

Prosecuting background check and straw purchase violations depends on state laws

January 23 2018

A new study from the Johns Hopkins Bloomberg School of Public Health found that prosecutions in Pennsylvania for violating the state's straw purchase law increased by nearly 16 times following the 2012 passage of a law requiring a mandatory minimum five-year sentence for individuals convicted of multiple straw purchase violations. So-called straw purchases involve a prohibited person, such as someone with a criminal record, enlisting the aid of another person to buy the firearm on their behalf.

In Maryland, prosecutions for background check violations decreased by nearly half following the 2006 *Chow v. State of Maryland* decision that concluded that temporary gratuitous loans of firearms, where no money changed hands, were not 'transfers.' Following this decision, state prosecutors had to prove that a firearm recovered from someone other than the registered purchaser had been permanently transferred, not merely loaned.

Federal law only requires a firearm purchaser to pass a background check when the firearm is purchased from a federally licensed gun dealer. Comprehensive background check (CBC) policies extend background check and recordkeeping requirements to transfers by private, unlicensed sellers to screen out prohibited purchasers. As of September 2017, up to nineteen [states](#), including Maryland and Pennsylvania, and the District of Columbia have CBC laws requiring a background check when a handgun is transferred.

Federal law also prohibits [straw](#) purchases; however, federal prosecution of straw purchasers is extremely rare. Much like background check laws, some states have enacted their own laws regarding straw purchases.

This new research, published online in *Injury Prevention*, was a collaboration between researchers with the Johns Hopkins Center for Gun Policy and Research, which is based at the Bloomberg School, and the University of California, Davis Violence Prevention Research Program. It is believed to be the first study to assess enforcement of state laws related to the private transfer of firearms.

For their study, the researchers looked at prosecutions in state courts in Pennsylvania from 2006-2015 and in Maryland from 1996-2014.

"The impact of comprehensive background check and straw [purchase](#) laws depend on proper implementation and sufficient enforcement action against law violators," says Cassandra Crifasi, PhD, MPH, assistant professor with the Johns Hopkins Center for Gun Policy and Research and the paper's lead author. "Unfortunately, enforcement and implementation are two often overlooked components of gun safety legislation. Prosecutors' decisions to bring charges against law violators are going to be influenced by the magnitude of the penalty or the ease of getting a conviction."

Following the *Chow v. State* decision in Maryland, prosecutors had a more difficult time building a case against individuals suspected of violating the state's CBC law.

"It appears this decision led to fewer cases being pursued than would have been expected had the interpretation of the law not changed, as prosecutors may not take on cases they are likely to lose," says Crifasi. "By comparison, what happened in Pennsylvania shows that stronger penalties for violations increase the incentive for prosecutors to build

cases against individuals suspected of engaging in multiple straw purchases. Policies that lead to more prosecutions of background [check](#) and straw purchase violations should be considered by lawmakers invested in reducing gun violence in their communities. "

Provided by Johns Hopkins University Bloomberg School of Public Health

Citation: Prosecuting background check and straw purchase violations depends on state laws (2018, January 23) retrieved 26 April 2024 from <https://medicalxpress.com/news/2018-01-prosecuting-background-straw-violations-state.html>

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