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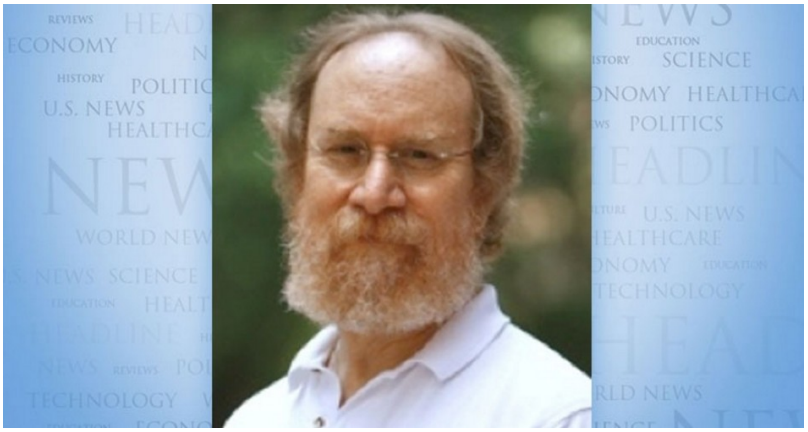
The Absurdity of "Universal" Background Checks



Those who favor "universal" background checks on gun buyers make some ridiculous arguments. For example, opponents correctly point out that gun buyers with criminal intent will always find channels that require no background check. Gunrunning is among the oldest professions, and the black market will always be with us. Thus the promise of *universal* background checks — even if that were a legitimate government activity — is a fraud, because universality can't possibly be achieved.

Supporters, however, challenge this argument by contending that it proves too much: If requiring background checks is futile as a crime-fighting measure, they ask, why should we have laws against murder, rape, battery, and robbery? Those laws will never stop everyone from committing a crime, so what's the point?

This argument is flawed. Let's remember that the background-check requirement is intended, prophylactically, to keep guns out of the hands of those who would do harm to others. In contrast, the prohibition against murder and other forms of aggression is intended, retrospectively, to legitimize the apprehension and prosecution of people who have committed offenses against person and property. Yes, deterrence is also intended, but the main objective is to permit action after the fact.

Supporters of background checks may respond that a "universal" requirement would permit the government to go after those who have used guns aggressively. But this argument has no force whatever, simply because if someone commits aggression with a gun, the government already has grounds to apprehend and prosecute the perpetrator. What value is there in being able to charge a suspected mass murderer with illegal possession of a gun as well?

The practical argument for mandated background checks depends solely on its potential for keeping guns out of the hands of those who would use them to commit crimes. (However, it would not have stopped Adam Lanza in Newtown or other mass murderers.) On that ground the argument fails, because people with criminal intent will find ways to buy guns that do not require a check. Proponents of background checks seem to think that a government decree will dry up the black market. But why would it? Sales will go on beyond the government's ability to monitor them. Out of sight, out of government control.

Proponents also mock those who predict that so-called universal background checks will lead to gun registration and confiscation. But this is not an outlandish fear. (The ACLU shares it.) Since guns will continue to be bought and sold without background checks, a national registry is the likely next step in the crusade to deter such transfers. The civil-liberties implications are harrowing.

Thus the case against mandating "universal" background checks withstands scrutiny. This measure would not keep criminally minded people from acquiring guns, but it would give a false sense of security to the public by promising something they cannot deliver. What will the public, which favors background checks, call for after the next atrocity? A total prohibition on guns and confiscation?

While it wouldn't prevent crime, a background-check law could impede persons without criminal intent from obtaining firearms for self-defense. Many law-abiding people don't buy a gun until they've been threatened — a woman by her estranged husband, for example — and they will be reluctant to buy one outside the law. (Someone with a conviction for a felony drug charge or other victimless crime cannot legally possess a gun. Why such people should be barred from an effective means of self-defense is a mystery that ought to be explained.)

This criticism of so-called universal background checks demonstrates the futility of the proposal. A more specifically moral (and libertarian) criticism is that mere possession of a firearm entails no aggression whatever, regardless of a person's background, and therefore should not be prohibited. Government may not properly interfere with someone because he *might* commit a crime. (Of course businesses owners have a right to deny entry to people with guns — just as gun owners have a right to patronize other businesses.)

But, some will say, isn't a requirement for background checks worthwhile if it might save one innocent life? And what if the requirement might cost one innocent life? Is one innocent life more valuable than another?

Sheldon Richman is vice president and editor at The Future of Freedom Foundation in Fairfax, Va.