

Denver Accord

A COMPREHENSIVE PLAN TO REDUCE GUN VIOLENCE

Presented by GVPedia



The Denver Accord is a comprehensive gun violence prevention platform, led by GVPedia and supported by more than 40 organizations nationally, designed to guide policymakers' efforts to reduce gun violence in the United States. It combines best practices from across the country with evidence-based research to create a comprehensive and effective set of policies and programs intended to stop the scourge of gun violence.

The Denver Accord includes four guiding principles and nine policy positions that, working in conjunction with each other, will stem the epidemic. This is the first in a series of fact sheets outlining those nine policy positions.

There is no single solution to gun violence in America but it is clear that more guns do not make people safer. It is a multifaceted problem that requires a comprehensive solution.

The Denver Accord Part 6: Strengthen and Enforce Existing Gun Laws

Strengthen The National Instant Check System (NICS)

- Require NICS checks for all sales and transfers, including private sales.
- Close Default Proceed Loophole (known as the "Charleston Loophole") which forces approval of any outstanding query of NICS after three days.
- Include adjudicated mental health records in NICS.
- Repeal Tiahrt Amendment which hamstring the ATF and requires the FBI to destroy potential evidence in gun crimes.
- Require U.S. military records to be added to NICS.
- Incentivize or mandate timely state reporting to NICS.

International

- During the Trump Administration, weapons and ammunition under the purview of the U.S. Munition List Categories I-III was removed from the U.S. State Department and placed under the control of the Commerce Department. Control must revert back to the U.S. State Department.
- Address legal export of firearms to countries with known human rights violations through compliance of the Leahy Law.
- Demand US ratification of and adherence to the 2013 Arms Trade Treaty.

Enforce Current Law

- Ensure all firearms are seized and possession rights are forfeited when a person becomes a prohibited purchaser or possessor.
- Revoke firearm permits, licenses, and concealed handgun licenses when a person becomes a prohibited purchaser or possessor.
- Require judges to inform prohibited purchasers or possessors they are no longer allowed to own firearms after conviction.
- Improve coordination between local, state, and federal law enforcement and prosecutors to ensure prohibited abusers and people subject to orders prohibiting possession of firearms do not retain illegally possessed firearms.
- Incentivize states to deter and prosecute individuals who lie on background check forms.

Demand Accountability

- Repeal Protection of Lawful Commerce in Arms Act.
- Create a federal offense of firearm trafficking.
- Limit state concealed carry reciprocity to permit-to-purchase states only.
- Allow the ATF to maintain a registry on guns, gun owners, and gun sales.
- Digitize ATF records.

Repeal the Dickey Amendment and fully fund research into gun violence and gun violence prevention laws.

Let Laws Work

Existing gaps and loopholes in the U.S. firearm background check system makes it easy for individuals who are legally prohibited from possessing firearms to buy guns and commit violent acts.

A [2017 survey](#) found that 22% of U.S. gun owners who acquired a gun within two years prior to the study did not undergo a background check prior to purchasing a gun. Half of firearms purchased in private sales (not through a federally licensed firearms dealer like a gun store or pawn shop) were obtained without a background check.

While most background checks are completed in a matter of minutes, three percent of background checks [take more than three days](#). In 2018, the FBI failed to complete 276,000 out of the more than 8.2 million checks within three days.

The 'default proceed rule,' more commonly known as the "Charleston Loophole," allows thousands of people barred from gun ownership to leave a gun shop with a firearm if the background check was not completed within three days.

[Between 2010 and 2014](#), 15,729 gun sales that should have been denied were allowed to proceed because the background check was not completed within the three day limit required by the default proceed rule. A [2018 FBI report](#) identified 3,960 cases where prohibited individuals acquired guns from federally licensed firearm dealers (FFLs) through the default proceed loophole.

A "default proceed" sale [allowed](#) the gunman who fatally shot nine people at a Charleston church to buy his weapons despite being federally prohibited from owning a firearm.

Many states do not submit all adjudicated mental health records to NICS, resulting in individuals federally prohibited from purchasing firearms being able to pass an instant background check.

The perpetrator of the Virginia Tech shooting that left 32 people dead successfully purchased two firearms after passing a background check [despite being prohibited](#) because he was previously "adjudicated as a mental defective."

Between the Virginia Tech shooting on April 16, 2007 and January 31, 2014, the number of mental health records included in NICS [increased by more than 700%](#). As of November 30, 2019, more than [six million](#) active adjudicated mental health records have been entered into NICS. Some states, however, still have not passed laws requiring the submission of mental health records to NICS.

Since 2003, Congress has attached the Tiahrt Amendments to U.S. Department of Justice appropriations bills. The Tiahrt Amendments restrict law enforcement's ability to enforce current gun laws and hold gun dealers accountable.

A [2012 study of crime guns](#) recovered in Milwaukee between 2003 and 2006 found that the Tiahrt Amendments were associated with a 203% increase in the number of guns diverted to criminals within one year of retail sales at a single gun store.

United States military records are not always submitted to NICS. The perpetrator of the November 2017 Sutherland Springs church shooting that claimed the lives of 26 people should have been prevented from buying the gun used in the mass shooting. Tragically, the [Air Force failed to submit](#) his domestic violence conviction records to NICS.

Following the Sutherland Springs shooting, Congress passed the bipartisan Fix NICS Act of 2017. As a result, [record submissions by federal agencies](#) increased by 400%. However, agencies, including the Department of Defense and Department of Homeland Security, have not fully complied with the requirements and records are still missing.

Most states do not have an adequate process for ensuring that all firearms are seized and possession rights are forfeited when a person becomes a prohibited purchaser or possessor.

Established in 2006, California's Armed and Prohibited Persons System (APPS) identifies individuals who legally purchased firearms but were later disqualified from possessing firearms.

In 2018, the APPS database had 23,222 prohibited persons and California Bureau of Firearms agents [seized 1,246 firearms](#) from prohibited individuals in the database. Nearly half of the cases in APPS are prohibited due to a felony conviction.

Cases in which prohibited individuals lie on a background check form to purchase a gun are rarely investigated and prosecuted. Approximately 181,000 of the more than 25 million gun background checks processed by NICS in 2017 were [denied at the state and federal levels](#) because the individual was prohibited from possessing a firearm.

According to a [2018 GAO report](#), of the 112,000 denied federal NICS checks in 2017, ATF referred about 12,700 of these cases to field divisions for investigation. As of June 2018, only 12 of these cases had been prosecuted by U.S. Attorney's Offices.

In 2009, [for example](#), the Virginia Firearms Transaction Program was used to follow up on the 2,777 attempted purchasers in Virginia who failed a background check. Of those, 856 were eventually arrested for criminal activity. (Lying on a background check form constitutes a felony charge with a penalty of "up to 10 years imprisonment and/or up to a 250,000 fine.") The program is so effective, purchasers are often arrested while they are still located inside the store.

On March 12, 2018, US Attorney General Jeff Sessions [issued a memo](#) that orders federal prosecutors to "swiftly and aggressively prosecute appropriate cases against people who are prohibited from having firearms, and who lie in an attempt to thwart the federal background check system."

Conclusions:

- Federal background checks are only as strong as the records voluntarily submitted by states and federal agencies and many records are either never or improperly submitted to the databases.
- When records are missing from the NICS system, innocent lives are at risk because individuals barred from gun ownership can purchase a firearm at any gun shop.
- The "Charleston Loophole" allows thousands of people barred from gun ownership to leave a gun shop with a firearm if the background check was not completed within three days.
- The Tiahrt Amendments are restrictions placed on the FBI and ATF by Congress that restrict law enforcement's ability to enforce current gun laws and demand accountability.
- Improved coordination is needed between law enforcement at all levels to ensure that firearms are seized when individuals become prohibited from possessing firearms.
- Lie-and-try cases where prohibited individuals lie on a background check form to purchase a gun are rarely investigated and prosecuted.

Recommended Reading

[Gun Control: National Instant Criminal Background Check System \(NICS\) Operations and Related Legislation](#)

[A Bipartisan Bill Targets Would-Be Gun Buyers Who 'Lie And Try' on Background Checks](#)

[How 'The Law That Saved Gun Rights' Guttled ATF Oversight of Firearm Dealers](#)

Led by GVPedia, the Denver Accord is supported by more than 40 gun violence prevention organizations nationwide.



Learn more about the Denver Accord at www.GVPedia.org.

