

My written testimony on SB797

Why the Charleston Loophole never happened

On Saturday April 11, 2015 Dylan Roof attempted to purchase a handgun from a store in West Columbia, South Carolina, a near suburb of Columbia. On the next business day, April 13, 2015 an examiner in the FBI West Virginia facility was assigned the Dylan Roof background check and began to process it. Most of Columbia South Carolina is in Richland County but a small piece of it crosses the line into Lexington County. The Columbia police arrested Dylann Roof on drug charges, in the small piece of the city of Columbia that lies within Lexington County.

Importantly, as part of that arrest, in Lexington county, the report by the Columbia police reflected that Roof admitted he was in possession of Suboxone, a Schedule III narcotic, according to the incident report, this is a misdemeanor charge, which carries a maximum prison term of six months. Due to a data entry error his arrest was listed as a drug felony not a misdemeanor. The Greenville News confirmed with a spokeswoman for the South Carolina Law Enforcement Division for a June 21, 2015, article. The spokeswoman said that the charge against Roof initially had been listed as a felony due to a data entry error, but had since been corrected..

FBI Director James Comey in a news release (1) incorrectly referred to a "felony drug charge." And Hillary Clinton made the error of saying that Roof had a "felony drug conviction." Kate Brown also has claimed that Dylan Roof was a "convicted drug felon", who fell through the Charleston Loophole.

The misdemeanor charge alone would not have been grounds for a denial in South Carolina. However, federal law does prohibit selling a firearm to someone if they are "an unlawful user of or addicted to any controlled substance." And Comey said that Roof's request would've been denied since he admitted to possessing drugs, although he didn't admit to being an addict.

The denial didn't happen because the NICS examiner missed the incident report with the drug arrest information, she was looking at Richland county, instead of Lexington county. Comey said that the wrong arresting agency had been listed in Roof's file. That led the examiner to contact the wrong police departments to get information on the status of the case against him. The mix-up wasn't discovered until after the alleged shooting, which was two months after Roof had purchased the gun. So, "just one more day" for the background check wouldn't have stopped the sale of the gun or the shooting at the Emanuel African Methodist Episcopal Church. " The 2015 Charleston South Carolina Church shooting was originally going to be a college shooting. But Dylan Roof changed plans after realizing the College of Charleston had armed guards." (3) so he targeted the "gun free zone" of the church.

Hillary Clinton said the FBI needed "just one more day" to stop Dylann Roof from being able to purchase the handgun that he allegedly used to kill nine people at a church in Charleston, South Carolina in 2015. That's false. Clinton, a Democratic presidential candidate, made the claim at a campaign rally in (2) Chicago on Feb. 17, 2016 She said that the "powerful" gun lobby is blocking "common sense reforms" like closing the so-called "Charleston Loophole," a reference to the Charleston shooting and the law allowing federally licensed dealers to sell firearms after a three-day waiting period for a background check.

Kate Brown has been pushing for and stating that SB 717 would close the "Charleston Loophole" in Oregon's background check system. Either she is seriously misinformed or she chooses to ignore the fact

that the supposed Loophole was a result of a FBI mistake. The FBI did not discover the mistake until two months after the purchase of the gun, after Roof shot up the church. One more day, one more week or one more month would not have made a difference. The purchase was allowed to proceed, because there was no reason to stop it, with the mistake on the FBI background check. not catching the misdemeanor drug possession.

Kate Brown chooses to not acknowledge that if any legal Oregon marijuana user who answers question (11e) on the 4473 background check form truthfully, would be denied a firearm from the federal government, because of a controlled substance usage. The same reason Dylan Roof would have been denied a handgun.

Oregon and the federal government are attempting to use a broken background check system where they both are following different rules. They are forcing marijuana users to lie on federal form 4473, to obtain a good background check and purchase a firearm. The federal governments stated penalty for lying on a federal form is ten years in prison. Oregon's citizens deserve better than this. SB 797 is predicated on a falsehood of longer delays ensure better checks. The errors in the system are rampant and the citizen is the victim, with no recourse to address the denial or delay. The " Charleston Loophole" story does highlight one way the background check system failed by not catching a misdemeanor drug possession, but the system also produces false denials and delays for law abiding citizens, who have committed no crimes.

For example.

We were working a booth at a gun show booth in Hillsboro Oregon. There was a Hillsboro Policeman there., when we arrived at the show. There was a denial on a Background check for a skeet shotgun, at the booth next to ours. The person had purchased a handgun 20 minutes before from another gun vendor with no problems, the background check was clean and he purchased the handgun. 20 minutes later another gun dealer, runs another background check and has a denial. The background check system found a 15 year old misdemeanor, involving alcohol. The federal government denied the purchase because of the 15 year old misdemeanor So the Hillsboro police officer was put into a real dilemma by the background check system, the person had just purchased a handgun and it was his gun, yet the system was saying this person also was denied from purchasing another gun, so does he confiscate the handgun or does he allow the person to keep the legally purchased handgun ? What would you do ? The Police Officer was totally disgusted and mad, because it was another false denial that they are forced by SB941 to waste their time on. The buyer had no recourse except to not make the purchase, the gun vendor lost money not making the sale, and the police officer was told eventually, the 15 year old misdemeanor shouldn't have stopped the sale. Two different sets of rules, a system beset by errors, computer problems, and no requirement to inform the buyer why they are being delayed or denied. We can do better for Oregon .

Two other things that anti gun people reference is the BOYFRIEND LOOPHOLE and THE GUNSHOW LOOPHOLE. With SB 941 passing two years ago, both of these referenced loopholes have been supposedly closed. So the question is, doesn't SB 941 require universal background checks on all transfers statewide ? Does the fear of these two loopholes at this time, mean that SB 941 is not working ? Or does it mean the background check system in Oregon, is not working correctly ? SB 941 was supposed to provide a universal background check for every transfer including gunshops, gunshows and private transfers. If the system is working correctly it would flag domestic abuse and stop the transfer. Is the system capable of that ? If not ? Why not ? Making another bad law doesn't fix, a bad background check system.

SB 797 does not fix any of the problems with the background check system, all it does is cover them up and punish the citizens because of a poor background check system. A law based on a mistake, attempting to correct a non-existent problem, is stupid at best. How about we actually fix the system? SB 797 doesn't do that. I ask you to vote no on SB797.

This is a compilation of articles from factcheck.org, The War on Guns by John Lott, the FBI's press release and Hillary Clinton's own words., plus some personal experiences we had with SB941. I wanted to better understand the "CHARLESTON LOOPHOLE" Kate Brown kept referring to. I do not appreciate that when she talks or mentions something she leaves out details to obfuscate the facts,

Footnotes

(1) James Comey July 10, 2015 address @ fbi.gov

(2) Hillary Clinton Rally in Chicago IL. (2/17/16) 6:56 in video.

(3) The War on Guns, Arming Yourself Against Gun Control Lies.
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From the "Woodsman"