

PROSECUTING GUN CRIMES SAVES LIVES ACT

Congresswoman Ann Wagner

In February 2020, Rep. Ann Wagner introduced the *Prosecuting Gun Crimes Saves Lives Act* to increase investigations and prosecutions of those who illegally purchase firearms.

THE PROBLEM

Under the Gun Control Act of 1968, categories of persons who may pose a threat to public safety, including violent felons, fugitives from justice, and persons convicted of domestic violence crimes, are prohibited from shipping, transporting, receiving, or possessing firearms or ammunition. But U.S. attorneys and states are not adequately prosecuting people who illegally attempt to purchase firearms. This allows criminals and mentally unstable persons to purchase guns with impunity and increases the chances that a gun will end up in the hands of someone who should not have one.

Approximately **25.6 million** firearm-related background checks were processed through the FBI's NICS system in 2017. The FBI denied **112,090** NICS transactions outright or after a delay. **12,710** cases (about 11% of the total NICS denials) were referred to ATF Field Divisions for investigation. The 12,710 referred cases consisted of 3,993 delayed denials and 8,717 standard denials. Of these referrals, U.S. Attorneys Offices considered just **50** cases for prosecution, and prosecuted a total of only **12** cases (9 delayed denial and 3 standard denial) as of June 2018 (an additional 10 cases were pending or awaiting prosecution). That means that of the roughly 12,000 cases the ATF investigated, just **0.09%** actually ended up getting prosecuted. Most Point of Contact states (states that run their own point of sale background checks) were even less likely to prosecute lying and buying or lying and trying cases, even though states denied 69,000 firearms transactions. Oregon, Pennsylvania, and Virginia are exceptions; they are leaders in prosecuting these types of cases.

THE SOLUTION

Strong deterrent measures against lying and buying and lying and trying could have a chilling effect on illegal gun purchases, reducing the risk of gun-based homicides. Rep. Ann Wagner's *Prosecuting Gun Crimes Saves Lives Act* would:

- Direct the Attorney General to prioritize prosecutions of persons who illegally purchase firearms or illegally attempt to purchase firearms (specifically "lying and buying" and "lying and trying" cases).
- Establish the "Prosecute Gun Crimes Program" in 18 cities and jurisdictions with high gun-based homicide rates to increase coordination and prosecutions of lie-and-buy and

lie-and-try cases. The program would provide additional resources for assistant United States attorneys and the ATF to prosecute these criminals. Cities and jurisdictions in the program would:

- 1) designate not less than one assistant United States attorney to prosecute firearms violations;
 - 2) provide for the establishment of agreements with State and local law enforcement officials for referrals to the Bureau of Alcohol, Tobacco, Firearms and Explosives and the United States Attorney;
 - 3) ensure that each person referred to the United States attorney be charged with a violation of the most serious Federal firearm offense consistent with the act committed;
 - 4) provide for the hiring of agents for the Bureau of Alcohol, Tobacco, Firearms and Explosives to investigate violations; and
 - 5) provide for the establishment of multijurisdictional task forces, coordinated by the Executive Office of the United States attorneys, to investigate and prosecute illegal straw purchasing rings.
- Establish a Task Force to strengthen the efforts of the Department of Justice to investigate and prosecute cases of convicted felons who illegally attempt to purchase a firearm.
 - Require the Bureau of Alcohol, Tobacco, Firearms and Explosives to regularly provide to state and local law enforcement a report listing individuals for whom the National Instant Criminal Background Check System (NICS) has issued denials, including the basis for the denial, with the purpose of equipping law enforcement with the information they need to enforce state laws and prevent persons from illegally purchasing, receiving, or possessing firearms when federal prosecutors decline to pursue a case.
 - Authorize the Attorney General to make available grants to States for the purpose of investigating firearms denials and increasing investigations and prosecutions of persons who illegally attempt to purchase, possess, or receive a firearm or illegally purchase, possess, or receive a firearm.
 - Require the Department of Justice to report to Congress on gun crime prosecutions (focusing on "lying and buying" and "lying and trying" cases), statistics, and efforts to increase prosecutions of violations of these firearms laws.