

“Universal Background Checks” - Oregon’s 2015 Senate Bill 941

After listening to all the witnesses who testified at the SB1551 hearing on February 6, 2014 and reading all of the submitted written testimony for and against that bill which has been posted on the Oregon legislature’s website, I came to the conclusion that no reasonable person could possibly have supported that bill. SB 941 in 2015 is not noticeably different; the same arguments for and against are still appropriate.

Roughly equal numbers of people testified for and against SB 1551 (8 more were against than were for; 30 vs 22), and roughly equal numbers submitted testimony (9 more for than against; 63 vs 54). But to say there was a stark difference in the content of their presentations would be the understatement of the year. Those who were *for* the bill almost entirely presented tragic stories of people injured or killed by someone with a firearm, and almost unanimously presented no information or even claims about how a law created by this bill would have made any difference to their story. They simply “hoped” it would. Many admitted they thought the bill would make little difference but said it was nonetheless “a step in the right direction.” Not one member of the committee ever asked any of those who made that claim how, if it made little difference, could it be a step in *any* direction.

Those against the bill almost unanimously presented detailed arguments showing that this would be unconstitutional, unenforceable, and ineffective, and presented detailed analysis demonstrating why this would not work, many times supplying whole pages of links to reports which have been done by many different researchers and agencies showing that gun laws do not affect crime rates. The Oregon Sheriffs Association submitted a letter in opposition, stating “Senate Bill1550 (sic) will substantially inconvenience thousands of law abiding citizens who will make efforts to follow the law -- some failing to do so resulting in harsh penalties -- while those who seek firearms for illegal purposes will find the weapon of their choice on the black market without any delay or red tape.” In fact every law enforcement officer and firearms instructor who testified on their own behalf, testified against the bill. A rep from the Portland Police said their 950 members were for the bill, but curiously there were no Portland officers there to verify that. It is very likely that Portland police officers are *told* what their opinion is on this, because their Chief reports to the Mayor. It is political. Sheriffs on the other hand, report directly to the people and can speak their mind honestly.

Those few arguing for the bill who presented any cogent argument containing any details at all, presented statistics which came almost entirely from one source only, “Mayors Against Illegal Guns,” and mostly from a paper called “Gun Laws and Violence Against Women Fact Sheet.” The details about what MAIG is and about the statistics in the fact sheet will be listed below, under “Taking apart the arguments for.”

Following is an in-depth analysis of this subject, looking at testimony given at that hearing and going into greater detail on it for those who truly wish to have a complete understanding of the claims of both sides and their merits.

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The arguments [against](#)

1. [Background checks are ineffective.](#)

The shooters at Virginia tech, Tucson, and the Aurora movie theater all purchased their firearms at dealers, therefore all took and passed a background check. This in spite of their friends, family and schools all being very aware of their mental instability, having reported it and tried to deal with it for years. The background check system in its current form, clearly does not stop these people. The money and effort that is being put into passing this expansion of this failed system would be so much better spent fixing the current system so that it might actually work in some cases.

As to the criminal element, making background checks required for all legal sales will not affect the criminal set as the legal sales channel is not where they get their firearms anyway. Criminals’ firearms are generally stolen and then bought and sold on the ‘black market’ (between each other). An average of 232,000 guns are stolen per year as shown on page 1 of this U.S. DOJ Bureau of Justice Statistics [report](#) and criminals then acquire them from ‘friends, family and each other’ as on page 13 in this Bureau of Justice Statistics [report](#). No new law will ever touch any part of this market – everything they are doing is already illegal. Finally, criminals can also use straw purchasers to evade background checks, such as drug dealers using hooked customers with clean records to buy the guns for them and paying the customer in drugs as illustrated on page 18 of this ATF [report](#).

You cannot stop criminals from getting access to guns with any new law. Everything they do is already illegal, and one more law will make no difference to them.

2. [ALL Gun control laws do not work, not just ‘universal background checks’](#)

A couple of inescapable and unassailable facts that trip up those who favor more gun control laws are that 1. The number of privately-owned firearms in America increased from around 200 million to around 300 million over the last 20 years and 2. Violent crime rates including murder have

dropped by half over that same time period. NO ONE anywhere denies either of these two facts, but because we are being thorough in this paper, the crime data comes from the same Bureau of Justice Statistics [report](#) referenced above. At the bottom of page one are the following two bullet points:

- Firearm-related homicides declined 39%, from 18,253 in 1993 to 11,101 in 2011.
- Nonfatal firearm crimes declined 69%, from 1.5 million victimizations in 1993 to 467,300 victimizations in 2011.

Elsewhere in the report is that firearm homicide among African Americans is down 51% since 1993, but the rate is still 14.6 per 100,000 compared to 1.9 per 100,000 among Caucasians.

It is unfortunate that in spite of crime having fallen so dramatically, most people think crime is actually on the rise as reported in this Pew research [report](#) - 56% of Americans think gun crime is higher than two decades ago, and only 12% are aware that it is lower. This is due to the modern media which is always looking to report on the dramatic, thus inflating it in the public eye.

Added to this is the fact that not only did Americans *own* more guns, but they sought and received license to *carry* them in much higher numbers as well: in 1986 only 8 states had “shall-issue” for concealed carry permits, 37 now do. There were about 2.7 million concealed carry permit holders in 1999. In 2007, the number had increased to 8 million and is estimated to be over 12 million now. This blows the theory that more guns equal more crime; as is abundantly clear, just the opposite has occurred. More guns, both kept and carried, have happened *at the same time* as LESS crime. Proof of a causal relationship between the two is still contentious but no one can argue that the two have occurred at the same time. All states and municipalities have seen the same trends, with only sporadic bucks of the trends; one year of crime increase here and there, but a sustained overall decrease over the last twenty years.

The Institute of Medicine’s (IOM) June 2013 [report](#) “Priorities for Research to Reduce the Threat of Firearm-Related Violence” found that “Controlling access to guns through “background checks or restrictions on particular types of firearms remains controversial, and the effectiveness of various types of control is inadequately researched,” the report admits. However, it notes that several studies reviewed “found that gun restrictions had no net impact on major violence and crime.”

The Center for Disease Control, which habitually considers guns comparable to viruses, published a report from the “Task Force on Community Preventive Services (the Task Force), an independent nonfederal task force” which had conducted a “review of scientific evidence regarding the effectiveness of firearms laws in preventing violence, including violent crimes, suicide, and unintentional injury.” The 2003 [report](#) states in the summary “The Task Force found insufficient evidence to determine the effectiveness of any of the firearms laws or combinations of laws reviewed on violent outcomes. (Note that insufficient evidence to determine effectiveness should not be interpreted as evidence of ineffectiveness.)”

Connecticut has and has had some of the strictest gun laws in the nation, and Adam Lanza found a way around every one of them. “That is one isolated incident,” you say. Fair statement. California has had ‘universal background checks’ for many years now, and it has had no effect on crime; Oakland continues to rank among the highest murder rate cities in the Nation. Chicago was the very last city in the nation to allow law abiding citizens to carry (and still has no gun stores within city limits) but before that they had, and still have, incredibly high violent crime and murder rates. It seems the criminals are just not interested in following firearms laws. Common sense would dictate this; the crimes they are using the firearms to commit already carry significantly higher penalties

than the firearm laws do. Why would they be concerned about repercussions for breaking a firearm law?

3. It is a registry.

Federal law prohibits the federal government from creating or maintaining any kind of firearms registry which lists firearms held by private individuals. This provision was inserted into law as it is well known that every government in history which created or had access to this type of list, used it to confiscate firearms from law-abiding citizenry. What followed was usually democide – death by government, as in Russia, Germany, China, Cambodia, North Korea and more recently Rwanda, Sudan, Iran and Syria. America was created by a citizenry that opposed their government's attempts to disarm them as part of a continuing escalation of its stranglehold on their commerce and lives, and it is deeply engrained within the American psyche and spirit as well as codified in the U.S. Constitution that the American people will not be disarmed, ever. Therefore a registry will not be allowed.

The FBI NICS background check system collects information from the seller and purchaser as part of the background check, and is to destroy records of sales thus collected prior to the next business day. However, states such as Oregon which have a 'point of contact' (POC) within the state which runs the checks, define their own records retention and destruction. The Oregon State Police's ten-day destruction policy for records of sales is an *internal* policy; there is no statute requiring destruction in less than 5 years (ORS 166.412(7)(a)). Further, OSP personnel have been unable when asked, to describe just how the records are destroyed *at all*. So there may be a database with information up to ten days old, or 5 years old, or permanent. No one seems to be sure, and no legislator seems to be asking for any verification of record destruction in order to allay this fear and gather additional support for this bill.

As to the security of the information collected (or lack thereof) there is reason to believe that the records are not secure; OSP appears to have illegally shared the NICS check records of Oregon resident [David Pyles](#) with local law enforcement before illegally entering his home without a warrant and illegally seizing his legally owned firearms as part of a "mental hold" in order to "prevent" him from committing the crime they believed he *might* be planning (Pyles was cleared of any mental instability and following a great public uproar, his guns were returned 4 days later).

So it should be easy to understand why the populace deeply distrusts the government with this information.

4. Registries are not only prohibited by federal law, they do nothing to solve crime.

If there are people who are supporting this because they know it will create a registry and they think that might help to reduce crime, they need to get familiar with Canada's "long gun registry." Canada has required registration of handguns since 1934 and in spite of no evidence of the registry being useful in solving or preventing any crime, it added registration for "long guns" (rifles and shotguns) in 1998. Some \$2.7 billion was spent on this program and it produced the same results as the handgun registry had; money gone down a black hole. The long gun registry was repealed by the Canadian Parliament in February 2012 after 14 years of complete failure. That \$2.7 billion would have been much better spent hiring more cops and improving mental health resources.

5. It will prohibit some sales entirely even when the buyer is not prohibited

The *federal* check law says that if a sale is delayed due to further investigation being needed, and no resolution is reached after 3 days, the sale can go ahead. Oregon law says by close of

business the following day (ORS 166.412(3)(c)) for sales through gun *dealers*. However, ORS 166.436 which covers background checks by sellers *other than dealers*, and which this bill now makes a requirement, *has no such provision at all*, so if the state police are 'overwhelmed' and cannot resolve the question, the sale is *never* allowed to proceed. As we know that at least 99% of checks are run on law-abiding individuals (see below), there is no reason to prohibit them from trading with each other due to a failure of the check system or its employees.

6. Good guys (and gals) with guns DO stop bad guys with guns, and decreasing or delaying their ability to keep and bear arms could well cost lives.

Criminals do use firearms to commit violent crime and murder of innocent people. But innocent people use firearms even more often than that, to STOP criminals from attacking them. This latter point is almost entirely ignored by the media, although we do hear about a few cases from time to time such as the sergeant-at-arms of the Canadian Parliament who stopped the shooter there in October 2014 and the chief operating officer of Vaughn Foods who stopped the fired employee there from decapitating his *second* victim at the plant in September 2014. If only Mark Vaughn had not had to go all the way to his car to get his gun, Colleen Hufford might still be alive.

The Institute of Medicine's (IOM) June 2013 [report](#) "Priorities for Research to Reduce the Threat of Firearm-Related Violence" found that "Almost all national survey estimates indicate that defensive gun uses by victims are at least as common as offensive uses by criminals, with estimates of annual uses ranging from about 500,000 to more than 3 million per year." The report also states "Studies that directly assessed the effect of actual defensive uses of guns (i.e., incidents in which a gun was used by the crime victim in the sense of attacking or threatening an offender) have found consistently lower injury rates among gun-using victims compared with victims who used other self-protective strategies." It therefore follows that anything which is done which could delay a citizen from obtaining a firearm for self-protection, including failure of the FICS system as described above, could cost their life. It is not only morally reprehensible to deny someone the ability to protect themselves, it is unconstitutional on its face. Most state constitutions, including Oregon's, list 'protection of self' as one of the listed reasons that citizens shall not be debarred the use of arms.

7. It could very well be unconstitutional.

The legal arguments can be seen differently by different people and the court would have to ultimately decide. But an in-depth argument that this law would run afoul of both the Oregon and U.S. constitutions was provided by Dana Allen as the first exhibit under testimony against, consisting of a five-page letter citing *many* legal precedents.

Taking apart the arguments [for](#)

1. "Background checks have stopped (x) criminals from getting access to firearms."

The statistics which back this claim up are almost entirely inaccurate. According to FBI NICS statistics ([Total](#), [Denials](#)), a total of 198,878,924 instant checks have been run nationwide from November 30, 1998 to November 30, 2014, and 1,155,606 were denied – about one-half of one percent. Around 1% are denied at time of sale, and many (around half) of these are appealed and turn out to be false positives or people who are technically prohibited but not dangerous such as those with old misdemeanor convictions.

In Oregon, background checks are currently performed for all firearms sold by licensed dealers whether at a store or a gun show, and all private sales at gun shows as well. The Oregon State

Police are the 'point of contact' for running checks in Oregon; sellers do not contact FBI/NICS directly. In 2013, there were 261,932 approvals and 2,151 denials – denials being about .8 of 1% of the total checks.

To go into more detail on the denials, data provided by the Oregon State Police show that in October of 2014, 19,901 background checks were performed and there were 196 "denial investigations" launched or right at 1%. Proponents of 'universal background checks' like to toss this 1% number around as being all criminals and otherwise prohibited persons being "denied firearms." This is not the case. Of this 196, 36 resulted in "investigation complete, no action" – in other words, a purely false positive. Another 50 are as of this writing still being investigated; these could turn out to be false positives as well. 26 people were issued a "citation in lieu of custody," meaning that the person was in fact prohibited or had made an inadvertent false statement on the form but the police did not consider the person dangerous enough to arrest. This can be for something like being a 'prohibited person' for having a conviction for bouncing checks 30 years ago. Another 70 were referred to the district attorney for their call on whether to prosecute, but the person was not taken into custody. Total arrests were – five. *Only* these five people were actually denied access to firearms, because only those in custody are truly denied, and only for the time they are in custody. Five were for mental health holds, but none of those were arrested, meaning they are still free to continue to try to get access to a firearm.

So bear in mind when proponents throw the number of denials that sounds like 1% of the total checks, that the 1% is *investigations*, NOT denials. A good example of this dishonesty/naïveté is the written testimony of Portland Mayor Charlie Hales, who claimed that all 2,300 denials in Oregon during 2012 (about 1% of the total checks) were "individuals with criminal records."

The true number of actual denials (arrests) is really only about 2% of that 1%, or 2.5 out of every 10,000 checks / 5 out of 19,000 in this case. Arresting the truly dangerous people does have value, of course, but the value of the background check leading to their arrest is dubious. Usually authorities already know who the actual dangerous ones are (all five in our case were "wanted") and many times have some info on *where* they are as well and could go pick them up as long as they have the manpower to do so. Being informed that they are in a gun store right now trying to buy a gun does not magically give authorities more manpower. They will go and arrest if they can, as they did with the five in this case in October. But remember also that the felon is only truly prohibited from acquiring firearms *while they are incarcerated*, and we do not know how for long they were held. Once out, they can and will continue to try to acquire weapons and in all likelihood, will eventually succeed. It is very unlikely that being denied one time is going to stop them from continuing to plan whatever crime they are planning. People who are true criminals are exercising a way of life, not a single incident.

Worth mentioning here is what might occur assuming that the universal check proponents are right and criminals are getting guns from legal private sales. They don't, as covered under "background checks are ineffective" above, but for the moment let's pretend they do. Let's talk about the five guys out of every 19,000 that are really bad – the ones the cops will try to arrest right away if they receive a tip on where they are. Now say that guy goes to buy a gun from a private seller, and the seller says they are required to run a background check. The criminal knows he will not pass that check. What do you suppose he will do? Remember, this is the worst of the worst, hardened criminal, the guys we really want to stop. And he is in a private residence to buy a gun. I think it's very possible he is going to assault that private citizen and just take that gun. Is that such a stretch to imagine? So how many of these really bad guys are you really going to stop by requiring private citizens to run background checks?

Again, as to the mentally ill, it is too painfully obvious from Virginia Tech, Tucson, and the Aurora Colorado theater incidents that the NICS system does not have records of those who have shown clear signs of danger, and does not stop them. They take, and pass, background checks.

So an argument can be made that background checks MIGHT have a tiny, barely measurable effect – 2 out of every 10,000 checks, but then only for a limited time; it cannot be shown that a crime is actually prevented. And what cost does this tiny, temporary prevention come at? Having legal sales between law abiding people delayed or prevented altogether by faulty data? Denying a woman the ability to acquire a firearm for defense from a violent ex? Government agents illegally sharing data of law abiding citizens? The uncomfortable fact is, if a given criminal wants a gun, sooner or later they are going to be in a position of not being incarcerated and will get that firearm. All this time, effort and expense running background checks could be so much better spent putting and keeping those who are truly dangerous behind bars and getting mental health professionals and facilities the resources they need to help families with mentally ill loved ones.

2. “The states that have universal background checks have (x) % less (x) type of crime.”

Apologies in advance as this section will get long. There is no way around disproving faulty data than to explain where it comes from.

Very nearly all claims of this nature that were quoted at the SB1551 hearing came from one single source, a ‘Mayors Against Illegal Guns’ paper called “Gun Laws and Violence against Women Fact Sheet.”

First, a short primer on just who ‘Mayors Against Illegal Guns’ is, then we will look at the actual numbers. The group was formed in 2006 by New York Mayor Michael Bloomberg and Boston Mayor Tom Menino, with 15 original members. The stated goal initially was to combat firearm crime, and close to 1,000 mayors signed on during the next 6 years. But mayors began dropping out as it became apparent to them that the goal was not crime prevention but Bloomberg’s personal push for any and all gun control, including measures which make it harder for law abiding citizens to own or carry firearms. In this February 2014 Washington Examiner [article](#), Poughkeepsie Mayor John Tkazyik describes why he bailed. “I’m no longer a member of MAIG. Why? Just as Ronald Reagan said of the Democratic Party, it left me. And I’m not alone: Nearly 50 pro-Second Amendment mayors have left the organization. They left for the same reason I did. MAIG became a vehicle for Bloomberg to promote his personal gun-control agenda -- violating the Second Amendment rights of law-abiding citizens and taking resources away from initiatives that could actually work to protect our neighborhoods and save precious lives. Gun control will actually make a bad situation worse.”

Then it came to light that many of the remaining mayors were [engaged in criminal activity](#), and that [Bloomberg was using New York City resources to support the group](#) - its web domain was registered to the city of New York’s technology department, and many people who have done work on behalf of MAIG are employees of New York or other cities and have been paid by those entities while doing MAIG work. Information obtained by Judicial Watch includes emails between John Feinblatt, who at the time was the chief adviser to Mayor Bloomberg and also New York city’s criminal justice coordinator, and MAIG executive director Mark Glaze about how to work with the White House to maximize the effect of the Newtown shooting to leverage new federal legislation. Also included was a terse back and forth between MAIG’s Glaze and fellow gun control group “The Brady Campaign”’s Daniel Gross about which organization ‘owned’ the rights to the celebrities which were being recruited as spokespeople for gun control after the Newtown tragedy.

Finally, MAIG’s Executive Director Glaze quit in 2014, after 3 ½ years, the failed push for federal legislation and the failure to protect two Colorado legislators from being recalled for their support of that state’s new gun control laws which Bloomberg pushed for in 2013.

Mayors Against Illegal Guns thus became so discredited that its name had to be changed in order to escape its reputation and it became known as “Everytown for Gun Safety.” It’s still Bloomberg at the helm. It always has been a dishonest organization as the quotes from the departed mayors illustrates, and continues to peddle false information which is easily disproven. An example is the claim which got tremendous coverage during 2014 that there have been “74 school shootings since Newtown,” a claim taken down by this Politifact [article](#). ‘Everytown’ counted gang shootings near schools, suicides, and accidental firearms discharges near school grounds during the night in which no one was injured. The actual number of instances where a shooter entered a school intending to commit mass murder was ten, and the instances where the number of victims reached four – both MAIG’s ad the FBI’s definition of “mass murder” – is – Zero.

In the case of our “violence against women fact sheet,” there are statistics illustrated for which there is no peer-reviewed study as backup – most prominently, the stat that “states with ‘universal background checks’ have 38% lower firearm homicide with women victims by domestic partners” which was repeated by many witnesses at the SB 1551 hearing, including Mark Kelly. The only source for this stat is listed in the fact sheet as “Data: FBI Supplementary Homicide Report and Florida Department of Law Enforcement, 2010. *New York excluded due to incomplete data.” No study name or date, no author, no description of how the number was arrived at, nothing normally associated with a peer-reviewed study. This number literally has no backup.

With regard to women victims of domestic partners, it should be noted that the average man doesn’t need a gun to kill the average woman. He can do so with nothing more than his bare hands. If a man is so evil and violent that he wants to kill a woman, doing so with bare hands presents the ultimate insult to her; that he can control her life, no tools needed. Often the only reason a man uses a gun is so that he can kill himself easily afterward in order to avoid facing the consequences of his actions. So what is important about domestic violence situations is not whether the man has a gun but *whether the woman does*. There is no one better served by a firearm for defense than someone who is at a disadvantage due to size. A firearm is an equalizer. It puts her on equal footing with what the man can do. It gives her the ability to stop him.

Looking further at the fact sheet, many other stats do footnote studies but many of those are done by David Hemenway and Matthew Miller of Harvard, the left’s go-to researchers when they need stats supporting gun control. You will find Hemenway ‘studies’ referenced by every gun control group in operation, from the Brady Campaign, to Violence Policy Center and the rest. These authors are well known for “cherry-picking” data (using less data than is available, in order to reach a desired result; often when the larger data set is included, the result changes which you will see an example of below) and for refusing to share their data and methods with other researchers which is normal in research, in order to verify or disprove their results.

As an example of the ‘quality’ of work done by Hemenway, is a [study on road rage](#) published in late 2005 comparing people who carry guns to people who don’t and concluding that those who do carry guns are more likely to be involved in road rage incidents. But they only asked people whether they had had a gun in the car at any time in the last year, and whether they made an obscene gesture at another driver at any time in the last year. They did not ask whether a gun was present at the *time* of the obscene gesture, but more importantly they did not ask whether the person had a concealed carry permit for the gun. This seems an obvious question, given that they concluded that relaxing concealed carry laws leads to greater incidents of road rage. There is no way to conclude that from this study, as the question was not even asked.

Then they refused to share the data and methods of their study with peers. This is the giant red flag indicating dishonest researchers. John Lott (see Appendix A below for more on Lott), the world’s pre-eminent researcher on gun laws and associated crime, [asked for their data](#) and at last report, they have never provided it. Yet in spite of their methodology being flawed to the point a

middle-schooler could spot it, and refusing to turn over their data, their reports get all the news coverage one could ever wish for. This is the incompetence of modern journalism, which is responsible for the confusion on this issue and so many others. If only properly peer-reviewed and confirmed studies were given news coverage, the confusion could be lifted.

Another commonly-heard claim within this category is, “when the state of Missouri repealed their Universal Permit to Purchase (PTP) Law in 2007, their firearms homicide rate went up 25%.” This stat is from a study published in February 2014 and seems to be the second most often cited by those pushing for universal background checks (after the “38% fewer female homicide victims” we found no peer-reviewed research support for above). “This study provides compelling confirmation that weaknesses in firearm laws lead to deaths from gun violence,” said Daniel Webster, ScD, MPH, director of the Johns Hopkins Center for Gun Policy and Research and the study's lead author. The study actually initially reported a 23% increase in firearm homicide and the number has since been corrected due to errors found in the initial study. The current claim is that the *overall* murder rate increased 14%, and the firearm homicide rate 25% as can be seen in the correction notice [here](#).

The study uses “age-adjusted homicide rate” and says that it was 4.66 per 100,000 for the period 1999-2007, increased to 6.23 in 2008 or a 34% increase, and averaged 5.82 for the period 2008-2010, or a 25% increase.

First, medical institutions do not have a good record when it comes to advocating for public policy. So the “Johns Hopkins Center for Gun Policy and Research” should invite a raised eyebrow by its name alone. Looking a little further it turns out that the CGPR is part of the “Johns Hopkins *Bloomberg* School of Public Health!” How very interesting. Looking at their [web page](#), one sees a long list of articles, all advocating that more gun control is better.

We further find that this outfit is funded by the Joyce Foundation, which consistently lobbies for increased gun control laws.

So at this point we have pretty much established that no study from this outfit is going to be objective. But let's be fair and look at the study anyway.

As we covered above, criminals seldom get firearms through legal sales channels, and when they do, they easily circumvent background check laws using straw purchasers. But to continue,

It is true that Missouri saw a spike in murders in 2008, the year after repeal of ‘permit to purchase’ which required background checks to get a ‘permit to purchase’ firearms (legally). But everyone knows that correlation does not equal causation – causation must be shown. There are 17 states which have or have had ‘universal background checks’ which this study's author could have looked at to compare what happens after their passage or repeal. Using all available data is proper scientific technique as it gives you the best ability to remove other possible contributing factors. It is proper and established practice in research to use all available data unless a data set is suspected of being tainted, and the study should include an explanation of why that data was not used. Why did this author only cover this one state in this study? The answer is *because it provided what the author wanted*. The cherry-picked data, using only one state and looking at only six years before and three years after repeal of the law, is the red flag of improper science. The author tries to gain credibility by using ten years of data, which is certainly better than one, but had he properly included data from the other 16 states or from a longer time period, his conclusion would have gone away.

Another way we know that this study is improperly done is that if this author had wanted to properly study the effect of this law, he would have looked at what happened both when the law went into effect (presumably crime would have decreased at that point) as well as when it was repealed. The fact that he only included one of these two is another indicator that the data was picked which supported the pre-agreed conclusion.

Looking at only ten years is a mistake; the FBI statistics go back to 1960 so we have all that time with the law in effect (the law went into effect in 1921) and yes, unfortunately only a handful of years after to compare. But doing so leads to an average homicide rate of 8.11 per 100,000 from 1960 to 2007, and 6.76 after the law was repealed as this [article](#) illustrates. When using all of the available data, it appears that the homicide rate actually *decreased* after the law was repealed, even when including the ‘spike’ year 2008! The only way you see an increase is again, to limit your data to just the part of the data set which agrees with your desired conclusion. The author states that the pre-1999 period was not used because it was not as ‘stable’ as the post-1999 period. This sounds reasonable at first blush, but it just so happens that if the state had widely fluctuating homicide rates prior to 1999, the spike seen in 2008 could just be another example of that and not due to the cause claimed in this study. Another way to say it is that if you were to graph the homicide rate over the last 50 years, the 2008 spike might not look so out of the ordinary at all.

There is also evidence that 2008 appears to be the culmination of a 7-year rise in crime in Missouri which began in 2002 (while the PTP law was in effect), and that crime rates decreased again following 2008. The cause of that run in crime is worth looking into, and it could very well be explained by a rise in gang violence during that period as covered in [this series](#) from St. Louis Public Radio in 2008. Supporting this argument against the study’s conclusion that the 2008 spike was due to the law’s repeal is a quote right out of the study itself: Under “Data and Measures”, the study admits that 7 other states were considered for inclusion in the study but were ultimately rejected. It says, “Missouri’s mean baseline rate of firearm homicides during the pre-repeal study years was approximately 4 to 5 times higher than was experienced in the 7 dropped states.” We know from many crime studies that gang activity can lead to wildly fluctuating crime rates and that law enforcement, or lack of it, is the number one factor which can have an effect on crime rates; nothing else comes close. The study says that it controlled for changes in policing and other possible contributing factors – just how they did so bears a closer look. There are likely flaws in their control methods similar to the flaws in the selection of data to use for the study, and/or similar to the flaws in computation which lead to the error correction for the study as noted above.

Another possibility is that it became easier for law-abiding citizens to get handguns, and therefore some of what are being counted as “firearm homicides” after 2007 were justified; where the intended victim kills the attacker. What has not been reported is that the very same bill that repealed permit-to-purchase – [SB62 of 2007](#) – contained many other provisions as well including specifying that victims do not have a ‘duty to retreat’, also known as ‘castle doctrine.’ This would naturally lead to an increase in justifiable homicide. The data this study used to count firearm homicides – CDC’s WONDER database, does distinguish between justified and otherwise, but for Missouri ‘justified intervention’ is defined so narrowly it is fairly certain that it includes only police officer shootings. So it is very possible that some of the increase was from justified homicides which are instead being counted as non-justified firearm homicide.

I have illustrated a number of problems with this study; it was just poorly done and probably intentionally so. Yet as is so predictable it got significant press as seen in this section of the JHSPH website for February 2014:

- [St. Louis Post Dispatch: Weaker gun laws mean more deaths in Missouri](#)
- [Chicago Sun-Times: Missouri study shows why we need universal gun background checks](#)
- [Kansas City Star: No permit required, and gun homicides spike in Missouri](#)
- [Baltimore Sun: Gun control works](#)
- [CNN.com: What Missouri's gun law change did](#)
- [Washington Post: Study: Repealing Missouri's background check law associated with a murder spike](#)
- [NPR: ID Check Repeal Prompts Spike In Murders, Study Finds](#)
- [Kansas City Star: Missouri study argues for stronger gun-licensing laws](#)
- [New York Times: The Gun Report: February 19, 2014](#)
- [The New Republic: "The Strongest Evidence We Have that Background Checks Really Matter"](#)
- [Buzzfeed: Missouri Murders Spike After Gun Law's Repeal](#)
- [CBS News: Study: Gun murders rise in Mo. after background check repeal](#)
- [Rachel Maddow Show: After background checks were scrapped in Missouri](#)
- [PBS NewsHour: Study shows gun violence surged in Missouri after repeal of gun control laws](#)
- [ThinkProgress: This New Study Proves That Background Checks Save Lives](#)
- [BBC: Missouri gun murders 'rose after law repeal'](#)
- [Daily Kos: Johns Hopkins study: After Missouri's gun background checks were ditched, more people were murdered](#)
- [Kansas City Star: New study: Elimination of background check in Missouri leads to spike in murders](#)

This shows why people are so confused on this issue. The improperly done studies get coverage and the properly done studies (not by what conclusion they reach, but by following established academic procedure) less so.

We can easily see an example of the opposite result of this study by looking at one other state, Massachusetts. It saw a dramatic *increase* in *all* kinds of crime, including firearm homicides, following enactment of a group of gun-control bills in 1998, as covered in this Boston Globe [article](#). Gun-control believers say that Massachusetts' gun-control laws failed because criminals could simply buy their guns in neighboring states which did not enact the controls. But think about that for a second: criminals could have *always* secured guns from neighboring states; nothing changed about that. So why did crime *increase*? Gun control opponents would say because the law-abiding, who had never been part of the problem, followed the new laws and criminals thus found their intended victims unarmed and unable to resist a higher percentage of the time.

Of course as I have said, data from one state, over one ten-year period of time, should not be used to make such a claim if additional data are available. Thankfully we have much more data and analysis available including John Lott's look at background check laws in the book "More Guns, Less Crime" which again looked at all states and found background check laws actually leading to a short-term *increase* in violent crime (although a small increase and not statistically significant by Lott's own admission) and the CDC report mentioned under "All gun control laws do not work" near the beginning of this article which found *no* existing studies supported the claim that *any* gun control law had a measurable impact on *any* crime.

3. "(some high number) % of the citizens, including gun owners, want expanded background checks."

This claim was widely repeated during the push for national universal background check legislation in early 2013. Several polls at the time did support this claim as listed in this [Politifact article](#) which cites 4 polls all done in March-April 2013 – a WaPo/ABC, a CNN/ORC, A Quinnipiac and a CBS, which have the number ranging from 83 to 90%. Another [Pew research poll](#) in January 2013 found the number to be 85%.

What is not usually reported however, is just how the question was (or was not) asked. The numbers above were generally arrived at by simply asking "do you support background checks for all gun buyers?" but it turns out that what people think of when they think of "gun buyer" varies

widely. As the Politifact article above describes, the CNN poll above conducted April 5-7, 2013 found that when they defined “gun buyer” more precisely, their results changed quite a bit. They found that their 83% number was reached with regard to purchases at *gun shows*, but when it came to *any* sale between *any* given willing buyer and seller, the number dropped to 70%. When asked about selling or gifting to family members the number dropped to 54%. And the questions almost never included “what if the government kept a record of every sale?” We do not know what the result of that question would be as it has not been asked. Yet the bills which have been proposed in the last 2 years, including in Oregon, fail to exempt more than an incomprehensible small number of immediate family and have no provision requiring verification of destruction of check records.

There are also polls which had very different conclusions altogether than the 4 listed in the Politifact article, and to report results of one poll only or even from multiple polls but taken at one point in time, should invite skepticism as opinions do change over time. [This Gallup Poll](#) from January 2014 is interesting in that it shows the number of people who wanted more gun laws did initially increase after Newtown, but during 2013 the trend headed back down and the people who wanted fewer gun laws headed back up at the same time. Those who were satisfied with current laws or wanted “less strict” dropped from 58% in 2012 to 48% in 2013 but then climbed back to 56% in 2014. Those who wanted “more strict” laws climbed from 25% to 38% from 2012 to 2013 then dropped back to 31% in 2014. Universal background checks is of course an expansion of current law and falls within “more strict” laws, and this poll found that support at just 31% in 2014.

One interpretation could be that this reflects the massive numbers of conversations that Americans had with each other during 2013 post-Newtown, during which everyone became better informed about the current state of gun laws and whether they are effective. Initially many people thought more laws would be a good idea, but as conversations progressed and people became more informed, they changed their minds about it back toward where they had been before. Another interpretation is that the immediately post-Newton populace was an emotional one, and after some time reason came back in. Humans are not robots and of course emotion is important, but so is reason. Both are an important part of the human experience, but societal laws should be supported by reason and not result from emotional reaction.

The conclusion overall is that as we all know, you can get a statistic to say anything you want, as long as you stay away from any detail, and people reading about your statistic do not take the time to look into it.

Conclusion

We have shown conclusively that universal background checks and in fact all gun laws, have at best a dubious effect on crime and likely none at all. The letter from the Oregon State Sheriffs Association supports this, as well as numerous both publicly and privately funded studies referenced herein.

We have shown that this bill as written amounts to a registry and registries are against federal law for good reason as well as having no value in crime prevention or investigation resolution.

We have shown that this will interfere with private, law-abiding citizens’ ability to transact commerce with each other but could well preclude people from having the ability to defend themselves and is thus very likely unconstitutional.

We have shown that the arguments supplied by the gun control side are full of holes at best and entirely without merit more likely.

One who is aware of the above cannot support this legislation.

Questions for legislators

How is this bill a “good step”? Have you asked? Governor Kitzhaber said it would only “address” criminals with records and the adjudicated insane. We have shown here how frighteningly small an effect it could have on those categories, and at what cost. Law enforcement and mental health goals would be MUCH better steps to take with the resources available.

Oregon is one of just a few states which require background checks for all sales, including between private parties, at gun shows. What has the effect been? Have you asked? Presumably it can be shown that enacting that in 2000 decreased crime. Is there any evidence that it did?

Most mass shooters passed a background check: Virginia Tech, Colorado Theater, Tucson. The Sandy Hook and Clackamas mall shooters stole theirs. So UBC would not have done anything in any of these instances. Correct?

Do you know the status of Oregon submitting mental health records to FBI/NICS so that background checks might have a chance at stopping the mentally ill? Have you asked?

PA had universal checks and mag limits. The guy that opened fire in the [psych office](#) found a way around both – he had a revolver.

Sheriffs assns are now suing in CO and NY. Resources will be tied up in the fight which would much better be used to combat real criminals.

Appendix A, John Lott and studies on concealed carry laws’ effect on crime

Speaking of Dr. Lott, it is commonly claimed by the left that he has ‘been discredited.’ This is their standard tactic of “if you repeat it often enough, it becomes true.” It is just the opposite of true. ‘Researchers’ like Hemenway do studies purporting to link gun ownership to higher crime, using 50 data points only – one data point from each of the 50 states for one year only (some of their colleagues’ studies used data from only 3 *counties* nationwide!). Lott’s studies supporting his book “More Guns, Less Crime” were done on all 3,000+ counties in the U.S. over the course of 20 years – 6,000 data points. Other studies control for a handful of other variables which could be contributing factors, Lott controls for hundreds. No other researcher has done anywhere close to the work Lott has done.

And Lott shares his data and methods, as any reputable researcher would, having shared it with over 100 other researchers. His 1997 work linking shall-issue right to carry laws with decreased crime rates (which later became the book “More Guns, less Crime”) has been peer reviewed 29 times. 18 found the same conclusion he did, 10 found no evidence to support an increase or decrease in crime rates, and one found a temporary increase of one type of crime. This was by his biggest critics, Donohue and Ayres, who said in an [April 2003 paper](#) “We conclude that Lott and Mustard have made an important scholarly contribution in establishing that these laws have not led to the massive bloodbath of death and injury that some of their opponents feared. On the other hand, we find that the statistical evidence that these laws have reduced crime is limited, sporadic, and extraordinarily fragile.” That is the biggest professional critique to be leveled at his work, and it is from only two researchers out of the over 100 who have reviewed his work. Hardly a discrediting. In fact, Donohue and Ayres’ study was discredited by another researcher who was also originally a Lott critic. The [study](#) by Carlisle E Moody and Thomas B. Marvell, published in *Econ Journal Watch* in

January 2009 states in the 'Summary and Conclusion', "... the only way that they can produce the result that shall-issue laws increase crime is to confine the span of analysis to five years. We show, using their own estimates, that if they had extended their analysis by one more year, they would have concluded that these laws reduce crime."

The Chronicle of Higher Education [reported in 2003](#) that "Mr. Lott's research has convinced his peers of at least one point: No scholars now claim that legalizing concealed weapons causes a major increase in crime."

The National Research Council of the National Academies commissioned a "Committee to Improve Research Information and Data on Firearms" which performed a [study](#) of all available research on firearms and crime in 2004, including Lott's work, and found that "... despite a large body of research, the committee found no credible evidence that the passage of right-to-carry laws decreases or increases violent crime, .." again, hardly a discrediting. In fact one member of the committee published a dissent as Appendix A in which he stated that Lott's conclusion from his studies that concealed carry laws do drive down murder rates had in fact survived all attempts at reanalysis by the committee and he therefore believed Lott's conclusion was affirmed.

Nonetheless, the left-wing media continue to refer to him as 'discredited researcher John Lott' as in this media matters [article](#), which states in part "Lott has previously mischaracterized "Stand Your Ground" in order to defend the law that played an important role in the acquittal of George Zimmerman on charges that he unlawfully killed Florida teenager Trayvon Martin." In fact 'stand your ground' played NO part in the acquittal of Zimmerman; his attorneys never brought it up as any part of his defense. They couldn't have – no matter whether you believe the Martin family lawyer's version of events or Zimmerman's, 'Stand your ground' could not be used. This is the state of the left media – consistently out of touch with reality. From their point of view, yes, Lott would be incompatible with (their) reality.