



GOA Texas Public Comments for the House Select Committee on Mass Violence Prevention and Community Safety

Submitted by Rachel Malone, GOA Texas Director, representing Gun Owners of America
Monday, August 31, 2020

Chairman Darby and Committee Members:

Thank you for the opportunity to address this topic. Once again, I submit my comments representing Gun Owners of America and our thousands of Texas members, and as an advocate for the interests of millions of Texas gun owners.

Below, I will address our observations and concerns on Duty #1 and share our related policy proposals.

Committee Topic: Duty #1

Examine options for strengthening enforcement measures for current laws that prevent the transfer of firearms to felons and other persons prohibited by current law from possessing firearms.

GOA Texas Observations and Concerns

The committee's topic asks what Texas can do to prevent prohibited persons from obtaining firearms. These prohibited persons are already legally prohibited from possessing firearms,¹ and firearm owners and sellers are already prohibited from transferring firearms to these prohibited persons.²

As multiple Designated Parties have observed, the law already provides stiff penalties for those who violate this law as either the buyer or the seller.

It is an unfortunate and ugly truth that some members of society refuse to follow laws and make up their minds to harm others. The attackers at El Paso and Odessa (whom I refuse to name) are examples of this truth. No laws will keep these evil people from carrying out their evil plans.

Unfortunately, laws that may have been intended to keep guns away from evil people inevitably fail to do so. In fact, they often open the door for *greater* harm and loss of life, as seen in the following examples.

NICS checks make innocent victims more vulnerable.

The National Instant Criminal Background Check System (NICS) was intended to be sure that prohibited people did not purchase firearms. It requires that anyone purchasing a firearm from a licensed firearms dealer first go through a background check.

This system is inherently an affront to our right to keep and bear arms because it declares that citizens are assumed guilty (unable to purchase a gun from a gun dealer) until proven innocent.

¹ Tex. Pen. Code Ann. § 46.04

² Tex. Pen. Code Ann. § 46.06

But the system doesn't even work as planned. As I have previously shown to this committee, instead of denying gun purchases only for prohibited people, NICS accidentally denies those who are not—and have never been—prohibited from possessing a gun. In fact, most of the denials are mistakes.³

I have talked to many GOA members who have told me that they or someone close to them was wrongly denied a firearm because of a mistaken NICS result. These include:

- A disabled veteran when the DMV accidentally marked him as having mental issues (overturned after time and effort; his disabled status is due only to physical issues)
- Married women who were required to show birth certificates and marriage certificates as proof of their name changes
- Security guards with very high security clearances (overturned after time and effort)
- . . . and more.

Those who do *not* have law enforcement connections, time, and money often have the hardest time getting these denials overturned. In other words, the more vulnerable members of society are hurt the most by the wrongful denials and waits. They are needlessly kept from purchasing a tool that could save their lives.

The current pandemic has shown additional weaknesses in NICS. I have heard from many members who had to wait weeks to purchase a firearm for self-defense purposes—or simply to redeem a firearm from a pawn shop. Meanwhile, criminals have no qualms about breaking the law to obtain firearms to use for harm.

Some have suggested expanding the background check system to apply to all private sales. This is both useless to stop crime and harmful to honest Texans. Expanding background checks will expand the problems associated with these checks and leave more honest Texans vulnerable and without a necessary means to defend themselves.

[Additional checks and waiting periods can be deadly.](#)

Some states have added additional waiting periods and checks. These measures also harm honest citizens.

For example, Carol Browne of New Jersey tried to get a gun for protection. She had a protective order against her ex-boyfriend, but she did not trust him to follow the order. She wanted to be able to protect herself if she came after her.

Tragically, Carol was forced to wait several weeks during New Jersey's screening process. During that time, she was stabbed to death by the man she wanted to defend herself against.⁴

[“Tough on crime” laws punish honest citizens—especially minorities.](#)

Shaneen Allen was a 27-year-old black single mother from Philadelphia. On a roadtrip, she drove to New Jersey—with tragic consequences. An officer pulled her over for a minor traffic violation and ended up booking her in jail because she had her handgun with her in the car.

Shaneen had purchased the handgun and gotten a Pennsylvania carry license after being robbed twice.

³ <https://crimeresearch.org/2014/12/cprc-in-the-associated-press-on-background-checks/>

⁴ <https://gunowners.org/news06032016/>

Although carrying her handgun in her car was legal in her home state, it was not legal in New Jersey. And even though Shaneen had not harmed anyone, she was booked in jail for 40 days before she was able to make bail.⁵

We can be sure that the New Jersey lawmakers used the familiar talking points of “stopping criminals” and “protecting children” when they passed their anti-gun laws. But those laws landed a single mom in jail even though she hadn’t harmed anyone, and kept her from being able to protect her children.

Whenever a legislature goes down the path of trying to make a law that will keep guns out of the hands of criminals, inevitably it harms honest citizens. And minorities like Shaneen Allen may bear the brunt of this.

In fact, minorities who are members of GOA Texas often tell me that they are often viewed differently when they try to exercise their right to keep and bear arms. They are looked down on as if they have criminal intent when they simply open carry lawfully, or go to a gun range. It is likely that “tough on crime” laws—like New Jersey’s law that jailed a nonviolent black woman—could be used disproportionately against minorities who are honest citizens just trying to come home safe at night.

The Texas Legislature must not even consider supposedly “tough on crime” proposals that end up hurting honest citizens and keeping minorities from being able to fully and freely exercise their right to protect themselves.

GOA Texas Policy Proposals

Gun Owners of America shares the obvious goal of this committee: to protect our communities and save lives. To that end, we urge you to encourage and enable honest Texans to be able to defend themselves.

When a deranged, evil person with criminal intent tries to carry out evil plans, the only thing that will stop the person is equal or greater force. When a criminal uses deadly force, we must be prepared to respond with deadly force.

If Carol Browne’s state legislature had not stalled her gun purchase, she would at least have had a fighting chance at saving her own life. Likely she would be alive today, given that a 2013 study by the Centers for Disease Control found “consistently lower injury rates among gun-using crime victims compared with victims who used other self-protective strategies.”⁶

While Texas does not have the egregious waiting periods for gun purchase that New Jersey does, Texas still has egregious blocks and barriers through its License to Carry requirement. And even those who have gone through the LTC process still cannot carry in certain zones. This also adds to our danger.

Dr. John Lott of the Crime Prevention Research Center has reported: “In March 2013, 86 percent of police officers surveyed by PoliceOne, the 450,000-member private organization of police, said that casualties would have been prevented if legally-armed citizens had been able to carry guns in places such as Newtown and Aurora.”⁷

⁵ <https://www.washingtonpost.com/news/the-watch/wp/2014/07/22/shaneen-allen-race-and-gun-control/>

⁶ <https://www.nap.edu/read/18319/chapter/3#16>

⁷ <https://www.knoxnews.com/story/opinion/columnists/2017/02/09/john-lott-gun-free-zones-easy-targets-would--killers/97645622/>

As I have discussed previously, and with many of you individually, two of the best policies that Texas can pass to keep our communities safe are to end “gun-free” zones and to end the permitting requirement for handgun carry.

While the Texas Legislature cannot control the actions of those who are determined to break the law, it should ensure that Texans who want to be prepared to defend themselves with a firearm are able to do so.