

# Negation

We negate **Resolved: the United States should require Universal Background Checks for all gun sales and transfers of ownership**

We bring forth the following definitions for clarity in this debate. McCarthy 17 defines Universal Background Checks as **law expanding background check requirements beyond federally licensed dealers to include most private sales as well.**

We define United States as the federal government

**Ikuta, 10** – Circuit Judge, UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT (Sandra, TRANSWESTERN PIPELINE COMPANY, LLC, a Delaware limited liability company, Plaintiff- Appellee, v. 17.19 ACRES OF PROPERTY LOCATED IN MARICOPA COUNTY, more or less; FIRST NATIONAL BANK OF OLATHE, a Kansas corporation; J. LAWRENCE MCCORMLEY; UNKNOWN OWNERS, Defendant, and AGUA FRIA INVESTMENTS, LLC, a Delaware limited liability company, Defendant-Appellant, 12/8, lexis)//DH

We disagree with the last step of Agua Fria's analysis. When determining statutory meaning, we look first to the plain meaning of the text. Paul Revere Ins. Grp. v. United States, 500 F.3d 957, 962 (9th Cir. 2007). "[U]nless otherwise defined, **words will be interpreted as taking their** ordinary, contemporary, **common meaning.**" Perrin v. United States, 444 U.S. 37, 42, 100 S. Ct. 311, 62 L. Ed. 2d 199 (1979). "When determining the plain meaning of language,

we may consult dictionary definitio ns." **Taking its** ordinary, **common meaning, the term "United States"**

**means our nation,** located primarily in North America, **which acts through our federal** form or **government.** **The dictionary**

**definitions are consistent** with this common understanding. See, e.g., 15 **Oxford** English Dictionary 79-80 (J.A. Simpson & E.S.C. Weiner eds., 2d ed. 1989) (definition 1b: "The Republic of North America"); **Black's**

**Law** Dictionary 1675 (9th ed. 2009) ("A federal republic . . . made ["\*6] up of 48 coterminous states, plus the state of Alaska and the District of Columbia in North America, plus the state of Hawaii in the Pacific"). 3 The Act does not define the term "United States" and does not indicate that we are to read the special definition of "Federal agency" from § 4601(1) into the term "United States." Accordingly, we decline to do so, and adhere instead to the common understanding of the term "United [\*1271] States." Given our interpretation of the term, the landowner's right to costs and fees is triggered only when the federal government abandons a condemnation proceeding, not when a private entity such as Transwestern does so, even if that private entity is exercising federally granted condemnation power.

OBSERVATION ONE: There are no Universal Background Checks in the status quo. The Negation is defending the status quo.

## **Contention One: UBC's Lead To A Surveillance State**

**UBCs are not enforceable without a Gun Registry**

C. D. **Michel** "Why universal background checks won't work" The Hill. 4/17/**13**.

<http://thehill.com/blogs/congress-blog/judicial/294213-why-universal-background-checks-wont-work>

Though 80 percent of crime guns already bypass the new system. **To achieve any degree of success, the "universal" background check system would require universal gun registration. Rep. Sheila Jackson Lee (D-Texas) has already acknowledged this, which doomed the bill before it was drafted.** Despite denials by some politicians, **registration has already led to gun confiscation in the United States** – in New York, California, Chicago, District of Columbia. **Voters are wary of repeating the same process in their home towns. National registration to support "universal" background checks is almost universally repugnant.** This is the insurmountable hill representatives and senators face. Universal background checks aren't. Voters are anxious and willing to control violence. But controlling guns doesn't control criminals and lunatics. Cops and counseling do.

## Bulk data collection gives the government authoritarian controls over its people and produces a chilling effect on free speech and association

**PRIVACY AND CIVIL LIBERTIES OVERSIGHT BOARD.** JANUARY 23, 2014. Report on the Telephone Records Program Conducted under Section 215 of the USA PATRIOT Act and on the Operations of the Foreign Intelligence Surveillance Court. Pg 167-8. [https://www.pclob.gov/library/215-Report\\_on\\_the\\_Telephone\\_Records\\_Program.pdf](https://www.pclob.gov/library/215-Report_on_the_Telephone_Records_Program.pdf) (The PCLOB is an independent agency within the executive branch established by the Implementing Recommendations of the 9/11 Commission Act of 2007. The bipartisan, five-member Board is appointed by the President and confirmed by the Senate. By statute, the Chairman serves full time, but the four other Board members serve in their positions part-time. The PCLOB's mission is to ensure that the federal government's efforts to prevent terrorism are balanced with the need to protect privacy and civil liberties.)

**The Board also has analyzed the program's implications for privacy and civil liberties and has concluded that they are serious.** Because telephone calling records can reveal intimate details about a person's life, particularly when aggregated with other information and subjected to sophisticated computer analysis, the government's collection of a person's entire telephone calling history has a significant and detrimental effect on individual privacy. The circumstances of a particular call can be highly suggestive of its content, such that the mere record of a call potentially offers a window into the caller's private affairs. Moreover, when the government collects all of a person's telephone records, storing them for five years in a government database that is subject to high-speed digital searching and analysis, the privacy implications go far beyond what can be revealed by the metadata of a single telephone call. Beyond such individual privacy intrusions, permitting the government to routinely collect the calling records of the entire nation fundamentally shifts the balance of power between the state and its citizens. With its powers of compulsion and criminal prosecution, the government poses unique threats to privacy when it collects data on its own citizens. Government collection of personal information on such a massive scale also courts the ever-present danger of "mission creep." An even more compelling danger is that personal information collected by the government will be misused to harass, blackmail, or intimidate, or to single out for scrutiny particular individuals or groups. To be clear, the Board has seen no evidence suggesting that anything of the sort is occurring at the NSA and the agency's incidents of non-compliance with the rules approved by the FISC have generally involved unintentional misuse. Yet, while the danger of abuse may seem remote, given historical abuse of personal information by the government during the twentieth century, the risk is more than merely theoretical. Moreover, the bulk collection of telephone records can be expected to have a chilling effect on the free exercise of speech and association, because individuals and groups engaged in sensitive or controversial work have less reason to trust in the confidentiality of their relationships as revealed by their calling patterns. Inability to expect privacy vis-à-vis the government in one's telephone communications means that people engaged in wholly lawful activities — but who for various reasons justifiably do not wish the government to know about their communications — must either forgo such activities, reduce their frequency, or take costly measures to hide them from government surveillance. The telephone records program thus hinders the ability of advocacy organizations to communicate confidentially with members, donors, legislators, whistleblowers, members of the public, and others. For similar reasons, awareness that a record of all telephone calls is stored in a government database may have debilitating consequences for communication between journalists and sources.

The impact is two fold. First, **PRIVACY** Any kind of national gun registry would reduce the US to a police state destroying the privacy of the citizens.

Second, the **LOSS OF AUTONOMY** The Loss of our constitutional rights signifies the loss of autonomy, reducing our citizens to mere puppets of the state.

## Contention Two: Racism

### Gun criminal law disproportionately applied to minorities

Alex **Gourevitch**, June 24, 2015, Salon.com, Gun Controls Racist Reality: The liberal argument against giving police more power, [https://www.salon.com/2015/06/24/gun\\_controls\\_racist\\_reality\\_the\\_liberal\\_argument\\_against\\_giving\\_police\\_more\\_power/](https://www.salon.com/2015/06/24/gun_controls_racist_reality_the_liberal_argument_against_giving_police_more_power/) Obama only suggested practical action regarding the first issue, namely gun control. He did not consider that such measures will make the persistence of the second problem even worse. It is perhaps counterintuitive to say so but gun control responses to mass killings — whether racially motivated or otherwise — are a deep mistake. **The standard form of gun control means writing more**

**criminal laws, creating new crimes, and therefore creating more criminals or more reasons for police to suspect people of crimes. More than that, it means creating yet more pretexts for a militarized police, full of racial and class prejudice, to overpolice.**

As multiple police killings of unarmed black men have reminded us, the police already operate with barely constrained force in poor, minority neighborhoods. From SWAT to stop-and-frisk to mass incarceration to parole monitoring, the police manage a panoply of programs that subject these populations to multiple layers of coercion and control. As a consequence, more than 7 million Americans are subject to some form of correctional control, an extremely disproportionate number of whom are poor and minority. While it is commonly assumed that the drug war is to blame for all this, work by scholars like Benjamin Levin and Jeff Fagan demonstrates that already existing gun control efforts also play an important role. One of the most notorious areas of policing, the NYPD's stop-and-frisk program, was justified as a gun control rather than a drug war measure. In the name of preventing violence, hundreds of thousands of poor minorities are subject to searches without probable cause each year. Further, a range of Supreme Court-authorized exceptions to standard Fourth Amendment protections against illegal search and seizure derive from a concern with gun violence. This invasiveness is a necessary feature of criminalized gun possession. After all, policing guns is just like policing drugs. Like drugs, there are a vast number of guns. Possession is far more widespread than can possibly be policed so decisions have to be made about where to devote resources. Furthermore, since possession itself is the crime, the only way to police that crime is to shift from actual harm to identifying and preventing risks. As legal scholar Benjamin Levin argues in a forthcoming piece "Searching for guns – like searching for drugs – can easily become pretextual, a proxy for some general prediction of risk, danger, or lawlessness. In other words, there must be selective enforcement, where enforcement includes invasive

searches based on existing prejudices about who is and isn't dangerous. For example, as research by Jeff Fagan and Garth Davies shows, **in the late 1990s, the NYPD used**

**suspected weapons violations to justify numerous stops, even though these stops resulted in fewer arrests than stops for other crimes. And when it comes to individualized assessments of who is**

**dangerous and worthy of punishment, every study shows steep, and unfounded, bias.** Michelle Alexander, quotes a former U.S. attorney in her recent sensation, "The New Jim Crow," saying the following: "I had an [assistant U.S. attorney who] wanted to drop the gun charge against the defendant [in a case which] there were no extenuating circumstances. I asked, 'Why do you want to drop the gun offense?' And he said, 'He's a rural guy and grew up on a farm. The gun he had with him was a rifle. He's a good ol' boy, and all good ol' boys have rifles, and it's not like he was a gun-toting drug dealer'. But he was a gun-toting drug dealer, exactly. This isn't just a point about conscious and unconscious biases towards poor minorities – biases that some imagine can be removed with proper training. No matter how neutral the laws are, their enforcement must remain unequal and unfair. That is because the policing involved would never be tolerated if they affected politically influential groups to the same degree. These policing

practices persist because they are disproportionately directed against marginal populations. **Once individuals find themselves arrested gun control**

**reappears** as a reason for increasing punishment. Gun possession can be used to enhance sentences for other crimes and even functions **as a kind of double punishment when that possession becomes the reason for also tacking on an extra criminal charge.** Gun charges are also a part of the excessive and

racially unequal over-charging practices that not only contribute to rising incarceration rates but also ends force numerous individuals away from trial and into plea bargains. **Poor Blacks and Latinos are easily intimidated by charge-happy prosecutors into accepting plea deals, meaning they never see their day in court.** Some even end up admitting to crimes they did not commit just to avoid the possibility of more severe punishments. More criminal gun laws would only feed this deeply unjust system.

There is an unrecognized gap between the justification for gun control and its most likely effect. **There is no reason to expect fair enforcement of gun**

**control laws,** or even that they will mainly be used to someone prevent these massacres. That is because how our society polices depends not on the laws themselves but on how the police - and prosecutors and courts - decide to enforce the law. Especially given how many guns there are in the U.S., gun law enforcement will be selective. That is to say, they will be unfairly enforced, only deepening the injustices daily committed against poor minorities in the name of law and order. **It is hard to imagine any feasible gun control laws doing much to decrease mass**

**shootings. But it is easy to see how they will become part of the system of social control of mostly black, mostly poor people. There are already too many crimes, there is too much criminal law, and there is far too much incarceration -- especially of black people.**

**The Impact is DEHUMANIZATION: As Vorster explained:**

Although these three causes of racism can be logically distinguished, they are mostly interrelated. Ideology can be the basis of fear, and greed can be justified by ideology and even fear. **One of the major manifestations of racism is**

**structural violence.** State-organized genocide was a well-known phenomenon in the centuries of colonialism. Several nations disappeared altogether, or were reduced to tiny minorities, during the 19th century by the United States and by European powers in Africa, Latin America, Australia and New Zealand. (16) Nowadays the international community witnesses state organized "ethnic" cleansing in Central Africa and Eastern Europe. (17) This "ethnic cleansing" includes methods such as deportation, terror and so-called "legal forms" of exclusion from the state concerned. However, structural violence based on racism can have a more subtle form than state-organized terror and genocide. The philosophy of liberation proved in the 1960s that systems--even democratic systems--can become inherently violent. (18) In the maintenance of law and order, and sometimes even under the guise of human rights, a political and economic structure can exert violence to its subjects or a group of them. This usually happens when the system is one-dimensional, that is, when the system controls all spheres of life. The South African system in the period 1948-94 is a good example of a one-dimensional state. All spheres of life (even morality, sexuality and marital life) were controlled by the state. This provides the authorities with the means to discriminate in a "legitimate" way by introducing social stratification. This concept, and the usual pattern of its development, require further reflection. **Social stratification is a system of legitimated, structured social inequality in which groups**

**receive disproportionate amounts of the society's wealth, power and prestige and are socially ranked accordingly.** (19) Social stratification flows from the supposition that society consists of irreconcilable groups and the premise that a unitary government with a general franchise

cannot govern these groups. The maintenance of division is, according to this view, necessary for good and orderly government. The viewpoint in South Africa since colonization in the 17th century was that whites and blacks should be kept "apart" in order to have peace and prosperity for all. In this case the dividing principle was along racial lines, but it can also, in other cases and regions, be along ethnic, cultural, linguistic or religious lines. This premise denies the fact that pluralism can be maintained in a unitary state (in South Africa a unitary state was seen as a danger for white and indigenous futures), and is based on the conviction that nation-states are the only way to deal with pluralism. **The dialectical principle must**

**lead to the "us-them" social attitude and structure, with** (as has been proven historically) **total division and conflict developing according to a particular pattern.** In the "us-zone" the uniqueness of the own group is idolized, and maintenance of one's own uniqueness is

then of absolute importance. To stimulate the "we feeling" and maintain a strong sense of solidarity, a community will start with a reconstruction of its own history. (20)

## Contention Three: Constitutionality

### Background Checks violate the First and Fifth Admendments

Alice **Scales**, January 13, **2016**, Ron Paul: Why Background Checks are Unconstitutional,

<https://voicesofliberty.com/2016/01/13/ron-paul-why-background-checks-areunconstitutional/>

He claims that while the right to bear arms is a clear cut right, the left often refuses to admit that much. Instead, Paul says, they muddy the waters. He starts off by saying that often, in order to deal with the gun violence in our society, the left goes on and further expand their abuse of civil liberties onto other groups. During his conversation with Dick, we learn that **the background check system** in use currently **is not only wrong because it doesn't**

**work. It's wrong because it's a violation of** several parts of **the bill of rights**. Dick explains: "... **as judge Andrew**

**Napolitano pointed out** earlier this year, [the background ckec] **[it] is also a violation of the First Amendment,**

**because it compels people to** speak, **provide information about themselves**. Questions used in background checks include

queries into the consumer's mental health history, domestic violence, and questions about illegal drug use. **All issues that are private and**

**should be the business of the individual, not the state**. He continues: **At the same time, [the background**

**check system] could be seen as a violation against the right against self-incrimination under the Fifth**

**Amendment** because you have to provide evidence against yourself in order to require a gun

**The Impact is the DESTRUCTION OF THE AMERICAN CONSTITUTION.** As John A. Eidsmoe [states], Constitutional

Attorney, explains: **Other misfortunes may be borne, or their effects overcome. If disastrous war should**

**sweep our commerce** from the ocean, another generation may renew it; if it exhaust our treasury, **future industry may replenish it;**

**if it desolate and lay waste our fields,** still under a new cultivation, **they will grow green again,** and ripen to future harvests.

**It were but a trifle even if the walls of yonder Capitol were to crumble,** if its lofty pillars should fall, and its gorgeous

decorations be all covered by the dust of the valley. **All these might be rebuilt. But who shall reconstruct the fabric of**

**demolished government? Who shall rear again the well proportioned columns of constitutional**

**liberty?** Who shall frame together the skilful architecture which united national sovereignty with State rights, individual security, and public prosperity? No, **if**

**these columns fall, they will be raised not again.** Like the Coliseum and the Parthenon, they will be destined to a mournful, a

melancholy immortality. Bitterer tears, however, will flow over them, than were ever shed over the remnants of a more glorious edifice than Greece or Rome ever

saw, the edifice of constitutional American liberty. 52 **It is possible that a constitutional convention could take place and**

**none of these drastic consequences would come to pass. It is possible to play Russian roulette and** [\*58]

**emerge without a scratch;** in fact, with only one bullet in the chamber, the odds of being shot are only one in six. **But when the stakes**

**are as high as one's life, or the constitutional system that has shaped this nation into what it is today,**

**these odds are too great to take the risk.**

## DON'T HATE. NEGATE! Thank you.

# Blocks

## LANCET STUDY FLAWED

Kimberly **Leonard**, US News, "Study: Some Gun Control Laws Result in More Deaths | US News", March 10, **2016**,

<https://www.usnews.com/news/articles/2016-03-10/study-some-gun-control-laws-result-in-more-deaths>

But **David Hemenway, professor of public policy at Harvard** School of Public Health, took issue with the

**methodology** in an accompanying comment published in The Lancet. He pointed to the projection that deaths would

**be reduced by 90 percent. It was difficult to project,** he wrote, **whether any one law could decrease gun**

**deaths.** In an interview he said **many studies about gun control are limited. "I could find serious problems**

**with virtually any U.S. study about gun laws,"** he says. For the study, researchers looked at 25 state gun control laws to try to

draw conclusions about which ones had the most impact on gun deaths. Its findings suggest that nine laws were associated with an increase in gun deaths, nine were associated with a decrease, and the remaining showed no association. For example, laws that restrict firearm access to children, including age restrictions, were shown to be ineffective. The federal gun control law passed in 1993 – known as the Brady Bill –

mandates federal background checks on gun buyers, but around 40 percent of all gun sales in the U.S. are estimated to be private transactions that don't require background checks. The "gun show loophole" refers to a broader provision that allows people to buy guns from unlicensed dealers at a gun show or elsewhere without universal background checks. To keep guns out of the hands of people who have a history of violent crime, domestic violence, substance abuse and severe mental illness, states have enacted various additional laws. In some states, lower gun ownership and stricter gun laws appear to be associated with fewer gun deaths. The Lancet study looked at these laws as well. Stand-your-ground laws – which allow someone to use deadly force in self-defence – as well as permitting law enforcement discretion when issuing concealed-carry permits, appeared to be associated with higher gun deaths. Other laws that appeared associated with higher gun deaths included limiting the number of guns people can buy, a three-day limit for a background-checks extension, locks on firearms and allowing police to inspect stores. The NRA declined to comment, other than to point out they took issue with the methodology, including that the study does not acknowledge states have different approaches to suicide prevention. Two-thirds of gun deaths are by suicide, and more than 21,000 people kill themselves with a gun each year. For the study, researchers used data from multiple years over a short timeframe as they were available. They included firearm-related deaths, including suicides, from the Centers for Disease Control and Prevention from 2008 to 2010; firearm-related laws implemented in 2009; state-specific characteristics such as firearm ownership for 2013; firearm export rates and non-firearm homicide rates for 2009; and unemployment rates for 2010. They then projected what the laws' impact would have been had they been implemented from Nov. 1, 2014, to May 15, 2015. **While the researchers tried to control for some variables,** like

unemployment and gun exports, **Hemenway commented that many other factors were not controlled for,**

**including poverty, alcohol consumption, urbanicity and mental health. The data also were collected**

**only during the course of a year,** he writes, **so the authors could not compare the rates of firearm deaths**

**before or after laws were passed.** When asked about the limited timeframe for the study, Galea replied that **a longer time**

**period had drawbacks."The trouble is that over a long time period there are other society influences**

**that can be introduced,"** he says.