gun marketplaces must do their part, too.

- **Congress should enact legislation to require a background check for every commercial gun sale, including those facilitated by websites.**

The existing background check system is efficient and effective, but limited: as long as private sales remain exempt from this common-sense requirement, criminals will exploit this loophole and wreak havoc on American communities. Bipartisan legislation under consideration by both chambers of Congress — sponsored in the Senate by Joe Manchin (D-WV) and Pat Toomey (R-PA) and in the House by Representatives Peter King (R-NY) and Mike Thompson (D-CA) — would enact the necessary reform.

- **ATF should improve enforcement of existing laws.** This investigation shows that criminals are arming themselves online every day. ATF should use all the tools at its disposal to interdict illegal online sales, including by conducting undercover investigations of websites that sell guns, documenting when guns recovered from crimes were originally sold online and offering online tutorials to train sellers and buyers about the laws governing online sales.

- **Websites should adopt tougher protocols to deter crime.** The internet has created enormous opportunities for businesses and vastly expanded the choices available to individual consumers. But online actors should meet the same public safety standards they are required to satisfy in the brick-and-mortar marketplace. Websites that host gun ads can do so by demanding transparency from their sellers and buyers, flagging suspicious behavior, and taking reasonable steps to ensure they are not facilitating illegal gun sales to criminals. Strategies some websites already employ include requiring visitors to register before viewing or posting ads; asking buyers and sellers to complete a verification process to confirm their identity; and providing features that allow users to easily flag suspicious activity for review by site administrators.





## FOOTNOTES

- 1 Quinipiac University, "Release detail," February 7, 2013, available at: <http://bit.ly/16qbLn4>
- 2 Mayors Against Illegal Guns, "Gun background checks reduce crime and save lives," July, 2013, available at: <http://maig.us/13T2ZNL>
- 3 Mayors Against Illegal Guns, "The impact of eliminating Missouri's background check requirement," July, 2013, available at: <http://maig.us/19Zhtzt>
- 4 States that had passed laws requiring background checks for handgun sales accounted for 22% of recorded firearm purchases in 2012. A small though significant share of total private firearm sales are thus subject to state background check requirements, even though they are currently exempted under federal law.
- 5 18 U.S.C. § 922(g).
- 6 Talking Points Memo, "Mark Kelly: Background Check Form Not a Burden for Gun Buyers," March 31, 2013, available at: <http://bit.ly/16azglw>
- 7 U.S. Department of Justice, Federal Bureau of Investigation, Criminal Justice Information Services Division, 2012 NICS Operations Report, available at <http://www.fbi.gov/about-us/cjis/nics/reports/2012-operations-report>.
- 8 Between the inception of the NICS system in 1998 and 2012, the FBI issued 987,578 denials (source: <http://1.usa.gov/XfXP8b>). Between 1998 and 2010, state and local agencies issued 945,915 denials, and it is estimated they have issued 150,000 denials in the two years since data was last released (source: <http://1.usa.gov/Z8vYsa>). So in total, the background check system has almost certainly issued over 2 million denials since its inception — probably closer to 2.15 million.
- 9 Legislation passed in 1986 defined "engaging in the business" of selling firearms to apply only to repeat sellers who devote their time "as a regular course of trade or business with the principal objective of livelihood and profit" (18 U.S.C. § 921). The statute also provides exceptions for "occasional sales" and for sales from a "personal collection." According to the Justice Department, the narrowness of this definition makes it difficult to enforce the law against dealing in firearms without a license, often frustrating the prosecution of people who supply guns to felons and other prohibited persons.
- 10 In the 36 states that had not fully closed the private sale loophole as of 2012, licensed gun dealers conducted 9,856,984 background checks for gun sales between December 2011 and December 2012. Assuming that this number represents 60 percent of the total gun sales in those states, and private transfers represent the other 40 percent, we estimate private transfers numbered 6.6 million over that 12-month period.
- 11 Philip J. Cook & Jens Ludwig, *Guns in America*, 1996, available at <http://www.policefoundation.org/pdf/GunsinAmerica.pdf>.
- 12 CBS Detroit, "Bing, Godbee, Eight Local Mayors Oppose New Gun Bill," Sep. 25, 2012, available at <http://cbsloc.al/SkcD5F>.
- 13 U.S. Department of Justice, "Gun Violence Reduction: National Integrated Firearms Violence Reduction Strategy," at 28, available at <http://www.justice.gov/archive/opd/gunviolence.htm>.
- 14 Armslist Power Search, available at: <http://www.armslist.com/classifieds/powersearch>, last accessed August 3, 2013.
- 15 City of New York, *Point Click Fire*, Dec. 2011, available at <http://on.nyc.gov/tYPRF>.
- 16 KSL, "Firearms listings temporarily suspended on KSL classifieds," Dec. 18, 2012, available at: <http://bit.ly/14HBbPd>.
- 17 Craigslist's "Prohibited or Restricted Sales Items" page first came online on November 21, 2003, and it includes firearms among its prohibited items. This archived site is available at <http://web.archive.org/web/20031121160606/http://www.craigslist.org/about/prohibited.items.html>.
- 18

|   |        |
|---|--------|
| Scraped WTB ads for firearms:                             | 13,298 |
| Ads containing unique identifying information:            | 1,430  |
| Identifying information linked to a unique subscriber:    | 607    |
| Subscriber name linked to criminal record:                | 48     |
| Criminal record prohibits buyer from purchasing firearms: | 20     |
- 19 Based on the sample size of 607 examined buyers, the margin of error is 1.9% to 4.7%. The confidence interval is calculated as  $P \pm 1.96 \sqrt{(P(1-P)/n)}$  = 3.3%  $\pm$  1.96 (.033\*.967/607)<sup>.5</sup> = 1.9% to 4.7%
- 20 U.S. Department of Transportation, Federal Aviation Administration, "Type Certificate Data Sheet No. A20WE," available at: <http://bit.ly/1cLhTYG>
- 21 Consumer Reports, "Special report: Toyota acceleration complaints drop following recalls," Feb. 24, 2011, available at: <http://bit.ly/14nIrlQ>
- 22 U.S. Consumer Product Safety Commission, "Fisher-Price Recalls to Inspect Rock 'N Play Infant Sleepers Due to Risk of Exposure to Mold," Jan. 8, 2013, available at: <http://1.usa.gov/1cLlx53>
- 23 Tallahassee Injury Law, "FAQ's On the Propoxyphene, Darvon, Darvocet Recall," Nov. 19, 2010, available at: <http://bit.ly/18G2N2D>
- 24 Aggravated assault with a firearm is punishable by up to ten years imprisonment. La. R.S. § 14:37.4. Domestic abuse battery is a prohibiting misdemeanor crime of domestic violence. La. R.S. § 14:35.3.
- 25 Aggravated robbery is a felony offense. ORC Ann. § 2911.01.
- 26 Domestic violence harassment is a prohibiting misdemeanor crime of domestic violence. C.R.S. §§ 18-9-111, 18-6-801.
- 27 Robbery with a dangerous weapon is a Class D felony. N.C. Gen. Stat. § 14-87.
- 28 Assault is a prohibiting misdemeanor crime of domestic violence when the offender and the victim share a child in common. ORC Ann. § 2903.13(A).
- 29 Federal Bureau of Investigation, "NICS Operations Report 2012," available at: <http://1.usa.gov/10xD0w4>. The FBI conducts federal background checks for more than half of states, but 13 'point-of-contact' states implement and maintain their own background check system. Together, those states conducted some 8 million background checks in 2012, but information on the volume of checks, denials, and the prohibiting criteria cited for them are not available at this time.
- 30 Philip J. Cook et al., "Underground gun markets," *The Economic Journal*, 117, November 2007, F558-588.







**FELON SEEKS FIREARM, NO STRINGS ATTACHED**

HOW DANGEROUS PEOPLE EVADE BACKGROUND CHECKS  
AND BUY ILLEGAL GUNS ONLINE