

## Universal Background Checks and the 40%

## FAST FACTS

Proponents of gun control frequently cite data that suggest 40 percent of all gun sales do not involve a FBI background check. This figure is from an out-dated, flawed survey and misses the real policy question of how criminals access firearms.

### Concerns with 40% Source

Gun control proponents claim that 40 percent of gun sales do not involve a background check run through the FBI's National Instant Criminal Background Check System (NICS). The source of this questionable statistic is a 1997 Justice Department report that provides findings from a 1994 telephone survey.<sup>i</sup> Chilton Research Services of Drexel Hill, Pennsylvania conducted the National Survey of Private Ownership of Firearms in 1994. Incidentally, this survey organization and its interviewers had no prior experience in conducting surveys devoted to the topic of firearms acquisition and ownership.

The report estimated 60 percent of all firearm transactions go through federally licensed firearm dealers (FFLs). This implies the other 40 percent do not involve a background check.

There are several key concerns with the survey, some of which the authors discuss in the report. One of the weaknesses the authors discuss is the "real possibility" of nonresponse bias. Surveys in general have the challenge that not all sample members agree to answer questions. The issue here is that "these nonrespondents may tend to differ from the general population

- **Gun-control activists are calling for universal background checks, arguing 40% of gun sales don't involve an FBI background check.**
- **This misleading figure is out of date, subject to significant validity concerns, and open to interpretation.**
- **Further, universal background checks would not address the problem of the main source of crime guns: the black market.**

(and completed sample) in relevant ways."<sup>ii</sup> Given the time period of the survey, November and December 1994, it would be understandable if law-abiding gun owners did not want to answer survey questions. After all, the so-called Assault Weapon Ban had recently been enacted and anti-gun sentiments were rampant in mainstream media.

Even assuming the survey weaknesses are meaningless, the results are open to interpretation. The Washington Post contacted one of the original authors who re-examined the data and found that, "rather than being 30 to 40 percent (the original estimate of the range) or "up to 40 percent" (former President Obama's words), gun purchases without background checks amounted to 14 to 22 percent."<sup>iii</sup> The author also notes the small sample size of the survey (251 individuals) means the margin of error for these results are plus or minus six percentage points.

The Washington Post isn't alone in its analysis. In another look at the data, economist John Lott argues the figure is closer to 10 percent.<sup>iv</sup>

### Bigger Picture: Access

Beyond the survey's limitations, the percentage of law-abiding citizens that obtain firearms from federal firearms licensees (FFLs), where a background check is run through the FBI's database, or through other transactions is not relevant for policy makers.

The relevant question is how to prevent criminals and others that are prohibited from owning firearms from purchasing or otherwise accessing firearms. In this context, it is clear that mandating universal background checks would not prevent access.

According to a survey by the U.S. Department of Justice of prison inmates, only about 8 percent of criminals that possessed a firearm during their current offense acquired their guns from retail stores.

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By contrast, about 40 percent reported acquiring their guns illegally, such as by theft, and another 40 percent said they obtained firearms from family or friends.<sup>v</sup>

The survey also found that over 80 percent of the state and federal inmates may have been prohibited from buying a firearm under federal law. Considering these figures, it is no surprise that criminals do not seek to purchase firearms from licensed dealers. In fact, this is confirmed by extremely low NICS denial rate. In 2011, the FBI's NICS system denied 78,211 firearms transfers, a denial rate of

only 1 percent of the over 6 million applications.

If universal background checks were mandated, the question becomes whether criminals would change their behavior and instead choose to obtain firearms from venues that require a background check. The Centers for Disease Control review of the effectiveness of various firearms laws published in 2003, found no evidence this would happen. More recently, a 2013 Justice Department review of violence prevention studies found that even a "perfect universal background check system" would not address the largest sources of crime guns.<sup>vi</sup>

Further evidence that a universal background check law would fail to limit access to firearms among prohibited populations can be found in an analysis of the implementation of the Brady Act. According to a 2000 study, there was "no evidence that implementation of the Brady Act was associated with a reduction in homicide rates."<sup>vii</sup>

Rather than enacting an ineffective new law, the NSSF urges lawmakers to increase the number of records states submit to the NICS system to ensure the background check system is operating effectively.

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- <sup>i</sup> Philip J. Cook and Jens Ludwig, "Guns in America: National Survey on Private Ownership and Use of Firearms," U.S. Department of Justice, National Institute of Justice, Research in Brief, May 1997.
- <sup>ii</sup> Philip J. Cook and Jens Ludwig, "Guns in America: National Survey on Private Ownership and Use of Firearms," U.S. Department of Justice, National Institute of Justice, Research in Brief, May 1997. p. 4
- <sup>iii</sup> Glenn Kessler, "Update: Obama Claim on Background Checks Moved from 'Verdict Pending' to 2 Pinocchios," The Washington Post, Jan. 25, 2013. [http://www.washingtonpost.com/blogs/fact-checker/post/update-obama-claim-on-background-checks-moved-from-verdict-pending-to-2-pinocchios/2013/01/25/59caeca6-672f-11e2-85f5-a8a9228e55e7\\_blog.html](http://www.washingtonpost.com/blogs/fact-checker/post/update-obama-claim-on-background-checks-moved-from-verdict-pending-to-2-pinocchios/2013/01/25/59caeca6-672f-11e2-85f5-a8a9228e55e7_blog.html) (Last accessed Feb. 14, 2013).
- <sup>iv</sup> John Lott, "The '40 Percent' Myth," National Review, Jan. 24, 2013. <http://www.nationalreview.com/articles/338735/40-percent-myth-john-lott> (Last accessed Feb. 14, 2013).
- <sup>v</sup> Caroline Wolf Harlow, Department of Justice, Bureau of Justice Statistics Special Report, "Firearm Use by Offenders: Survey of Inmates in State and Federal Correctional Facilities," NCJ 189369, November 2001.
- <sup>vi</sup> Greg Ridgeway, Ph.D., "Summary of Select Firearm Violence Prevention Strategies," National Institute of Justice, Jan. 4, 2013.
- <sup>vii</sup> Jens Ludwig and Philip J. Cook, "Homicide and suicide rates associated with implementation of the Brady Handgun Violence Prevention Act," Journal of the American Medical Association, 2000 Aug 2; 284(5):585-9



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