

THE BRADY GUN DEALER CODE OF CONDUCT

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EXECUTIVE SUMMARY

Gun dealers play a critical role in gun violence prevention as the gatekeepers of firearms being transferred to the general public. Responsible firearms dealers know that they can protect their communities by taking reasonable actions that enable law-abiding citizens to buy firearms while minimizing the likelihood that the firearms they sell will end up being used in violent acts. The Brady Gun Dealer Code of Conduct identifies many of those reasonable actions.

Predicated on Brady's long history of advocating for gun industry responsibility in courtrooms and legislative chambers, the Brady Gun Dealer Code of Conduct compiles evidence-based best practices to prevent access to firearms for people who should not, or by law cannot, have them. Many of these business solutions have been in use for years by dealers who have agreed to improve their business practices after making sales that resulted in foreseeable deaths or injuries. The Brady Gun Dealer Code of Conduct is informed by the experiences of those dealers, the findings of crime gun researchers, and local, state, and federal laws and regulations.

It should be noted that the Brady Gun Dealer Code of Conduct is intended to be tailored to the size and scale of a dealer's business and staff. While the actions specified in the Code of Conduct are practical and manageable for most dealers, the best way for gun dealers to prevent gun crime is much harder to capture on paper – to know their customers well and to attract a clientele of safety-oriented gun owners. The majority of dealers who do this rarely sell a gun that is later used in crime. However, Brady encourages all dealers to continually analyze their business practices to ensure they are most effectively preventing future gun violence and to update their safety and sales protocols on the basis of new laws, information, experiences, and insights. Gun Dealers should choose to be a part of the solution to end gun violence in America and keep our communities safe.

The Brady Gun Dealer Code of Conduct provides firearms and ammunitions dealers with specific, tangible practices to:

- Prevent sales to straw purchasers and traffickers
- Prevent sales to prohibited and other risky purchasers
- Prevent sales to individuals that display signs of being in crisis including talk of self-harm
- Prevent theft of inventory and promote safe storage
- Maximize employee compliance with state and federal law
- Keep particularly dangerous weapons off the streets
- Assist law enforcement investigations
- Ensure range safety

Easy gun accessibility is a root cause of gun violence and gun dealers have a crucial role to play in preventing the diversion of firearms from the legal to the illegal market. Most dealers agree that saving lives from preventable gun violence is a critical goal. Adopting the specific business practices of the Brady Gun Dealer Code of Conduct will help avert future tragedies.

THE BRADY GUN DEALER CODE OF CONDUCT

Most of America's firearms dealers want to sell guns responsibly, run a fair business, and make an honest living. They understand that they have a duty not only to their customers but also to their wider community, because their actions play a role in keeping firearms from people who intend to use them for harm. Gun dealers play a critical role in gun violence prevention as the gatekeepers of firearms being transferred to the general public. Responsible firearms dealers know that they can protect their communities by taking reasonable actions that enable law-abiding citizens to buy firearms while minimizing the likelihood that the firearms they sell will end up being used in violent acts. The Brady Gun Dealer Code of Conduct identifies many of those reasonable actions.

The Brady Gun Dealer Code of Conduct encourages firearms dealers to adopt responsible business practices, which many already implement. Predicated on industry best practices and compliance with all local, state, and federal laws and regulations, the Brady Gun Dealer Code of Conduct is intended to empower firearms dealers to take reasonable measures to prevent access to firearms for people who should not, or by law cannot, have them. When following the business practices in the Brady Gun Dealer Code of Conduct, firearms dealers can more effectively prevent the acquisition of firearms by straw purchasers, firearms traffickers, prohibited possessors, individuals in crisis, and other people who intend to misuse guns. In turn, this will protect the integrity of firearms dealers' businesses and help protect communities from gun violence.

The Brady Gun Dealer Code of Conduct is designed to address the foreseeable dangers that arise when firearms dealers engage in irresponsible business practices. The practices it sets forth are also intended to reduce the flow of illegal guns into communities disproportionately affected by gun crime. This Code lays out minimum standards to prevent gun violence, and reflects a floor — not a ceiling — for what responsible gun dealers should do to protect their communities. Compliance with the recommended protocols described here does not necessarily mean that a given dealer is acting responsibly in a given transaction — each firearms transaction is different, with its own unique circumstances.

The Brady Gun Dealer Code of Conduct is an evolving document. As tactics by those seeking to illicitly acquire firearms evolve, and firearms themselves evolve, so too must the safeguards employed by responsible dealers. Dealers can — and should — continually analyze their best practices to make sure they are most effectively preventing future gun violence, and update their safety protocols (whether based on this Code or otherwise) on the basis of new laws, information, experiences, and insights

PREVENT THE TRANSFER OF FIREARMS TO STRAW PURCHASERS OR FIREARMS TRAFFICKERS BY:

- a. Asking questions of all prospective purchasers including, but not limited to: (1) whether they are the actual purchaser of the firearm(s), or whether they intend to provide the firearm(s) to someone else; (2) whether they have, or will obtain, sufficient training for the firearm(s) they are wanting to purchase; and (3) their intended use of the firearm(s).
- b. Evaluating a prospective purchaser's history of firearms transactions, which includes looking for: (1) patterns of buying or attempting to buy multiple firearms at the same time or within a short period; (2) patterns of buying or attempting to buy firearms in a manner intended to exploit regulatory loopholes (e.g. buying handguns six days apart so as to avoid the federal multiple handgun reporting requirement); and (3) patterns of buying or attempting to buy similar or identical firearms.
- c. Denying the sale of a firearm to a prospective purchaser who verbally, in writing on Form 4473, or by actions indicates that they are not the actual buyer, that they are engaged in unlicensed firearms dealing or illegal trafficking, or are otherwise prohibited from purchasing or possessing firearms.
- d. Maintaining a record that includes the names of individuals believed to have engaged in straw or other illegal purchases, and checking this list during every firearm transaction. If a prospective purchaser's name is on this list, conducting enhanced vetting of that purchaser and refusing the sale where suspicions exist. This record should be periodically reviewed to identify any suspicious patterns.
- e. If the purchaser is using a payment method that identifies their name (e.g. a bank card, credit card, or a check), ensure that the name on the method of payment matches the name of the prospective purchaser. If the purchaser is buying a firearm purchased over the internet or through other electronic means, or on a layaway program, ensure that the person who ordered and paid for the firearm is the same person completing the transfer at the dealer.
- f. Prohibiting anyone other than the purchaser of the firearm, who filled out the paperwork and underwent a background check, from contributing to the payment of any firearm and/or receiving any firearms after a waiting period has elapsed.
- g. Prohibiting dealer personnel and/or other individuals accompanying the prospective customer into the store from directing a customer as to how to answer questions or complete forms required to be completed in connection with the sale, except in rare situations permitted by law.
- h. Limiting purchases of firearms to one per 30 days per customer (with exceptions for federal firearms licensees and/or active law enforcement members who provide the appropriate documentation).
- i. Prohibiting the use of cell phones and smart devices at the gun counter.
- j. Checking and recording the ID information of every person who wishes to handle a firearm. The ID should be kept behind the gun counter for the duration of the transaction.
- k. Either not allowing "gift" sales, or employing enhanced screening for such sales.

- l. Maintaining a record of the names of purchasers who appear in law enforcement trace requests (for dealers with multiple store locations, this record should be centralized and every store should have access to the list). This record should be updated immediately upon receiving a trace request from law enforcement, and checked during every firearm transaction. If a prospective purchaser's name is a match for this record, conducting enhanced vetting of that purchaser, including reviewing whether the trace they were associated with had a short "time-to-crime" (three years and under), and refusing the sale where any suspicions exist.
- m. If an employee transfers a disproportionate number of guns that are the subject of trace requests, monitoring and reviewing that employee's transactions, and requiring the employee to undergo additional training where needed. If the employee shows a lack of willingness or ability to improve, disqualifying the employee from firearms sales.

PREVENT THE TRANSFER OF FIREARMS OR AMMUNITION TO PERSONS PROHIBITED FROM PURCHASING FIREARMS AND OTHER RISKY TRANSACTIONS:

- a. Refusing to transfer a firearm until a background check has been completed and the purchaser is affirmatively cleared or approved to purchase the firearm.
- b. Refusing to transfer guns or ammunition to any person who exhibits signs of alcohol intoxication, drug use or possession, or cognitive or mental instability. Such suspicion must be based on the observable characteristics of the customer's actions/behaviors (for example, slurred speech, poor coordination, speaking aloud as though to people who are not present), and not on the customer's identity or other immutable characteristics.
- c. Refusing to transfer guns or ammunition to any person where there is any question as to if the person may be a minor or otherwise prohibited from possessing or utilizing that firearm or ammunition, including if the dealer or any staff have information that person may be a danger to themselves or others. Such information should be based on observable behavior, and/or information from someone, including gun dealer personnel, with direct knowledge of the individual, and not on the identity of the individual in question.
- d. Refusing to sell firearms, ammunition, and/or other firearms-related items and accessories at gun shows unless all firearm sales at such shows require the completion of a background check and screening of the customer.
- e. Conducting background checks for private sellers for a reasonable fee where permissible, or otherwise complying with state law governing private sales.

PREVENT THE THEFT OF FIREARMS AND AMMUNITION BY:

- a. Developing and implementing a plan to protect inventory that includes precautions such as adequate locks, exterior lighting, surveillance cameras, alarm systems, and other anti-theft measures and practices. Weapons and ammunition should be secured and accessible to customers only with employee assistance during business hours, and should be securely stored after business hours.
- b. Keeping all firearm inventory locked where possible and always unloaded.
- c. Regularly monitoring the surveillance systems for the purpose of preventing theft and for detecting and preventing straw or other illegal purchases.
- d. Keeping firearms inventory acquisition and disposition records electronically, and maintaining monthly backups of these records in a secure manner. All information should be entered into the records immediately upon a firearm's disposition and within one day of a firearm's acquisition, and both the dealer's business inventory and all firearms temporarily in the dealer's possession (e.g. during the course of an internet and/or private sale, or for gunsmithing) should be recorded.
- e. Conducting a daily electronic inventory check for all firearms acquired but not yet disposed of.
- f. Providing immediate notification of any and all loss or theft of any firearms to the dealer's local law enforcement agency and to the federal Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF).

ADOPT REASONABLE EMPLOYMENT PRACTICES AND POLICIES TO ENSURE MAXIMUM COMPLIANCE WITH THE LAW BY:

- a. Requiring each employee to pass a pre-employment background check, which includes a criminal history check that is the same as what firearms purchasers have to complete, fingerprinting, and contact with a prospective employee's references and prior employment.
- b. Requiring each employee who transfers firearms to be of legal age and status to possess the firearm(s) they are selling under state and federal laws.
- c. Conducting proper and continuing employee training for all employees who transfer firearms in accordance with the "Employee Training" section of this Code of Conduct.
- d. Requiring a two-level (at a minimum) review of every firearms transaction to screen for indicators of a straw purchase or other illegal gun sale, by having a second employee or manager engage with the prospective customer and review each prospective customer's 4473 for any errors before the firearm is transferred.
- e. Maintaining a cyclical roster of customers who have purchased handguns within the previous five business days, and requiring employees to check this roster when transferring a handgun to ensure that multiple handgun sales are identified and reported to ATF as required by law. For dealers in southwest border states,

employing the same procedure for long gun customers.

- f. Terminating any employee who participates in a clear or obvious straw or other illegal purchase. Where appropriate, assisting authorities in support of investigations and charges related to the sale.
- g. Annually reviewing and updating compliance policies, procedures, and training materials regarding firearms transactions (or more frequently where appropriate).
- h. Refusing to employ any sales quotas. If commission is paid, awarding employees who refuse to complete transactions due to suspicion of a straw or other illegal purchase with the amount of commission that they would have made on the firearms involved.
- i. Conducting weekly reviews of firearms sales by reviewing a selection of video surveillance to determine if (1) the company's policies, practices, and procedures are being followed by all employees; and (2) the employees are effectively identifying indicators of a straw sale.

EFFECTIVELY TRAIN EMPLOYEES BY:

- a. Requiring each employee who transfers firearms to attend a training session upon hire, and to attend a similar refresher training session on at least a semiannual basis thereafter. The training session shall cover, at a minimum, the laws governing firearm transfers; how to recognize straw purchases and other prohibited purchases; how to recognize indicators that a person is attempting to purchase firearms illegally and may be diverting them for later sale or transfer; how to respond to those attempts; the safe handling and storage of firearms; and reporting illegal or attempted illegal sales to law enforcement.
- b. Conducting a training for mental health screening for employees upon hire and at least annually thereafter. This training session can be consolidated with the training session detailed in subsection (a), and it shall cover, at a minimum, the indications of a mental health or interpersonal crisis that contribute to the likelihood of misuse of a firearm; how to ascertain whether a prospective firearm transferee is experiencing a mental health or interpersonal crisis; procedures to refuse the transfer of the firearm and how to contact crisis intervention and/or law enforcement if an employee believes a prospective firearm transferee poses a risk of physical harm to themselves or others.
- c. Empowering employees to refuse to transfer firearm(s) to prospective purchasers where the dealer or employee has a suspicion that such customer is engaged in straw purchasing or illegal trafficking. Such suspicion must be based on the customer's actions or past firearms buying patterns and the transaction's characteristics, and not on the customer's identity or other immutable characteristics.

ENGAGE IN AND PROMOTE SAFE STORAGE BY:

- a. Posting warnings to consumers regarding the consequences of improperly storing firearms, including with respect to children's access, and providing information on secure storage and mental health resources with all firearms transfers. This should include, but is not limited to, information on suicide and unintentional shooting prevention and other support for individuals experiencing distress or depression.
- b. Offering effective firearm and ammunition storage devices for sale or free with purchase, and providing information on where else in the community, or online, customers can readily acquire secure storage devices.
- c. Participating in local programs to provide secure storage for gun owners in need of temporary, off-site storage, including for those subject to temporary federal and state prohibitors such as ERPOs. If there is no space to provide storage, provide the gun owner with information on where local options do exist for secure storage.
- d. Posting a notice on the dealer's business premises at all point-of-sale locations and entrances warning customers about the risks associated with firearms in the home, such as family fire which includes suicide unintentional shootings or firearm misuse that results in injury or death.
- e. Screening all customers seeking to purchase a firearm to confirm that they are not undergoing suicidal thoughts or in crisis and if they are, refusing to sell them the firearm and provide them resources for help.

REDUCE ACCESS TO ILLEGAL/PARTICULARLY DANGEROUS FIREARMS BY:

- a. Refusing to sell "ghost gun" or privately made firearm kits, including kits of just the lower receiver, and refusing to sell lower receivers, unless: (1) the weapon includes a serial number; and (2) a background check is conducted. Refusing sales to anyone who would be prohibited to purchase a regular firearm.
- b. Refusing to sell conversion devices that increase a firearm's rate of fire, either separately or attached to a firearm. This includes, but is not limited to, forced reset triggers, bump stocks, pistol braces, "Glock switches," auto sears, and other functional equivalents. For dealers that perform gunsmithing work, refusing to work on unserialized guns or firearms with attached conversion devices, or the conversion devices themselves.
- c. Reporting any illegal firearms to ATF and local law enforcement, including those equipped with illegal machine gun conversion devices, brought in by clients or otherwise acquired. Reporting any unserialized firearms brought in by clients or otherwise acquired by the dealer where serialization is not possible and/or the customer refuses serialization of the firearm.
- d. Refusing to sell any large-capacity magazines or any ammunition storage device capable of holding more than ten rounds.

ASSIST LAW ENFORCEMENT IN INVESTIGATING AND PREVENTING UNLAWFUL ACCESS TO GUNS BY:

- a. Immediately notifying local and state authorities, the local ATF office, and other firearm stores within a ten-mile radius of any suspected straw purchasers or prohibited purchasers who attempt to obtain guns or other regulated products.
- b. Notifying local, state, and federal authorities of any multiple firearm purchases by the same customer that occur within any thirty-day period.
- c. Responding to trace requests from law enforcement immediately with any and all information about the transaction.
- d. Reviewing footage of transactions that are later the subject of a trace request for any indicators of an illegal sale, and notifying the local ATF office if any are observed.
- e. Reporting to ATF and state or local law enforcement any individual whose purchase patterns suggest that they are illegally dealing firearms without a required license, and refusing to engage in further transactions with that individual.

FOR DEALERS SELLING AMMUNITION:

- a. Checking the buyer's form of identification before sales, and denying any sales of handgun ammunition to individuals under the age of 21.
- b. Keeping ammunition behind the counter so that a customer has to engage with an employee who can screen them.
- c. Screen ammunition customers using the above practices used to screen firearms customers, and asking the customer the prohibitor questions listed on Form 4473.
- d. Refusing to sell ammunition to anyone who the dealer reasonably believes may be a firearm-prohibited individual, and refusing to sell ammunition to any customer that has been flagged by the dealer for reasons related to firearms transactions – e.g., customers that have been denied pursuant to a background check; that have been associated with trace requests received by the dealer; that have been identified as potential straw purchasers; etc.

FOR DEALERS WHO RENT OR LEASE FIREARMS, FOR RANGES OR OTHERWISE:

- a. Screening all gun rentals to ensure the customer is not prohibited or a danger to themselves or others, as you would screen for gun sales.
- b. Supervising all individuals using rental guns on site, using employees or security guards, and ensuring that at least one supervisory employee or guard is on the premises at all times during which the range is open.
- c. Having one entry and exit point for all customers on the range.
- d. Keeping detailed records of all guns being rented and returned, and immediately calling law enforcement if it appears a person impermissibly left the premises with a rented firearm. Any individual who leaves the premises with a rented firearm should be refused any future form of firearm transfers, loans, or rentals.

OTHER BEST PRACTICES:

- a. For dealers going out of business, transferring all firearms inventory to another FFL known by the dealer to employ responsible dealing practices.
- b. Where available, carrying insurance coverage against liability for damage to property and for injury to or death of any person as a result of the sale, lease, or transfer of a firearm in amounts appropriate to its level of sales, but at a minimum no less than \$1 million for each incident of damage, injury, or death.

GLOSSARY

- **Actual Purchaser/Actual Buyer:** The actual purchaser is the person purchasing the firearm for him/herself, otherwise acquiring the firearm for him/herself.
- **Straw Purchase(r):** A straw purchase, in the context of a firearms transaction, is when the actual purchaser of a firearm uses another person, the straw purchaser, to execute the paperwork used by a dealer to conduct a background check in order to obtain a firearm for the actual purchaser. Straw purchases are illegal under federal law and under many state laws. Actual purchasers use straw purchasers when they know that they cannot pass the required background check or otherwise want to evade detection, although the actual purchaser does not have to be legally prohibited for a transaction to constitute an illegal straw purchase.
- **“Gift” Sales:** Buying a firearm for someone else as a legitimate gift is legal under federal law. A “gift” is not legitimate if another person offered or gave the person completing the firearms transaction record money, service(s), or item(s) of value to acquire the firearm for him/her, or if the intended recipient is prohibited by law from receiving or possessing the firearm. Because the buyer is not the intended final recipient of the firearm, a supposed “gift” sale should be screened with heightened scrutiny to ensure that an illegal straw purchase is not taking place.
- **Extreme Risk Protection Order (ERPO):** Extreme Risk Protection Order laws, also known as “red flag” laws, allow a court to order an Order that temporarily restricts a person’s access to firearms. An ERPO is often requested when someone is at a high risk of harming themselves or others; behaving dangerously; or exhibiting other clear warning signs of violence. In many states, if a court issues an ERPO, the person subject to the Order must surrender any firearms or ammunition to law enforcement or other authorized entities, such as dealers, for safekeeping during the Order’s duration.
- **Ghost Gun:** Ghost guns, sometimes called privately-manufactured firearms (PMFs), are unserialized firearms that are put together by components purchased either as a kit or separate pieces. Because they do not have serial numbers, ghost guns recovered in crime are extremely difficult for law enforcement to trace, significantly obstructing the ability to solve gun-related crime.
- **Large-Capacity Magazines (LCMs):** Also known as “high-capacity magazines,” are firearms magazines that are capable of holding a number of ammunition rounds higher than the normal number of ammunition rounds for a particular firearm, making them significantly more lethal than standard magazines. Most state laws governing LCMs define large-capacity to include magazines that hold more than ten rounds, though some states provide higher thresholds.
- **Forced Reset Triggers (FRTs):** A type of device that effectively turns semiautomatic firearms into machine guns.
- **Bump Stocks:** A bump stock is an attachment that replaces a rifle’s standard stock – the piece of a firearm that is held against the shoulder. In essence, a bump stock allows the rifle to move back and forth between the shooter’s shoulder and trigger finger, making the rifle fire in quick succession.

- **Pistol Braces:** A pistol brace or “stabilizing brace” is a device that can be attached to a pistol to help a shooter “stabilize” their arm. While stabilizing braces are intended to aid shooters with disabilities, similar devices marketed as “stabilizing braces” have since been used to turn pistols into illegal short-barrelled rifles and enable easy, accurate, and rapid fire that makes the firearm significantly more deadly.
- **Autosears/”Glock Switches”:** Auto sears are a small attachment that is compatible with semi-automatic firearms that effectively creates a machine gun. This small accessory makes it so a semiautomatic weapon is capable of emptying an entire magazine with one pull of the trigger. Also known as switches, giggle switches, and clips, these devices have been around since the 1970s, but have become more popular over the past few years.
- **Form 4473:** Known as a “Firearms Transaction Record,” this is the ATF form that the potential buyer and dealer must complete before the dealer can transfer a firearm to that buyer. The Form 4473 is where the buyer provides the information necessary for the dealer to conduct a background check, and where the buyer must certify that they are the “actual purchaser” – ie. not a straw purchaser – of the firearm, and not legally prohibited from buying guns.
- **Trace Requests:** Trace requests are generally sent by ATF to a dealer when ATF determines that the dealer was the last known seller of a firearm later recovered in connection with a criminal investigation. The trace request provides details of the firearm, including its serial number, and dealers are required by federal law to respond to these requests with any information they have on the disposition of that firearm, such as the date of sale and the purchaser’s identifying information. The information provided by the dealer is critical to assist law enforcement in solving gun crime and/or investigating potential illegal activities.
- **Time-To-Crime (TTC):** The “time-to-crime” of a gun is the time between a gun’s last known retail sale and its recovery by law enforcement. A TTC of three years or less is considered by ATF to be a short TTC, which is an indicator of gun trafficking.
- **ATF:** The federal Bureau of Alcohol, Tobacco, Firearms and Explosives is the only federal agency with oversight jurisdiction to ensure the firearms industry is following federal firearms laws. ATF enforces federal firearms laws, investigates firearms-related crime, and oversees the gun industry through issuing federal firearms licenses and conducting inspections of gun dealers. ATF is also the only federal agency with the ability to trace crime guns recovered nationwide.
- **Federal Firearms Licensee (FFL):** A gun dealer that has been licensed by ATF. In order to engage in the business of selling firearms, federal law requires a seller to become licensed. ATF issues federal licenses to approved sellers, which consequently subjects FFLs to comply with federal firearms dealing requirements, including conducting background checks before transferring firearms.
- **FFL Resale Program (FRP):** The FRP is a voluntary program developed by ATF to assist the agency in efficiently tracing guns recovered in connection with criminal investigations. FFLs that enlist in the FRP submit limited information on used firearms that they acquire, which allows ATF to directly contact that specific FFL for trace information instead of losing the chain of legal custody that occurs once the gun is transferred from the original retail buyer.



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