

CALIFORNIA SENATE OFFICE OF RESEARCH

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Federal Update

EXECUTIVE ACTIONS TO REDUCE GUN VIOLENCE AND MAKE OUR COMMUNITIES SAFER

On January 5, 2016, President Obama announced new executive actions on gun control.

The main objective of the President's executive action is to clarify that existing laws require anyone making a living by selling guns to register as a licensed gun dealer and conduct background checks. The action provides examples of someone who would be considered a gun dealer, such as someone who prints business cards and/or operates a Web site where guns are sold. While criminal penalties already exist for violating these laws, the President also called for the Attorney General to convene a call with U.S. attorneys nationwide to direct federal prosecutors to focus on smart and effective enforcement of the nation's gun laws.

Notably, the action also proposes a new \$500 million investment to increase mental health care. This funding would "help engage individuals with serious mental illness in care, improve access to care by increasing service capacity and the behavioral health workforce, and ensure that behavior health care systems work for everyone."

Additionally, the Social Security Administration, as well as the Department of Health and Human Services, will work to include information in the background check system about people who are prohibited from possessing a gun for mental health reasons.

Several federal positions also are slated to be added within the Federal Bureau of Investigations (FBI) and the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) to expand and streamline the background check system. Specifically, ATF is finalizing a rule to require background checks for people trying to purchase some of the most dangerous weapons through a trust, corporation, or other legal entity. The FBI envisions improving the background check system by processing checks 24 hours a day, seven days a week.

Detailed information about the President's executive action is available at the following Web-site:

<https://www.whitehouse.gov/the-press-office/2016/01/04/fact-sheet-new-executive-actions-reduce-gun-violence-and-make-our>

(Whitehouse.gov is the official Web site for U.S. Presidential information)

The President's executive action follows a presidential order and memorandum made the previous day, January 4, 2015, regarding the use of smart gun technology. In that memorandum, the President directs the Department of Defense, the Department of Justice, and the Department of Homeland Security to "conduct or sponsor research into gun safety technology that would reduce the frequency of accidental discharge or unauthorized use of firearms, and improve the tracing of lost or stolen guns." A copy of the presidential memo can be found here:

<https://www.whitehouse.gov/the-press-office/2016/01/05/memorandum-promoting-smart-gun-technology>

Previously, the President had ordered the Department of Justice to review existing gun safety technologies. The department's report can be found here:

<https://www.ncjrs.gov/pdffiles1/nij/242500.pdf>

The President's gun violence prevention proposals contain a mix of executive actions and executive orders. While the terms "executive action" and "executive order" are often used interchangeably in the media, they are actually two distinct terms with different meanings. A presidential executive order is a directive to federal agencies, department heads, or other federal employees. It is a tool used by presidents to manage the executive branch in its enforcement and implementation of federal laws. Executive orders are legally binding and published in the Federal Register.

By contrast, a presidential executive action is not limited to a particular level or branch or government. It often urges or requests that state or local governments take action in a particular area. Some executive actions make proposals to Congress or call on Congress to take action on an issue. Executive actions often carry no legal weight. If an executive action does set policy, it can be challenged in the courts or undone by legislation passed by Congress.

Written by Elizabeth Dietzen Olsen. The California Senate Office of Research is a nonpartisan office charged with serving the research needs of the California State Senate and assisting Senate members and committees with the development of effective public policy. The office was established by the Senate Rules Committee in 1969. For more information, please visit <http://sor.senate.ca.gov> or call (916) 651-1500.
