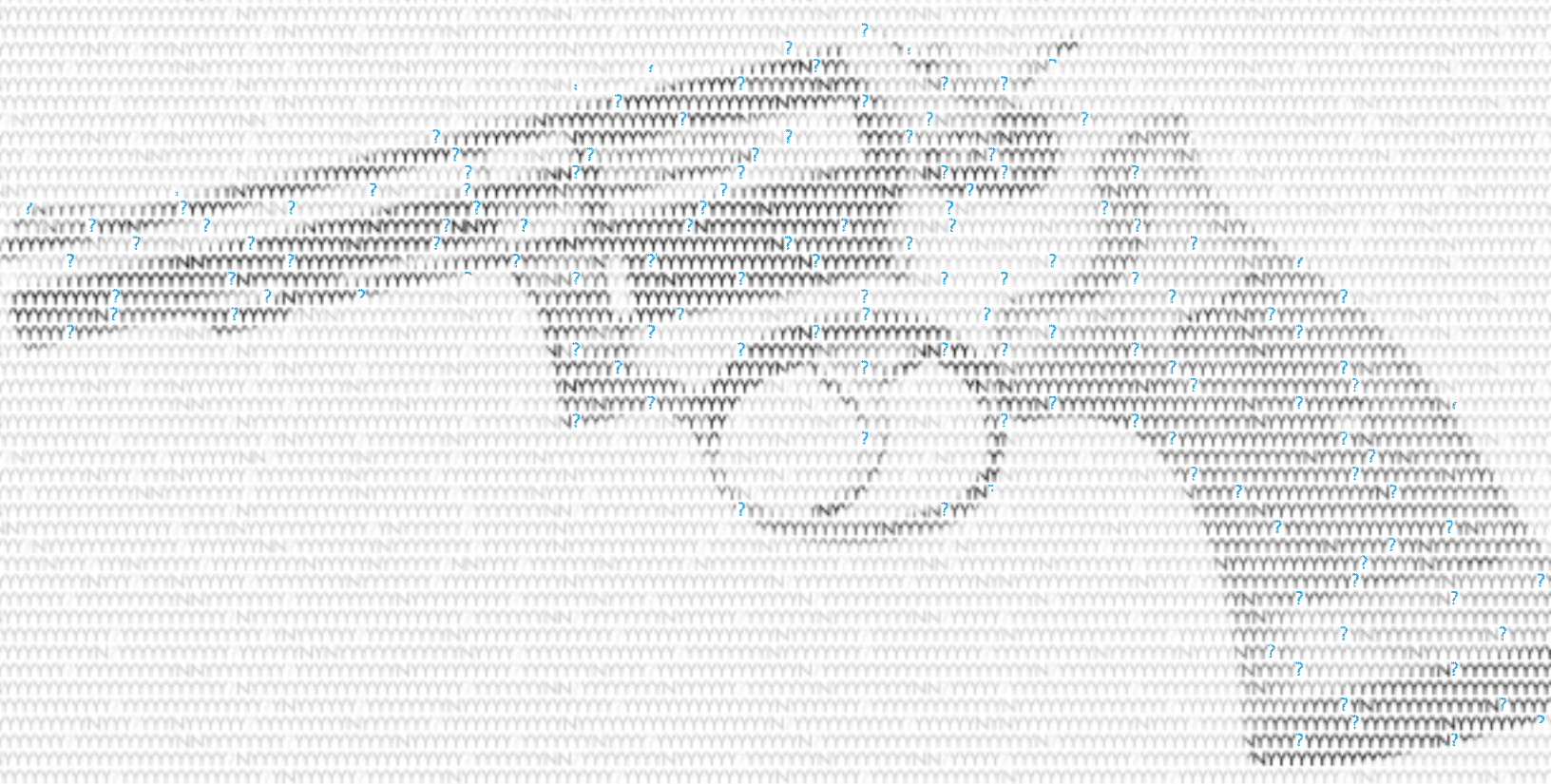


Broken Records

How America's Faulty Background Check System Allows Criminals to Get Guns



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BROKEN RECORDS

How America's Faulty Background Check System Allows Criminals to Get Guns

A Report by Americans for Gun Safety Foundation

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Executive Summary

“One day after Steven Youssef was released from a psychiatric unit he bought an AR-15 assault rifle, two .40-caliber handguns and 8,000 rounds of ammunition from a Pennsylvania gun store.

“‘I feel like the system failed us,’ said Youssef’s mother.”¹

Since 1968 it has been illegal for convicted felons, illegal aliens, those committed involuntarily to a mental health facility, people who have renounced their citizenship, drug addicts, those dishonorably discharged from the military, and fugitives from justice to possess or purchase a firearm.² However, until the passage of the Brady Law in 1993, criminals and other prohibited buyers were under the “honor system” and simply had to sign a form stating that they did not fall into a prohibited category. Federal law did not require that anyone determine the veracity of that statement.

Beginning in December 1998, the Brady background check was sunset from a mostly manual system, where local law enforcement officials were given 5 business days to search through paper records, to an automated system designed to approve or deny buyers instantly. This “instant check” system is now up and running; in 2000, for example, the FBI and state law enforcement offices conducted 7.7 million background checks to determine whether a prospective buyer was allowed to purchase a gun. In 153,000 cases the buyer was determined to be ineligible, according to the federal Bureau of Justice Statistics.³ The FBI’s National Instant Criminal Background Check System (NICS) completed 72% of the background checks—all of them approvals—within several minutes. 95% were completed within 2 hours. The remaining 5% took anywhere from hours to months to complete and were 20 times more likely to uncover a prohibited buyer than the remaining 95%.⁴ When a background check takes more than three business days, unless prohibited by state law, the gun store may turn the firearm over to the buyer at the dealer’s discretion. This is known as a “default proceed.”

The linchpin of the entire system is the accuracy and completeness of the records used to disqualify illegal buyers of guns. In this report, Americans for Gun Safety Foundation analyzed data from state and federal sources to determine how well states have done in automating their disqualifying records to prevent criminals and other illegal buyers from obtaining guns.

[1] *Philadelphia Inquirer*, February 27, 2001, Chani Katzen

[2] The list of prohibited buyers also includes those under indictment for a felony crime, legal aliens in the country on non-immigrant visas and was expanded in 1996 to include those convicted of domestic violence misdemeanors or under temporary restraining orders.

[3] “Background Checks for Firearm Transfers, 2000,” Bureau of Justice Statistics (since 1994, 689,000 individuals have been denied a gun for failing a background check.)

[4] “Gun Control: Implementation of the National Instant Criminal Background Check System,” General Accounting Office, February 2000

The results are grim: most states have done a haphazard and ineffective job in automating these crucial records and have allowed almost ten thousand convicted felons to acquire guns over the last 30 months (as well as an unknown number of domestic violence abusers, illegal aliens, and those mentally ill). In short, the National Instant Criminal Background Check System, America's front line defense against illegal gun buyers, is in a dangerous state of disrepair in all but a few states.

Results in Brief

Records used to identify and stop illegal gun buyers are in abysmal shape.

- 24 states have automated less than 60% of their felony criminal conviction records, meaning that investigators must comb through paper records to determine the eligibility of hundreds of thousands of prospective gun buyers.
- 33 states cannot stop those who have been involuntarily committed to a mental health facility from buying a gun, because they do not supply any records to the state and federal databases used to deny firearms purchases.
- 13 states cannot stop those with domestic violence restraining orders from obtaining a gun, and 14 states cannot stop those with domestic violence misdemeanors, because they do not supply any records to the state and federal databases used to deny firearms purchases.
- Illegal aliens can easily purchase guns because federal immigration records are poor and background checks do not require Social Security or resident alien registration numbers.

As a result:

- In the 46 states that compile data, at least 9,976 convicted felons and other prohibited buyers obtained guns because of inadequate records. (That does not include those with domestic violence, illegal alien, or mental disability disqualifications in which there are often no records in the database.)
- Under our grading system (explained in Section IV), only 10 states earned a grade higher than a "C", and 21 states earned a failing grade on the automation of all relevant background check records.

Policy Recommendations to Make Background Checks Faster and More Accurate

IMPROVE RECORDS:

- States must dramatically improve and automate the records necessary to stop illegal buyers from obtaining firearms.
- The federal government must make improvement of the NICS system a priority and should audit the federal program created to improve records to determine how to make it more effective.

DON'T KNOW/DON'T SELL:

- States should institute a “don’t know/don’t sell” policy. “Don’t know/don’t sell” would extend the period to complete a background check to reflect the actual time it takes for law enforcement to ensure illegal buyers don’t purchase guns. Until a buyer is cleared, the gun shouldn’t be transferred.
- Even without new state laws, the National Alliance of Stocking Gun Dealers should endorse the same “don’t know/don’t sell” policy, whereby gun dealers refuse to transfer a firearm until a final disposition record is obtained, even if it exceeds the three-day period.

MENTAL HEALTH:

- Law enforcement should reach an agreement with the mental and behavioral health communities whereby certain mental and behavioral health records are supplied to the database used to deny gun purchases in such a manner that respects privacy.

DOMESTIC VIOLENCE:

- States must make automating domestic violence records a priority and rapidly include new cases into the database.

ILLEGAL ALIENS:

- Non-citizens in America on tourist, student or non-immigrant visas should be included in the database accessed by NICS so that they cannot purchase guns.
- A Social Security or resident alien id number should be required for all firearms purchases.

FELONY RECORDS

Automated Conviction Records Inadequate in Most States

“When [Jaron Ausbon] walked into a Baton Rouge pawn shop to buy a gun, he was facing a litany of recent felony charges including armed robbery and drug dealing, which should have barred him from acquiring a firearm. Yet after waiting a few days for the FBI to run the required background check, Ausbon ... walked out the proud new owner of a .38-caliber revolver.

“Five weeks later, police say Ausbon gunned down David Jackson, 21, at a coin-operated car wash as he vacuumed out his Ford Bronco with a friend.”⁵

According to the General Accounting Office, 72% of background checks are completed within several minutes, 95% within 2 hours, and the remaining 5% take anywhere from several hours to several weeks to complete. The 5% of checks that take the longest are 20 times more likely to uncover a felon than the remaining 95%. In nearly all cases, the delay is because the final disposition of a felony arrest is not in the database. In other words, a person may be flagged by NICS because of a previous felony arrest, but there is no automated record that shows whether the person was convicted.

In those cases, the FBI must contact state and local authorities who in turn must search paper records, often buried in county courthouses, to determine the final outcome of the charges. Besides the difficulty in uncovering these

records, local government employees mostly do not work weekends or after business hours, further delaying the search. Once a background check lasts three business days the buyer is entitled to take possession of the gun at the discretion of the gun dealer. This is known as a “default proceed” sale.⁶

When it is later discovered that the buyer had a felony or other disqualifying record, law enforcement must be sent to the home of the buyer to retrieve the gun—an often dangerous mission.

As a result:

- In the first 30 months of NICS operation, 9,976 felons and other prohibited buyers obtained a gun because the NICS inquiry could not be completed within three business days.⁷

[5] *Times-Picayune*, “Dangerous Loophole,” Stephanie Stanley, December 22, 1999.

[6] Nine states will not permit default proceed sales. See Table II.

[7] Data obtained from the Bureau of Alcohol, Tobacco and Firearms for delayed denials for 36 states and from state sources for the following 10 states: Virginia, Arizona, New Jersey, Georgia, Connecticut, Utah, Oregon, Pennsylvania, Hawaii, and Nevada. Information is unavailable from California, Vermont, Illinois, and Tennessee.

Final disposition records of felony arrests vary widely between states, with North Carolina having 94% of its felony conviction records on a database, compared to only 6% for Indiana and Tennessee, and 12% for Colorado. Colorado and Pennsylvania are among 8 states that deny handgun transfers to any person arrested for a felony crime until the final disposition of that arrest is determined. As a result, only 53 prohibited Colorado buyers have been able to obtain a gun through a default proceed sale since December 1998, and no Pennsylvania felons have made it through.

The median state has automated 58% of its criminal disposition records. The following table shows the percentage of felony arrest records in which the final disposition is automated and the number of illegal buyers who passed a background check and obtained a gun in each state (ranked by most illegal buyers obtaining a gun to the least). This chart represents the tip of the iceberg, as it does not include many illegal buyers with domestic violence or mental health disqualifications who are not in the system at all.

“ Five states which have done especially poor jobs automating their criminal conviction records are the source of more than one-third of all felons and other prohibited buyers receiving guns over the past 30 months. ”

SECTION 1 FELONY RECORDS

TIP OF THE ICEBERG 10,000 PROHIBITED BUYERS OBTAINED GUNS (December 1998 to June 2001)		
State	% of Final Arrest Disposition Records Automated ⁹	# of Prohibited Buyers Getting Guns ⁸
Texas	55%	1,142
Ohio	53%	744
Alabama	28%	730
Arkansas	33%	471
Louisiana	24%	434
Missouri	52%	406
Michigan	76%	401
Kentucky	59%	393
Kansas	46%	375
North Carolina	94%	355
Washington*	79%	343
Oklahoma	26%	337
Mississippi	40%	317
South Carolina	68%	305
Maryland*	---	283
West Virginia	15%	270
Idaho	58%	221
New Mexico	31%	221
Wisconsin	65%	216
Oregon	50%	202
Minnesota	72%	199
Indiana	6%	189
Montana	85%	188
New York	84%	174

[8] Bureau of Alcohol, Tobacco and Firearms, state sources

[9] "Survey of State Criminal History Records," Bureau of Justice Statistics, October 2000

State	% of Final Arrest Disposition Records Automated ⁹	# of Prohibited Buyers Getting Guns ⁸
Alaska	76%	173
Florida*	68%	125
Wyoming	79%	123
Virginia	71%	91
Iowa	84%	73
Arizona**	50%	66
Maine	39%	65
Nebraska	55%	62
South Dakota	84%	54
Colorado*	12%	53
Delaware	75%	43
Massachusetts	72%	41
North Dakota	32%	34
New Hampshire	80%	34
Rhode Island*	60%	16
New Jersey	85%	0
Georgia*	69%	0
Connecticut*	65%	0
Utah*	60%	0
Pennsylvania*	85%	0
Nevada*	38%	0
Hawaii*	89%	0
California	65%	n/a
Vermont	57%	n/a
Illinois	57%	n/a
Tennessee*	6%	n/a

* Washington allows up to 30 days to complete a background check; Maryland and Rhode Island allow 7 days; California, Colorado, Georgia, Nevada, Hawaii, Connecticut, Utah, Pennsylvania and Tennessee will not transfer a gun until the background check is completed, no matter how long it takes. Florida dealers must contact a state agency before transferring a gun before the background check is completed.

** The number of prohibited buyers in Arizona dates back to February 2000.

SECTION 1 FELONY RECORDS

Over the past 7 years, the federal government has spent more than \$300 million to help states improve their records. But the results have been mixed, with 15 states showing no improvement or even falling further behind in automating records.¹⁰ It is unclear whether the funding is insufficient to the task of improving records, or whether states have done a poor job in spending the money.

In order to keep criminals from getting guns because of poor record-keeping and to make NICS better, faster and more accurate, Americans for Gun Safety Foundation makes the following recommendations:

- **States must dramatically improve and automate the records necessary to deny illegal buyers from obtaining firearms.**

The vast differences in the record keeping between states shows that in many states automation of background check records has not been a priority.

- **All states, and at a minimum, states with the worst records, should institute a “don’t know/don’t sell” policy to extend the period to complete a background check to reflect the actual time it takes for law enforcement to ensure illegal buyers don’t purchase guns.**

Some states do this already with good results: Colorado, Georgia, and

Pennsylvania are among ten states that will not transfer a gun to any person who has a felony arrest record until the disposition record is found, and very few illegal buyers receive guns after undergoing background checks in these states.

- **Absent new laws, gun dealers should also institute a “don’t know/don’t sell” policy to extend the period to complete a background check to reflect the actual time it takes for law enforcement to ensure illegal buyers don’t purchase guns.**

In most states, gun dealers are not required to turn over a gun after three business days, but they may do so at their discretion. The National Alliance of Stocking Gun Dealers should endorse a policy whereby gun dealers voluntarily refuse to transfer guns to those with arrest records without final dispositions.

- **The federal government needs to make improvement of the NICS system a priority and should audit the federal program created to improve records to determine how to make it more effective.**

The federal government has spent more than \$300 million on the National Criminal History Record Improvement Program with very little progress in most states.

[10] “Survey of State Criminal History Records,” Bureau of Justice Statistics, October 2000

MENTAL HEALTH RECORDS

Few States Able to Deny Guns to Mentally Disqualified

“Although neighbors said Roberts killed cats, shouted uncontrollably on his porch and fired gunshots from his house, the sheriff’s office had no choice about issuing him a concealed pistol permit because an extensive criminal check came up blank.

“‘We lack the ability to get mental health information,’ [Sheriff] Hawe said.” Roberts, who refers to himself as “his majesty, Pharaoh Thomas,” is charged with the shooting death of Deputy Sheriff Wallace Davis.¹¹

The 1968 Gun Control Act stipulates that anyone “adjudicated as a mental defective or has been committed to any mental institution” is prohibited from possessing a firearm. But only 17 states provide any records of those involuntarily institutionalized to the background check system, rendering this provision of the law useless in most states.¹²

According to the General Accounting Office, for every 75,000 people who attempted to buy a gun, only one was denied through NICS based on the mental health criteria.¹³ The fact is that disqualifying mental health records are so rarely provided to law enforcement and the NICS system that it is almost impossible to prevent a mentally unstable person from purchasing a gun.

Inaction at the state level is often rooted in concern over the privacy of mental health records. As a result, 33 states keep no mental

health background check records at all, and even in the 17 states that do, the records are often spotty and scattered. For example, Massachusetts and Minnesota only obtain involuntary commitment records from state hospitals, not private hospitals. The State of Washington only keeps records of those who have had overnight stays of at least 14 days. Michigan maintains records, but only about half are automated and none are supplied to NICS.

The General Accounting Office has estimated that background check information is lacking from as many as 2.6 million individuals involuntarily institutionalized throughout the United States.¹⁴ The entire NICS system contains only about 90,000 records of those disqualified under the mental health provision of the law—nearly all of the records made up of those institutionalized in Veterans hospitals. In total, individual states have supplied only 41 records of those involuntarily institutionalized to the

[11] Associated Press, “Sheriff’s department issued weapons permit to man charged in deputy’s death,” August 17, 2000.

[12] “Survey of State Criminal History Records,” Bureau of Justice Statistics, October 2000

[13] General Accounting Office, “Implementation of the National Instant Criminal Background Check System,” February 2000

[14] General Accounting Office, “Gun Control: Options for Improving the National Instant Background Check System,” March 2000.

SECTION 2 MENTAL HEALTH RECORDS

federal NICS database.¹⁵ Yet, in a survey of the prison population, 26,325 inmates in state and federal prisons on gun-related charges said they had spent at least one night in a mental health facility.¹⁶

As a result, even though many violent criminals suffer from mental illness and suicide is the most common gun-related death in America, in most states it is rare that anyone is denied a gun under the mental health disqualification.

- Nationally, for every 1,000 people denied a gun because of a background check through NICS, only one is denied on mental health grounds.¹⁷

- In Arizona, which does not maintain mental health records, only 40 people (out of 175,933 applicants) were denied a gun under the mental health disqualification, or 2 denials for every 10,000 applicants.¹⁸

- Comparatively, in both Illinois and Hawaii (two states that have much better record keeping of those involuntarily committed), the background check is far more likely to discover a disqualified person (Hawaii - 42 mental health denials out of 6,489 applicants, or 65 denials for every 10,000 applicants; Illinois - 2,287 mental health denials out of 507,348 applicants, or 45 denials for every 10,000 applicants).¹⁹

The following 33 states keep no records of those involuntarily institutionalized (except the few adjudicated mentally ill):

33 States Have No Way to Deny Firearms to those Mentally Disqualified²⁰				
Alabama	Indiana	Mississippi	North Carolina	Tennessee
Alaska	Iowa	Missouri	North Dakota	Texas
Arizona	Kansas	Montana	Ohio	Vermont
Arkansas	Kentucky	Nevada	Oklahoma	West Virginia
Colorado	Louisiana	New Hampshire	Rhode Island	Wyoming
Florida	Maine	New Jersey	South Carolina	
Idaho	Maryland	New Mexico	South Dakota	

[15] Ibid.

[16] Bureau of Justice Statistics, "Survey of Inmates in State and Federal Correctional Facilities," November 2001 (1997 data).

[17] General Accounting Office, "Gun Control: Implementation of the National Instant Background Check System," February 2000

[18] Arizona Department of Public Safety (denials are of those adjudicated mentally ill)

[19] Illinois and Hawaii Departments of Public Safety

[20] "Survey of State Criminal History Records," Bureau of Justice Statistics, October 2000

In order to ensure that those who have been involuntarily committed to a mental health facility are unable to clear a background check, Americans for Gun Safety Foundation makes the following recommendation.

- **Law enforcement and the mental health community should reach an agreement whereby relevant mental health records are supplied to the database used to deny gun purchases in such a manner that respects privacy.**

California state law can be used as the model for legislation that guards privacy of mental health records while ensuring that those disqualified from possessing a gun by law are flagged by the system.

“ According to the General Accounting Office, for every 75,000 people who attempted to buy a gun, only one was denied through NICS based on the mental health criteria. ”

SECTION
3

DOMESTIC VIOLENCE RECORDS

Gaping Record Lapses in Many States Allow Domestic Violence Abusers to Pass Background Checks

“The background check failed to discover that Spicknall was the subject of a domestic violence restraining order that his wife had obtained in December 1998 — a legal ruling that prohibited him from owning or possessing a firearm.”

Richard Spicknall shot his 3-year-old daughter and 2-year-old son as they sat strapped in the back seat of their grandfather’s Jeep.²¹

One of the most common gun-related crimes involves people who have been involved in an intimate relationship. According to the Office of Justice Programs in the Department of Justice, 40% of women killed with firearms are murdered by an intimate partner.²²

In 1996, Congress extended the 1968 Gun Control Act to deny firearms purchases to those convicted of a domestic violence misdemeanor or to those under a domestic violence restraining order.

Nonetheless, in 14 states, no domestic violence misdemeanor records are automated or accessible by NICS. In 13 states, domestic violence restraining orders are not automated

or accessible by NICS. Only 31 states automate both domestic violence misdemeanor and domestic violence restraining order records, and while there is little information about the quality of these records, indications are that they are spotty in most states.

According to the NICS program office, 42% of the denials for domestic violence that go through the NICS database are from one state: Kentucky. Kentucky mandates that all court-ordered restraining orders in every county be supplied to the LINK system (Law Information Network of Kentucky) within 24 hours. LINK is the database used to deny firearms purchases.²³

[21] *The Washington Post*, “Lapses in Gun Check Decried; Legislators Scold Maryland Police Agencies,” Craig Whitlock, November 23, 1999.

[22] Department of Justice, Office of Justice Programs, Homicide Tables Website

[23] National Instant Criminal Background Check program office, December 11, 2001, by e-mail.

**States Without Automated Domestic Violence Misdemeanor
and Domestic Violence Restraining Order Records**

Alabama*	Kansas**	Montana	Oklahoma
Arizona	Kentucky*	Nebraska	Oregon*
Georgia**	Louisiana	Nevada**	South Dakota*
Hawaii**	Maine*	New Mexico**	Wyoming
Indiana	Mississippi	North Dakota*	

* State lacks automated domestic violence misdemeanors only.

** State lacks automated domestic violence restraining orders only.

To help keep those with domestic violence records and restraining orders from obtaining guns, Americans for Gun Safety Foundation makes the following recommendation:

- States must make automating domestic violence records a priority and rapidly include new cases into the database.

“ According to the NICS program office, 42% of the denials for domestic violence that go through the NICS database are from one state: Kentucky. ”

ILLEGAL ALIENS

Illegal Immigrants Can Easily Purchase Weapons

“‘[Atallah Fuad Khoury] knowingly falsified (a Bureau of Alcohol, Tobacco and Firearms form) on each firearm purchase by claiming he was a United States citizen and claiming to be legally in this country,’ the affidavit said.

“‘[Khoury] allegedly told a rental car clerk that he was about to get a pilot’s license and to ‘watch the news.’ [Khoury] was ordered held without bail on a gun charge.”²⁴

Under federal law, only U.S. citizens and those in America on an immigrant visa are allowed to purchase or possess a gun. Visitors in America on a tourist, H1B, student or other non-immigrant visa are prohibited by law from buying or possessing a gun.²⁵ But stopping an illegal alien from purchasing a weapon from a licensed gun store is rare for two reasons: first, records provided to NICS from the Immigration and Naturalization Service (INS) are inadequate; and second, prospective gun buyers are not required to give their Social Security or resident alien number to the licensed gun dealer to verify identity.

According to the INS, between 6.5 and 7.5 million individuals are living in America illegally, either because they made it across the border or have overstayed their visa.²⁶ But even someone who overstays a tourist, student, or work visa will not be in the NICS system until they are apprehended, because the INS

only provides NICS with information about one class of illegal aliens: those who have been found to be in the country illegally and have been deported. Fewer than 700,000 illegal alien records have been supplied to NICS.²⁷

As a result, in the first thirteen months of operation, only 440 illegal aliens were denied a firearm because of a NICS check — approximately one denial for every 10,000 applicants.²⁸ But thousands of non-citizens are committing gun crimes, according to a 1997 survey of prison inmate. 13,347 non-U.S. citizens in state and federal prisons said they used a firearm while committing a crime.²⁹

Even if alien records were in order, a far more dangerous loophole is that gun buyers do not have to supply a Social Security or resident alien number to the gun dealer when purchasing a firearm. On the background check form filled out by prospective buyers, providing a Social Security or Resident Alien number is listed as “optional.”

[24] *Houston Chronicle*, “Palestinian man is held on gun possession charge,” Ed Asher, September 25, 2001.

[25] Federal law and certain states allow limited exceptions for those with hunting licenses.

[26] Federation for American Immigration Reform, www.fairus.org

[27] General Accounting Office, “Gun Control: Options for Improving the National Instant Background Check System,” March 2000.

[28] General Accounting Office, “Gun Control: Implementation of the National Instant Background Check System,” February 2000

[29] Bureau of Justice Statistics, “Survey of Inmates in State and Federal Correctional Facilities,” November 2001.

In a recent case, Atallah Faud Khoury, a Palestinian illegally in America on an expired tourist visa, lied about his immigrant status and because he was not required to supply a Social Security number, he passed a background check. Khoury was apprehended in Texas after a rental car clerk alleged that Khoury told her in August that he was weeks away from receiving his pilot's license and to "watch the news."³⁰ Khoury is being held without bond in Houston.

In order to make it harder for illegal aliens and visitors to the United States to obtain guns, AGS Foundation makes the following recommendations:

- **The INS must provide updated lists of those who are in America on non-immigrant visas to the NICS system.**

There is very little chance of stopping someone visiting the U.S. (either illegally or here as a tourist) from getting a gun without proper and current records from INS. The INS should provide information contained in the Non-Immigrant Information System (NIS), about the entry of visitors to the U.S. , to the NICS system.

- **Anyone buying a gun through a licensed dealer must provide a Social Security or Alien Registration number to get approved.**

The optional requirement to provide the most basic form of identification is a gaping loophole for non-citizens as well as Americans with false IDs and criminal records.

// Of the 6.5 to 7.5 million individuals living in America illegally, only 700,000 illegal alien records have been supplied to NICS. //

[30] United Press International, "Palestinian held without bond in Houston," October 12, 2001.

SECTION 5

GRADING THE STATES

22 States Receive Failing Grades for Records

Americans for Gun Safety Foundation developed a 100-point scale to grade states for their record-keeping based on the quality and quantity of their criminal history, fugitive from justice, restraining order, domestic violence misdemeanor, and mental health databases.

The scale is based on the relative size of each database with the maximum number of

points awarded for each category being: felony records (75 points), fugitive records (5 points), domestic violence restraining orders (5 points), domestic violence misdemeanors (8 points), mental health commitments (7 points).

Only North Carolina and Pennsylvania received grades as high as “B+”. 21 states earned a failing grade. The median score of 63 earned a “D”.

GRADING RECORDS							
SCORING STATES AUTOMATED RECORDS AVAILABLE FOR BACKGROUND CHECKS							
STATE	Felony 75 pts	Fugitive 5 pts	Restraining Order 5 pts	Domestic Violence 8 pts	Mental Health 7 pts	Total Score 100 pts	Grade
North Carolina	71	5	5	8	0	89	B+
Pennsylvania	64	5	5	8	6	88	B+
New York	63	5	5	8	6	87	B
New Jersey	64	5	5	8	0	82	B-
Iowa	63	5	5	8	0	81	B-
Delaware	56	5	5	8	6	80	B-
Washington	59	5	5	8	3	80	B-
Michigan	57	5	5	8	4	79	C+
Hawaii	67	0	0	8	3	78	C+
New Hampshire	60	5	5	8	0	78	C+
Virginia	53	5	5	8	6	77	C
Alaska	57	5	5	8	0	75	C
Minnesota	54	5	5	8	3	75	C
Massachusetts	54	5	5	8	2	74	C
California	49	5	5	8	6	73	C
Connecticut	49	5	5	8	6	73	C

Points awarded for each category approximately represents the number of disqualified individuals within each characteristic.

“Felony” is the percent of automated felony records with final dispositions multiplied by 80%.

“Fugitive” is whether or not states have automated fugitive warrants or want warrants (5 points).

“Domestic Violence Restraining Order” is whether or not a state automates its restraining order records (5 points).

“Mental Health” is a scale of 1 to 7 depending on whether or not a state has automated some or all of its mental health records and made that information available to law enforcement.

“Misdemeanor” is whether or not a state automates its disqualifying misdemeanor records, i.e. DUI, or drug convictions (8 points)

“Total Score” is the sum of the other five categories to come to a score out of 100 points possible.

STATE	Felony 75 pts	Fugitive 5 pts	Restraining Order 5 pts	Domestic Violence 8 pts	Mental Health 7 pts	Total Score 100 pts	Grade
South Dakota	63	5	5	0	0	73	C
Wisconsin	49	5	5	8	6	73	C
Georgia	52	5	0	8	6	71	C-
Florida	51	5	5	8	0	69	D+
Montana	64	5	0	0	0	69	D+
South Carolina	51	5	5	8	0	69	D+
Utah	45	5	5	8	4	67	D
Illinois	43	5	5	8	5	66	D
Wyoming	59	5	0	0	0	64	D
Rhode Island	45	5	5	8	0	63	D
Idaho	44	5	5	8	0	62	D-
Vermont	44	5	5	8	0	62	D-
Texas	41	5	5	8	0	59	F
Ohio	40	5	5	8	0	58	F
Missouri	39	5	5	8	0	57	F
Kentucky	44	5	5	0	0	54	F
Oregon	38	5	5	0	5	53	F
Nebraska	41	5	0	0	6	52	F
Arizona	38	5	0	0	0	43	F
Arkansas	25	5	5	8	0	43	F
Kansas	35	0	0	8	0	43	F
Nevada	29	5	0	8	0	42	F
Maine	29	5	5	0	0	39	F
North Dakota	24	5	5	0	0	34	F
Alabama	21	5	5	0	0	31	F
New Mexico	23	0	0	8	0	31	F
Mississippi	30	0	0	0	0	30	F
West Virginia	11	5	5	8	0	29	F
Colorado	9	5	5	8	0	27	F
Louisiana	18	5	0	0	0	23	F
Tennessee	5	5	5	8	0	23	F
Oklahoma	20	0	0	0	0	20	F
Indiana	5	0	0	0	0	5	F
Maryland	INC	5	5	5	0	INC	

Source: Survey of State Criminal History Records (Department of Justice) State criminal justice information from: Alaska, California, Connecticut, Delaware, Florida, Georgia, Hawaii, Idaho, Illinois, Kansas, Massachusetts, Michigan, Minnesota, Nebraska, New Jersey, New York, Oklahoma, Oregon, Pennsylvania, South Carolina, South Dakota, Utah, Washington, Wisconsin and Wyoming.

SECTION
6

CONCLUSION AND RECOMMENDATIONS

Eight Steps to Improve Background Check System

America's front line defense to keep guns out of the hands of criminals and other prohibited buyers is severely hamstrung because most states have done a poor job automating criminal history and other relevant records. Over a 30-month period, roughly 10,000 illegal buyers obtained a gun despite a background check because the checks could not be concluded within the 3 days allotted by federal law. That does not include those who obtained a gun despite being in the U.S. illegally, or having a domestic violence record or mental illness disability who are not flagged by the system in the first place.

Twenty-two states have records so poor that they earned a failing grade. And the median grade in the nation is a "D".

Americans for Gun Safety Foundation makes the following recommendations to improve the background check system.

- States must dramatically improve and automate the records necessary to deny illegal buyers from obtaining firearms.
- The federal government needs to make improvement of the NICS system a priority and should audit the federal grant program created to improve records to make it more effective.
- All states, and in particular, those with the worst records should immediately institute a "don't know/don't sell" policy to extend the period to complete a background check to reflect the actual time it takes for law enforcement to ensure illegal buyers don't purchase guns.
- Gun dealers should adopt the same "don't know/don't sell" policy denying all firearm purchases until a final disposition record is obtained.
- Law enforcement and the mental health community should reach an agreement whereby disqualifying mental health records are supplied to the database used to deny gun purchases in such a manner that respects privacy.
- States must make automating domestic violence records a priority and rapidly include new cases into the database.
- Visitors to America here on tourist, student or non-immigrant visas should be included in the database accessed by NICS so that they cannot purchase guns.
- A Social Security number or alien registration number should be required for all firearms purchases.

This report was developed by
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The Americans for Gun Safety Foundation is a non-profit, non-partisan organization that seeks to educate the public about supporting the rights of individuals to own guns and on the need for better laws and stronger enforcement of existing laws to help keep guns out of the hands of criminals and children.

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