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Background Checks for Firearm Transfers, 2000

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The Brady Handgun Violence Prevention Act (the Brady Act) provides for the legal transfer of firearms by mandating criminal history background checks on persons applying for firearms from federally licensed firearm dealers (Federal Firearm Licensees or FFL's). The direct impact of the Brady Act and similar State laws is described in this Bulletin, which reports the number of applications for firearm transfers and permits, the number of rejections that resulted from background checks, reasons for rejection, and rates of rejection for many States.

The permanent provisions of the Brady Act became effective on November 30, 1998. The act established the National Instant Criminal Background Check System (NICS) and requires a background check by the Federal Bureau of Investigation (FBI) or a State point of contact (POC) on all persons applying to receive a handgun or long gun from a FFL. The Bureau of Justice Statistics (BJS) began the Firearm Inquiry Statistics (FIST) program in 1995 to provide information on the numbers of applications and rejections resulting from the Brady Act.

Highlights

Background checks of applications for firearm transfers since implementation of the Brady Act

Application for firearm transfer	National total		
	2000	1999	1994-2000
Received	7,699,000	8,621,000	29,953,000
Rejected	153,000	204,000	689,000
Rejection rate	2.0%	2.4%	2.3%

Note: All counts are rounded. See notes on table 1.

- From the inception of the Brady Act on March 1, 1994, to December 31, 2000, nearly 30 million applications for firearm transfers were subject to background checks. About 689,000 applications were rejected.
- The number of applications for firearm transfers or permits decreased 11%, from 8.6 million in 1999 to 7.7 million in 2000. The FBI's National Instant Criminal Background Check System Operations Center experienced a decrease in the number of applications, as did 17 State points of contact, with the largest decreases in California and Indiana (about 25%).
- In 2000 alone, 153,000 (2.0%) of approximately 7,699,000 applications for firearm transfers or permits were rejected by the FBI or State and local agencies. The national rejection rate decreased from 2.4% in 1999 to 2.0% in 2000.
- State and local agencies maintain a significant role in background checks, conducting checks on almost half of the applications for firearm transfers or permits in 2000, while the FBI was responsible for the remainder.
- The rejection rate for applications checked by the FBI (1.6%) in 2000 was lower than the rate for checks by State and local agencies (2.5%). Rejection rates for individual States ranged from over 7% to less than 1%.
- Felony convictions or indictments accounted for 57.6% of the rejections by State and local agencies, a lower proportion than in previous years (72.5% in 1999).
- The number of rejections for reasons other than felonies increased 250% from the beginning of the Brady Act to yearend 2000.

Nearly all applications included in the 2000 FIST survey were subject to a NICS check, as well as checks to fulfill additional State requirements. A small number of applications were subject only to checks required by State laws. (See *Components of the National firearm check system* on page 7 for further details.)

The information in this Bulletin was collected from 19 statewide POC's and over 600 State and local agencies that conduct checks under Federal and State laws. Statistics are also included from data compiled by the FBI on the inquiries or transactions handled by the NICS operations center.¹

National estimates

Fewer applications were filed in 2000 than in 1999 (table 1), decreasing from 8.6 to 7.7 million, or 11%. Rejections fell from 204,000 in 1999 to 153,000 in 2000, a decrease of 25%.

According to the NICS operations report, the FBI processed nearly 4.3 million applications for firearm transfers in 2000. State and local checking agencies processed an additional 3.5 million, according to FIST data.

When a background check produces evidence of factors that disqualify an applicant from owning a firearm, the application is rejected. (See definitions in *Methodology* on page 8 for more detail.) In 2000 the FBI rejected 67,000 firearm transfer applications, a 1.6% rejection rate, while State and local agencies rejected 86,000, a rate of 2.5%. Together, approximately 153,000 firearm transfer applications were rejected in 2000, a rate of 2.0%. This overall rate of rejection decreased from 2.4% in 1999, the first year of permanent Brady.

¹The number of background checks handled by State POC's, as reported in the *National Instant Criminal Background Check System (NICS) 2000 Operations Report*, April 2001, may be higher than the estimates reported here because multiple inquiries or transactions for the same application (which may be done at the discretion of the agency) are deleted from FIST data but are retained in FBI operational statistics.

Table 1. Number of applications and rejections for firearm transfer, 1994-2000

	Number of applications		Rejection rate
	Received	Rejected	
Total	29,953,000	689,000	2.3%
Interim period	12,740,000	312,000	2.5%
1994 ^a	2,483,000	62,000	2.5
1995	2,706,000	41,000	1.5
1996	2,593,000	70,000	2.7
1997	2,574,000	69,000	2.7
1998 ^b	2,384,000	70,000	2.9
Permanent Brady	17,213,000	377,000	2.2%
1998 ^c	893,000	20,000	2.2
1999 ^d	8,621,000	204,000	2.4
2000	7,699,000	153,000	2.0

Note: Counts are rounded. Statistics for national totals in 1999 and 2000 combine FIST estimates of the number of checks and rejections done by State and local agencies and the FBI number of actual transactions and rejections reported in the NICS operations reports. Data through November 29, 1998, are primarily for handguns. For information about FIST estimates before 1999 see *Presale Handgun Checks, the Brady Interim Period, 1994-98* (NCJ 175034).

^aMarch 1 - December 31, 1994.

^bJanuary 1 - November 29, 1998.

^cNovember 30 - December 31, 1998. Counts are from the *National Instant Criminal Background Check System (NICS) Operations Report (November 30, 1998 - December 31, 1999)*, and may include multiple transactions for the same application.

^dRejections are the sum of State and local rejections plus an estimate based on 12 out of 13 months reported in the NICS operations report.

Since the inception of the Brady Act (the interim provisions going into effect on March 1, 1994), nearly 30 million applications for firearm transfers have been checked, of which 689,000 were rejected, a rejection rate of 2.3%. Under permanent Brady the addition of long gun and pawn redemption checks resulted in an increase in the volume of background checks in 1999 and 2000, but did not appear to substantially affect the national rejection rate. That rate was 2.5% during the 5 years of the interim period (1994-98) and 2.2% during 1999-2000, the first 2 years of permanent Brady.

Approval systems

State systems for approval of a prospective firearm purchaser can be classified as "instant approval," "permit," or "other approval" systems.

Instant approval systems

Instant approval (instant check) systems require a seller (FFL) to transmit the applicant's information to a checking agency by telephone or other electronic means. The checking agency is required to respond to the seller at once or as soon as possible (generally within 3 business days). State agencies conducted over 2 million instant checks in 2000, and about 3% of the applications were rejected (table 2).

The FIST survey also included all State permits required to purchase firearms and certain "exempt carry permits" that can be used to make purchases without a background check at the actual time of purchase. (Federal law does not mandate a permit to purchase firearms.)

Purchase permit systems

State purchase permit systems require a prospective firearm purchaser to obtain, after a background check, a government-issued document (called a permit, license, identification card, or other name) that must be presented to a seller to receive a firearm. Most agencies that issue purchase permits are under statutes that allow between 7 and 30 days to complete a background investigation, but some carry permit statutes allow longer periods. There were 674,000 applications filed for State and local purchase permits in 2000.

Exempt carry permit systems

An exempt carry permit is not required for purchase but can be used to exempt the holder from a background check at the point of sale. Under an ATF ruling, a permit is exempt if it is issued after a check that includes the NICS and meets other requirements of the Brady Act. (See *Overview of NICS* on page 7.) Agencies that issue exempt carry permits either access the NICS themselves or request a check by sending information to the FBI.

Table 2. FIST estimates by type of agency and approval system and total FBI checks, 2000

	Applications	Rejections	Rejection rate
State agencies conducting —			
Instant checks	2,066,165	62,111	3.0%
Purchase permits	287,146	5,179	1.8
Carry permits	189,744	4,302	2.3
Other approvals	420,526	4,044	1.0
Total	2,963,581	75,636	2.6
Local agencies conducting —			
Purchase permits	387,347	8,236	2.1%
Carry permits	117,788	2,283	1.9
Other approvals	24,167	124	0.5
Total	529,302	10,643	2.0
National total (FIST and FBI)	7,698,643	153,087	2.0%
State and local agencies conducting checks			
	3,492,883	86,279	2.5
Adjusted FIST estimate*	3,438,373	86,279	2.5
FBI checks	4,260,270	66,808	1.6

*Agencies that conduct checks for exempt carry permits in Alaska, Arkansas, Mississippi, North Dakota, South Carolina, Texas, and Wyoming request the FBI conduct the background check, but the State agency makes the decision to reject. Thus, the total number of exempt carry permit applications in these States is included in the FBI checks, but the number of rejections is included in the State and local checks.

An estimated 190,000 exempt carry permit applications were received by State agencies in 2000, of which 4,300 were rejected, or 2.3%. Besides the State agencies, local agencies received an additional 118,000 applications for exempt carry permits, rejecting over 2,000 for a rejection rate of 1.9%. Seven States reported statewide data on exempt carry permits for 2000, with Indiana providing the largest number (83,000 applications).

Among State agencies issuing exemptions and reporting to FIST, the number of —

	Applica- tions	Rejec- tions	Rejection rate
Arizona	15,100	340	2.3%
Indiana	83,396	2,242	2.7
North Dakota	2,197	8	0.4
South Carolina	7,145	145	2.0
Texas	26,781	377	1.4
Utah	7,777	87	1.1
Wyoming	1,069	23	2.2

Note: The 7 States listed reported statewide data for 2000. Estimates for Alaska, Arkansas, Mississippi, and North Carolina are included in the national estimate but are not reported in this table. (See *Methodology*.)

Other types of approval systems

Other approval systems require a seller to transmit the applicant's information to a checking agency by mail, telephone, or computer. The checking agency is not required to respond immediately but must respond before the end of a statutory time limit, generally within 7 to 10 days. Other types of approval systems processed 445,000 applications in 2000 (predominately in California) and less than 1% of them were rejected.

Rejection rates vary for types of statewide approval systems, with instant checks having the highest rate (3.0%), followed by exempt carry permits (2.3%), purchase permits (1.8%), and other approvals (1%).

Statewide reporting of applications and rejections

In 2000 the FIST survey obtained statewide data from the 19 single statewide NICS points of contact (table 3).

The 19 POC's processed checks for 2.8 million applications in 2000, rejecting 71,000 (a rejection rate of 2.6%). This may be compared to 1999, when the same agencies conducted checks for 3.1 million applications, of which 91,000 were rejected, or 3%. This represents a 12% decrease in applications and a 22% decrease in rejections between 1999 and 2000.

The many interrelated factors that influence rejection rates have not been fully quantified, but a few observations are possible from the limited data available. The rejection rates in States surveyed by FIST ranged from 0.2% in Connecticut to 7.2% in Tennessee. Among the lowest rates for instant checks were those in New Jersey (0.4%) and Illinois (0.8%), where an instant check at the time of transfer is the second step required for approval of prospective firearm owners. Both States require that before an instant check for a sale can be conducted, prospective owners must obtain an identification card or a permit. During the first step of the process, application for the prerequisite permit or ID card, the rejection rate was considerably higher in New Jersey (1.7%) and Illinois (2.0%).

The highest rejection rates tended to occur in States that implemented an instant approval system on or after the effective date of the Brady Act. These States included Tennessee (7.2%), Colorado (5.0%), and Georgia (4.9%). Approval systems established before passage of the Brady Act tended to have low rejection rates. In addition to Connecticut, Illinois, and New Jersey, these systems included California (1%), Virginia (1.4%), and Wisconsin (1.4%). The older systems also tended to have rates that are relatively stable, with two of the oldest systems, California and Illinois (the instant approval step), having only slight variations in yearly rates since 1996.

During 2000 all States maintained databases that record past felony convictions, and many maintained data on other disqualifying factors such as fugitive status, court restraining orders, having been adjudicated as a mental defective or committed to a mental institution, and domestic violence misdemeanor convictions. States differ as to the degree of automation in record searching and whether records are in a central database or in data bases maintained by county courts or other local agencies.

Delays

Checking agencies often encounter delays if they attempt to access records in other jurisdictions. The most frequent delays occur when researching the final disposition of a criminal charge indicated in another

jurisdiction's arrest or indictment record. If the final disposition cannot be found during the time allowed for a background check, the agency must decide, based on Federal or State law, whether the application will be approved, denied, or delayed.

The Brady Act allows a transfer to proceed if a disqualifying record is not found within the 3-day limit for a NICS check. This limit may contribute to the FBI having a lower rejection rate (1.6%) than is true for POC's in general (2.5%). However, some States have laws and regulations that allow their agencies to deny or delay a transfer if an incomplete record is being researched when the time limit expires. These rules may partially account for the comparatively high rejection rate in Colorado, for example.

Table 4. Reasons for rejection of firearm transfer applications, 2000

Reason for rejection	State and local agencies
Total	100%
Felony indictment or conviction	57.6
Domestic violence	12.2
Misdemeanor conviction	8.9
Restraining order	3.3
State law prohibition	4.7
Fugitive	4.3
Mental illness or disability	1.0
Drug addiction	0.7
Local law prohibition	0.2
Other*	19.4

-- Not available or not applicable.

*Includes illegal aliens, juveniles, persons dishonorably discharged from the armed services, persons who have renounced their U. S. citizenship, and other unspecified persons.

Table 3. Number of firearm purchase applications received and rejected by State agencies, and percent change, 1999-2000

	2000			1999			Percent change (1999 - 2000)		
	Number of Applications	Rejections	Rejection rate	Number of Applications	Rejections	Rejection rate	In the number of Applications	Rejections	Rejection rate
All statewide agencies	2,773,837	71,334	2.6%	3,158,941	91,314	2.9%	-12.2%	-21.9%	-10.3%
Arizona ^a	126,880	3,194	2.5%	145,832	4,228	2.9%	-13.0%	-24.5%	-13.8%
California	386,210	3,475	0.9	513,418	4,779	0.9	-24.8	-27.3	--
Colorado ^b	137,916	6,923	5.0	100,126	6,668	6.7			
Connecticut	76,148	157	0.2	83,511	266	0.3	-8.8	-41.0	-33.3
Purchase permits ^c	27,069	17	0.1	34,226	11	--	-20.9	54.5	
Instant checks	49,079	140	0.3	49,285	255	0.5	-0.4	-45.1	-40.0
Florida	231,783	5,790	2.5	239,876	6,083	2.5	-3.4	-4.8	--
Georgia	213,110	10,526	4.9	252,808	14,477	5.7	-15.7	-27.3	-14
Illinois	375,361	5,730	1.5	419,904	8,173	1.9	-10.6	-29.9	-21.1
Purchase permits ^c	217,773	4,434	2.0	235,615	6,700	2.8	-7.6	-33.8	-28.6
Instant checks	157,588	1,296	0.8	184,289	1,473	0.8	-14.5	-12.0	--
Indiana ^{a,d}	19,442	328	1.7	26,190	402	1.5	-25.8	-18.4	13.3
Maryland ^d	34,316	569	1.7	33,038	592	1.8	3.9	-3.9	-5.6
Nevada	47,240	1,568	3.3%	58,666	1,870	3.2%	-19.5%	-16.1%	3.1%
New Hampshire ^d	12,938	147	1.1	13,616	247	1.8	-5.0	-40.5	-38.9
New Jersey	77,211	873	1.1	76,340	792	1.0	1.1	10.2	10.0
Purchase permits ^c	42,304	728	1.7	38,877	645	1.7	8.8	12.9	--
Instant checks	34,907	145	0.4	37,463	147	0.4	-6.8	-1.4	--
Oregon ^e	53,726	1,171	2.2	58,324	1,296	2.2	-7.9	-9.6	--
Pennsylvania	469,540	10,128	2.2	557,992	18,875	3.4	-15.9	-46.3	-36.6
Tennessee	213,249	15,385	7.2	246,430	16,325	6.6	-13.5	-5.8	9.1
Utah ^a	64,917	2,053	3.2	73,746	2,155	2.9	-12.0	-4.7	10.3
Vermont	19,366	287	1.5	20,777	572	2.8	-6.8	-49.8	-46.4
Virginia	182,170	2,568	1.4	201,596	2,987	1.5	-9.6	-14.0	-6.7
Wisconsin ^d	32,314	462	1.4	36,751	527	1.4	-12.1	-12.3	--

Note: Each of the 19 listed States reported complete statewide data for applications and rejections in 2000.

--Less than 0.05%.

^aApplications for carry permits are listed separately elsewhere.

^bData were unavailable for 4/1/99 to 7/31/99 when NICS conducted background checks.

^cConnecticut, Illinois, and New Jersey conduct checks on permits or identification cards and again at the time of firearm transfer. New Jersey permits are issued locally but are reported statewide.

^dCounts in this table include handguns only for these States.

^eOregon data for 1999 and January through November 2000 are for handguns only.

Data for December 2000 include background checks for both handguns and long guns.

Table 5. Trends in applications, rejections, and reasons for rejection since the beginning of the Brady Act, among all agencies conducting such checks, 1994-2000

	1994	1995	1996	1997	1998	1999	2000	Percent change
Inquiries	2,483,000	2,706,000	2,593,000	2,574,000	3,277,000	8,621,000	7,699,000	210.1%
Rejections	62,000	41,000	70,000	69,000	90,000	204,000	153,000	146.8
Felons rejected	44,000	30,000	47,000	43,000	57,000	147,000	90,000	104.5
All other	18,000	11,000	23,000	26,000	33,000	57,000	63,000	250.0
Percent felony	71%	72%	68%	62%	63%	72%	59%	-16.9
Felons per 1,000 inquiries	17.7	10.9	18.1	16.0	17.3	17.0	11.9	-32.8

Note: Counts are rounded. See notes on table 1.

Reasons for rejection

Nearly 58% of rejections for firearm transfer among State and local checking agencies (about 50,000 applications in 2000) occurred because the applicant either had a felony conviction or was under felony indictment (table 4). The second most common reason

for rejection was a domestic violence misdemeanor conviction or restraining order (about 12% of rejections or approximately 11,000 applications). A portion of all rejections reported by State and local agencies fall under the categories of State and local law prohibitions (5% of rejections) and mental illness (1%).

Trends in applications and rejections

The numbers of applications and rejections more than doubled in 1999. This growth was a result of the implementation of the instant check system (on November 30, 1998). In addition to handgun purchases, the instant check system required that checks be conducted for long gun applications and pawn transactions (table 5).

Over the past 6 years records of disqualifying factors other than felonies have become more accessible. (See table 4 for other prohibitions.) The number of rejections for other reasons increased 250% from the first year of the Brady Act to 2000. The percentage of rejections that were due to felony records decreased from 71% to 59% of rejections in 2000.

Appeals of denials or rejections

Specific appeal procedures for persons denied a firearm or permit are codified in Federal law and in the laws of nearly all States that require background checks. The most common procedure provides an appeal to the checking agency and a subsequent appeal to a court. Twenty-two States provide for an appeal to the checking agency and 18 allow an appeal to a court (table 6). In four States a government officer in a department separate from the checking agency performs an administrative review.

Table 6. Appeal of denied applications, 2000

State	Appeal forums			Statewide agencies	
	Denying agency	Other agency or official ^a	Court	Number of appeals	Percent appealed (appeals/denials)
Arizona	■	--	--	2,165	67.8%
California	■	--	--	--	--
Colorado	■	--	--	2,094	30.2
Connecticut	■	■	--	--	--
Delaware	■	--	■	--	--
Florida	■	--	--	1,456	25.1
Georgia	■	--	■	--	--
Illinois	■	--	■	--	--
Indiana	■	--	■	--	--
Iowa	--	--	■	--	--
Maryland	■	--	■	94	16.5
Massachusetts	--	--	■	--	--
Michigan	■	--	■	--	--
Minnesota	--	--	■	--	--
Missouri	--	--	■	--	--
Nebraska	--	--	■	--	--
Nevada	■	■	--	--	--
New Hampshire	■	--	■	--	--
New Jersey ^b	■	--	■	42	30.0
North Carolina	--	--	■	--	--
Oregon	■	--	--	436	37.3
Pennsylvania	■	■	■	--	--
Tennessee	■	--	--	4,088	26.6
Utah	■	■	■	--	--
Vermont	■	--	--	54	18.8
Virginia	■	--	■	26	1.0
Washington	■	--	■	--	--
Wisconsin	■	--	■	--	--

Note: States included are those that provided a specific firearm appeal procedure as of 6/30/00. What constitutes an appeal differs from State to State. Those with a high number of reported appeals are more likely to include telephone contacts in which a record may have been administratively resolved as an appeal, while those with a low number of appeals may only report more formal appeals. Source: *Survey of State Procedures Related to Firearm Sales, Midyear 2000* (NCJ 186766).

--Not available or not applicable.

^aOther agency or person generally indicates that a government official in a department other than the one that performs background checks processed the appeal.

^bAppeal data are from the instant check unit only.

Procedures for an initial appeal may be relatively informal, with some checking agencies allowing a denied person to initiate a review with a telephone request. Other agencies involved in firearm appeals are those which maintain criminal histories or other records which could disqualify an applicant. An appellant may be required to contact the agency that supplied a criminal history or another record that caused a denial.

Appeals often arise when an applicant denies being the individual named in a disqualifying record found by the checking agency. To resolve the identity question, the appellant will ordinarily submit fingerprints for comparison with Federal and/or State arrestee records. If the appellant's prints do not match any records on file, the denial can be reversed.

Another common appeal arises when an applicant is denied because of a felony arrest or charge without a recorded disposition. The applicant can have the denial reversed by submitting court records to prove that the charge was subsequently dismissed. Whether a checking agency is required to approve, delay, or deny a person with a missing disposition (as dictated by State law) may affect the number of appeals filed.

Data indicate that the vast majority of disputed firearm denials are resolved at the administrative level and are rarely appealed to the courts. Most disputed denials turn on accuracy of records, not on interpretation of the law.

The variation in the number of appeals as well as in the percentage of rejections that are appealed suggests that State definitions of what constitutes an appeal may differ.

Denied persons subject to arrest

Persons prevented from receiving a firearm or a permit by a background check may be subject to arrest and prosecution if they are wanted in an outstanding warrant or have submitted false information on their application. Many checking agencies notify ATF of persons who submit false information on a Federal firearm transaction record. If a misrepresentation violates State law, the checking agency will inform either the agency with jurisdiction over the location of the transaction (usually a dealer's premises) or the agency with jurisdiction over the applicant's residence, or both. In seven States those who falsify an application or attempt an illegal purchase are reported to a special police unit that determines who will be arrested (table 7).

Potential buyers of a firearm often come to the attention of law enforcement agencies as a result of a denied application. Of the six States reporting,

Virginia had the largest number of arrests for outstanding warrants or other reasons, following a denial of a firearm purchase.

State	Number of arrests in 2000
Colorado	259
Georgia	9
Maryland	130
New Jersey	27
Oregon	94
Virginia	775

Note: A statewide unit responded to all falsified applications and illegal attempts and reported all arrests in Maryland and Virginia, while arrests in the other States listed above represent those made by local agencies, which may not always be reported to the State.

When a check identifies a wanted person, the checking agency generally will inform the agency that entered the warrant, in addition to notifying the agency with jurisdiction over the fugitive's present location or place of residence. A statewide fugitive apprehension unit may also be informed. In some States, all persons denied a firearm, for whatever reason, are reported to a special police unit.

Table 7. Notification procedures of selected State agencies regarding denied persons subject to arrest, 2000

State	Notice of outstanding warrant		Notice of false application or illegal attempt to buy		
	Agency with jurisdiction ^a	Special State unit ^b	Agency with jurisdiction ^a	Special State unit ^b	Bureau of Alcohol, Tobacco, and Firearms (ATF)
Arizona	--	■	--	--	■
California	■	--	■	--	--
Colorado	■	--	■	--	■
Connecticut	■	--	--	■	--
Delaware	■	--	■	--	--
Florida	■	--	■	■	■
Georgia	■	--	--	--	--
Illinois	■	--	--	■	--
Indiana	■	--	--	--	■
Maryland	--	■	--	■	--
Nevada	■	--	--	--	■
New Hampshire	■	--	■	--	■
New Jersey	■	■	--	■	--
Oregon	■	--	■	--	--
Pennsylvania	■	--	■	--	■
Tennessee	■	--	--	--	■
Utah	■	--	■	--	--
Vermont	--	--	--	--	--
Virginia	--	■	--	■	■
Wisconsin	■	■	■	■	■
Totals	16	5	10	7	11

Note: Describes procedures in effect 6/30/00. Source: *Survey of State Procedures Related to Firearm Sales, Midyear 2000* (NCJ 186766).

--Not applicable or not available.

^aMay include Federal, State, or local agencies that issued a warrant or have jurisdiction over the site of the transaction or the denied person's residence.

^bIncludes units within the same agency as the checking unit.

Background

Prohibited persons

The Federal Gun Control Act, 18 U.S.C. § 922, prohibits transfer of a firearm to a person who —

- is under indictment for, or has been convicted of, a crime punishable by imprisonment for more than 1 year
- is a fugitive from justice
- is an unlawful user of, or is addicted to, any controlled substance
- has been adjudicated as a mental defective or committed to a mental institution
- is an illegal alien or has been admitted to the United States under a nonimmigrant visa
- was discharged from the U.S. Armed Forces under dishonorable conditions
- has renounced U.S. citizenship
- is subject to a court order restraining him or her from harassing, stalking, or threatening an intimate partner or child
- has been convicted in any court of a misdemeanor crime of domestic violence.

In addition, the Gun Control Act makes it unlawful for any licensed importer, manufacturer, dealer, or collector to transfer a long gun to a person younger than age 18 or any other type of firearm to a person less than 21 years of age.

The Federal act's categories of prohibited persons are the prevailing minimum for all States. Many States have enacted similar or additional prohibitions. For example, 19 States prohibit firearm possession by persons who are addicted to alcohol or have been convicted of alcohol-related offenses; 24 States restrict persons who were adjudicated delinquent or who had committed serious offenses as juveniles. (See *Survey of State Procedures Related to Firearm Sales, Midyear 2000*, NCJ 186766.)

Brady Act provisions

The Brady Act amended the Gun Control Act and included interim provisions, 18 U.S.C. § 922(s), in effect

from February 29, 1994, until November 29, 1998. The U.S. Department of Justice, with the States, developed the National Instant Criminal Background Check System (NICS) during the 57-month interim period, as authorized by the permanent provisions of the Brady Act, 18 U.S.C. § 922(t). Since November 30, 1998, the NICS has allowed a licensee to contact the system by telephone or other electronic means for information, to be supplied immediately, on whether receipt of a firearm by a prospective transferee would violate Federal or State law. In addition, States are encouraged to serve as a point of contact, receiving inquiries from firearm dealers and accessing the FBI's NICS as well as their own records.

In addition to regulation of handgun sales, the permanent provisions mandate that licensees request background checks on long gun purchasers and persons who redeem a pawned firearm. Licensees have the option of requesting a NICS check on persons who attempt to pawn a firearm.

National Criminal History Improvement Program (NCHIP)

The Brady Act established a grant program (NCHIP) to ensure immediate availability of complete and accurate State records. The Firearm Inquiry Statistics Program (FIST), which collects statistics on background checks, is one of many NCHIP programs.

NCHIP is designed to assist States to develop or improve existing criminal history records systems and to establish an interface with the NICS. Grant funds have also supported direct technical assistance, evaluation, and research related to improving records within the States.

To date, over \$314 million has been awarded directly to States to assist them in establishing and enhancing criminal records which support the FBI's record system. All States have received funding under the program.

Components of the national firearm check system

Over 3,000 Federal, State, and local agencies conduct background checks on persons who apply to purchase a firearm or for a permit that can be used to make a purchase. Variations in Federal and State procedures for determining firearm possession eligibility are described below.

Overview of NICS

Prospective firearm transferees undergo a NICS check requested by a dealer or present a State permit that ATF has qualified as an alternative to the point-of-transfer check. Qualifying permits are those which —

- (1) allow a transferee to possess, acquire, or carry a firearm, and
- (2) were issued not more than 5 years earlier by the State in which the transfer is to take place, after verification by an authorized government official that possession of a firearm by the transferee would not be a violation of law. A permit issued after November 29, 1998, qualifies as an alternative only if it includes a check of the NICS.

A licensee initiates a NICS check by contacting either the FBI or a point of contact (POC) agency designated by the State government. The FBI or POC checks the available Federal, State, and/or local databases and responds with a notice to the licensee that the transfer may proceed, may not proceed, or is delayed pending further review of the transferee's record. [See the FBI, *National Instant Criminal Background Check System (NICS), 2000 Operations Report*, April 2001.]

Prior to transferring a firearm subject to permanent Brady requirements, a licensee must receive a completed

Firearm Transaction Record (ATF F 4473). For more information, see *Commerce in Firearms in the United States*, February 2000 <www.atf.treas.gov/pub/fire-explo_pub/020400report.pdf>.

State and local participation in the NICS

Each State government determines the extent of its involvement in the NICS process. Three forms of State involvement currently exist:

- A POC requests a NICS check on all firearm transfers originating in the State.
- A POC requests a NICS check on all handgun transfers; licensees in the State are required to contact the FBI to process long gun transactions.
- The State does not maintain a POC; licensees are required to contact the FBI for NICS checks on all firearm transfers originating in the State.

Handgun checks are conducted by the FBI for 24 States and by POC agencies for 26 States; long gun checks are conducted by the FBI for 34 States and by POC agencies for 16 States (*Appendix A*). The FBI also conducts checks for the District of Columbia, Puerto Rico, and the U.S. Virgin Islands.

Participation in the NICS by POC agencies includes initiating checks on persons who apply for State permits. In a few States with full or partial participation, the FBI conducts the NICS check on certain pawn transactions instead of the POC.

Procedures for determining the eligibility of prospective firearm purchasers are generally classified by ATF as "instant check" or "permit or other type of approval" systems. Thirty-one States have approval systems for purchase or permits required for purchase (*Appendix B*). Eighteen States operate instant check systems; 12 require purchase permits; and 4 maintain other types of approval systems. (Connecticut, Illinois, and New Jersey are each counted twice because they operate separate

purchase permit and instant check systems.) In addition to the Brady Act's regulation of sales by FFL's, some States require background checks for firearm transfers that occur between unlicensed persons at gun shows or other locations.

A few States require a mandatory waiting period after a purchaser applies and before a firearm transfer can be completed, regardless of when the instant check is completed.

The NICS process does not automatically supplant State firearm sales regulations. State background check and permit statutes that existed before the effective date of the NICS remain in force unless repealed by legislative action or allowed to expire.

The POC agencies conduct any checks and issue any permits required by State law in addition to following procedures mandated under the NICS. Generally, instant check agencies conduct a single background check that incorporates Federal and State requirements for each transaction.

Except for Delaware all States with instant check systems are points of contact for the NICS. Most States have designated a single agency with statewide jurisdiction as their NICS point of contact; some States have multiple points of contact, which are usually county sheriffs or local police departments. (For agencies conducting firearm checks, see *Appendix B*.)

Parallel State systems

Most background checks required by State laws are conducted by agencies that also serve as NICS points of contact. However, purchasers in six States are required to undergo two checks conducted by different agencies. If agencies that conduct checks under State law are unable to access the NICS, licensees in that State are required to contact the FBI for approval of transfer. Thus prospective transferees in some States are required to undergo a permit or point-of-transfer check by a State or local

agency and a NICS check by the FBI. Six States (Delaware, Massachusetts, Minnesota, Missouri, New Jersey, and Rhode Island) maintain firearm check systems that can be described as parallel to the NICS process.

For more information on background check systems in specific States, see *Survey of State Procedures Related to Firearm Sales, Midyear 2000*, NCJ 186766.

Methodology

Definitions

State instant approval (instant check) systems require a seller to transmit a purchaser's application to a checking agency by telephone or computer; the agency is required to respond immediately or as soon as possible without delay.

Purchase permit systems require a prospective firearm purchaser to obtain, after background check, a government-issued document (called a permit, license, identification card, etc.) that must be presented to a seller to receive a firearm.

Exempt carry permit is a State carry permit (issued after a background check) that exempts the holder from a check at the time of purchase under an ATF ruling or State law.

Other type of approval systems require a seller to transmit a purchaser's application to a checking agency by mail, telephone, or computer; the agency is not required to respond immediately but must respond before the end of the statutory time limit.

Application for firearm transfer is information submitted by a person to a State or local checking agency to purchase a firearm or obtain a permit that can be used for a purchase; includes information submitted directly to a checking agency or forwarded by a prospective seller.

Transactions are inquiries to the Federal NICS system. There may be

more than one transaction per application, if for example, an agency suspects that an applicant's first and last names have been reversed.

Rejection occurs when an applicant is prohibited from receiving a firearm or a permit that can be used to receive a firearm, due to the finding of a disqualifying factor during a background check.

Data collection procedures

The Regional Justice Information Service (REJIS), through a cooperative agreement with BJS under the FIST program, collected the data.

The agencies supplied data on either paper or diskette. Several different forms were provided to meet the varying office procedures of the agencies. In addition REJIS wrote special software distributed free of charge to requesting agencies. This software was designed to simplify the record tabulating functions of the agency. It also helped to reduce the burden of keeping the statistical data because a capability of the software was to automatically report the data needed for the study. In all cases the data that the agency sent to REJIS contained only statistical information and would not allow the identification of an individual. The software also assists agencies in purging records after the delay specified by law.

FIST data are collected directly from State agencies conducting background checks and from local checking agencies. Data are collected from local checking agencies by mail and telephone contact.

Information collected included the following: firearm applications made to the agency, firearm applications rejected by the agency, and the reasons for rejection. Although many local checking agencies may not handle appeals through the entire process and may have only limited information on outcomes from such appeals, appeal data were requested from local agencies.

Appendix A. National Instant Criminal Background Check System: Checking agencies — FBI or State Point of Contact— for firearm transfers, 2000

State	Handguns		Long guns	
	FBI	POC	FBI	POC
Alabama	■		■	
Alaska	■		■	
Arizona		■		■
Arkansas	■		■	
California		■		■
Colorado		■		■
Connecticut		■		■
Delaware	■		■	
District of Columbia	■		■	
Florida		■		■
Georgia		■		■
Hawaii*		■		■
Idaho	■		■	
Illinois		■		■
Indiana		■	■	
Iowa*		■	■	
Kansas	■		■	
Kentucky	■		■	
Louisiana	■		■	
Maine	■		■	
Maryland		■	■	
Massachusetts	■		■	
Michigan*		■	■	
Minnesota	■		■	
Mississippi	■		■	
Missouri	■		■	
Montana	■		■	
Nebraska*		■	■	
Nevada		■		■
New Hampshire		■	■	
New Jersey		■	■	
New Mexico	■		■	
New York*		■	■	
North Carolina*		■	■	
North Dakota	■		■	
Ohio	■		■	
Oklahoma	■		■	
Oregon		■		■
Pennsylvania		■		■
Puerto Rico	■		■	
Rhode Island	■		■	
South Carolina	■		■	
South Dakota	■		■	
Tennessee		■		■
Texas	■		■	
Utah		■		■
Vermont		■		■
Virginia		■		■
Virgin Islands	■		■	
Washington*		■	■	
West Virginia	■		■	
Wisconsin		■	■	
Wyoming	■		■	
Totals	27	26	37	16

Note: Includes check on purchase or permit required for purchase.
 *States with multiple points of contact.

Determining populations

To estimate the application and rejection rates within a given area, the appropriate agency population was needed and was determined as follows:

The stratification classification of the county was based on the size of the largest city within the county.

If cities within a county were conducting their own background checks, their

Appendix B. State and local agencies conducting background checks for firearm applications, 2000

State	Firearm check type		State agencies		Local agencies	
	Purchase ^a	Carry ^b	Number	Name	Number	Type
Alaska		■	1	Department of Public Safety	---	
Arizona	■	■	1	Department of Public Safety	---	
Arkansas		■	1	State Police	---	
California	■		1	Department of Justice	---	
Colorado	■		1	Bureau of Investigation	---	
Connecticut	■		1	State Police	---	
Delaware	■	■	1	State Police (purchase)	3	County superior courts (carry)
Florida			1	Department of Law Enforcement	---	
Georgia	■	■	1	Bureau of Investigation (purchase)	159	County probate courts (carry)
Hawaii	■		---		4	Police departments
Idaho		■	---		44	County sheriffs
Illinois	■		1	State Police	---	
Indiana	■	■	1	State Police	---	
Iowa	■	■	1	Department of Public Safety ^c	99	County sheriffs
Maryland	■		1	State Police	---	
Massachusetts		■	---		351	Police departments
Michigan	■		---		595	Sheriffs and police departments
Minnesota	■	■	---		568	Sheriffs and police departments
Mississippi		■	1	Department of Public Safety	---	
Missouri	■		---		115	Sheriffs and police departments
Montana		■	---		61	County sheriffs
Nebraska	■		---		95	Sheriffs and police departments
Nevada	■	■	1	Highway Patrol (purchase)	17	County sheriffs (carry)
New Hampshire			1	Department of Safety	---	
New Jersey	■		1	State Police	505	Police departments
New York	■		---		58	Sheriffs and police departments
North Carolina	■		---		100	County sheriffs
North Dakota		■	1	Bureau of Criminal Investigation	---	
Oregon	■		1	State Police	---	
Pennsylvania	■		1	State Police	---	
Rhode Island	■		---		39	Police departments
South Carolina		■	1	Law Enforcement Division	---	
Tennessee	■		1	Bureau of Investigation	---	
Texas		■	1	Department of Public Safety	---	
Utah	■	■	1	Bureau of Criminal Identification	---	
Vermont	■		1	Newport City Police Department ^d	---	
Virginia	■		1	State Police	---	
Washington	■		---		291	Sheriffs and police departments
Wisconsin	■		1	Department of Justice	---	
Wyoming		■	1	Attorney General	---	
Total	31	19	28		3,104	

^aApplications for purchases or permits required for purchases.

^bApplications for carry permits that can be used to waive a purchase check.

^cDepartment of Public Safety only checks State employees.

^dConducts checks for the entire State.

populations were subtracted from the county population.

If a municipal agency provided services for other selected municipalities, then populations for those municipalities were added to the populations of the reporting municipality.

If an agency participating in the study relied upon other jurisdictions to conduct background checks, they were replaced by those other jurisdictions (for example, a town being replaced by a county).

State and local checking agencies were stratified by size of the population served: State agencies that served an entire State population; local agencies that served a population greater than 100,000; local agencies that served a population between 10,000 and 100,000; and local agencies that served a population of less than 10,000. Population size was based on 1998 Census Bureau information. The population categories were chosen to be consistent with those commonly used by the FBI when conducting similar studies.

All agencies serving a population greater than 100,000 were asked to contribute data in 2000. The number of agencies in the survey are shown by population category in the table below.

Population served	Number of agencies
Under 10,000	372
10,000 to 100,000	262
Over 100,000	26
Statewide	31
Total	691

Note: Agencies conducting more than one check are counted only once.

In some States one statewide agency conducts background checks for purchase and another agency (or division within an agency) issues

ATF-approved permits. Although both agencies conducted background checks, care was taken not to count State populations twice in the estimation process. This situation of dual agencies conducting background checks did not occur among local agencies.

Estimation procedures

Based on data provided by both sets of agencies, national estimates were developed using population weighting factors. When an agency did not provide data for all months, a simple linear extrapolation or interpolation was used to generate a 12-month total.

The mix of State and local agencies conducting background checks changed during the transition from the interim to the permanent provisions of the Brady Act. Consequently, while data collection procedures remained similar over time, the agencies providing data changed.

For example, when the permanent provisions of the Brady Act became effective, six agencies that had previously conducted statewide checks turned their background checks over to the FBI. However, three States (Pennsylvania, Tennessee, and Vermont) that had not performed their background checks during the interim period began statewide systems.

The distribution of local checking agencies also changed after the permanent provisions of the Brady Act became effective. Many States delegated their responsibilities to the FBI, so local agencies in those States no longer conducted background checks. Further, it was deemed necessary to collect data from local agencies (and some statewide agencies) that issue certain carry permits approved by ATF or State law as an alternative to a presale background check.

Estimation based on State population was used to determine the number of carry permit applications and rejections in Arkansas. Extrapolation was used

to estimate carry permit applications and rejections in Mississippi and North Carolina. In Alaska the number of carry permit applications was available, but the number of rejections had to be estimated using State population.

Agencies with a rejection rate over four standard deviations above the average standard rejection rate were classified as outliers and their data were not used for projection of estimates. In addition, rejection rates that could not be determined with sufficient accuracy were not used.

The accuracy of the estimates in this report depends on two types of errors: nonsampling and sampling. In this study, nonsampling error may occur from the following: nonresponse; differences in the ways checking agencies process, code, store, and retrieve their information; differences in interpretation of the survey questions; and activities that delay personnel from completing the survey.

In any sample survey, the full extent of nonsampling error is never known. However, steps were taken to minimize the potential for error. Extensive telephone follow-ups were made to encourage responses, answer questions about misunderstood requests, and generally assist in assembling the information in a useable form. Extensive verification of the data ensured the accuracy of the numbers. Agencies providing data were asked to review and revise their reports, and various quality checks were performed in receiving and processing the data.

Sources of additional information

Additional information on State firearm laws is available from BJS in the *Survey of State Procedures Related to Firearm Sales, Midyear 2000*, NCJ 186766. Further information on Federal law and BJS-related publications is available from the following Internet sites:

ATF <<http://www.atf.treas.gov/core/firearms/firearms.htm>>

BJS <<http://www.ojp.usdoj.gov/bjs/guns.htm>>
FBI <<http://www.fbi.gov/programs/nicsfact.htm>>

The Bureau of Justice Statistics is the statistical agency of the U.S. Department of Justice. Lawrence A. Greenfeld is acting director.

BJS Bulletins present the first release of findings from permanent data collection programs such as the Firearm Inquiry Statistics program. State and local officials have cooperated in reporting the data presented.

Michael Bowling and Gene Lauver of REJIS and Sidra Lea Gifford and Devon B. Adams of BJS wrote this Bulletin. David M. Naglich and Ronald J. Frandsen of REJIS collected and analyzed the FIST data presented. Terry Tomazic, Ph.D., professor of research methodology at St. Louis University, provided statistical consultation. Steven K. Smith of BJS reviewed the report, and Carol G. Kaplan supervised the project. NICS officials of the FBI assisted in review of the Bulletin. Tom Hester produced and edited the report.

Further information on the FIST program can be obtained from —

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This report and other reports, data, and resources to obtain information about the criminal justice system and criminal history records are available from the BJS website at <www.ojp.usdoj.gov/bjs>.