

AMERICA'S GUN SHOWS: OPEN MARKETS FOR CRIMINALS



An estimated 5,000 gun shows are conducted in the United States every year.¹ Federal law mandates that licensed dealers at these events perform background checks on purchasers before completing a sale. There is an exemption in federal law, however, for private sales by individuals who are “not engaged in the business” of selling firearms, or who only make “occasional” sales. The Gun Show Loophole allows these unlicensed vendors to sell firearms at gun shows without conducting background checks on purchasers. To date, only 17 states have acted on their own initiative to close the Gun Show Loophole.

Unregulated private sales at gun shows are a popular point-of-purchase for individuals prohibited under federal law from buying firearms—including convicted felons, domestic abusers, drug addicts, fugitives from justice, individuals adjudicated as mentally ill, illegal immigrants, and others who would be flagged and stopped by criminal background checks. Additionally, gun shows are a common venue for “straw purchases” through licensed dealers. In a straw purchase, a prohibited purchaser recruits an individual(s) with a clean criminal record to pass a background check and purchase firearms for him/her. A straw purchase is a federal felony offense for both the straw purchaser and the ultimate possessor of the firearms.

Recent research has confirmed that gun shows remain the setting for significant criminal activity. At the same time, it has become apparent that the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) has no formal plan for investigating the nation’s gun shows.

A MAJOR SOURCE OF CRIMINAL ACTIVITY

The ATF reports that 25% to 50% of firearm vendors at gun shows are unlicensed.² A multi-state study of gun shows by Dr. Garen J. Wintemute of the University of California-Davis found that this figure might be a low estimate. Direct observational methods employed in the study revealed that as many as 70% of gun sellers could not be identified as licensed dealers.³ Unlicensed firearm vendors provide easy opportunities for prohibited purchasers to avoid background checks:

- The Columbine killers, Eric Harris and Dylan Klebold, obtained guns used in the shootings from unlicensed dealers at Colorado gun shows. On two separate occasions, they recruited friends to straw purchase guns for them at the shows. One of them, Robyn Anderson, testified that she “would not have bought a gun for Eric and Dylan if I had had to give any personal information or submit [to] any kind of check at all.”⁴

- In 2005, undercover ATF personnel learned that an unlicensed firearms dealer, Ghassan Haddad, was supplying neo-Nazi gang leader Keith Gilbert and others with illegal machine guns at Seattle-area gun shows. Gilbert had once threatened to blow up Martin Luther King, Jr. with explosives and served time in prison for threatening black children. Haddad was charged with dealing in firearms without a license, manufacture of an unregistered firearm, and possession of an unregistered firearm, all federal felonies.⁵
- The Department of Justice recently reported that “after reviewing hundreds of trace reports associated with crime guns recovered in the [New Orleans] area...ATF Special Agents identified area gun shows as a source used by local gang members and other criminals to obtain guns. The subjects obtained the weapons either through a third party engaged in straw purchasing or by dealing directly with private sellers...”⁶

The ATF has identified gun shows as a major trafficking channel for firearms, second only to corrupt federally licensed dealers. In an analysis of 1,530 firearms trafficking investigations during the period July 1996 through December 1998, gun shows were associated with the diversion of approximately 26,000 illegal firearms.⁷ From 2004 to 2006, ATF conducted operations at just 195 gun shows nationwide, but these operations resulted in 121 individual arrests and 5,345 firearms seizures.⁸ Some examples of such operations are as follows:

- Operation Flea Collar, a two-year investigation into illegal sales at gun shows and flea markets in Alabama, culminated in the arrest of 11 individuals and the seizure of more than 700 firearms. The ATF estimated that this group had trafficked approximately 70,000 firearms over the last several decades. Those charged had previously sold 267 guns that were linked to homicides, assaults, robberies, drug and sex crimes, and other illegal activities. One of these guns was used in the attempted murder of a Chicago police officer.⁹
- When ATF’s San Francisco Field Division cracked down on illegal guns being smuggled into California from gun shows in Nevada, the operation resulted in the confiscation of over 1,000 firearms as well as explosives.¹⁰
- Between 2002 and 2005, more than 400 guns purchased at gun shows in Richmond, Virginia, were later recovered at crime scenes.¹¹

Gun shows are also a major source of crime guns beyond U.S. borders. Commenting on an investigation conducted between 2004 and 2006, ATF’s Phoenix Field Division reported that “many [U.S.] gun shows attracted large numbers of gang members from Mexico and California. They often bought large quantities of assault weapons and smuggled them into Mexico or transported them to California.”¹² It is estimated that upwards of 80% of illegal firearms in Mexico come from the United States.¹³ James Ramey, a gun show vendor from Texas, has described how gang members purchase firearms at gun shows in border cities: “They send over a scout on Saturday to see if there’s anything they want, then they show up on Sunday with a big wad of money and somebody who’s got a clean record, who’s legal to buy.”¹⁴



The Gun Show Loophole allows unlicensed vendors to sell firearms without conducting background checks.

BACKGROUND CHECKS WORK

Background checks run by licensed dealers have proven both fast and effective. 72% of background checks are completed in just a few minutes, and 95% of background checks are completed within two hours.¹⁵ Between 1994 and 2005, the National Instant Criminal Background Check System (NICS) prevented approximately 1.4 million prohibited purchasers, including convicted felons, from buying firearms.¹⁶

LACK OF LAW ENFORCEMENT ACTIVITY

Despite the fact that they have been identified as a chief source of crime guns, gun shows are largely unregulated by federal, state and local law enforcement. ATF only conducts investigations at approximately 2% of all gun shows held annually.¹⁷ The Department of Justice has found that the “ATF does not have a formal gun show enforcement program” and that such operations “constitute a small percentage of [the agency’s] overall investigative activities.”¹⁸

In his study of 28 gun shows, Dr. Garen Wintemute found that no ATF or local law enforcement action was taken during any of the 25 definite straw purchases he observed. Additionally, only one licensed dealer was observed refusing to allow a straw purchase throughout the length of the study.¹⁹ William Newell, head of the ATF’s Phoenix Division, has stated that ATF simply lacks the resources to patrol gun shows for illegal activity.²⁰

During February 2006, two Congressional hearings were conducted in response to complaints by promoters of Virginia gun shows regarding “heavy-handed” enforcement of federal law by the ATF. This was despite the fact that ATF’s investigations at these events had resulted in the detection and prevention of significant criminal activity (25 defendants from these shows were subsequently prosecuted on a wide array of federal charges).²¹ Additionally, the Department of Justice found that “all seven of the [gun show] promoters that [DoJ] interviewed told us that they were concerned about illegal gun sales and purchases at gun shows and expected ATF to enforce federal firearms laws at gun shows.”²² Nonetheless, the ATF was sharply scolded during the Congressional hearings and the agency has since cooled off enforcement at gun shows.²³

GUN SHOWS CAN BE REGULATED WITHOUT PUTTING THEM OUT OF BUSINESS

It has been argued that increased regulation will drive gun shows out of business. To the contrary, the Wintemute study indicates that gun shows in California, which are strictly regulated, have a higher number of attendees per gun vendor than shows in nearby states that allow unregulated private sales.²⁴ The evidence demonstrates that gun shows in California are thriving—the 2006 *Gun & Knife Show Calendar* and *The Big Show Journal* listed 95 unique gun shows that took place in the state.²⁵ Likewise, gun shows are alive and well in other states that have acted to close the Gun Show Loophole (i.e., Colorado, Oregon, etc.).



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ACTION IS NEEDED IMMEDIATELY

The April 2007 shootings at Virginia Tech campus were a tragic reminder that more must be done to keep firearms out of the hands of dangerous individuals. In August 2007 the Virginia Tech Review Panel issued their final report and recommended that the Gun Show Loophole be closed in Virginia, stating, "In an age of widespread information technology, it should not be too difficult for anyone, including private sellers, to contact the Virginia

Firearms Transaction Program for a background check that usually only takes minutes before transferring a firearm".²⁶ Additionally, a September 2007 report issued by the International Association of Chiefs of Police advised that background checks be conducted for all gun sales nationally, including those at gun shows.²⁷

**The Gun Show Loophole
is still open in 33 States.**

The following bills have been introduced during the 1st session of the 110th Congress to address the problem:

- Representatives Mike Castle (R-DE), Christopher Shays (R-CT), and Mark Kirk (R-IL) have introduced H.R. 96, the "Gun Show Loophole Closing Act of 2007."
- Senator Joseph Biden (D-DE) has introduced S. 2237, the "Crime Control and Prevention Act of 2007," which would require background checks on sale of all firearms at gun shows.

It is also incumbent upon state legislatures and municipal officials to act—the Gun Show Loophole remains open in 33 states across the country.

Additionally, it has become patently clear that greater law enforcement presence is necessary at America's gun shows. The ATF cannot possibly enforce relevant federal gun laws at these events while attending only two out of every 100 gun shows. Congress should act immediately to provide resources for ATF to increase its manpower in the field. They should also direct the agency to develop a formal, comprehensive plan for monitoring the nation's gun shows. Likewise, state and local law enforcement should take steps to ensure that they are adequately patrolling and enforcing the law at gun shows in their jurisdictions.

Until such basic reforms are implemented, criminals and other prohibited purchasers will continue to be able to acquire firearms at America's gun shows "cash and carry, no questions asked."

ENDNOTES

1. Statement of Michael Bouchard, Assistant Director/Field Operations, Bureau of Alcohol, Tobacco, Firearms, and Explosives, "Oversight of the Bureau of Alcohol, Tobacco, Firearms, and Explosives Part 2: Gun Show Enforcement," Hearings before the House Subcommittee on Crime, Terrorism, and Homeland Security, 109th Congress, 2d Session, February 28, 2006, p. 4, <http://www.judiciary.house.gov/media/pdfs/bouchard022806.pdf>. It should be noted that the ATF is unable to tabulate the exact number of gun shows that occur each year in the United States. The ATF gets its conservative estimate of 2,000 shows per year from the popular trade publication *Gun and Knife Show Calendar* and its high-end estimate of 5,200 per year from the President of the National Association of Arms Shows (U.S. Department of Justice, "The Bureau of Alcohol, Tobacco, Firearms and Explosives' Investigative Operations at Gun Shows," Washington, DC, 2007, p. 18).
2. Bureau of Alcohol, Tobacco, and Firearms, "Gun Shows: Brady Checks and Crime Gun Traces," Washington, DC: Bureau of Alcohol, Tobacco, and Firearms, 1999, p. 4, http://www.atf.treas.gov/pub/treas_pub/gun_show.pdf.
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9. "A Gun Probe Yields Hundreds of Weapons Used in Crimes," *Associated Press*, March 4, 2007.
10. "The Bureau of Alcohol, Tobacco, Firearms and Explosives' Investigative Operations at Gun Shows," pp. 31-32.
11. Statement of Michael Bouchard, p. 4.
12. *Ibid*, p. 30.
13. Graduate Institute of International Studies, "Small Arms Survey 2002: Counting the Human Cost," Oxford University Press, Oxford, UK, 2002.
14. Hawley, Chris, and Solache, Sergio, "U.S. guns pour into Mexico," *Arizona Republic*, January 16, 2007, <http://www.azcentral.com/arizonarepublic/news/articles/0116americanguns0116.html>.
15. General Accounting Office, "Implementation of the National Instant Criminal Background Check System," 2000, p. 3, <http://www.gao.gov/archive/2000/g100064.pdf>.
16. U.S. Department of Justice, Bureau of Justice Statistics, "Background Checks for Firearm Transfers," Washington, DC, 2005, p. 2, <http://www.ojp.usdoj.gov/bjs/abstract/bcft05.htm>.
17. Statement of Michael Bouchard, p. 4.
18. "The Bureau of Alcohol, Tobacco, Firearms and Explosives' Investigative Operations at Gun Shows," p. iii.
19. Wintemute, pp. 153-154.
20. "Feds: Resources lacking to check gun shows," *Arizona Republic*, June 16, 2007.
21. Statement of Michael Bouchard, p. 11.
22. "The Bureau of Alcohol, Tobacco, Firearms and Explosives' Investigative Operations at Gun Shows," p. vii.
23. For example, the ATF no longer uses blanket residency checks at gun shows to determine whether purchasers are providing false or misleading information, even though these blanket checks uncovered a high level of criminal activity in the Richmond area when used. A January 30, 2006, memorandum by the ATF Assistant Director for Field Operations stated, "It is not ATF policy to conduct residence checks without reasonable suspicion that criminal violations may occur" ("The Bureau of Alcohol, Tobacco, Firearms and Explosives' Investigative Operations at Gun Shows," p. vii). The promoter of one of the Richmond gun shows that alleged ATF harassment then posted the following on the Internet: "After 3 trips to Washington, DC, hundreds of hours of work and thousands of dollars in attorney fees, we are in possession of a letter from Acting Special Agent in charge (Washington Division), Jim Cavanaugh, that states in part that, "ATF Washington field Division, will not routinely be present at the Richmond Gun Shows," http://www.cegunshows.com/Show%20Information/richmond_va.aspx. Prior to the enactment of the ATF's new policy, blanket residency checks had shown a 16% rate of non-compliance with federal law ("The Bureau of Alcohol, Tobacco, Firearms and Explosives' Investigative Operations at Gun Shows," p. 35).
24. Wintemute, p. 153.
25. *Gun & Knife Show Calendar*, October, November, December 2006, p. 55; *Gun & Knife Show Calendar*, July, August, September 2006, p. 62; *Gun & Knife Show Calendar*, April, May, June 2006, p. 61; *Gun & Knife Show Calendar*, January, February, March 2006, p. 60; *The Big Show Journal*, November/December 2006, p. 34; *The Big Show Journal*, September/October 2006, p. 34; *The Big Show Journal*, July/August 2006, p. 34; *The Big Show Journal*, May/June 2006, p. 34; *The Big Show Journal*, March/April 2006, p. 34; *The Big Show Journal*, January/February 2006, p. 34.
26. Virginia Tech Review Panel, "Mass Shootings at Virginia Tech, April 16, 2007, Report of the Review Panel," p. 76, <http://www.vtreviewpanel.org/report/index.html>.
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