

BENJAMIN SPECIALTIES

MODERN FIREARMS

Libertyville, IL
ben@benjaminspecialties.com

Date: May 30, 2022

OPEN LETTER TO FIREARM DEALERS, CUSTOMERS, AND FIREARM INDUSTRY COLLEAGUES

Topic: I'm a Gun Dealer and I Support Universal Background Checks for Firearm Transactions

Friends and Colleagues,

I am angry. I am sad. I hurt for the victims, the survivors, the town and communities all over America who have had to endure the latest horrific school shooting and its aftermath.

You know me as a firearm dealer and collector, concealed carry instructor, retired police officer, gun rights activist and a Dad. But I cannot stay silent among some of you anymore. I believe that we have been wrong in some of our arguments, justifications and strategy on the topic of firearm legislation. We need to change our culture and how we communicate with those who disagree with us.

What follows is part preaching, part reflection, and part confession. I started writing it as a multi-topic blog for my website before the events at the school last week. Now my message is more urgent and it is intended for you - my fellow firearm friends and industry colleagues. Its time for us to reevaluate what we hold sacred, think critically about what our responsibilities are to others, and look beyond the Second Amendment banner that we all too often hide behind for lack of better argument. We need to take an introspective look at ourselves and our businesses and try to imagine the America that we hope it can be.

I'll start by saying that you and I share many values and core beliefs. We are patriots, loyal to the Constitution, respectful of our neighbors, responsible with our guns, and proud of our American firearms heritage. We are also driven to fight for what is right and what is true, even when that fight is hard. It is in that vein that I ask you - I beg you - to fight the urge to promulgate cheap chants and internet memes. Instead, I challenge you to open your minds to honest self-reflection and critical analysis. This letter is hard for me to write, and I suspect that it may be hard for you to hear from another firearm enthusiast and colleague. I humbly ask you to please read on with an open mind.

From the outside looking in, I am a typical gun dealer, also known in the industry as a Federal Firearms Licensee or "FFL". I grew up with firearms, shot pistols in competition at an early age, and served in law enforcement for nearly three decades before retiring and starting my own firearm business.

From the inside looking out from my own industry, I am a different gun dealer. Though I share the same interest and passion for firearms and all of the training, skill, gear, collecting and personal responsibility that it entails, I often find myself at odds with the politics of some of my more vocal fellow enthusiasts and industry colleagues.

I am Purple. Neither Republican Red nor Democrat Blue. Libertarian perhaps, but I don't care for such labels. Labels are sticky. They tend to glue people together in ways that belie their diversity. Unfortunately, this is the case in the most active and loudest groups in the gun community. You're "in" or you're "out". You're a friend or you're not. You either believe guns are your God-given right or you don't. You believe those who seek to impose any regulation on firearms are the enemy or you don't. And if you don't, you're out, you're not welcome, you will not get votes, your opinion can be dismissed, you are a goddamned hippy communist bastard. Fortunately, I don't think that this attitude is representative of most gun owners and industry leaders. Most have much more moderated feelings, and it is those folks whom I want to support and encourage to have a stronger voice in the current national debate.

In the wake of last week's horrific events, the nation is asking again, what should we do? There's a lot we can do, but I have neither the space nor the expertise to answer that comprehensively here. But I do know a little about guns and crime and law enforcement. The topic that I want to discuss here is that of universal background checks. Should gun buyers be subject to a criminal history and mental health background check for all firearm purchases, including person to person private sales? Here's my position (hold on to your NRA coffee mug!):

I BELIEVE THAT WE SHOULD HAVE UNIVERSAL BACKGROUND CHECKS ON ALL FIREARM PURCHASERS.

Whew. Now that I've said it out loud and publicly for the first time as a gun dealer, I'll try to explain why I believe universal background checks are both needed and are Constitutional within the context of the Second Amendment.

"All gun laws are unconstitutional!" This is the battle cry of the hard-core Second Amendment (2A) community members. And it drives me crazy. Many of these folks are well-intentioned, educated and passionate. But do they, or should they, really believe this statement to be true? Let's examine the Second Amendment:

"A well-regulated Militia, being necessary to the security of a free State, the right of the people to keep and bear Arms, shall not be infringed."

The most recent and relevant SCOTUS decision that ruled, "**the Second Amendment guarantees an individual right to possess firearms independent of service in a state militia and to use firearms for traditionally lawful purposes, including self-defense within the home.**" Like it or not, this is the law of the land. I believe this was a good decision. Self-defense is a human right equal to and perhaps the ultimate guardian of all other rights. But having a right

does not mean that it can be exercised without any responsibility or care. (Think of the common argument that the First Amendment doesn't allow shouting "fire" in a crowded theater or "Go White Sox" from the bleachers at Wrigley Field.) The founding fathers believed that the Constitution, Bill of Rights and democracy as a whole are dependent on a communicative, cooperating and responsible citizenry. So how do we balance seemingly absolute rights of an individual against the needs of a cooperative and civil democratic society? That's the hard part. There has to be compromise because neither extreme view can prevail lest we lose our rights or we lose our democracy or both.

Let's look at whether background checks are in and of themselves beneficial to a responsible and civil democratic society. Should everyone have the absolute right to own a firearm of any type? Some people, the loudest people, would immediately shout "Yes! Shall not be infringed!" But wait a second. Do they really believe this? This would imply that mass murderers, child rapists and the criminally insane should have unfettered access to firearms. Is that really what they believe and what they want? If it had been known his intentions and mental state, should last week's school shooter have been allowed to buy guns? What about if he is released on bond? Can he go out and buy more guns now? After all, his right to bear arms shall not be infringed according to the Second Amendment. Of course not. We should take reasonable steps and have laws against dangerous people having access to guns. So once you admit that there should be laws to prevent mass murderers, terrorists, and child rapists from acquiring firearms, then you can no longer claim that *all* gun laws are unconstitutional. So friends, please, - stop making that ridiculous claim.

Hopefully you'll see that some rules should be in place. What should the rules be for keeping guns out of the hands of dangerous people? Should we leave it up to individuals? In other words, unless you personally know somehow that the buyer is dangerous, you as a gun dealer can go ahead and make that sale to whoever walks in the door. How could you possibly know if that buyer is dangerous? After all, they have a right to buy a gun and its not your problem what they do with it after they leave. Or is it? How close is your kid's school to your gun shop? Do you really want to run the risk of handing over a gun to a psychopath or deranged criminal when there could be an easy way for you to check on them first?

I want to know that the person to whom I am selling a gun is not a lunatic or violent criminal. That's not too much to ask. It is for that simple reason that I like background checks. I also like the idea of Illinois' Firearm Owner Identification (FOID) cards. With regard to my personal situation, I have a home-based firearm retail business. I see customers by appointment only. Oftentimes, I do not meet new customers until they show up at my front door. Because of the obvious risk to my home and family, I require that new customers text or email me a photo of their FOID when they make the appointment. At a minimum, that gives me some peace of mind that they are legitimate customers and are probably not coming to rob me or kill me and my family. Additionally, if they have gone through the process of getting the FOID and have passed a criminal and mental health background check, that's even more comfort to me that the person isn't going to use the gun in a crime or suicide. For personal transfers, I still require a background check even if the buyer is someone I know and trust. People have skeletons in their

closets that may be unknown even to family members. Background checks are not 100% accurate and have limitations, but enforcing background checks improves the odds significantly that the gun will be used lawfully and responsibly. Absent those federal and state background check requirements, I would probably not be in this business, especially from my home. The last phone call I want as a firearms dealer is a call from the BATFE with a trace request that reveals that I gave a gun to someone who just killed 19 children with it. How would that make me feel? I know that I would have followed all the rules and filled out all of the paperwork, but I would have had no clue as to what the buyer was going to do with the gun after he left my shop. I would have done everything required of me legally. But did I do everything required of me *ethically and morally*? Is there something more I could have done or information I should have sought out that could have averted a tragedy? If a background check could potentially identify a possible prohibited buyer, I'll run it every time. For me, I refuse to sell a firearm to someone that I do not know and who has not passed a background check. Period. That's my decision and frankly, if you are a responsible firearm dealer, that should be your decision as well.

Now allow me to backpedal briefly and add a few caveats to my endorsement of universal background checks. If implemented correctly, background checks are reasonable and constitutional. But if implemented poorly, those checks may indeed be an unconstitutional infringement. The devil is in the details and how the system actually works will determine whether background checks are an *infringement* of a Constitutional right, or merely an *inconvenience* to law abiding citizens. Earlier I stated that I like the Illinois FOID system and background checks. I stand by that statement, but only to the extent that the system actually works and works properly. The universal background check system must be ACCURATE, LIMITED IN SCOPE, TIMELY, and FAIR:

Accurate: Data must be collected consistently across all jurisdictions, recorded accurately, reviewed periodically, purged when necessary, and available immediately. Questions remain – what criminal and mental health information should be accessible by the system and how? Who implements and oversees it?

Limited in Scope: The data collected from firearm dealers and buyers must be narrowly limited to only the information required to run the pass or fail background check. The only inquiry data should be the buyer's name and personal identifiers. The only output should be Approved or Not Approved. The system cannot become a firearm registry that records who owns what guns. That would be a violation of current federal law and privacy rights in my opinion, and such information is none of the government's business and is irrelevant to the purpose of background checks.

Timely: Background checks must be instant (or nearly instant). Fifteen minutes to complete a background check is *inconvenient* at worst. But delays of days and weeks is an *infringement* of a right. In Illinois, background checks are run electronically by gun dealers using an online portal to the Illinois State Police (ISP). I find that approximately 50% of the background checks that I run through this system result in a "pending" status. "Pending" status indicates a delay

and that there is something in the record that requires further review or evaluation by ISP. The delay is usually two to three business days, though sometimes longer than a week. The delay requires the buyer to make another trip back to the gun shop to pickup their firearm once the background check is approved. Worse yet, the processing of FOID applications was as long as 12 months in recent years. Its improving slowly, but they're not quite there. During the street violence and unrest during the summer of 2020, many people chose to exercise their rights and purchase firearms to protect themselves. However, because of the FOID delays, they were unable to acquire a FOID card in a reasonable amount of time. This was certainly an infringement of their rights and was unacceptable and unconstitutional.

Fair: The background check system must be fair in both its planning and execution. Who decides what information goes in? What are the standards for a "pass" or "fail"? What is the cost and who will pay for it? How do we ensure that the cost and burdens of background checks do not disproportionately impact disadvantaged communities?

These are some of the details that matter. If the loudest fringe of the firearms community refuses to come out from behind its slogans and remain inflexible, we'll lose our seat at the table while others dictate the terms to us. We are the technical experts. We are the ones who will have to live with whatever the politicians decide. It is an absolute necessity that we engage, negotiate, share and educate. We must ensure that any background check system is constitutionally sound and is not an impediment to the exercising of our Second Amendment rights. We cannot do that if we are trapped by our own rhetoric and refuse to participate in the democratic process.

Please do not confuse my moderation in this policy for a lack of commitment to the Second Amendment. I am passionate about the personal and societal benefits of responsible firearm ownership for self-defense and defense of the free state, including the responsible possession of commonly used semi-automatic firearms. But in this age of electronically infectious intolerance of opposing views, rabid social media attacks and online mob rule, constructive conversation on controversial issues is nearly impossible. I respectfully ask each of you to abandon the memes, abandon pre-conceptions, and allow yourself the freedom to make up your own mind.

Here's my final preachy soapbox bit of a more general nature (as if I haven't been preachy already): Our 2A community is full of good people with diverse experience, opinions and life stories that inform their political and moral philosophies. The media is often unfair by lumping us together into one particular stereotype or another. For that reason (among others), it is absolutely essential that we share our *personal* stories and beliefs not only with like-minded friends, but more importantly with people with whom we disagree.

I've experienced a few big and wholly unexpected revelations about my own biases and preconceptions by engaging with the "other side" on 2A matters. I have not changed my mind on any particular policy issue, but I have a much richer understanding of why other people feel differently than I do. And it has nothing to do with statistics, logical argument, or debate

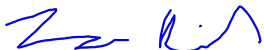
points. It is from listening to someone on the opposite side of the issue with whom I share a relationship of trust and good faith. In a recent meeting, we were discussing the meaning of one single line of text in a magazine. They had a perspective on that meaning that I had never heard or even remotely considered. Their perspective was so far outside the realm of my own experience that it took me a few days to fully process it. After reflecting on it and taking into account their life experiences, it finally made sense. This had a profound impact on how I will think about that issue in the future. To reach this level of candid and thought-provoking dialogue, it took us several years of deliberately intensive conversations, dozens of e-mails and gallons of coffee because we are both dug in deep, personally and professionally, on precisely opposite sides of the gun rights political chasm. Productive conversation on controversial and important topics is tough work. I'm still learning how to do it well. But it is always worth it.

I've learned in that time that I did not sacrifice my principles by engaging with others in this manner. Quite the contrary. Exposure and vulnerability to new and opposing ideas is how we learn, grow, and empathize. I firmly believe that constructive dialogue protected by a relationship of cooperation, mutual trust and good faith has to be the *first step* in how we can make our streets and schools safer. That's how our democracy will work best. It's hard work in the middle. But our kids, our communities and our country are worth the effort.

Speak Loudly. Listen Attentively. Join me at the table.

Thank you for your time.

Respectfully,



Benjamin D. Ferdinand
Owner/Manager
Benjamin Specialties LLC
Libertyville, IL