

# Current Gun Control Proposals Will Endanger the Rights of Law-abiding Americans

-- President ignoring real solutions to school violence



Members of the U.S. Senate Committee:

In January, the President unveiled 23 Executive Actions on gun control and a myriad of other anti-gun legislative proposals. These initiatives run the gamut -- from imposing gun and magazine bans to expanding our current background check system.

Of course, none of the policies he recently unveiled would have stopped Adam Lanza in Connecticut from killing his mother, stealing her weapons and carrying them onto school grounds to commit his despicable crimes.

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Written by Erich Pratt and Michael Hammond  
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Sadly, the President didn't deal with the one proposal that would actually make a difference -- a proposal that is discussed below. But to be clear, none of the President's initiatives would have prevented the Sandy Hook tragedy. Yet, all of them would seriously infringe upon Second Amendment rights and endanger the safety of American citizens.

While all of his proposals are dangerous, perhaps the biggest threat is the call for Universal Background Checks, and the accompanying threat of gun owner registration. So that's where we will begin.

### **Background checks & ATF's illegal copying of 4473 forms**

Several gun dealers have contacted Gun Owners of America and asked for our advice. Invariably, they say that the ATF is, or has been, at their store -- making wholesale copies of their 4473 forms -- and they want to know if that's legal.

We are not going to betray their confidence without permission, but GOA can say that this has occurred enough times to make us believe these are not isolated incidents. (GOA has attached several redacted stories from gun dealers in the Appendix.)

The copying of 4473 forms has happened despite the prohibition in 18 USC 923(g)(1)(D) which specifically prohibits anyone in the Justice Department from “seiz[ing] any records or other documents other than those records or documents constituting material evidence of a violation of law.”

Our experience is not unique:

\* **ATF using digital scanners.** “ATF has been copying FFL Bound Books for years -- with or without FFL permission. During annual compliance inspections in other states, FFL dealers have reported that ATF industry operations investigators (IOI) brought in digital cameras and photographed the entire dealer ‘Bound Book’ without permission of the FFL holder. Other dealers reported investigators brought in digital scanners and scanned portions of the Bound Book -- line by line. Of course, the Bound Book contains the dealer’s full record of lawful firearm sales transaction records.”  
[!](#)

\* **FFL’s complain of illegal ATF activity.** “The [ [ATF](#) ] is engaged in new illegal activity, this time in the state of Alaska. According to gun store owners in Anchorage, ATF agents are requiring that they submit what is called ‘4473 Forms’ going as far back as 2007.... The ATF has the authority to inspect or request a copy of the form if agents are conducting a criminal investigation.

“But nowhere does the law or the rules and regulations of the ATF permit the agency to require gun stores to simply turn over these records en mass as a matter of course. The gun stores in Anchorage are not being told that their records are being requested as part of a criminal investigation of any kind. The ATF has not specified certain forms from specific time frames as one would expect during such an investigation. The agency is telling the stores that it wants all of these records, in totality, going back to 2007.” [ii](#)

If the ATF is willing to engage in this activity -- in full view of gun dealers -- one can only imagine what is being done behind closed doors when the names of innocent gun buyers are phoned in for NICS checks. Can we truly be sure that every gun buyer's name that is entered into the NICS computer system is completely deleted and scrubbed, without a backup being made ... anywhere?

### **Past attempts at turning background checks into a national registry**

In 1989, a Justice Department report stated that, “Any system that requires a criminal history record check prior to purchase of a firearm creates the potential for the automated tracking of individuals who seek to purchase firearms.” [iii](#)

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Indeed, several attempts have been made -- most notably during the Clinton administration -- to register the names of gun buyers:

\* **Justice Department initiates registration (1994).** The Justice Department gave a grant to the city of Pittsburgh and Carnegie Mellon University to create a sophisticated national gun registry using data compiled from states' background check programs. This attempt at registration was subsequently defeated in the courts.

[iv](#)

\* **More gun owner registration (1996).** Computer software distributed by the Justice Department allowed police officials to easily (and unlawfully) register the names and addresses of gun buyers. This software -- known as FIST -- also kept information such as the type of gun purchased, the make, model and caliber, the date of purchase, etc.

[v](#)

This demonstrates how easily background checks can be used to register gun owners' information.

\* **Federal Bureau of Investigation registers gun owners (1998).** Despite prohibitions in federal law, the FBI announced that it would begin keeping gun buyers' names for six months. FBI had originally wanted to keep the names for 18 months, but reduced the time period after groups like Gun Owners of America strongly challenged the legality of their actions. GOA submitted a formal protest to the FBI, calling their attempt at registration both "unlawful" and "unconstitutional."

[vi](#)

Subsequently, Congress passed the "Smith amendment" in 1998 to mandate the "immediate destruction of all [gun buyer] information, in any form whatsoever."

Universal Background Checks will send us much further down road to registering every gun owner in the country. While this won't be able to stop creeps like Adam Lanza from circumventing those background checks (he stole his weapons) and attacking children, it will give bureaucrats a roadmap for gun confiscation.

### The link between gun owner registration and confiscation

We know that gun confiscation is the ultimate endgame for many on the Left. While some will try to deny this, there have already been too many outspoken voices to ignore this simple truth. Consider just a few, well-known cases:

\* “[Gun] confiscation could be an option,” declared New York Governor Andrew Cuomo in a radio interview (December 27, 2012). In fact, a confidential memorandum advocating gun confiscation was circulated by New York Democrats prior to the most recent round of gun control which passed in the state. [vii](#)

\* “We cannot have big guns out here,” said Iowa Rep. Dan Muhlbauer. “Even if you have them, I think we need to start taking them.” (Interview with the Iowa *Daily Times Herald*, December 19,

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2012.)

\* “No one is allowed to be armed. We’re going to take all the guns,” said P. Edwin Compass III, the superintendent of the New Orleans police, right before several law-enforcement agencies began confiscating the firearms of lawful gun owners in the wake of Hurricane Katrina (2005).

\* In the mid-1960's officials in New York City began registering long guns. They promised they would never use such lists to take away firearms from honest citizens. But in 1991, the city banned (and soon began confiscating) many of those very guns. [viii](#) In 1992, a New York City paper reported that, “Police raided the home of a Staten Island man who refused to comply with the city's tough ban on assault weapons, and seized an arsenal of firearms.... Spot checks are planned [for other homes].” [i](#)

[x](#)

The task of confiscating guns is much easier when the government has a registration list. And, again, this is the number one reason that Gun Owners of America opposes background checks. They give federal bureaucrats the framework for a national registration system.

If the Left gets its way, we will be much further down road to giving the Andrew Cuomos of the world the registration lists they need to enforce the confiscation they so adamantly desire.

### Background Checks Can Easily be Used to Deny Honest Americans (like veterans)

While the confiscation threat is, by far, the biggest reason for opposing Universal Background Checks, there are many other reasons, as well.

For starters, the NICS list currently contains the names of more than 150,000 law-abiding veterans who didn't do anything wrong (but honorably served their country and then sought counseling for their wartime experiences) -- and could soon contain millions of names of Medicaid patients with post partem depression, IDEA students with ADHD, and soldiers, police, and firemen with PTSD. [x](#)

Not only that, requiring a background check on every private sale or transfer would impose an incredible hardship upon decent people. Many sellers in very rural areas would find it very difficult to travel hundreds of miles, accompanied by their purchasers, in order to make a sale in a licensed dealer's place of business. This inconvenience for rural sellers would be even more significant if, as happens almost 10% of the time, the purchase -- usually for no reason at all -- is not immediately approved.



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In a significant number of current transactions, purchases are held up for no reason other than the fact that the seller's name is similar to someone else's name. Often, these mistaken identities permanently block gun purchases when (1) the FBI's response remains non-committal after three days, (2) the gun dealer refuses to sell based on a non-committal response, despite the language of the Brady Law, and (3) the FBI's response is "sue us."

The pact that WalMart made in 2008 with New York Mayor Michael Bloomberg -- and his fraudulently-named Mayors Against Illegal Guns -- is symptomatic of this problem. In the deal, WalMart agreed to a ten-point agenda pushed by Bloomberg. [xi](#)

In particular, point #9 prohibits firearms sales to purchasers who have not received an affirmative go-ahead at the end of the NICS check's three-day waiting period.

In other words, if the FBI gives a "yellow light" -- perhaps, because a gun buyer is unlucky enough to have the same name as someone in the NICS system -- then WalMart was essentially saying it would not sell the firearm, even though federal law specifically allows the sale to proceed.

This three-day provision was inserted into federal law to prevent federal bureaucrats from illegitimately denying millions of gun buyers -- simply by its refusal to take a position. Some gun dealers choose not to sell a firearm after the three-day limit. Others don't.

The result is that many law-abiding gun owners can't purchase firearms, not because the FBI has disapproved them, but because it has refused to answer "yes" or "no."

It's actions like this which can fundamentally transform the Brady Act, making it so that a whole lot of law-abiding gun owners aren't able to purchase guns. And we bet that the FBI will be giving a lot fewer green-lights in the future, particularly if universal background checks are enacted.

### **Background checks violate rights, open door to abuses**

Gun Owners of America has long argued that honest gun owners should not have to prove their innocence to the government before exercising their God-given rights. One should never give a bureaucrat a chance to say no -- it only leads to abuses.

For one thing, the FBI's computer system has often gone offline for hours at a time -- sometimes for days. And when it has failed on weekends, it results in the virtual blackout of gun

sales (and gun shows) across the country.

When the NICS system is down, the only place one can buy a gun legally is from a private seller, and now the President wants to eliminate that last bastion of freedom!

Recently, the FBI's system went down on Black Friday, angering many gun dealers and gun buyers around the country. "It means we can't sell no damn guns," said Rick Lozier, a manager at Van Raymond Outfitters in Maine. "If we can't call it in, we can't sell a gun." [xii](#)

Researcher John Lott says that, in addition to crashes in the computers doing the background checks, "8 percent of background checks are not accomplished within two hours, with almost all of these delays taking three days or longer." And almost 100% of these initial denials turn out to have been illegitimate. [xiii](#)

Such delays could be deadly for people, especially women, who need a gun in an emergency to defend themselves from an ex-boyfriend or husband. Consider some of the tragic consequences that result when a woman's right to protect herself is put on hold:

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\* A California realtor, herein referred to as “Jane,” was concerned about her safety at work, so she applied to buy a handgun. But the Golden State requires her to wait 10 days before picking up the gun. Sadly, she was raped by a client within that 10-day period. [xiv](#)

\* Likewise, Bonnie Elmasri inquired about getting a gun to protect herself from a husband who had repeatedly threatened to kill her. She was told there was a 48 hour waiting period to buy a handgun. Unfortunately, Bonnie was never able to pick up a gun. She and her two sons were killed the next day by an abusive husband of whom the police were well aware. [xv](#)

\* Marine Cpl. Rayna Ross bought a gun and used it to kill an attacker in self-defense two days later. [xvi](#) Had she had to wait like Bonnie or Jane, Ms. Ross would have been defenseless against the man who was stalking her.

While none of these tragedies specifically occurred because of delays resulting from a NICS check, it does underscore the truth behind the oft quoted adage that a “right delayed is a right denied.”

## Five more reasons for opposing Universal Background Checks

Gun Owners of America has produced pages and pages of arguments that explain the problems -- and abuses -- that have gone hand-in-hand with background checks. [xvii](#) But, in brief, it's important to note these five additional problems.

**FIRST:** The principle that no American can own a firearm without getting the go-ahead from the government is offensive to Americans. We don't require breathalyzer checks before people get into their cars even though drunk drivers kill more than 30 times more people than "assault rifles" do. Nor do we require background checks on clubs and hammers, which also kill more often than "assault rifles." [xviii](#)

**SECOND:** Universal background checks would not have stopped Adam Lanza (who stole his guns), or James Holmes or Jared Loughner (who passed background checks).

**THIRD:** One of the nation's leading anti-gun medical publications, the Journal of the American Medical Association (JAMA), found that the Brady law has failed to reduce murder rates. In August 2000, JAMA reported that states implementing waiting periods and background checks did "not [experience] reductions in homicide rates or overall suicide rates." [xix](#)

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**FOURTH:** Throughout its history, the background check system has been plagued by serious failures. On the one hand, large percentages of gun owners have been erroneously denied -- according to one GAO report, almost 50% of denials were the result of administrative snafus or unpaid parking tickets. [xx](#) On the other hand, the law has failed to put real criminals behind bars -- in 2010, only 13 people were potentially sent to jail as a result of being stopped by NICS checks. [xxi](#)

**FIFTH:** Can we really trust the administration that gave us Fast & Furious to respect our Second Amendment rights? The Obama Administration knowingly approved (via background checks) the sales of thousands of guns to the Mexican Cartel in order to justify calls for greater gun control here at home. As a result, several hundred Mexicans have been killed -- not to mention at least one U.S. federal agent. Considering the administration's record on guns, the administration should NOT be trusted to keep guns out of the "wrong hands." Isn't this a case of the fox guarding the hen house?

Let's be honest: Universal background checks are nothing more than the ineffectual platform from which gun haters will make their next set of demands, based on the next horrific tragedy.

At this point, we now move on to some of the other gun control proposals that are on the table.

### The High Cost of Limiting Semi-autos and Gun Magazines

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Senator Dianne Feinstein has reintroduced her semi-auto ban, but her new version is one on steroids. Feinstein's bill (S. 150) would ban the types of shotguns, rifles and handguns that millions of Americans currently own. And possibly, depending on statutory interpretation, her bill could ban all magazines of whatever size. Among other things, S. 150 would do this by supercharging the 1994 semi-auto ban by:

- \* Banning all semi-autos with just one cosmetic feature (pistol grip, forward grip, folding stock, grenade launcher, barrel shroud, threaded barrel);

- \* Banning all semi-autos with fixed magazines of over 10 rounds (but see below as to how a sneaky "loophole" may use this to ban ALL magazines of any size);

- \* Allowing for grandfathering and transfer of semi-autos (but prohibiting the transfer of magazines and prohibiting the transfer of semi-autos without a Brady Check); and

- \* Banning all magazines that can be "readily restored ... [or] converted" to accept more than 10 rounds.

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In regard to the final bullet item, there is one very important question: Does “readily” modify “converted” or does it merely modify “restored”? How will the ATF interpret this?

If it's the latter, the bill will ban ALL magazines of whatever size.

### **Does the Feinstein ban violate the Americans with Disabilities Act?**

As noted above, S. 150 would cover all semi-automatics that contain just one cosmetic feature, such as a pistol grip. Ironically, agents from the Department of Homeland Security are acquiring 30 round magazines and 7,000 assault weapons because they are “suitable for personal defense use in close quarters.” [xxii](#)

Indeed, there are many reasons that law-abiding Americans, including those who are disabled, would desire to have these types of firearms -- and to even have pistol grips on their firearms. Consider the testimony from one GOA member:



Feinstein's ban on pistol grips is a violation of the Americans with Disabilities Act. I have severe arthritis in my hands and wrists due to repetitive motion injuries working as a correctional officer. I cannot operate a rifle or shotgun without a pistol grip as my hands don't bend enough to grip a traditional stock. If pistol grips are banned, I will be denied my 2nd Amendment rights. I am at considerable risk for retribution from criminal elements, and in fact a former inmate from the psychiatric ward showed up at my house just 2 weeks ago, luckily he was not intent on violence, at least this time.

It is the height of hypocrisy to say these firearms are useful self-defense weapons for Homeland Security agents, but that they are not useful for regular Americans like the GOA member listed above. Or that they shouldn't be available for women like Maryland resident Sharon Ramboz who used an AR-15 rifle to defend herself and her three children against several burglars. [xxiii](#)

### **Banning standard magazines (or larger) will make people less safe**

Some in Congress want to limit the size of gun magazines. But they can only do so by threatening our God-given rights and by putting people in greater danger.

Those who are unfamiliar with guns simply don't understand how self-defense works. Real life is not like the latest action movie where the bad guys shoot their guns endlessly (and miss), but

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the good guys fire off one or two rounds and hit their targets.

When Matthew Murray entered the New Life Church in Colorado Springs in 2007, intent on killing hundreds of people, it was Jeanne Assam (one of the worshipers there) who fired off 10 rounds before Murray was critically injured enough to halt the attack and end his own life.

Good thing there was only one attacker. If Assam had used a reduced-capacity magazine or there were multiple attackers, she would have been out of luck. So would have:

\* Those New Orleans residents who, in the aftermath of Hurricane Katrina, discharged more than two dozen rounds during one firefight, where they fended off a roving gang in the Algiers neighborhood; or,

\* The Korean merchants who armed themselves with so-called “assault” weapons (and lots of ammunition) during the Los Angeles riots. Their stores remained standing, while others around them burned to the ground.

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All of this just underscores the point that when you are facing gang or mob violence -- and the police are nowhere to be found -- you need more than just a six-shooter.

Just last month, a Georgia woman defended her twins by shooting an aggressor in her home. She unloaded her six-shot revolver, hitting the perpetrator five times in the head and neck. Nevertheless, the thug was still able to get up and walk out of the house. Now, just imagine if this woman was facing multiple attackers. She would have been out of ammunition, and she and her children would have been in great danger. [xxiv](#)

Self-defense expert Massad Ayoob talks about an Arkansas drunk who opened fire on an officer, who then responded by firing 29 shots. It was only the last bullet which finally killed the drunk and stopped him from shooting. [xxv](#) Same with an Illinois criminal who was shot 33 times by the police before the druggie finally dropped and was unable to shoot any longer. [xxvi](#)

In the real world we live in, there are violent gangs who get high on drugs and are resistant to pain when they attack. Banning the tens of millions of “high capacity” magazines that are already in circulation won’t keep them out of dangerous hands. But infringing the Second Amendment will threaten our safety.

**Firearms, and magazine capacity, is not about hunting deer**

To listen to much of the discussion around Capitol Hill, one would think the Second Amendment is just about hunting. “You don’t need an AK-47 to go deer hunting,” said Rep. Hank Johnson (D-GA) on the floor of the U.S. House of Representatives (July 24, 2012).

“I don’t know anybody that needs 30 rounds in the clip to go hunting,” said Senator Joe Manchin on *Morning Joe* this past December.

Likewise, the President has stated that, “I believe in the Second Amendment. We've got a long tradition of hunting and sportsmen and people who want to make sure they can protect themselves.” [xxvii](#)

We are glad to hear the President make reference to “protection,” but all of these comments -- and the whole emphasis on hunting -- distracts from the real reason that the Second Amendment was included in the Constitution.

On at least two occasions, the U.S. Supreme Court has forcefully presented the ultimate reason

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for the amendment's inclusion in the Bill of Rights. In *Heller v. McDonald* (2008), the Supreme Court stated that an armed populace is "better able to resist tyranny."

[xxviii](#)

And in

*McDonald v. Chicago*

(2010), the Court reiterated the definitive purpose for owning firearms:

\* "[St. George Tucker] described the right to keep and bear arms as 'the true palladium of liberty' and explained that prohibitions on the right would place liberty 'on the brink of destruction.'" [xxix](#)

\* "The right of the citizens to keep and bear arms has justly been considered, as the palladium of the liberties of a republic; since it offers a strong moral check against the usurpation and arbitrary power of rulers; and will generally, even if these are successful in the first instance, enable the people to resist and triumph over them." [xxx](#)

For these reasons, any discussion of "hunting deer" completely misses the mark. The Second Amendment was never about shooting Bambi or other animals. It was intended to protect the right of people to defend themselves against any aggressor -- both foreign and domestic.

The Second Amendment states that this right "shall not be infringed." This is very similar to the language in the Declaration of Independence which declares that people are "endowed by their

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Creator with certain unalienable rights.” *Unalienable rights* are those God-given liberties which cannot be in any way infringed, delayed or denied to those who are law-abiding citizens.

We don't limit First Amendment rights and gag movie-goers to prevent them from yelling “fire” in a crowded theater. Likewise, we should not be “gagging” law-abiding gun owners and infringing their rights through background checks, gun bans and magazine limitations.

### **A policy that works to reduce school violence**

It's not too much access to firearms that is plaguing America. That's not what has resulted in the recent spate of school violence. America was virtually gun control-free in the 1950s, and yet kids were not using guns to shoot up schools.

The problem is that there are too many restrictions today which prevent good people from acting in self-defense. Virtually all of the mass shootings that have occurred in this country over the past 20 years have occurred in gun-free zones.

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And that's why the Congress should repeal the Gun-Free Zones Ban which prevents armed teachers or principals from protecting the children -- just like Assistant Principal Joel Myrick did at his Mississippi high school in 1997.

To this end, Texas Rep. Steve Stockman has introduced H.R. 35, the Safe Schools Act of 2013. This bill would repeal the federal Gun-Free School Zones act and allow teachers and principals, who are qualified by their state to carry concealed, to also do so at public and private schools.

The Stockman bill is truly the greatest step that Congress could take toward securing our schools. But some in Washington are so blinded by their anti-gun ideology, that they care more about protecting themselves than they do our children. In the roughly 15 square block area of Capitol Hill, there are 1,800 Capitol Hill police officers to protect every Representative and Senator. How many armed adults are protecting our kids on any given day at school?

It's this principle of self-defense which explains why we haven't seen any school massacres in places like Utah and Harrold, Texas, where teachers or principals can carry concealed. Come to think of it, we also haven't heard of any horror story scenarios in these jurisdictions -- like students finding a gun in a purse, or a teacher accidentally firing his weapon.

Concealed carry permit holders are the most law-abiding segment of society. They are eight times less likely to commit a crime than the average citizen and -- in light of a 2006 Bureau of

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Justice Statistics study on police abuse -- almost 800 times less likely than law-enforcement. [xxxi](#)

That's why Gun Owners of America is encouraging more states to emulate places like Utah. Constitutionally, the states should be the ones working out their school security issues. But at the very least, Congress should repeal the Gun-Free School Zones Act and stop threatening to punish law-abiding teachers and principals who want a gun to stop another Adam Lanza from killing their students and fellow staff members.

*Erich Pratt is the Director of Communications for Gun Owners of America. Michael Hammond is the legislative counsel for GOA. This testimony was submitted to the United States Senate Judiciary Committee for its hearing on: "Proposals to Reduce Gun Violence: Protecting Our Communities While Respecting the Second Amendment" on February 12, 2003.*

[i](#) Robert Farago, TheTruthAboutGuns.com (May 27, 2012).

[ii](#) See <http://www.examiner.com/article/alaska-gun-stores-say-atf-engaging-new-illegal-activity> (April 5, 2012).



[iii](#) <sup>□</sup> Richard B. Abell, Assistant Attorney General, Task Force Chairman, *Report to the Attorney General on Systems for Identifying Felons Who Attempt to Purchase Firearms* (October 1989), p. 75.

[iv](#) <sup>□</sup> Bureau of Justice Assistance, Grant Manager's Memorandum, Pt. 1: Project Summary (September 30, 1994), Project Number: 94-DD-CX-0166.

[v](#) <sup>□</sup> Copy of "FIST" (Firearms Inquiry Statistical Tracking) software at GOA headquarters, Springfield, VA. See also *Pennsylvania Sportsmen's News* (Oct./Nov. 1996). The default in the "FIST" computer software is for the police officials to indefinitely retain the information on gun owners—despite the fact that the Brady law only allows officials to retain this data for 20 days. One wonders who will ensure that this information will be deleted after the 20th day.

[vi](#) <sup>□</sup> FBI's Final Rule printed in the *Federal Register* (October 30, 1998) at 58311. After the FBI submitted its proposed regulations on June 4, 1998, Gun Owners of America submitted written comments (in September of 1988) to challenge the FBI's regulations. GOA stated, "These proposed regulations are unlawful and unconstitutional. They are so fundamentally corrupt that there are no incremental changes which will even marginally improve them. Rest assured that they will be challenged in every possible judicial and legislative forum. . . . The efforts to retain information on gun owners for eighteen months—and indefinitely in your computer backup system—constitutes an illegal system of firearms registration, in violation of 18 U.S.C. 926. The same is, in fact, true even for efforts to retain information about persons prohibited from purchasing firearms."

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[vii](#) <sup>□</sup> “NY Democrat pleads with Republican not to share document proposing confiscation of guns,” *The Commentator* (January 20, 2013). See <http://tinyurl.com/bg7q3jy> .

[viii](#) <sup>□</sup> On August 16, 1991, New York City Mayor David Dinkins signed Local Law 78 which banned the possession and sale of certain rifles and shotguns.

[ix](#) <sup>□</sup> John Marzulli, “Weapons ban defied: S.I. man, arsenal seized,” *Daily News* (September 5, 1992).

[x](#) <sup>□</sup> Based on research from the Congressional Research Service, more than 150,000 military veterans have lost their Second Amendment rights, despite the fact they have committed no crimes. [See Sen. Tom Coburn letter to Gordon H. Mansfield, Acting Secretary of the Department of Veterans Affairs (Oct. 16, 2007).] This process began during the Clinton administration when the Department of Veterans Affairs sent the names of more than 80,000 veterans to the FBI for inclusion in the NICS system. But as Senator Tom Coburn found out ten years later, these were not veterans that were guilty of crimes, rather, they were former soldiers who had gone to the VA for counseling to help them deal with the stress from prior combat. Many of them were suffering from PTSD. But because a doctor or psychiatrist determined that a third party should help them manage their financial affairs, they lost their Second Amendment rights. How could this happen? Well, the legislative history began in 1968 when Congress banned those who are “adjudicated mentally defective” from owning firearms. This was an attempt to keep those criminals who had escaped a conviction by reason of insanity from owning weapons. The problem with applying this to veterans, of course, is that they have lost their gun rights without being “adjudicated” in a court of anything

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-- no judge, no impartial jury, no nothing. These veterans are being disarmed because a guardian has been appointed to look over their checkbook and manage their financial affairs. (Would the President and most members of the Congress lose their gun rights based on this "inability to manage one's financial affairs" standard?) Sadly, what began illegally under the Clinton administration was later "legalized" by the Veterans Disarmament Act -- otherwise known as the NICS Improvement Act of 2008.

[xi](#) <sup>□</sup> See <http://www.mayorsagainstillegalguns.org/html/partnership/partnership.shtml>

[xii](#) <sup>□</sup> [Nok-Noi Ricker](#), "Call volume shuts down FBI's firearm background checks, stops Maine sales on Black Friday," *Bangor (Maine) Daily News* (November 23, 2012).

[xiii](#) <sup>□</sup> John Lott, "[The '40 Percent' Myth](#) : The figure gun-control advocates are throwing around is false," *National Review Online* (January 24, 2013) at <http://www.nationalreview.com/articles/338735/40-percent-myth-john-lott>.

[xiv](#) <sup>□</sup> See [http://townhall.com/columnists/larryelder/2005/08/25/michael\\_\\_me\\_--\\_the\\_movie/page/full/](http://townhall.com/columnists/larryelder/2005/08/25/michael__me_--_the_movie/page/full/)

[xv](#)<sup>□</sup> *Congressional Record* (May 8, 1991), at H 2859, H 2862.

[xvi](#)<sup>□</sup> *Wall Street Journal* (March 3, 1994) at A10.

[xvii](#)<sup>□</sup> For example, see <http://gunowners.org/fs0202.htm>.

[xviii](#)<sup>□</sup> For drunk driving-related fatalities, see Table 3 Statistics, US Department of Transportation National Highway Safety Administration Traffic Safety Facts Report 12/2012: <http://www-nrd.nhtsa.dot.gov/Pubs/811701.pdf>. For FBI statistics regarding rifle deaths (of which “assault rifles” would be a subset) and “clubs, hammers, etc.,” see FBI Crime Report 2011, Expanded Homicide Data Table 11: <http://www.fbi.gov/about-us/cjis/ucr/crime-in-the-u.s/2011/crime-in-the-u.s.-2011/tables/expanded-homicide-data-table-11>.

[xix](#)<sup>□</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*, vol. 284, no. 5 (August 2, 2000).

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[xx](#) <sup>□</sup> General Accounting Office, “Gun Control: Implementation of the Brady Handgun Violence Act,” (January 1996), p. 39-40, 64-65. See fn. 16 at <http://gunowners.org/fs0202.htm>.

[xxi](#) <sup>□</sup> Ronald J. Frandsen, “Enforcement of the Brady Act, 2010: Federal and state investigations and prosecutions of firearm applicants denied by a NICS check in 2010,” Department of Justice (August, 2012), p. 8. According to the DoJ report, there were still another 12 cases were still pending as of December 13, 2011.

[xxii](#) <sup>□</sup> “If ‘Assault Weapons’ Are Bad...Why Does DHS Want to Buy 7,000 of Them for ‘Personal Defense’?” *The Blaze* (January 26, 2013).

[xxiii](#) <sup>□</sup> See Lauren Fox, “Conservative women say AR-15 rifles would keep women everywhere safer,” *US News & World Report* (January 30, 2013) and “Assault weapon provides security, owner testifies,” *Baltimore Sun* (February 11, 1992).

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[xxiv](#)<sup>□</sup> Nick Chiles, “Georgia Woman Who Shot Intruder Hailed as Model Gun Owner,” *Atlanta Blackstar* (January 10, 2013).

[xxv](#)<sup>□</sup> Massad Ayoob, “Defending Firepower,” *Combat Handguns* (October 1990), p. 25.

[xxvi](#)<sup>□</sup> *Ibid.*, at 71.

[xxvii](#)<sup>□</sup> Barack Obama, Second Presidential Debate, October 17, 2012.

[xxviii](#)<sup>□</sup> *D.C. v. Heller* (2008) at 24-25.

[xxix](#)<sup>□</sup> *McDonald v. Chicago* (2010) at 22.

[xxx](#)<sup>i</sup> *Ibid.*, citing Joseph Story (1833) at 22.

[xxxi](#)<sup>i</sup> Compare Bureau of Justice Statistics, “Citizen Complaints about Police Use of Force [in 2002]” (published 2006) at <http://bjs.ojp.usdoj.gov/content/pub/pdf/ccpuf.pdf> and Howard Nemerov, “Concealed Handguns: Danger or Asset to Texas?” (Tables 1 and 3) at <http://www.prattontexas.com/documents/Texas%20CHL%20Study.pdf>.