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Background Checks for Firearm Transfers, 2002

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The Brady Handgun Violence Prevention Act (Brady Act) mandates criminal history background checks on persons applying to purchase firearms from federally licensed firearm dealers, Federal Firearm Licensees (FFL's). This Bulletin reports the number of applications for firearm transfers and permits, rejections that resulted from background checks, reasons for rejection, and rates of rejection for selected States in 2002.

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 persons applying to receive firearms from a FFL.

The Bureau of Justice Statistics (BJS) began the Firearm Inquiry Statistics (FIST) program in 1995 to collect information on background checks conducted by State and local agencies. The State and local data — when combined with FBI NICS data — provide national estimates of the total

Highlights

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

Applications for firearm transfer	National total				
	2002	2001	2000	1999	1994-2002
Received	7,806,000	7,958,000	7,699,000	8,621,000	45,717,000
Rejected	136,000	151,000	153,000	204,000	976,000
Rejection rate	1.7%	1.9%	2.0%	2.4%	2.1%

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

- From the inception of the Brady Act on March 1, 1994, to December 31, 2002, nearly 46 million applications for firearm transfers were subject to background checks. About 976,000 applications were rejected.
- Total applications for firearm transfers or permits nationwide decreased 2%, from 7,958,000 in 2001 to 7,806,000 in 2002.
- State and local agencies conducted background checks on about half of the applications for firearms transfers or permits in 2002, while the FBI was responsible for the remainder.
- In 2002, 136,000 (1.7%) of approximately 7,806,000 applications for firearm transfers or permits were rejected by the FBI or State and local agencies. This national rejection rate in 2002 declined from 2001 (1.9%).
- The rejection rate for applications checked by the FBI (1.4%) was lower than the rate for checks by State and local agencies (2.1%). Rejection rates for individual State points of contact (POC's) ranged from over 4% to less than 1%.
- In 2002 the majority of rejections for State and local agencies, (52%) were due to applicants' felony convictions or indictments; about 14% were rejected for a domestic violence misdemeanor conviction or restraining order. Other reasons for rejection — including State or local law prohibitions, fugitives, mental illness or disability, drug addiction, juveniles, dishonorable military discharge, and illegal aliens — accounted for the remaining 34%.
- Checking agencies reported an estimated 2,000 arrests of persons with outstanding warrants or who submitted false information on an application.

numbers of applications and rejections resulting from the Brady Act and similar State laws.

In 2002 FIST collected information from 19 statewide POC's and approximately 700 State and local agencies that conduct their own checks under Federal and State laws (figure 1). The FBI also compiled data on the inquiries or transactions handled by the NICS operations center.¹

Nearly all applications included in the 2002 FIST survey were subject to a NICS check, as well as checks to fulfill any 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 9 for further details.)

National estimates

Fewer applications were filed in 2002 than in 2001, decreasing from 7,958,000 to 7,806,000, or 2% (table 1). Rejections fell from 151,000 in 2001 to 136,000 in 2002, a decrease of 10%.

In addition to the nearly 4.2 million applications for firearm transfers processed by the FBI in 2002, State and local checking agencies processed 3.6 million applications (table 2).

When a background check produces evidence of factors that disqualify an applicant from owning a firearm, the application is rejected. (See *Definitions* on page 9 for more detail.)

In 2002 the FBI rejected 60,739 firearm transfer applications, a 1.4% rejection rate, while State and local agencies rejected 75,000, a rate of 2.1%.

¹The number of background checks handled by State POC's, as reported in the *National Instant Criminal Background Check System (NICS) 2002 Operations Report*, published in May 2003, 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 a normal part of FBI operations. FIST only counts the first of multiple inquiries.

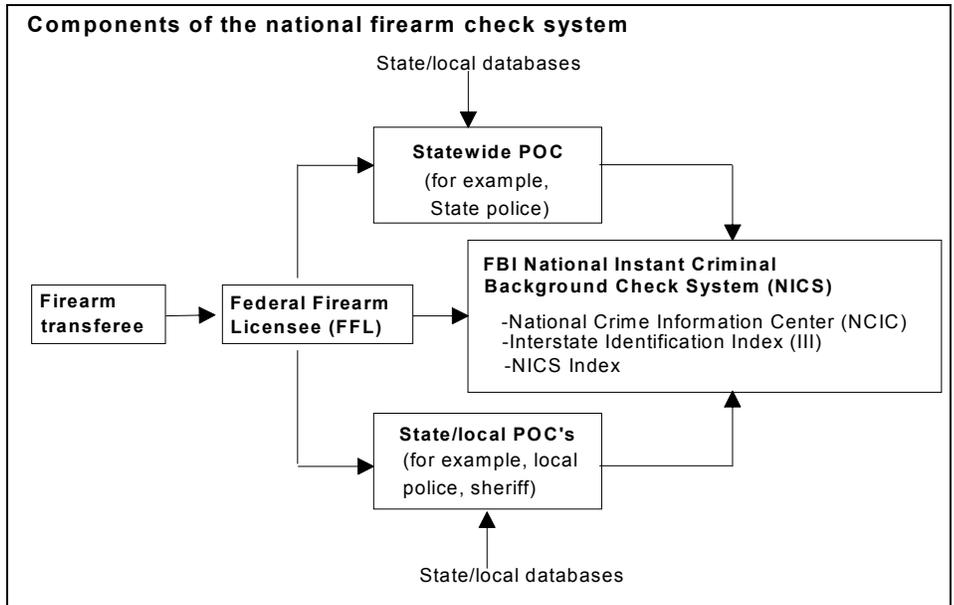


Figure 1

Together, approximately 136,000 firearm transfer applications were rejected in 2002, a rate of 1.7%. This overall rate of rejection continued a 4-year decline.

Since the inception of the Brady Act (the interim provisions went into effect on March 1, 1994), nearly 46 million applications for firearm transfers have been checked, of which 976,000 were rejected, a rejection rate of 2.1%. Permanent Brady's addition of long gun and pawn redemption checks resulted in an increase in the volume of background checks but did not appear to substantially affect the national rejection rate (2.5% during the interim period and 2.0% during the first 4 years of permanent Brady).

Approval systems

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

Instant approval systems

Instant approval (instant check) systems require a seller to transmit the applicant's information to a checking agency by telephone or computer. The checking agency is required to respond to the seller at once or as soon as

Table 1. Number of applications and estimates of rejections for firearm transfer, 1994-2002

	Number of applications		Rejection rate
	Received	Rejected	
Total	45,717,000	976,000	2.1%
Interim period			
1994 ^a	12,740,000	312,000	2.5%
1995	2,483,000	62,000	2.5
1996	2,706,000	41,000	1.5
1997	2,593,000	70,000	2.7
1998 ^b	2,574,000	69,000	2.7
1998 ^b	2,384,000	70,000	2.9
Permanent Brady			
1998 ^c	32,977,000	664,000	2.0%
1998 ^c	893,000	20,000	2.2
1999	8,621,000	204,000	2.4
2000	7,699,000	153,000	2.0
2001	7,958,000	151,000	1.9
2002	7,806,000	136,000	1.7

Note: Counts are rounded. Statistics for national totals from 1999 to 2002 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 by 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.

possible (generally within 3 days). State agencies conducted over 2.1 million instant checks in 2002, and about 48,000 (2.2%) 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 firearm purchasers to obtain, after a background check, a government-issued document (such as a permit, license, identification card, or other document) that must be presented to a seller in order to receive a firearm. Most agencies issuing purchase permits operate under statutes that allow between 7 and 30 days to complete a background check. There were 739,000 applications filed for

State and local purchase permits in 2002, similar to the number filed in 2001, while 14,000, or about 2%, were rejected.

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. A permit is exempt if it is issued after a check that includes the NICS, and meets other requirements of the Brady Act under an ATF ruling. (See *Overview of the NICS* on page 8.) Agencies issuing exempt carry permits access the NICS Index themselves or request a check by sending information to the FBI.

In 2002 State agencies received an estimated 176,000 exempt carry permit applications, of which 5,300 were rejected (3.0%). Besides the State agencies, local agencies received an additional 182,000 applications for exempt carry permits, an increase of more than 7% from 2001. Local

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

	Applica- tions	Rejec- tions	Rejection rate
Alaska	3,436	97	2.8%
Arkansas	5,044	30	0.6
Arizona	19,928	1,750	8.8
Minnesota	13,709	904	6.6
North Dakota	1,784	5	0.3
South Carolina	11,075	360	3.1
Texas	28,869	449	1.6
Utah	7,240	92	1.3
Wyoming	1,192	13	1.1

Note: The States listed reported statewide data for 2002. Minnesota permits are issued locally, but counts are reported by the State.

agencies rejected about 3,200 applications for exempt carry permits for a rejection rate of 1.7%. Nine States reported statewide data on exempt carry permits for 2002.

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 State statutory time limit, generally within 7 to 10 days. Other types of approval systems processed 427,000 applications in 2002 (predominately in California), and about 1% of them were rejected.

Rejection rates vary for types of statewide approval systems, with exempt carry permits having the highest rate (3.0%), followed by purchase permits (2.2%), instant checks (2.2%), and other approvals (1.1%).

Analysis of rejection rates

Although State points of contact received the majority of applications made to State and local checking agencies, local agencies accepted a significant number. Moreover, rejection rates among State and local checking agencies varied by type and age of approval system. Within the overall FBI rejection rate of 1.4%, rejection rates may vary by State and local area.

Table 2. FIST estimates, by type of agency and approval system and total FBI checks, 2002

Type of checks conducted	Applications	Rejections	Rate of rejection
State agencies			
Total	3,004,901	63,939	2.13%
Instant checks	2,153,358	47,613	2.21
Purchase permits	297,992	6,683	2.24
Carry permits	176,204	5,332	3.03
Other approvals	377,347	4,311	1.14
Local agencies			
Total	672,211	11,295	1.68%
Purchase permits	440,909	7,641	1.73
Carry permits	181,960	3,211	1.76
Other approvals	49,342	443	0.90
Unadjusted State and local total	3,677,112	75,234	2.05
Adjustment (see note)	(120,213)	--	--
State and local total (FIST)	3,556,899	75,234	2.12%
FBI total	4,248,893	60,739	1.43%
National total (FIST and FBI)	7,806,000	136,000	1.74%

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

Statewide reporting

In 2002 the FIST survey obtained statewide data from 20 NICS points of contact (including Hawaii) and Delaware. The 16 States that provided complete statewide data processed checks for 2.1 million applications in 2002, rejecting 45,000 (table 3). In 2001 the same agencies conducted checks for 2.2 million applications, of which 52,000 were rejected. For these 16, this represents a 2% decrease in applications and a 14% decrease in rejections between 2001 and 2002.

The change in applications ranged from a 19% increase in New Jersey to a decrease of 9% in Georgia. Similarly, the change in rejections varied from a 19% increase in Illinois to a decrease of 36% in Georgia.

The many interrelated factors that influence rejection rates have not been fully quantified, but a few observations are possible from the data available. The rejection rates in States surveyed by FIST ranged from 0.2% in Connecticut to nearly 4% in Colorado and over 4% in Delaware.

Among the lowest rates for instant checks were those in New Jersey (0.2%) and Illinois (0.9%), 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 requisite permit or ID card — the rejection rate is considerably higher in New Jersey (2.0%) and Illinois (2.5%), more similar to the national average of 1.7% than the second step.

Generally, the higher rejection rates occurred in States that implemented an instant approval system on or after the effective date of the Brady Act. These States included Colorado (3.8%), Tennessee (3.3%), and Georgia (2.9%). In each of these States, the rejection rate has been decreasing since the instant check system began operation.

Approval systems established before passage of the Brady Act generally had lower rejection rates. In addition to Connecticut, Illinois, and New Jersey, these systems include California (1.1%), Virginia (1.3%), and Wisconsin (1.6%). The older systems are also associated with relatively stable rates; two of the oldest systems, California and Illinois (the instant approval step), have had only slight variations in yearly rejection rates since 1996.

Table 3. Number of firearm purchase applications received and rejected, by State agencies, 2001-2002

	2002			2001			Percent change, 2001-2002	
	Number of applications	Rejections	Rejection rate	Number of applications	Rejections	Rejection rate	Applications	Rejections
All statewide agencies	2,148,773	44,715	2.1%	2,199,890	52,053	2.4%	-2.3%	-14.1%
California	352,425	3,833	1.1%	354,202	3,607	1.0%	-0.4%	6.3%
Colorado	138,779	5,315	3.8	145,403	6,705	4.6	-4.6	-20.7
Connecticut ^a	55,216	137	0.2	51,339	170	0.3	7.6	-19.4
Delaware ^b	9,464	407	4.3	9,615	535	5.6	-1.6	-23.9
Florida	266,249	6,331	2.4	275,755	6,873	2.5	-3.4	-7.9
Georgia	189,906	5,456	2.9	209,202	8,545	4.1	-9.2	-36.1
Hawaii ^c	6,990	103	1.5	6,829	134	2.0	2.4	-23.1
Illinois	376,587	7,002	1.9	380,586	5,866	1.5	-1.1	19.4
Purchase permits	225,067	5,695	2.5	222,610	4,616	2.1	1.1	23.4
Instant checks	151,520	1,307	0.9	157,976	1,250	0.8	-4.1	4.6
Nevada	45,593	1,089	2.3%	48,309	1,340	2.8%	-5.6%	-22.6%
New Hampshire ^d	12,752	149	1.2	13,870	165	1.2	-8.1	-9.7
New Jersey	88,038	1,065	1.2	74,060	927	1.3	18.9	17.5
Purchase permits	48,716	993	2.0	38,019	806	2.1	28.1	23.2
Instant checks	39,322	96	0.2	36,041	121	0.3	9.1	-20.7
Oregon	118,023	2,699	2.3	124,754	3,175	2.5	-5.4	-15.8
Tennessee	205,204	6,746	3.3	216,066	9,114	4.2	-5.0	-26.0
Utah ^e	66,100	1,550	2.3	65,696	1,830	2.8	0.6	-15.3
Virginia	187,959	2,363	1.3	192,653	2,612	1.4	-2.4	-9.5
Wisconsin ^d	29,488	474	1.6	31,551	455	1.4	-6.5	4.2

Note: Each of the 16 listed States reported complete statewide data for applications and rejections in 2002.

Pennsylvania reported 378,728 instant checks for 2002, but the number rejected is unavailable.

^aConnecticut, Illinois, and New Jersey conduct checks on permits or identification cards and again at the time of firearm transfer.

^bDelaware is not a POC for the NICS; dealers must contact the FBI for handgun, rifle, and shotgun checks required by the Brady Act.

^cHawaii and New Jersey permits are issued locally, but counts are reported by the State.

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

^eApplications for carry permits are listed separately elsewhere.

Local reporting

Local agencies mainly conduct checks for purchase and exempt carry permits. In 2002 local agencies received 672,000 applications, of which 11,000 (1.7%) were rejected.

Rejection rates varied among local agencies by size of the population served, by the jurisdiction, and by the type of permit. For purchase permits, rejection rates were highest in jurisdiction over 100,000 and lowest in those under 10,000. Overall, rejection rates in 2002 were higher for purchase permits than for exempt carry permits.

Population served	Local rejection rates by population served and by type of permit, 2002	
	Purchase permits	Exempt carry permits
Over 100,000	3.10%	1.34%
10,000 to 100,000	1.24	1.33
Under 10,000	0.97	1.30

Availability of records

During 2002 all States maintained databases that record felony convictions, and many maintained data on other disqualifying factors such as fugitive status, court restraining orders, mental illness, and domestic violence misdemeanor convictions. States differ as to the degree of automation used in record searching and whether records are in a central database or in databases maintained by county courts or other local agencies.

In 2001 States held approximately 63.6 million criminal records on individuals, about 90% of which were automated. About 75% of automated records were accessible for conducting presale firearm and other background checks. From 1995 to 2001, the number of criminal records accessible for background checks has increased 60%, about twice the rate of growth in the number of automated records over the same time period. (See *Improving Criminal History Records for Background Checks*, May 2003 <www.ojp.usdoj.gov/bjs/abstract/ichrbc.htm>.)

Table 4. Reasons for rejection of firearm transfer applications, 1998-2002

Reason for rejection	FBI	State and local agencies				
	2002	2002	2001	2000	1999	1998
Total	100%	100%	100%	100%	100%	100%
Felony indictment/conviction	42.5	51.8	57.7	57.6	72.5	63.3
Domestic violence						
Misdemeanor conviction	12.5	10.4	10.6	8.9	9.0	9.9
Restraining order	5.3	3.5	3.7	3.3	2.1	3.4
State law prohibition	--	9.9	7.0	4.7	3.5	6.6
Fugitive	3.9	8.0	5.8	4.3	5.0	6.1
Mental illness or disability	0.4	1.4	1.2	1.0	0.5	0.7
Drug addiction	6.6	1.3	1.0	0.7	1.0	0.9
Local law prohibition	--	0.9	0.5	0.2	0.2	0.3
Other*	28.7	12.8	12.5	19.4	6.2	8.8

--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.

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 pending further research.

The Brady Act allows a transfer to proceed if a disqualifying record is not

found within the 3-day limit for a NICS check. 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.

Reasons for rejection

About 52% of rejections for firearm transfer among State and local checking agencies (about 39,000 applications in 2002) 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

Mental health and domestic violence records

During 2002-03, REJIS conducted a survey of mental health and domestic violence records accessed during background checks. One goal of the survey was to identify impediments and improvements to the availability and accessibility of these records. Forty-nine State contacts returned the survey.

Nearly all States reported at least one impediment to sending records to the FBI or to checking agency access to records. Common impediments included the following:

- Privacy laws
- Incomplete automation
- Incomplete records
- Inability to distinguish domestic violence misdemeanors from other misdemeanors

Despite these impediments, more than half the States reported at least one initiative underway to improve access to mental health records, domestic violence misdemeanor convictions, and/or restraining order records.

Overall, the survey results indicated that —

- Domestic violence restraining orders are the most readily available of the record types identified above;
- Accessing and sending mental health data pose the greatest challenge;
- Several impediments hinder access to domestic violence misdemeanor convictions, but the impediments are not widespread among States.

Table 5. Trends in applications, rejections, and reasons for rejection since the beginning of the Brady Act, among all agencies conducting such checks, 1994-2002

	2002	2001	2000	1999	1998	1997	1996	1995	1994	Percent change, 1994-2002
Inquiries	7,806,000	7,958,000	7,699,000	8,621,000	3,277,000	2,574,000	2,593,000	2,706,000	2,483,000	214.4%
Rejections	136,000	151,000	153,000	204,000	90,000	69,000	70,000	41,000	62,000	119.4
Felons rejected	65,000	87,000	88,000	147,000	57,000	43,000	47,000	30,000	44,000	47.7
All other	71,000	64,000	65,000	57,000	33,000	26,000	23,000	11,000	18,000	294.4
Percent felony	48%	58%	58%	72%	63%	62%	68%	72%	71%	
Felons per 1,000 inquiries	8.3	10.9	11.4	17.0	17.3	16.0	18.1	10.9	17.7	-53.1

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

misdemeanor conviction or restraining order (about 14% 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 (11% of rejections) and mental illness (1.4%).

The FBI reported that 42% of their rejections were for felony-related reasons (about 26,000 of the total rejections in 2002). As among State and local checking agencies, a domestic violence misdemeanor conviction or restraining order was the next most common reason for rejection (nearly 18% or about 11,000 rejections). Fugitive status and mental illness accounted for smaller proportions of rejections than among State and local checking agencies, while drug-related rejections represented a larger proportion (6.6%).

The number of rejections by State and local agencies for reasons other than felony convictions increased 294% from the first year of the Brady Act to 2002, compared to a 119% increase in total rejections and a 48% increase in rejections for felony convictions (table 5). This represents an increase from 29% of all rejections in 1994 to 52% in 2002. Several factors likely contributed to these increases, including greater accessibility to records of disqualifying factors other than felonies.

States have used funds from the National Criminal History Improvement Program (NCHIP) to initiate the flagging of criminal history records evidencing convictions for domestic violence or the issuance of a protection

order. Forty-two States submit data to the NCIC Protection Order File, which became operational in May 1997 and includes over 750,000 records of protection orders. (See *Improving Criminal History Records for Background Checks*.)

Appeals of denials

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. Eighteen States provide an appeal to the checking agency for a person who is denied a firearm purchase or a permit required for a purchase (table 6). (In eight other States, local agencies may reconsider their decisions although they are not required to do so by law.) Eighteen States provide an appeal to a court. In four States, a government officer in a department separate from the checking agency performs an administrative review.

Table 6. Appeals of denied applications, 2002

State	Appeal forums			Statewide agencies		
	Denying agency	Other agency or official ^a	Court	Number of appeals	Percent appealed (appeals/denials)	Number of denials reversed ^b
California	■	--	--	--	--	--
Colorado	■	--	--	2,115	39.8	995
Connecticut ^c	■	■	■	--	--	--
Delaware	■	--	■	--	--	--
Florida	■	--	--	1,593	25.2	578
Georgia	■	--	■	--	--	--
Illinois	■	--	■	--	--	--
Indiana	■	--	■	--	--	--
Iowa ^d	--	--	■	--	--	--
Maryland	■	--	■	8	--	0
Massachusetts ^d	--	--	■	--	--	--
Michigan ^d	--	--	■	--	--	--
Minnesota ^d	--	--	■	--	--	--
Missouri ^d	--	--	■	--	--	--
Nebraska ^d	--	--	■	--	--	--
Nevada	■	■	--	36	3.5	6
New Hampshire	■	--	■	--	--	--
New Jersey ^c	■	--	■	--	--	38
North Carolina ^d	--	--	■	--	--	--
Oregon	■	--	--	1,347	50.4	109
Pennsylvania	■	■	■	4,805	43.2	2,093
Tennessee	■	--	--	3,530	52.3	2,477
Utah	■	■	--	--	--	--
Virginia	■	--	■	20	0.8	18
Washington ^d	--	--	■	--	--	--
Wisconsin	■	--	■	--	--	--

Note: Includes States that provide a specific appeal procedure.

--Not available or not applicable.

^aAn agency apart from the one that denied the application.

^bThe number of appeals reversed may include appeals from prior years.

^cData are from the instant check unit only.

^dAlthough not required by law, a local agency may reconsider its decision to deny an application.

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 denials are resolved at the administrative level, and turn on the accuracy of records rather than interpretation of law.

The FBI NICS Appeal Services Unit (ASU) reviews and investigates appeals of NICS denials. Of the 61,000 denials issued in 2002 (see table 2), 10,398 or 17% were appealed. About 3 in 10 appeals resulted in the denial being overturned.

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 (table 7). 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.

Many checking agencies notify ATF of persons who submit false information on a Federal firearm transaction record or fail to disclose required information. 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. In some States, all persons denied a firearm are reported to a special police unit.

Of the States reporting for 2002, Virginia had the largest number of arrests of denied persons due to outstanding warrants or other reasons.

State	Number of arrests in 2002
Colorado	246
Connecticut*	14
Georgia	97
Maryland*	208
Oregon	131
Pennsylvania	382
Virginia*	619

*A statewide unit made arrests for false applications or illegal attempts to buy in these States; arrests in other States listed were those made by local agencies, which may not always be reported to the State.

Among those local agencies participating in the FIST survey, it is estimated that about 100 arrests were made as a result of a background check.

In addition, ATF made 200 arrests while enforcing the Brady Act during fiscal year 2002.²

Firearm retrievals

The NICS and several State systems allow a firearms transfer to proceed if

²Bureau of Alcohol, Tobacco and Firearms, correspondence to BJS, 2003. On November 23, 2002, the ATF was renamed as the Bureau of Alcohol, Tobacco, Firearms and Explosives, and was administratively moved from the U.S. Department of the Treasury to the U.S. Department of Justice.

Table 7. Notification procedures of State points of contact (POC's) regarding denied persons subject to arrest, 2002

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	Alcohol, Tobacco, and Firearms (ATF)
California	■	--	■	--	--
Colorado	■	--	■	--	■
Connecticut	■	--	--	■	--
Delaware ^c	■	--	■	--	--
Florida	■	--	■	■	■
Georgia	■	--	■	--	■
Illinois	■	--	--	■	■
Indiana	■	--	--	--	■
Maryland	--	■	--	■	--
Nevada	■	--	--	--	■
New Hampshire	■	--	■	--	■
New Jersey	■	■	--	■	--
Oregon	■	--	■	--	--
Pennsylvania	■	--	■	--	■
Tennessee	■	--	--	--	■
Utah	■	--	■	--	■
Virginia	--	■	--	■	■
Wisconsin	■	■	--	■	■
Totals	16	4	10	7	12

--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.

^cDelaware is not a POC, but conducts a statewide check.

a dealer has not received a response within 3 business days of requesting a check (termed a “default proceed” by the NICS). A checking agency may continue to research an incomplete record even after a default proceed has occurred. If a disqualifying record is found at a later date (termed a “delayed denial” by the NICS), the dealer may be contacted to determine if the applicant completed the transaction and received a firearm.

ATF is informed when the FBI discovers that a firearm was transferred to a prohibited person after a default proceed. An ATF investigation may result in retrieval of the firearm or a transfer back to the dealer. A State checking agency that discovers a delayed denial may inform a statewide firearms unit, local law enforcement, or ATF.

In 2002 ATF reported more than 4,000 retrievals to FIST, and Virginia reported 11.

Background

Prohibited persons

The Federal Gun Control Act (GCA), 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 GCA prohibits most transfers of long guns to persons under 18 and most transfers of handguns to persons under 21. The GCA categories of prohibited persons are the prevailing minimum for all States. Many States have similar prohibitions and have enacted additional categories of prohibited persons, such as those who have committed alcohol-related or juvenile offenses. (See *Survey of State Procedures Related to Firearm Sales, Midyear 2002*, <www.ojp.usdoj.gov/bjs/abstract/ssprfs02.htm>.)

Brady Act provisions

The Brady Act amended the GCA 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 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 2002 the FBI added e-mail (known as *E-Check*) as another means to contact the NICS, and 24,413 inquiries were made by this method. The States are encouraged to maintain points of contact that receive transfer or permit applications and conduct checks of FBI and State records.

In addition to regulation of handgun sales, the permanent Brady 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 the grant program NCHIP to ensure immediate availability of complete and accurate State records. The Firearm Inquiry Statistics Program (FIST), collecting 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 nonfelony records within the States.

To date, over \$390 million has been awarded 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 NCHIP 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 summarized below.

Overview of the NICS

Prospective firearm transferees undergo a NICS check requested by a dealer or present a State permit that the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) has qualified as an alternative to the point-of-transfer check. Qualifying permits are those that —

- (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 its approval process included a NICS check.

Many qualifying permits may be used for multiple purchases while valid. However, State laws often provide that a permit will be revoked if the holder is convicted of an offense or otherwise becomes ineligible after receiving the permit.

A licensee initiates a NICS check by contacting either the FBI or a point of contact (POC) agency designated by State government. The FBI or POC checks 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. In 2002, 10 state-wide POC's reported at least some of their denials to the FBI.

Prior to transferring a firearm subject to permanent Brady requirements, a licensee must receive a completed Firearm Transaction Record (ATF form 4473).

State and local NICS participation

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 for NICS checks for long gun transfers.
- 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 26 States and by POC agencies for 24 States; long gun checks are conducted by the FBI for 36 States and by POC agencies for 14 States (see *Appendix A*). Vermont and Arizona discontinued their status as POC's in

2002. 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 qualified State permits. Generally, POC agencies conduct a background check that incorporates Federal and State requirements. In a few States with full or partial participation, the FBI conducts the NICS check on certain pawn transactions instead of the POC. 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*.)

The NICS is integrated with most State instant approval, purchase permit, or other approval systems. (See *Approval systems*.) Twenty-nine States maintained approval systems for purchase or permits required for purchase during 2002. Sixteen States operated instant check systems; 12 required purchase permits; and 4 maintained other types of approval systems. (Connecticut, Illinois, and New Jersey are each counted twice because they operated separate purchase permit and instant check systems). During 2002, 19 States issued carry permits that exempted the holder from a check under the permanent Brady law or a State law or both (*Appendix B*).

In addition to the Brady Act's regulation of sales by federally licensed dealers, 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 made, regardless of when a background check is completed.

Parallel State systems

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 transfers. 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 approval systems in specific States, see *Survey of State Procedures Related to Firearm Sales, Midyear 2002*, <www.ojp.usdoj.gov/bjs/abstract/ssprfs02.htm>.

Definitions

Appeal is an objection by the denied person to an agency's decision.

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.

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.

Instant check (instant approval) 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.

Other 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.

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

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.

Transactions are inquiries to the Federal NICS system and may include more than one inquiry per application.

Methodology

Data collection procedures

The Regional Justice Information Service (REJIS), through a cooperative agreement with BJS under the Firearm Inquiry Statistics (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 time 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 arrests and appeals through the entire process and may have only limited information on outcomes, arrest and appeal data were requested from local agencies.

Determining populations

To estimate the application and rejection rates within a given area, the agency population was needed and

Appendix A. National Instant Criminal Background Check System: Checking agencies — FBI or State point of contact — for firearm transfers, 2002

State	Handguns		Long guns	
	FBI	POC	FBI	POC
Alabama	■		■	
Alaska	■		■	
Arizona	■		■	
Arkansas	■		■	
California		■		■
Colorado		■		■
Connecticut		■		■
Delaware	■		■	
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		■		■
Rhode Island	■		■	
South Carolina	■		■	
South Dakota	■		■	
Tennessee		■		■
Texas	■		■	
Utah		■		■
Vermont	■		■	
Virginia		■		■
Washington*		■	■	
West Virginia	■		■	
Wisconsin		■	■	
Wyoming	■		■	
Totals	26	24	36	14

Note: Includes check on purchase or permit required for purchase.

*States with multiple points of contact.

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 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.

Appendix B. State and local agencies conducting background checks for firearm applications, yearend 2002

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		■	---		56	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	---	
Virginia	■		1	State Police	---	
Washington	■		---		291	Sheriffs and police departments
Wisconsin	■		1	Department of Justice	---	
Wyoming		■	1	Attorney General	---	
Total	29	19	27		3,099	

^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.

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 2000 Census Bureau information. The population categories were chosen to be consistent with those used by the FBI when conducting similar studies.

All agencies serving a population greater than 100,000 were asked to contribute data in 2002. The number

of agencies in the survey are shown by population category in the table below.

Population served	Number of agencies
Under 10,000	328
10,000 to 100,000	377
Over 100,000	53
Statewide	30
Total	788

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.

Estimation based on State population was used to determine the number of

carry permit applications and rejections in Mississippi. Extrapolation was used to estimate handgun license and instant check applications and rejections in Indiana.

Agencies with rejection rates 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.

Pennsylvania reported 378,728 instant checks, included in the FIST national estimate, and 182,547 applications for non-exempt carry permits. Pennsylvania provided the combined number of denials of all applications, which was prorated to obtain the number of denials of instant checks.

The accuracy of the estimates presented 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 methods checking agencies use to 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. The estimates do not include U.S. Territories or the District of Columbia.

The Bureau of Justice Statistics is the statistical agency of the U.S. Department of Justice. Lawrence A. Greenfeld is 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 Devon B. Adams and Matthew J. Hickman of BJS wrote this Bulletin. David M. Naglich, Ronald J. Frandsen, and Joann M. Laws of REJIS collected and analyzed the FIST data presented. Terry Tomazic, Ph.D., professor of research methodology at St. Louis University, provided statistical consultation. At BJS, Steven K. Smith reviewed the report, and Carol G. Kaplan supervised the project. Tina Dorsey edited the report.

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