



# Bureau of Justice Statistics Bulletin

September 2002, NCJ 195235

# Background Checks for Firearm Transfers, 2001

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The Brady Handgun Violence Prevention Act (the Brady Act) mandates criminal history background checks on persons applying to purchase firearms from federally licensed firearm dealers (Federal Firearm Licensees or 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 2001.

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 — provides 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			
	2001	2000	1999	1994-2001
Received	7,958,000	7,699,000	8,621,000	37,911,000
Rejected	151,000	153,000	204,000	840,000
Rejection rate	1.9%	2.0%	2.4%	2.2%

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

- From the inception of the Brady Act on March 1, 1994, to December 31, 2001, nearly 38 million applications for firearm transfers were subject to background checks. About 840,000 applications were rejected.
- Total applications for firearm transfers or permits nationwide increased 3%, from 7.7 million in 2000 to 8.0 million in 2001.
- State and local agencies conducted background checks on about half of the applications for firearms transfers or permits in 2001, while the FBI was responsible for the remainder.
- In 2001, 151,000 (1.9%) of approximately 7,958,000 applications for firearm transfers or permits were rejected by the FBI or State and local agencies. This national rejection rate in 2001 remained similar to that in 2000 (2.0%).
- The rejection rate for applications checked by the FBI (1.5%) was lower than the rate for checks by State and local agencies (2.3%). Rejection rates for individual State points of contact ranged from over 4% to less than 1%.
- 58% of rejections in 2001 were due to applicants' felony convictions or indictments; 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 28%.
- The number of rejections for reasons other than prior felony conviction history increased 256% from the beginning of the Brady Act to yearend 2001, evidence of enhanced access to databases of prohibited purchasers.
- Nearly all local checking agencies have a policy to arrest or notify law enforcement when an applicant is rejected because of an active warrant; two-thirds have a policy to arrest or notify law enforcement when an applicant submits false information or fails to disclose required information.

numbers of applications and rejections resulting from the Brady Act.

In 2001 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.\*

Nearly all applications included in the 2001 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 8 for further details.)

### National estimates

More applications were filed in 2001 than in 2000, increasing from 7.7 to 8.0 million, or 3% (table 1). Rejections fell from 153,000 in 2000 to 151,000 in 2001, a decrease of 1.3%.

In addition to the nearly 4.3 million applications for firearm transfers processed by the FBI in 2001, State and local checking agencies processed 3.7 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 in the *Methodology* section on page 10 for more detail.)

In 2001 the FBI rejected 65,000 firearm transfer applications, a 1.5% rejection rate, while State and local agencies rejected 86,000, a rate of 2.3%. Together, approximately 151,000 firearm transfer applications were

\*The number of background checks handled by State POC's, as reported in the draft *National Instant Criminal Background Check System (NICS) 2001 Operations Report*, February 2002, 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. The methodology used by FIST allows these to be deleted.

### Components of the national firearm check system

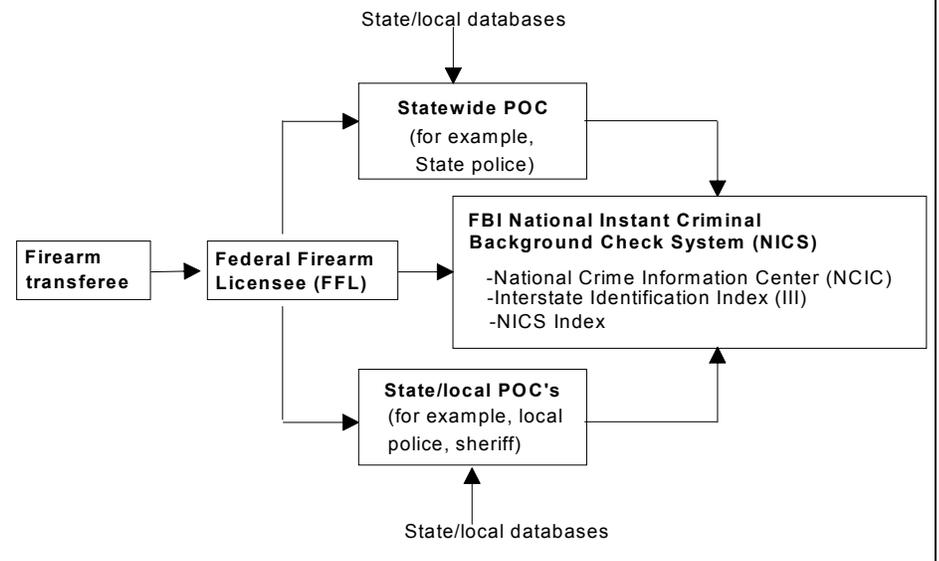


Figure 1

rejected in 2001, a rate of 1.9%. This overall rate of rejection was similar to that in 2000 (2.0%).

**Table 1. Number of applications and estimates of rejections for firearm transfer, 1994-2001**

	Number of applications		Rejection rate
	Received	Rejected	
<b>Total</b>	37,911,000	840,000	2.2%
<b>Interim period</b>	12,740,000	312,000	2.5%
1994 <sup>a</sup>	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 <sup>b</sup>	2,384,000	70,000	2.9
<b>Permanent</b>			
<b>Brady</b>	25,171,000	528,000	2.1%
1998 <sup>c</sup>	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

Note: Counts are rounded. Statistics for national totals from 1999 to 2001 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).

<sup>a</sup>March 1 - December 31, 1994.

<sup>b</sup>January 1 - November 29, 1998.

<sup>c</sup>November 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.

Since the inception of the Brady Act (the interim provisions went into effect on March 1, 1994), nearly 38 million applications for firearm transfers have been checked, of which 840,000 were rejected, a rejection rate of 2.2%. Permanent Brady 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 2.1% during the first 3 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 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 possible (generally within 3 days).

State agencies conducted over 2.2 million instant checks in 2001, and about 2.5% 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 2001, an increase of 10% from 2000. These State and local agencies rejected 15,300 or 2.1%.

#### 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 National Instant Criminal Background Check System*). Agencies issuing exempt carry permits access the NICS Index themselves or request a check by sending information to the FBI.

State agencies in 2001 received an estimated 170,000 exempt carry permit applications, of which 5,000 were rejected (2.9%). Besides the State agencies, local agencies received an additional 169,000 applications for exempt carry permits, an increase of 43% from 2000. Local agencies rejected about 3,800 applications for exempt carry permits for a rejection rate of 2.2%. Eight States reported statewide data on exempt carry permits for 2001, with Indiana providing the largest number.

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

	Applica- tions	Rejec- tions	Rejection rate
Alaska	5,277	162	3.1%
Arizona	14,221	825	5.8
Indiana	88,312	2,351	2.7
North Dakota	2,045	5	0.2
South Carolina	13,477	232	1.7
Texas	28,848	428	1.5
Utah	7,666	114	1.5
Wyoming	1,142	20	1.8

Note: The 8 States listed reported statewide data for 2001. Estimates for 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 State statutory time limit, generally within 7 to 10 days. Other types of approval systems processed 432,000 applications in 2001 (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 (2.9%), followed by instant checks (2.5%), purchase permits (2.0%), and other approvals (1.1%).

#### Reporting of applications and rejections

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 age and type of approval system. Within the overall FBI rejection rate of 1.5%, rejection rates may vary by State and local area.

**Table 2. FIST estimates, by type of agency and approval system and total FBI checks, 2001**

Type of checks conducted	Applications	Rejections	Rate of rejection
<b>State agencies</b>			
<b>Total</b>	3,083,014	71,551	2.32%
Instant checks	2,265,113	57,042	2.52
Purchase permits	265,493	5,428	2.04
Carry permits	170,435	4,940	2.90
Other approvals	381,973	4,141	1.08
<b>Local agencies</b>			
<b>Total</b>	693,260	14,113	2.04%
Purchase permits	473,698	9,888	2.09
Carry permits	169,404	3,771	2.23
Other approvals	50,158	454	0.91
Unadjusted State and local total	3,776,000	86,000	2.27
Adjustment (see note)	(110,000)	--	--
<b>State and local total (FIST)</b>	3,666,000	86,000	2.34%
<b>FBI total</b>	4,291,926	64,500	1.50%
<b>National total (FIST and FBI)</b>	7,958,000	151,000	1.86%

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 2001 the FIST survey obtained statewide data from the 19 NICS points of contact. The 18 POC's that provided complete statewide data processed checks for 2.9 million applications in 2001, rejecting 66,000 (table 3). In 2000 the same agencies conducted checks for 2.7 million applications, of which 71,000 were rejected. For these 18, this represents a 6% increase in applications and a 7% decrease in rejections between 2000 and 2001.

The change in applications ranged from a 19% increase in Florida to a decrease of 8% in California. Similarly, the change in rejections varied from a 21% increase in Connecticut to a decrease of 41% in Tennessee. Although applications and rejections increased in Oregon, the State added

long gun checks in December 2000, and thus, 2000 and 2001 are not comparable.

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 0.3% in Connecticut to 4.6% in Colorado. Among the lowest rates for instant checks were those in New Jersey (0.3%) 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 requisite permit or ID card — the rejection rate is considerably higher in New Jersey

(2.1%) and Illinois (2.1%), more similar to the national average 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 (4.6%), Tennessee (4.2%), and Georgia (4.1%).

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%), Virginia (1.4%), and Wisconsin (1.4%). The older systems are also associated with relatively stable rates; two of the oldest systems, California and Illinois (the instant approval step), have only slight variations in yearly rejection rates since 1996.

**Table 3. Number of firearm purchase applications received and rejected by State agencies, 2000-2001**

	2001			2000			Percent change, 2000 - 2001	
	Number of applications	Rejections	Rejection rate	Number of applications	Rejections	Rejection rate	Applications	Rejections
All statewide agencies	2,879,464	66,071	2.3%	2,712,452	70,748	2.6%	6.2%	-6.6%
Arizona <sup>a</sup>	128,621	3,408	2.6%	126,880	3,194	2.5%	1.4%	6.7%
California	353,722	3,607	1.0	386,210	3,475	0.9	-8.4	3.8
Colorado	145,403	6,705	4.6	137,916	6,923	5.0	5.4	-3.1
Connecticut <sup>b</sup>	51,339	170	0.3	49,079	140	0.3	4.6	21.4
Florida	275,755	6,873	2.5	231,783	5,790	2.5	19.0	18.7
Georgia	209,202	8,545	4.1	213,110	10,526	4.9	-1.8	-18.8
Illinois	380,586	5,866	1.5	375,361	5,730	1.5	1.4	2.4
Purchase permits	222,610	4,616	2.1	217,773	4,434	2.0	2.2	4.1
Instant checks	157,976	1,250	0.8	157,588	1,296	0.8	0.2	-3.5
Indiana <sup>a,c</sup>	20,247	368	1.8	19,442	328	1.7	4.0	12.2
Nevada	48,309	1,340	2.8%	47,240	1,568	3.3%	2.3%	-14.5%
New Hampshire <sup>c</sup>	13,870	165	1.2	12,938	147	1.1	7.2	12.2
New Jersey	74,060	927	1.3	77,211	873	1.1	-4.1	6.2
Purchase permits <sup>b</sup>	38,019	806	2.1	42,304	728	1.7	-10.1	10.7
Instant checks	36,041	121	0.3	34,907	145	0.4	3.2	-16.6
Oregon <sup>d</sup>	124,754	3,175	2.5	53,726	1,171	2.2	132.2	171.1
Pennsylvania	528,138	10,687	2.0	469,540	10,128	2.2	12.5	5.5
Tennessee	216,066	9,114	4.2	213,249	15,385	7.2	1.3	-40.8
Utah <sup>a</sup>	65,696	1,830	2.8	64,917	2,053	3.2	1.2	-10.9
Vermont	19,492	224	1.1	19,366	287	1.5	0.7	-22.0
Virginia	192,653	2,612	1.4	182,170	2,568	1.4	5.8	1.7
Wisconsin <sup>c</sup>	31,551	455	1.4	32,314	462	1.4	-2.4	-1.5

Note: Each of the 18 listed States reported complete statewide data for applications and rejections in 2001. While Maryland did not provide complete data for 2001, an estimate for the State was included in the national estimate.

<sup>a</sup>Applications for carry permits are listed separately elsewhere.

<sup>b</sup>Connecticut, Illinois, and New Jersey conduct checks on permits or identification cards and again at the time of firearm transfer. Connecticut data are for instant checks only; an estimate of purchase permits is included in the national total. New Jersey permits are issued locally but are reported statewide.

<sup>c</sup>Counts in this table include handguns only for these States.

<sup>d</sup>Oregon data for January through November, 2000, are for handguns only. Data for December 2000 and for all of 2001 include background checks for all firearm transfers.

## Local reporting

Local agencies mainly conduct checks for purchase and exempt carry permits. In 2001 local agencies received 693,000 applications, of which 14,000 (2.0%) were rejected (table 2).

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. No similar pattern appeared in rejection rates for exempt carry permits, although rejection rates were highest in jurisdictions over 100,000. Overall, rejection rates in 2001 were higher for exempt carry permits than for purchase permits.

Population served	Local rejection rates by population served and by type of permit, 2001	
	Purchase permits	Exempt carry permits
Over 100,000	2.33%	2.49%
10,000 to 100,000	1.59	1.83
Under 10,000	1.25	2.33

## Availability of records

During 2001 all States maintained databases that record past 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.

**Table 4. Reasons for rejection of firearm transfer applications, 1996-2001**

Reason for rejection	State and local agencies					
	2001	2000	1999	1998	1997	1996
Total	100%	100%	100%	100%	100%	100%
Felony indictment/conviction	57.7	57.6	72.5	63.3	61.7	67.8
Domestic violence						
Misdemeanor conviction	10.6	8.9	9.0	9.9	9.1	--
Restraining order	3.7	3.3	2.1	3.4	2.1	--
State law prohibition	7.0	4.7	3.5	6.6	6.1	5.5
Fugitive	5.8	4.3	5.0	6.1	5.9	6.0
Mental illness or disability	1.2	1.0	0.5	0.7	0.9	3.9
Drug addiction	1.0	0.7	1.0	0.9	1.6	1.2
Local law prohibition	0.5	0.2	0.2	0.3	0.9	0.7
Other*	12.5	19.4	6.2	8.8	11.7	13.4

--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.

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-business 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 58% of rejections for firearm transfer among State and local checking agencies (about 49,000 applications in 2001) 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 14% of rejections or approximately 12,000 applications). A portion of all rejections reported by State and local agencies fall under the categories of State and local law prohibitions (7.5% of rejections) and mental illness (1%).

The number of rejections for reasons other than felony convictions increased 256% from the first year of the Brady Act to 2001 (table 5). This represents an increase from 28% of all rejections to 43% in 2001. Several factors likely

**Table 5. Trends in applications, rejections, and reasons for rejection since the beginning of the Brady Act, among all agencies conducting such checks, 1994-2001**

	2001	2000	1999	1998	1997	1996	1995	1994	Percent change, 1994-2001
Inquiries	7,958,000	7,699,000	8,621,000	3,277,000	2,574,000	2,593,000	2,706,000	2,483,000	220.5%
Rejections	151,000	153,000	204,000	90,000	69,000	70,000	41,000	62,000	143.5
Felons rejected	87,000	88,000	147,000	57,000	43,000	47,000	30,000	44,000	97.7
All other	64,000	65,000	57,000	33,000	26,000	23,000	11,000	18,000	255.6
Percent felony	58%	58%	72%	63%	62%	68%	72%	71%	
Felons per 1,000 inquiries	10.9	11.4	17.0	17.3	16.0	18.1	10.9	17.7	-38.4

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

contributed to these increases, including greater accessibility to records of disqualifying factors other than felonies. (See table 4 for other prohibitions).

### 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. Twenty States provide an appeal to the checking agency for a person who is denied a firearm purchase or a permit required for a purchase. (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).

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 the accuracy of records, not on an interpretation of law.

In October 2001 a questionnaire inquiring about appeal and arrest procedures was sent to all State and local checking agencies that provided FIST with data at midyear. All but three State agencies (89% of those contacted)

responded. Of local checking agencies, nearly half responded. The final set of local responses reflected balance by geography (every State in the FIST survey being represented) and by size of the population served by the checking agency (see *Methodology*).

Nearly all agencies indicated that denied applicants asked them about procedural issues or application status. All State agencies and the majority of local agencies received requests for reversal of denials. About a third of agencies serving places with populations under 100,000 said that denied applicants contacted another agency (generally a court) with requests for reversal.

**Table 6. Appeals of denied applications, 2001**

State	Appeal forums			Statewide agencies		
	Denying agency	Other agency or official <sup>a</sup>	Court	Number of appeals <sup>b</sup>	Percent appealed (appeals/denials)	Number of denials reversed <sup>c</sup>
Arizona <sup>d</sup>	■	--	--	1,985	58.2%	1,751
California	■	--	--	--	--	--
Colorado	■	--	--	2,144	32.0	1,062
Connecticut <sup>d</sup>	■	■	--	5	2.9	5
Delaware	■	--	■	146	27.3	--
Florida	■	--	--	1,721	25.0	712
Georgia	■	--	■	--	--	--
Illinois	■	--	■	359	6.1	107
Indiana <sup>e</sup>	■	--	■	759	32.3	--
Iowa <sup>e</sup>	--	--	■	--	--	--
Maryland	■	--	■	--	--	--
Massachusetts <sup>e</sup>	--	--	■	--	--	--
Michigan <sup>e</sup>	--	--	■	--	--	--
Minnesota <sup>e</sup>	--	--	■	--	--	--
Missouri <sup>e</sup>	--	--	■	--	--	--
Nebraska <sup>e</sup>	--	--	■	--	--	--
Nevada	■	■	--	--	--	--
New Hampshire	■	--	■	--	--	--
New Jersey <sup>d</sup>	■	--	■	--	--	--
North Carolina <sup>e</sup>	--	--	■	--	--	--
Oregon	■	--	--	1,353	42.6	145
Pennsylvania	■	■	■	4,330	40.5	1,839
Tennessee	■	--	--	3,186	35.0	2,072
Utah	■	■	--	--	--	--
Vermont	■	--	--	26	11.6	19
Virginia	■	--	■	17	0.7	15
Washington <sup>e</sup>	--	--	■	--	--	--
Wisconsin	■	--	■	--	--	--

Note: Includes States that provide a specific appeal procedure.

--Not available or not applicable.

\*Handgun license data only.

<sup>a</sup>An agency apart from the one that denied the application.

<sup>b</sup>A State with a high number of reported appeals may include telephone contacts recorded as appeals; a State with a low number may only report more formal appeals.

<sup>c</sup>The number of appeals reversed may include appeals from prior years.

<sup>d</sup>Data are from the instant check unit only.

<sup>e</sup>Although not required by law, a local agency may reconsider its decision to deny an application.

The majority of agencies responded that they will reconsider a decision to deny. Many of these agencies will correct errors (usually related to identification or an inaccurate record) or consider other circumstances. About 39% of agencies serving smaller

places said that another unit was responsible for reversals. Few agencies scheduled formal hearings.

The FBI NICS Appeal Services Unit (ASU) reviews and investigates appeals of NICS denials. Of the

64,500 denials issued in 2001 (see table 2), 9,336 or 14.5% were appealed. About 3 in 10 appeals resulted in the denial being overturned. For greater detail on the ASU and the ASU review process, see the *NICS 2001 Operations Report*.

**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. 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

**Notification procedures of State points of contact (POC's) regarding denied persons subject to arrest, 2001**

State	Notice of outstanding warrant		Notice of false application or illegal attempt to buy		
	Agency with jurisdiction <sup>a</sup>	Special State unit <sup>b</sup>	Agency with jurisdiction <sup>a</sup>	Special State unit <sup>b</sup>	Alcohol, Tobacco, and Firearms (ATF)
Arizona	--	■	--	--	■
California	■	--	■	--	--
Colorado	■	--	■	--	■
Connecticut	■	--	--	■	--
Delaware <sup>c</sup>	■	--	■	--	--
Florida	■	--	■	■	■
Georgia	■	--	■	--	■
Illinois	■	--	--	■	■
Indiana	■	--	--	--	■
Maryland	--	■	--	■	--
Nevada	■	--	--	--	■
New Hampshire	■	--	■	--	■
New Jersey	■	■	--	■	--
Oregon	■	--	■	--	--
Pennsylvania	■	--	■	--	■
Tennessee	■	--	--	--	■
Utah	■	--	■	--	■
Vermont	■	--	--	--	■
Virginia	--	■	--	■	■
Wisconsin	■	■	■	■	■
Totals	17	5	10	7	14

--Not applicable or not available.

<sup>a</sup>May 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.

<sup>b</sup>Includes units within the same agency as the checking unit.

<sup>c</sup>Delaware is not a POC, but conducts a statewide check.

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.

In the supplemental survey, 85% of local checking agencies indicated that

they always arrested a denied person or notified another unit about an active warrant. Another 12% responded that action was sometimes taken, depending on circumstances such as whether the warrant involved a felony. Less than 3% of local agencies took no action on an active warrant.

With regard to false or missing information, 22% indicated that they always arrested or notified another unit. Another 41% said that action was sometimes taken, while 35% responded that their agency never arrested or notified another unit. In certain States, no laws allow for the arrest of applicants for false or missing information. Further, checking agencies often notify an enforcement or prosecutorial agency which may take action at their discretion.

Of the States reporting for 2001, Virginia had the largest number of arrests of denied persons due to outstanding warrants or other reasons.

State	Number of arrests in 2001
Colorado	276
Connecticut*	3
Georgia	64
Maryland*	221
Oregon	198
Pennsylvania	348
Virginia*	791

\*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.

In addition, ATF made 175 arrests while enforcing the Brady Act during fiscal year 2001.\*

\*Bureau of Alcohol, Tobacco and Firearms, correspondence to BJS, April 2002.

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## 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 2001*, NCJ 192065.)

### *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 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. 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 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 nonfelony records within the States.

To date, over \$354 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 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 NICS*

Prospective firearm transferees undergo a NICS check requested by a dealer or present a State permit that the Bureau of Alcohol, Tobacco, and Firearms (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.

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.

Prior to transferring a firearm subject to permanent Brady requirements, a licensee must receive a completed Firearm Transaction Record (ATF form 4473). For more information, see *Commerce in Firearms in the United States*, February 2000 <[www.atf.treas.gov/pub/fire-explo\\_pub/020400report.pdf](http://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 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 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 (see *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 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*). Thirty-one States maintained approval systems for purchase or permits required for purchase during 2001 (*Appendix B*). Eighteen States operated instant check systems; 12 required purchase

**Appendix A. National Instant Criminal Background Check System: Checking agencies — FBI or State point of contact — for firearm transfers, 2001**

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	24	26	34	16

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

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 2001, 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.

**Appendix B. State and local agencies conducting background checks for firearm applications, 2001**

State	Firearm check type		State agencies		Local agencies	
	Purchase <sup>a</sup>	Carry <sup>b</sup>	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 <sup>c</sup>	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	---	
Vermont	■		1	Newport City Police Department <sup>d</sup>	---	
Virginia	■		1	State Police	---	
Washington	■		---		291	Sheriffs and police departments
Wisconsin	■		1	Department of Justice	---	
Wyoming		■	1	Attorney General	---	
Total	31	19	28		3,099	

<sup>a</sup>Applications for purchases or permits required for purchases.

<sup>b</sup>Applications for carry permits that can be used to waive a purchase check.

<sup>c</sup>Department of Public Safety only checks State employees.

<sup>d</sup>Conducts checks for the entire State.

**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 to conduct checks. 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 2001*, NCJ 192065.

**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 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.

*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 and may include more than one inquiry per application.

*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.

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

#### *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 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 (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 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 2001. The number of agencies in the survey are shown by population category in the table below.

<u>Population served</u>	<u>Number of agencies</u>
Under 10,000	309
10,000 to 100,000	340
Over 100,000	51
Statewide	31
Total	731

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 carry permit applications and rejections in Arkansas and purchase applications and rejections in Maryland.

Fourteen 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.

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.

#### **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 2001*, NCJ 192065. 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 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 Matthew J. Hickman and Devon B. Adams 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. Tom Hester edited the report.

Further information on the FIST program can be obtained from —

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September 2002, NCJ 195235