

A. God-given rights are unalienable

* The Declaration of Independence says that people are “endowed by the Creator with certain unalienable rights.” This means that government cannot in any way infringe, delay or deny a God-given right that belongs to law-abiding citizens. [\[i\]](#) Background checks for firearms purchases, however, force good people to prove their innocence to government bureaucrats, thus giving the government the power to arbitrarily deny honest citizens their right to protect themselves.

B. Background checks invite official abuse

* **Gun purchases stop when FBI shuts down.** A review of FBI computer records reveals that the firearms industry was shut down for more than eight full business days during the first six months that the National Instant Background Check (NICS) was online. Many of these shutdowns have resulted in the virtual blackout of gun sales at gun shows across the country.

[\[ii\]](#)

* **Oregon.** Officials have used background checks to arbitrarily deny concealed carry licenses to law-abiding citizens -- based solely on one's political views. In one case, a permit holder had his license revoked because he was the editor of a pro-life newspaper. [\[iii\]](#)

* **Delaware.** An octogenarian was denied the right to purchase a handgun in 2008 because she

was too old... because she was a woman. According to State Police Superintendent Col. Thomas MacLeish, the sale to Alvina Vansickle was halted over concerns “based upon [her] age and gender.” Vansickle was denied, despite the fact that she did not even have a speeding ticket to her name. [\[iv\]](#) □

* **New York City.** Officials have routinely used the background check process to deny gun permits for ordinary citizens and store owners because, as the courts have ruled, they have no greater need for protection than anyone else in the city. In fact, the authorities have even refused to issue permits when the courts have ordered them to do so. [\[v\]](#)

C. □ Criminals easily bypass background checks

* **Fake-IDs allow criminals to easily skirt background checks.** In a General Accounting Office study (2001), investigators found that they were able to purchase firearms “using counterfeit driver’s licenses with fictitious identifiers” every time they tried to buy a firearm from a gun dealer—in other words, they were successful 100 percent of the time. [\[vi\]](#)

* A Justice Department survey of felons showed that 93% of handgun predators had obtained their most recent guns “off-the-record.” [\[vii\]](#)

* And stating the obvious, media like *The Washington Post* have repeatedly reported that the few criminals who get their guns from retail outlets can easily get fake IDs or use surrogate buyers, known as “straw purchasers,” to buy their guns.

[\[viii\]](#)

* **Anti-gun journal pronounces the failure of the Brady background check law.** One of the nation's leading anti-gun medical publications, the *Journal of the American Medical Association*, 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."

[\[ix\]](#)

* **The Brady background check has NOT stopped killing sprees.** In 2011, Tucson, Arizona shooter Jared Loughner bought his gun legally at a gun store.

[\[x\]](#)

And in 1999, Benjamin Smith was rejected by a background check when he tried to buy a firearm from an Illinois gun dealer. But after this initial rejection, "he hit the streets and in just three days had two handguns" from an illegal source, reported the

Associated Press

. Three days after getting the guns, Smith went on a rampage that killed two people and wounded nine others.

D. Background checks can (and do) lead to gun registration

* **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."

[\[xi\]](#)

* **Nationwide.** Highly acclaimed civil rights attorney, researcher and author, David Kopel, has noted several states where either registration lists have been illegally compiled from

background checks or where such registration lists have been abused by officials.

[\[xii\]](#)

E. Gun registration can (and does) lead to the confiscation of firearms

1. New York City

* **Registration.** 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.

[\[xiii\]](#)

* **Confiscation.** 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]."

[\[xiv\]](#)

2. California

□ * **Part 1.** The Golden State passed a ban on certain semi-automatic firearms in 1989. Banned guns could be legally possessed if they were registered prior to the ban. [\[xv\]](#)

* **Part 2.** Having registered the firearms, the California Department of Justice issued a notice in 1999 to explain how more than 1,500 individuals in the state were in possession of illegal firearms—all of which were subject to forfeiture without compensation. [\[xvi\]](#)

* **Part 3.** Plans to confiscate firearms in California were leaked to the public in 1999, sending shock waves through the gun rights community. The document entitled "Relinquishment of Assault Weapons" stated: " *Once the 90-day window of opportunity for turning in such assault weapons concludes, we will send each sheriff and police chief a listing of the*

affected individuals [who own banned firearms]

.” [\[xvii\]](#)

3. Foreign Countries

* Gun registration has led to confiscation in several countries, including Greece, Ireland, Jamaica and Bermuda. [\[xviii\]](#)

* And in an exhaustive study on this subject, Jews for the Preservation of Firearms Ownership has researched and translated several gun control laws from foreign countries. Their publication, *Lethal Laws: "Gun Control" is the Key to Genocide*, documents how gun control (and confiscation) has preceded the slaughter and genocide of millions of people in Turkey, the Soviet Union, Germany, China, Cambodia and others.

[\[xix\]](#)

F. Courts have ruled that prior restraints on rights are unconstitutional

* ***Near v. Minnesota***—In this case, the Supreme Court stated that government officials should punish the abuse of a right and not place prior restraints on the exercise of the right.

[\[xx\]](#)

* **What about yelling “Fire” in a crowded theater?**—The courts have stated that one cannot use his “freedom of speech” to yell “Fire” in a crowded theater. And yet, no one argues that officials should gag everyone who goes into the theater, thus placing a prior restraint on movie-goers. The proper response is to punish the person who does yell “Fire.” Likewise, citizens should not be “gagged” before exercising their Second Amendment rights, rather they should be punished if they abuse that right.

G. Would we tolerate background checks on other rights?

1. Speech.

Written by Craig Fields
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* **Arizona.** After Jared Loughner shot Arizona Congresswoman Gabrielle Giffords in January 2011, the media falsely blamed conservative media for inciting Loughner to commit his crime (despite the fact that Loughner had strong leftist tendencies, as evidenced by the fact that he loved books like the *Communist Manifesto* and *Mein Kampf*). [\[xxi\]](#)

* **New York.** Likewise, New York City Mayor Michael Bloomberg blamed the political right -- “someone with a political agenda that doesn't like the health care bill or something” -- after the failed 2010 bombing in Times Square. [\[xxii\]](#) Never mind the fact that the bomber was a Muslim terrorist.

* The above examples are just the tip of the iceberg. [\[xxiii\]](#) So, given the fact that such erroneous statements have been made to tar and feather the political right, should the government apply “Second Amendment background checks” to the First Amendment? That is, should officials engage in prior screening to investigate the veracity of every opinion expressed in the public square?
?

2. Religion.

* Should officials perform background checks on every preacher and evangelist (plus screen their sermons) to make sure they are morally upstanding individuals? One could argue such checks would protect unwitting victims from the likes of the Reverend Jim Jones (who led his congregation to commit mass suicide by drinking poisoned Kool-Aid in 1978) and Marshall Applewhite (who led his followers in the Heaven's Gate cult down the same path in 1997).

[\[i\]](#) Webster's 1828 Dictionary defines “unalienable” or “inalienable” as follows: “That [which] cannot be legally or justly alienated [taken away] or transferred to another.... All men have certain natural rights which are *inalienable*.”

Problems With Background Checks - Gun Owners of America

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, (Bloomfield Press: July 28, 1999). Bloomfield Press can be contacted at <http://www.bloomfieldpress.com>.

[iii] In a court hearing to have the license returned, the judge in the case admitted that the individual did not meet the criteria for a revocation (i.e., he had never engaged in acts of violence or made threats of violence) but agreed to uphold the revocation anyway. The justification the judge gave was that the abortion issue was "a volatile one" and people involved in it should not be allowed to carry guns. A friend of the "defendant" made a routine inquiry to the sheriff's department to see if any abortion doctors or activists had their licenses revoked. By Oregon law this is public information. He was immediately visited by four FBI agents who demanded to know the reason for the request. Statement by Kevin Starrett, Oregon Representative for Gun Owners of America, August 21, 1995.

[iv] Lee Williams, "Gun purchase glitch raises questions: Del's small-arms advocates shocked over DSP recordkeeping," *The News Journal* (October 28, 2008).

[v] David Kopel, "Trust the People: The Case Against Gun Control," [Cato Institute] Policy Analysis 109 (July 11, 1988):25-26.

[vi] General Accounting Office, *Firearms Purchased from Federal Firearm Licensees Using Bogus Identification* (March 2001), p. 2.

[vii] Department of Justice, "Survey of Incarcerated Felons," p. 36.

[viii] Pierre Thomas, "In the Line of Fire: The 'Straw Purchase' Scam," *The Washington Post* (August 18, 1991); and Thomas, "Va. Driver's License is Loophole for Guns: Fake Addresses Used in No-Wait Sales," *The Washington Post* (January 20, 1992).

[ix] Jens Ludwig and Philip J. Cook, "Homicide and Suicide Rates Associated With Implementation of the Brady Handgun Violence Prevention Act," *Journal of the American*

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Medical Association, vol.
284, no. 5 (August 2, 2000).

(January 9, 2011) at <http://www.foxnews.com/us/2011/01/09/arizona-suspected-gunman-no-stranger-to-trouble>.

[xi] 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."

[xii] Kopel, ed., *Guns: Who Should Have Them?* (1995) at 88, 117 (fn. 75), and 122 (fn. 124).

[xiii] 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.

[xiv] John Marzulli, "Weapons ban defied: S.I. man, arsenal seized," *Daily News* (September 5, 1992).

[xv] "Thousands of Californians Become Instant Criminals," *The New Gun Week* (March 1, 1998). See also "Gun Confiscation Begins: Gun Law Victim Holds Press Conference and Turns in Gun to Local Officials," NRA Press Release (January 28, 1998).

[xvi] To read a photocopy of this notice, go to <http://www.gunowners.org/fs9906.htm>.

[xvii] *Id.*

[xviii] David Kopel, "Trust the People: The Case Against Gun Control," [Cato Institute] Policy Analysis 109 (July 11, 1988):25.

[xix] Jay Simkin, Aaron Zelman and Alan M. Rice, *Lethal Laws*: "Gun Control" is the Key to Genocide, (Milwaukee: Jews for the Preservation of Firearms Ownership, 1994).

[xx] The court stated, "The fact that the liberty of the press may be abused by miscreant purveyors of scandal does not make any less necessary the immunity of the press from previous restraint in dealing with official misconduct. Subsequent punishment for such abuses as may exist is the appropriate remedy, consistent with constitutional privilege." *Near v. Minnesota*, 283 U.S. 697, 51 S. Ct. 625, 75 L. Ed. 1357 (1931).

(January 18, 2011) at <http://www.srpressgazette.com/opinion/left-12112-blame-wing.html>.

(May 3, 2010) at <http://www.cbsnews.com/stories/2010/05/03/eveningnews/main6457014.shtml>.

(January 14, 2011) at <http://www.humanevents.com/article.php?id=41178>.

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