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A National Estimate

Presale Firearm Checks

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On average each month an estimated 6,600 firearm purchases were prevented by background checks of

potential gun buyers during the 28 months after the effective date of the Brady Handgun Violence Prevention Act. The checks revealed purchasers' ineligibility under Federal or State laws to buy a handgun or other firearm. Over 70% of the rejected purchasers were convicted or indicted felons.

Between March 1994 and June 1996, for all States together, there were almost 9 million applications to purchase firearms and an estimated 186,000 rejections. The data do not indicate whether rejected purchasers later obtained a firearm through other means.

Highlights

Presale firearms checks: Estimates of inquiries and rejections

	Bureau of Alcohol, Tobacco and Firearms ^a		Bureau of Justice Statistics ^b			
	3/1/94-12/31/94		1/1/95-12/31/95		1/1/96-6/30/96	
	All States	Original Brady States ^c	All States	Original Brady States ^c	All States	Original Brady States ^c
Inquiries and rejections						
Inquiries/applications	3,679,000	1,696,000	4,009,000	1,884,000	1,308,000	570,000
Rejected	92,000	42,000	60,000	28,000	34,000	16,000
Rejection rate	2.5%	2.5%	1.5%	1.5%	2.6%	2.8%
Reasons for rejection						
Felony indictment / conviction	65,000	30,000	43,000	20,000	24,000	13,000
Other	26,000	12,000	17,000	8,000	9,000	3,000

Note: All estimated counts are rounded. Percentages were calculated from unrounded data. Detail may not add to total because of rounding.

^aInformation was provided by the Bureau of Alcohol, Tobacco and Firearms. The

estimates include all types of guns.

^bBased on 176 sources in 44 States. The estimates reflect only applications for purchase of handguns.

^cOriginal Brady States are the 32 States required to follow presale review procedures set out in the Brady Act when it became effective on February 28, 1994. (See the table on page 3.)

- Presale background checks of persons applying to buy a handgun or long gun resulted in about 6,600 rejections each month. This estimate, covering the period between March 1, 1994, and June 30, 1996, includes both States operating under the Brady Handgun Violence Prevention Act (Brady States) and States with comparable statutes

preventing gun sales to prohibited persons (Brady-alternative States).

- More than 7 in 10 of the rejections occurred when potential buyers were found to have had a felony conviction or to be under felony indictment.

On average each month, an estimated 3,100 applications were rejected in the 32 States that followed the review procedures set forth in the Brady Act when it became effective in February 1994 ("original Brady States"). During the period from March 1994 through June 1996, there were 86,000 rejections from a total of about 4.2 million applications or inquiries.

These are the first BJS statistics from an ongoing survey to assess the impact of presale checks on preventing sales of handguns and long guns to persons in prohibited categories. The categories are defined in the Federal Gun Control Act of 1968 or related State legislation. (See *Background* on this page.)

In the most recent 6 months for which national data were collected, January to June 1996, gun dealers made more than 1.3 million inquiries about the eligibility of potential buyers of handguns. About 34,000 ineligible customers were identified, a rejection rate of 2.6%. For the original Brady States during the most recent period, 570,000 inquiries or applications resulted in 16,000 rejections. This represented a 2.8% rejection rate.

During the first half of 1996, almost three-fourths of rejections of a handgun purchase were based on a finding of a felony conviction or indictment. Although not all States have the capability to check nonfelon categories, fugitives from justice (6%), persons who violated State laws (4%), and persons under court restraining or protective orders (2%) accounted for the next largest categories of rejections.

Rejected applications, (all States) 1/1/96-6/30/96	100%
Felon (convicted/indicted)	72
Fugitive	6
State law prohibition	4
Restraining order	2
Mental illness or disability	1
Other*	15

*Includes persons addicted to illegal drugs, juveniles, aliens, violators of local ordinances, those who have renounced citizenship, persons dishonorably discharged, and unspecified.

As of midyear 1996, 14 States reported that presale checks included a check of outstanding restraining orders; 11 States reported that checks of mental health records are made in connection with presale firearm checks.

When only those States that reported searching data bases for reasons other than felony status are considered, rejections for such reasons accounted for the following:

Nonfelony reason	Percent of rejections in States which search records for specific nonfelony reasons
Fugitive	6%
Restraining orders	4
Mental illness	2

Sources of data

The findings are based on data collected by the Bureau of Alcohol, Tobacco and Firearms (ATF) and BJS. Data for 1994 and 1995, provided by ATF, were calculated using the number of firearm-coded inquiries to the FBI's criminal history database. The percentage of denials used for ATF estimates was based on the experiences of jurisdictions that had implemented presale firearms check procedures prior to the Brady Act.

Data for the first half of 1996 were collected under the BJS Firearm Inquiry Statistics (FIST) program. The results were from a survey of 600 law enforcement agencies, of which 176 in 44 States responded.

Background

The provisions of the Federal Gun Control Act (18 U.S.C. §§ 922 (g) and (n) as amended) prohibit the sale of firearms to an individual 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 a controlled substance;
- has been adjudicated as a mental defective or committed to a mental institution;

- is an alien unlawfully in the United States;
- was discharged from the 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; or
- is a person convicted of domestic violence.

Brady Act

The Brady Act was enacted in November 1993 and became effective in February 1994.* The interim provisions of the act require that licensed firearm dealers request a presale check on all potential *handgun* purchasers from the Chief Law Enforcement Officer (CLEO) in the jurisdiction where the prospective purchaser resides.

The CLEO must make a reasonable effort to determine if the purchaser is prohibited from receiving or possessing a handgun. The Federal firearms licensee must wait 5 business days before transferring the handgun to the buyer unless earlier approval is received from the CLEO. These interim procedures will terminate no later than November 30, 1998.

The "interim provision" also permits States to follow a variety of alternatives to the 5-day waiting period. These alternatives include States that issue firearm permits, perform "instant checks," or conduct "point-of-sale" checks. To qualify under these alternatives, State law must require that before any licensee completes the transfer of a handgun to a nonlicensee, a government official verify that possession of a handgun by the transferee would not be a violation of law. Example of Brady-alternative States include California ("point-of-sale check"), Virginia ("instant check"), and Missouri (permit).

After November 1998 instant background checks will be required for

*Data collection began after the effective date of the Brady Handgun Violence Prevention Act (P.L. 103-159) on February 28, 1994.

purchasers of all firearms. The background check will determine, based on available records, if an individual is prohibited under the Federal Gun Control Act or State law from receiving or possessing firearms.

Under the "permanent provisions" of the Brady Act, presale inquiries will be made through the National Instant Criminal Background Check System (NICS). The act requires the NICS, which will be operated by the FBI, to be established no later than November 1998. At that time the procedures related to the waiting period of the interim system will be eliminated.

Under the FBI's proposed NICS configuration, State criminal history records will be provided through each State's central repository and the Interstate Identification Index. The index, maintained by the FBI, points instantly to criminal records that States hold. In addition, the FBI will provide records of Federal offenses, Federally maintained State data, and Federal data on nonfelony disqualifications. States responding to NICS inquiries for nonfelony prohibitions will provide their records directly.

The National Criminal History Improvement Program (NCHIP)

To ensure immediate availability of complete and accurate State records, the Brady Act established a grant program authorized at \$200 million. The program is to assist States to develop criminal history record systems and improve the interface with the NICS.

A major goal of the grant program is the interstate availability of complete State records when the NICS is implemented. Toward this goal, over \$112 million was awarded in direct awards to States during fiscal years 1995 and 1996. NCHIP program funds have also supported direct technical assistance to States, evaluation, and related research.

Gun purchaser background checks, by State, 1996

State	Brady State (Y)		Number of law enforcement contacts responsible for record checks*	State data bases being accessed			
	Original (3/1/94)	6/30/96		Criminal histories	Wanted fugitives	Re-straining orders	Mental health
Alabama	Y	Y	67	Y	Y		
Alaska	Y	Y	35	Y	Y		
Arizona	Y	Y	1	Y	Y		
Arkansas	Y	Y	1	Y	Y		
California			1	Y	Y	Y	Y
Colorado	Y		1	Y	Y	Y	
Connecticut			1	Y		Y	
Delaware			1	Y	Y		Y
Florida			1	Y	Y	Y	
Georgia	Y		1	Y	Y		Y
Hawaii			4	Y	Y		Y
Idaho	Y		1	Y	Y	Y	
Illinois			1	Y	Y		Y
Indiana			1	Y			
Iowa			99	Y	Y	Y	Y
Kansas	Y	Y	123	Y			
Kentucky	Y	Y	1	Y	Y	Y	
Louisiana	Y		59	Y			
Maine	Y	Y	128	Y	Y		
Maryland			1	Y	Y		
Massachusetts			270	Y	Y		Y
Michigan			625	Y	Y		
Minnesota	Y		568	Y	Y		Y
Mississippi	Y	Y	263				
Missouri			115	Y	Y		
Montana	Y	Y	59	Y	Y		
Nebraska			95	Y	Y		
Nevada	Y	Y	1	Y	Y		
New Hampshire	Y		1	Y	Y	Y	
New Jersey			490	Y	Y	Y	Y
New Mexico	Y	Y	112	Y			
New York			58	Y	Y		
North Carolina	Y		98	Y	Y		
North Dakota	Y	Y	53	Y	Y		
Ohio	Y	Y	1	Y	Y		
Oklahoma	Y	Y	440	Y			
Oregon			208	Y	Y		Y
Pennsylvania	Y	Y	67	Y			
Rhode Island	Y	Y	39	Y	Y		
South Carolina	Y	Y	1	Y	Y		
South Dakota	Y	Y	66	Y	Y	Y	
Tennessee	Y		96	Y		Y	
Texas	Y	Y	991	Y	Y		
Utah	Y		1	Y	Y		
Vermont	Y	Y	22	Y	Y	Y	
Virginia			1	Y	Y	Y	
Washington	Y		291	Y	Y		
West Virginia	Y	Y	1	Y	Y	Y	
Wisconsin			1	Y	Y		Y
Wyoming	Y	Y	40	Y	Y		
Total	32	22	5,602	49	41	14	11

*In the Brady States contacts are the chief law enforcement officers (CLEO's); in Brady-alternative States these contacts are identified according to criteria of each State. Source: Survey of State Procedures Related to Firearm Sales, BJS, May 1996 (NCJ-160763).

Firearm Inquiry Statistics program

The FIST program was established under the NCHIP to develop data on the impact of presale firearm checks on the identification of prohibited firearm purchasers. None of the FIST information provided from agencies to BJS contains or reveals the identity of individual applicants.

Information requested for the survey does not include data traceable to an applicant, and the computer program that some agencies use to collect FIST data transmits only the appropriately aggregated or categorized responses. The computer program also assists agencies in purging records after the delay times specified in law.

An initial report describing State background check procedures, *Survey of State Procedures Related to Firearm Sales* (NCJ-160763), was released in May 1996. Data summarizing the number of inquiries, rejections, and reasons for rejections are collected regularly and will be summarized and released semiannually.

Applicable State legislation

When the Brady Act became effective on February 28, 1994, 32 States and Puerto Rico were required to follow presale review procedures set out in the act. The remaining States were Brady-alternative States. Since then, 10 more States have enacted legislation to become Brady-alternative States (Colorado, March 1994; Georgia, January 1996; Idaho, June 1994; Louisiana, May 1996; Minnesota, August 1994; New Hampshire, January 1995; North Carolina, December 1995; Tennessee, May 1994; Utah, March 1994; and Washington, June 1996).

Methodology

The following presents the approach used to derive the 6-month estimate (for the period January to June 1996) from a sample of law enforcement offices charged with determining eligibility to purchase a firearm.

Data collection

For those States with local chief law enforcement officers (local CLEO's), CLEO's were randomly selected within each of the population size categories, based upon 1990 Census data: categories A (under 10,000 residents), B (10,000 to 100,000), C (over 100,000). The sample was also stratified between Brady States and Brady-alternative States.

A total of 176 CLEO's submitted data in time for this survey: 63 in category A, 55 in B, 36 in C, and 22 statewide CLEO's. Some agencies carried out presale determinations for other agencies or had determinations done for them by other agencies. The populations accorded these agencies were adjusted, based on the number of residents they actually served.

Calculation of estimates

(1) Census data for 1990 were used to calculate relative weights of samples from local and State CLEO's. The estimated 1990 population for the 50 States was 248,102,973.

(2) At least some data were received from 44 States. The general procedure to estimate all 50 States was —

(a) For each size category the populations for those agencies that submitted data and for all agencies of that size were totaled. A factor was computed from these two numbers.

(b) The raw number of applications and rejections (in sum and for each rejection category) were totaled for each size group.

(c) For the estimated number of applications and estimated number of rejections, the totals were multiplied by the factor computed in (a) for each size group.

(d) The totals for all size groups were added together to get the totals for the numbers of applications and rejections.

(e) To get the estimated number in each reason-for-rejection category, the percentage of the total raw rejections was calculated, and that percentage was multiplied by the estimated total number of rejections.

(3) New Jersey submitted data for total applications and rejections, but no reasons for rejections or breakdowns for its local CLEO's. Data for local CLEO's in New Jersey were ignored. Alaska submitted data for most of that State's CLEO's. This study categorized both States as State reporting agencies.

(4) Of the three States that changed from Brady to Brady-alternative States after 1995, Georgia (1/1/96) was considered a Brady-alternative State, and Louisiana (5/7/96) and Washington (6/6/96), Brady States.

(5) Two large cities were analyzed separately because of their high rejection rates; their averages were not used to estimate the overall rejection rates. Their numbers of rejections were included in the final total, however.

(6) Agencies for the following States reported data for applications and rejections but no data for reasons for rejection: Alaska, Indiana, New Hampshire, New Jersey, Ohio, and West Virginia.

(7) To evaluate properly the application and rejection rates for purchasing populations within a given area, the appropriate CLEO was identified.

(a) If cities within a participating county CLEO were acting as their own CLEO's, their populations were subtracted from the county population.

(b) If a municipal CLEO was discovered to be providing services for other selected municipalities, then populations for those municipalities were added to the population of the city having the CLEO.

(c) Those CLEO's selected to participate in the study but found to be relying on other jurisdictions to conduct background checks were replaced by those other jurisdictions (for example, a town being replaced by a county).

(8) Maine has local CLEO's; however, Maine's data came from the State police that serve 40% of the State's population. The State police data were split into A and B categories based on the proportion of the Maine population in each category.

(9) Connecticut did not submit any data in time for this study. Connecticut has both local and State CLEO's, but for the purposes of this study, Connecticut was classified as a State CLEO.

(10) National estimates exclude the District of Columbia and U.S. territories. Sales of firearms are prohibited in the District of Columbia except to law enforcement officers.

The Bureau of Justice Statistics is the statistical agency of the U.S. Department of Justice. Jan M. Chaiken, Ph.D., is director.

BJS Bulletins present the first release of findings from permanent data collection programs. Don Manson, BJS Program Manager, and Gene Lauver, manager of the Firearm Inquiry Statistics program, Regional Justice Information Service (REJIS), wrote this Bulletin under the supervision of Carol Kaplan, Chief, National Criminal History Improvement Programs, BJS. REJIS of St. Louis, MO, collected and analyzed the FIST data presented. The Bureau of Alcohol Tobacco and Firearms assisted with background and analysis. Darrell Gilliard provided statistical verification. Tom Hester produced and edited the report. Marilyn Marbrook, assisted by Yvonne Boston and Jayne Pugh, administered final report production.

Further information about the Firearm Inquiry Statistics (FIST) program may be obtained from Carol Kaplan, BJS, or Gene Lauver, REJIS, 4255 West Pine Blvd., St. Louis, MO. 63108.

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This report and others from the Bureau of Justice Statistics are available through the Internet —

<http://www.ojp.usdoj.gov/bjs/>