



# Bureau of Justice Statistics Bulletin

November 2006, NCJ 214256

## Background Checks for Firearm Transfers, 2005

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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. 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 Federal Firearm Licensee (FFL).

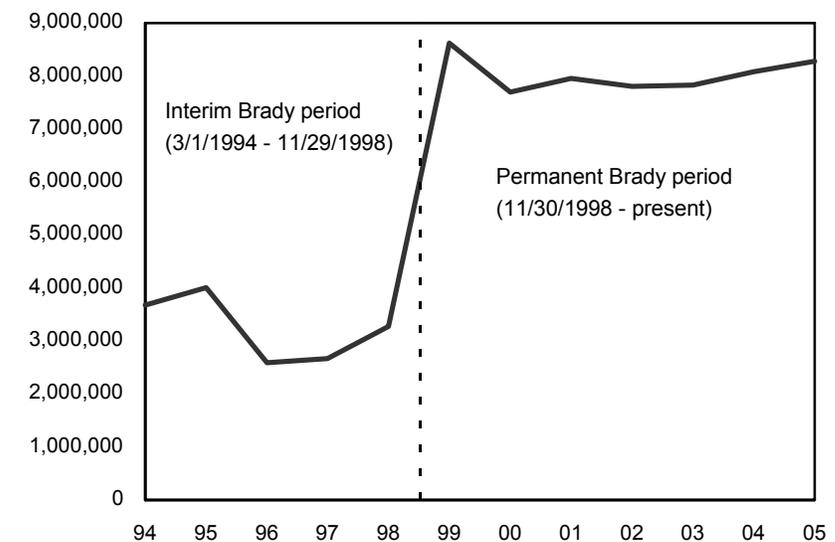
In order to provide national estimates of the total number of applications and rejections resulting from the Brady Act and similar State laws, the Bureau of Justice Statistics (BJS) in 1995 began the Firearm Inquiry Statistics Program (FIST). The FIST program collects information on background checks conducted by State and local agencies, and combines this information with FBI NICS transaction data.

In 2005 about 8.3 million applications for firearm transfers or permits were subject to background checks under the Brady Act and similar State laws. This is an increase of 2.4% from the 8.1 million applications in 2004. The FBI processed nearly 5.0 million of these applications (60%), and State and local agencies processed 3.3 million (40%).

### Highlights

**Nearly 70 million background checks conducted under the Brady Act through 2005; over 57 million since the permanent provisions took effect**

Number of background checks



- 1.6% of the 8.3 million applications for firearm transfers or permits in 2005 were rejected by the FBI (66,700 applications) or State and local agencies (65,200 applications).

- Among State and local checking agencies in 2005, 46% of all rejections for firearm transfers (about 30,000 applications) were due to a felony conviction or indictment.

- About 15% of State and local rejections (10,000 applications) were due to a domestic violence misdemeanor conviction or restraining order.

- The Bureau of Alcohol, Tobacco, Firearm and Explosives' (ATF) field offices investigated 9,575 National Instant Criminal Background Check System (NICS) denials that were referred by the FBI in 2005.

- In 2005 agencies reported 1,400 arrests of persons denied a firearm or a permit.

- In 2005 U.S. attorney offices accepted for prosecution 135 NICS denial cases investigated by ATF.

### 8.3 million background checks conducted nationwide in 2005; nearly 70 million since 1994

Nearly 70 million applications for firearm transfers or permits were subject to background checks under the NICS (table 1).<sup>\*</sup> During the interim period of the Brady Act (1994-1998), an estimated 12.7 million applications were checked. Most of these applications were for handgun transfers. Background checks for long guns were included under the permanent provisions of the Brady Act (effective November 1998).

An estimated 1.4 million applications to purchase a firearm were rejected between 1994 and 2005, or 1.9% of all applications. In 2005 an estimated 132,000 applications, or 1.6%, were rejected. (See *Prohibited persons* on page 8 for more detail on factors that disqualify an applicant.)

<sup>\*</sup>For greater detail on the National Instant Criminal Background Check System (NICS), see *Components of the national firearm check system* on page 9.

### State and local agencies conducted 3.3 million background checks in 2005

State systems for approval of a prospective firearm purchaser can be classified as instant check, purchase permit, exempt carry permit, or other approval systems. The FIST survey included applications for two types of State permits — purchase and exempt carry permits.

State agencies conducted over 1.9 million instant checks in 2005, and about 40,000 (2%) of the applications were rejected (table 2). From 1999 to 2005 State instant approval systems received 15 million applications, rejecting 386,000 (2.6%).

Instant check systems require a seller to transmit the applicant's information to a checking agency by telephone or computer. The checking agency is

**Table 1. Number of applications and estimates of rejections for firearm transfers or permits, 1994-2005**

	Number of applications		Rejection rate
	Received	Rejected	
<b>Total</b>	69,912,000	1,360,000	1.9%
<b>Interim period</b>			
1994-1998 <sup>a</sup>	12,740,000	312,000	2.4
<b>Permanent Brady</b>	57,170,000	1,048,000	1.8
1998 <sup>b</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
2002	7,806,000	136,000	1.7
2003	7,831,000	126,000	1.6
2004	8,084,000	126,000	1.6
2005	8,278,000	132,000	1.6

Note: Counts are rounded to the nearest 1,000. National totals from 1999 to 2005 combine FIST estimates for State and local agencies with actual transactions and rejections reported by the FBI. For information about FIST estimates before 1999 see *Presale Handgun Checks, the Brady Interim Period, 1994-98* <<http://www.ojp.usdoj.gov/bjs/abstract/phc98.htm>>.

<sup>a</sup>March 1, 1994 to November 29, 1998.

<sup>b</sup>November 30 to December 31, 1998. Counts are from the *NICS Operations Report* (November 30, 1998 - December 31, 1999) and may include multiple transactions for the same application.

**Table 2. Number of applications and rejections, by type of agency and type of check, 1999-2005**

Type of checks conducted	2005			1999-2005		
	Applications	Rejections	Rate of rejection	Applications	Rejections	Rate of rejection
<b>National total (FIST and FBI)</b>	8,277,873	131,916	1.6%	57,169,631	1,047,765	1.8%
<b>FBI total</b>	4,952,639	66,705	1.4%	31,946,547	474,597	1.5%
<b>State and local total (FIST)*</b>	3,325,234	65,211	2.0%	25,223,084	573,168	2.3%
<b>State agencies</b>						
<b>Total</b>	2,803,044	54,323	1.9%	21,453,631	493,910	2.3%
Instant checks	1,968,548	40,054	2.0	15,108,311	386,087	2.6
Purchase permits	302,792	6,778	2.2	2,240,675	49,441	2.2
Exempt carry permits	154,830	3,573	2.3	1,244,893	28,381	2.3
Other approvals	376,874	3,918	1.0	2,859,752	30,001	1.0
<b>Local agencies</b>						
<b>Total</b>	568,103	10,888	1.9%	4,202,090	79,258	1.9%
Purchase permits	320,724	8,197	2.6	2,715,454	57,422	2.1
Exempt carry permits	177,687	2,245	1.3	1,131,293	18,807	1.7
Other approvals	69,692	446	0.6	355,343	3,029	0.9

Note: Agencies that conduct checks for exempt carry permits in Alaska, Arizona, Arkansas, Indiana, Mississippi, North Dakota, South Carolina, Texas, and Wyoming request that the FBI conduct the background check. The State agency makes the decision to approve or reject the application. Applications in these States are included in the FBI checks, but rejections are included in the State and local checks. Totals for the 7-year period include December 1998.

\*State and local total applications were adjusted by (45,913) in 2005 and by (432,637) between 1999 and 2005.

required to respond to the seller at once or as soon as possible (generally within 3 business days).

In 2005 State and local agencies received 624,000 applications for purchase permits. Around 15,000, or 2.4%, were rejected. From 1999 to 2005, 5 million applications for purchase permits were received by State and local agencies, of which 107,000 were rejected (2.1%).

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 State statutes that allow between 7 and 30 days to complete a background check.

Ten States reported complete statewide data on exempt carry permits for 2005. These agencies received 155,000 exempt carry permit applications, of which 3,600 were rejected (2.3%).

Statewide reporting  
on exempt carry permit  
applications, 2005

	Applica- tions	Rejec- tions	Rejection rate
Total <sup>a</sup>	155,000	3,600	2.3%
Alaska	1,487	28	1.9
Arkansas	4,736	183	3.9
Arizona	19,754	1,473	7.5
Indiana <sup>b</sup>	70,904	1,008	1.4
Minnesota <sup>b</sup>	7,393	157	2.1
North Dakota	2,250	4	0.2
South Carolina	5,847	137	2.3
Texas	26,682	353	1.3
Utah	10,597	162	1.5
Wyoming	1,165	25	2.1

<sup>a</sup>Detail do not sum to total because of partial reporting. See Methodology for state-specific information.

<sup>b</sup>State exempt only.

Local agencies received 178,000 applications for exempt carry permits and rejected 2,200 (1.3%).

From 1999 to 2005 State and local agencies received 2.4 million applications for exempt carry permits, rejecting 47,000 or about 2%.

An exempt carry permit is not required for purchase but may 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 a Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) regulation and 18 U.S.C. 922(t).

Agencies issuing ATF-approved exempt carry permits usually request a check by sending information to the FBI. Indiana and Minnesota carry permits are only exempt under State law.

In 2005 other types of approval systems processed 447,000 applications, predominately in California, and rejected 4,000 (1%). From 1999 to 2005 these systems received 3.2 million applications, rejecting 33,000 (1%).

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, typically within 7 to 10 days.

### FBI rejection rates affected by separate State or local background check requirements

In States where the FBI conducted both long gun and handgun background checks in 2005, rejection rates ranged from 2.1% for Alaska to less than 1% for Kansas, Massachusetts, Maine, Missouri, Rhode Island, and West Virginia (table 3).

NICS rejection rates in Massachusetts (0.1%) and Rhode Island (0.7%) were low as a result of separate background checks by local agencies. Rates in Delaware (1.4%) were reduced by prior checks conducted by the State Police (3.8% rejection).

**Table 3. Rejection rates for selected FBI States, 1999-2005**

	2005			1999-2005		
	Total transactions	Total rejections	Rejection rate	Total transactions	Total rejections	Rejection rate
Total	3,510,580	40,566	1.2%	21,572,811	308,785	1.4%
Alaska	44,514	923	2.1	275,121	6,846	2.5
Alabama	235,873	3,165	1.3	1,556,215	25,529	1.6
Arkansas	164,001	2,470	1.5	1,069,735	20,403	1.9
Delaware	17,121	242	1.4	117,829	1,833	1.6
Idaho	80,343	1,285	1.6	466,111	9,883	2.1
Kansas	98,311	840	0.9	675,488	7,207	1.1
Kentucky	232,589	2,334	1.0	1,584,505	21,365	1.3
Louisiana	207,954	3,847	1.8	1,237,420	23,664	1.9
Massachusetts	105,347	82	0.1	366,497	828	0.2
Maine	50,319	290	0.6	344,211	2,291	0.7
Minnesota	224,165	2,420	1.1	1,224,528	14,142	1.2
Missouri	214,241	1,938	0.9	1,398,170	16,210	1.2
Mississippi	167,713	1,778	1.1	1,075,761	13,174	1.2
Montana	84,060	1,150	1.4	506,018	8,931	1.8
North Dakota	36,000	448	1.2	218,027	2,474	1.1
New Mexico	82,051	1,167	1.4	556,128	8,762	1.6
Ohio	313,159	3,818	1.2	2,084,227	31,526	1.5
Oklahoma	182,031	1,936	1.1	1,112,272	15,206	1.4
Rhode Island	9,649	63	0.7	70,239	565	0.8
South Dakota	50,768	494	1.0	296,018	4,031	1.4
Texas	738,793	8,393	1.1	4,232,150	62,034	1.5
West Virginia	133,667	957	0.7	880,892	8,345	0.9
Wyoming	37,911	526	1.4	225,249	3,536	1.6

Note: States are those for which the FBI conducted all checks under permanent Brady. Total for 7-year period includes December, 1998.

**Statewide rejection rates ranged from 0.3% to 3.8%**

In 2005 statewide data was obtained from 16 NICS POC States (where State agencies conduct background checks instead of or in addition to the FBI) and Delaware. These States processed checks for 2.7 million applications, rejecting 51,000 or 1.9% (table 4).

The rejection rates for these States ranged from 0.3% in Connecticut and New Jersey to 3.8% in Delaware. Instant checks in New Jersey (0.3%) and Illinois (0.6%) were among the lowest rejection rates in 2005, where an instant check at the time of transfer is the second step required for firearm owners. During the first step of the process — an application for the requisite permit or ID card — the rejection rate is considerably higher in Illinois (2.6%), more similar to the national average.

Higher rejection rates in 2005 mainly occurred in States that implemented an instant approval system, such as Colorado (3.1%) and Tennessee (3.5%). Approval systems established before passage of the Brady Act, such as California (1%), Virginia (1.2%), and Wisconsin (1.5%), typically had lower rates. These rates have varied little from year to year.

In 2005 local agencies received 568,000 applications for purchase and exempt carry permits. Around 11,000 or 1.9% were rejected. Rejection rates for both types of permits were highest in jurisdictions with a population over 100,000 and lowest in those under 10,000.

Population served	Local rejection rates by population served and type of permit	
	2005	1999-2005
<b>Purchase permits</b>		
Under 10,000	1.1%	1.3%
10,000 to 100,000	1.8	1.7
Over 100,000	3.3	2.8
<b>Exempt carry permits</b>		
Under 10,000	0.6%	1.0%
10,000 to 100,000	1.2	1.4
Over 100,000	1.4	1.8

Overall, local agency rejection rates in 2005 were higher for purchase permits than for exempt carry permits.

**Table 4. Number of firearm purchase applications received and rejected by State agencies, 1999-2005**

State agencies	2005			1999-2005		
	Number of applications	Rejections	Rejection rate	Number of applications	Rejections	Rejection rate
All statewide agencies	2,709,823	51,154	1.9%	18,524,321	396,590	2.1%
California	344,847	3,470	1.0	2,554,582	25,517	1.0
Colorado	151,758	4,734	3.1	962,117	40,078	4.2
Connecticut <sup>a</sup>	57,874	146	0.3	405,004	1,159	0.3
Delaware	10,803	415	3.8	69,582	3,110	4.5
Florida	350,790	8,103	2.3	1,938,862	45,816	2.4
Georgia <sup>b</sup>	81,204	1,402	1.7	1,332,201	46,904	3.5
Hawaii <sup>c</sup>	8,695	110	1.3	...	...	...
Illinois <sup>a</sup>	386,326	6,950	1.8	2,765,023	49,089	1.8
Purchase permits	231,693	5,981	2.6	1,646,936	40,592	2.5
Instant checks	154,633	969	0.6	1,118,087	8,497	0.8
Maryland	24,287	396	1.6	190,779	3,373	1.8
Nevada	61,539	1,391	2.3	...	...	...
New Hampshire <sup>d</sup>	14,628	116	0.8	94,440	1,107	1.2
New Jersey <sup>a,c</sup>	77,386	778	1.0	555,764	6,365	1.1
Purchase permits	39,379	682	1.7	297,147	5,543	1.9
Instant checks	38,007	96	0.3	258,617	846	0.3
Oregon	139,797	2,549	1.8	746,154	15,821	2.1
Tennessee	211,308	7,336	3.5	1,500,104	67,772	4.5
Utah <sup>e</sup>	72,564	2,332	3.2	473,089	13,802	2.9
Virginia	217,051	2,668	1.2	1,384,560	17,688	1.3
Wisconsin <sup>d</sup>	35,254	530	1.5	231,273	3,511	1.5

Note: Each listed State reported complete statewide data for applications and rejections in 2005. Pennsylvania reported 371,338 instant checks, but the number rejected is unavailable. ...Not available or not applicable.

<sup>a</sup>Connecticut, Illinois, and New Jersey conduct checks on permits or identification cards and again at the time of firearm transfer.

<sup>b</sup>Counts in 2005 for January through June only.

<sup>c</sup>Hawaii and New Jersey permits are issued locally, but counts are reported by the State.

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

<sup>e</sup>Applications for carry permits are listed separately (see text table, page 3).

**25 States had fully automated criminal history records in 2003; 24 States partially automated**

All States maintain databases that record felony convictions, and many maintain 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 county courts or other local agencies.

In 2003, 49 States had automated at least some records in their criminal history files. The number of States with fully automated criminal history files increased from 21 to 25 between 1999 and 2003. (See *Survey of State Criminal History Information Systems, 2003*, <<http://www.ojp.gov/bjs/abstract/sschis03.htm>>.)

Checking agencies often encounter delays when they access incomplete records. The most frequent delays occur when researching the final disposition of a criminal charge in an 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. A State's rejection rate may tend to be lower if an approval is mandated and higher if a denial is mandated.

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.

## Felony convictions, indictments, leading reason for rejections in 2005

In 2005 the FBI reported that 37% of its rejections were for felony-related reasons (about 25,000 applications), followed by other criminal history disqualifiers (about 18,000 applications or 27%), which include State-specific prohibitions.

	FBI	State and local agencies
Total	100%	100%
Felony indictment/conviction	36.8	45.9
Other criminal history <sup>a</sup>	26.9	...
Domestic violence		
Misdemeanor conviction	10.8	11.8
Restraining order	4.7	3.6
State law prohibition	...	9.6
Fugitive	5.3	8.3
Illegal alien	1.7	0.5
Mental illness or disability	0.5	3.0
Drug addiction	8.8	1.9
Local law prohibition	...	0.2
Other prohibitions <sup>b</sup>	4.5	15.2

...Not available or not applicable.

<sup>a</sup>Includes State prohibitions, multiple driving under the influences, non-National Crime Information Center warrants, and other unspecified criminal history disqualifiers.

<sup>b</sup>Includes juveniles, persons dishonorably discharged from the Armed Services, persons who have renounced their U.S. citizenship, and other unspecified persons.

A domestic violence misdemeanor conviction or restraining order accounted for more than 15% of the rejections (about 10,000 applications). Other common reasons for rejection were an applicant's drug use (9%) or status as a fugitive (5%).

Forty-six percent of all rejections for firearm transfers among State and local checking agencies (about 30,000 in 2005) occurred because the applicant either had a felony conviction or was under felony indictment. The second most common reason for rejection was a domestic violence misdemeanor conviction or restraining order (about 15% of rejections or approximately 10,000 applications).

Other common reasons for rejection were the presence of a State law prohibition (9.6% of rejections) and an applicant's status as a fugitive (8.3%).

From 1999 to 2005 the number of rejections by all checking agencies fell 35%. While the number of felony-related rejections decreased 61%, the number rejected for reasons other than felony conviction or indictment increased 32% (from 57,000 to 75,000) (table 5). Overall, the percentage of rejections for non-felony reasons increased from 28% to 57%.

## Local agencies more likely to reject on State or local prohibitions, drug addiction, or mental illness

Although a felony conviction or indictment was the most common reason for rejection by both State and local law enforcement during 2005, the State agencies rejected for this reason more frequently (58%) than the local agencies (28%) (table 6).

State agencies were more likely to reject an applicant because of fugitive status, while local agencies were more likely to base a rejection on a State or local prohibitor, drug addiction, or mental illness.

**Table 6. Reasons for rejection of firearm transfer applications, by State or local agency, 1999-2005**

Reason for rejection	State	Local
Total	100.0%	100.0%
Felony indictment/conviction	58.2	27.5
Domestic violence		
Misdemeanor conviction	10.4	10.8
Restraining order	3.4	1.8
State law prohibition	6.6	14.7
Fugitive	6.8	1.2
Illegal alien	0.5	0.4
Mental illness or disability	1.3	4.2
Drug addiction	0.7	7.4
Local law prohibition	0.0	6.2
Other*	12.0	25.7

\*Includes juveniles, persons dishonorably discharged from the Armed Services, persons who have renounced their U.S. citizenship, and other unspecified persons.

**Table 5. Number of applications, rejections, and reasons for rejection among all agencies conducting background checks during the permanent Brady period, 1999-2005**

	2005	2004	2003	2002	2001	2000	1999	Percent change, 1999-2005
Applications	8,278,000	8,084,000	7,831,000	7,806,000	7,958,000	7,699,000	8,621,000	-4.0%
Rejections	132,000	126,000	126,000	136,000	151,000	153,000	204,000	-35.3
Felony rejections	57,000	53,000	53,000	65,000	87,000	88,000	147,000	-61.2
All other	75,000	73,000	73,000	71,000	64,000	65,000	57,000	31.6
Percent felony	43%	42%	42%	48%	58%	58%	72%	
Felony rejections per 1,000 applications	6.9	6.6	6.8	8.3	10.9	11.4	17	-59.4%

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

## 161,000 appeals of denials from 1999 to 2005; 57,000 reversed

Specific procedures for appealing the denial of a firearm purchase or permit are codified in Federal law and in the laws of nearly all States that process background checks. The most common procedure provides an appeal to the checking agency and a subsequent appeal to a court.

Seventeen 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 7). (In eight other States, local agencies may reconsider their decisions although they are not required to do so by law.) Seventeen States provide an appeal to a court, and two States have a government officer in a department separate from the checking agency who performs an administrative review.

**Table 7. Appeals forums in States with a specific appeal procedure, 2005**

State	Appeal forums		
	Checking agency or official	Other	Court
California	■	...	...
Colorado	■	...	...
Connecticut	■	■	...
Delaware	■	...	■
Florida	■	...	...
Illinois	■	...	■
Indiana	■	...	■
Iowa*	...	...	■
Maryland	■	...	■
Massachusetts*	...	...	■
Michigan*	...	...	■
Minnesota*	...	...	■
Missouri*	...	...	■
Nebraska*	...	...	■
Nevada	■	...	...
New Hampshire	■	...	■
New Jersey	■	...	■
North Carolina*	...	...	■
Oregon	■	...	...
Pennsylvania	■	■	■
Tennessee	■	...	...
Utah	■	...	...
Virginia	■	...	■
Washington*	...	...	■
Wisconsin	■	...	■

...Not available or not applicable

\*Although not required by State law, a local agency may reconsider its denial decision.

Other agencies involved in appeals are those that maintain criminal history records 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 or State arrestee records. If the appellant's prints do not match any records on file, the denial may 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.

The vast majority of disputed denials are resolved at the administrative level and are based upon the accuracy of records rather than interpretation of the law.

In 2005 checking agencies that reported data to FIST received 23,000 appeals of denials, of which almost 7,600 (or 33%) were reversed (table 8). Of the more than 65,000 denials

issued in 2005 by State and local agencies, about 14,500 (or 27%) were appealed. Of the appealed denials, nearly 5,900 (or 41%) were reversed.

From 1999 to 2005, of the 1,048,000 denials by the FBI and State and local agencies about 161,000 (16%) were appealed. Of the appeals, nearly 57,000 (35%) were reversed.

For States that are able to report the number of appeals, the percent of rejections appealed ranged from 1.9% in Virginia to 54% in Oregon.

State	Statewide agencies reporting appeals		
	Number of appeals	Number of denials reversed	Percent appealed
Colorado	2,044	897	43.2%
Florida	2,202	734	27.2
Oregon	1,375	94	53.9
Pennsylvania	3,841	1,545	52.8
Tennessee	4,949	2,459	49.7
Virginia	50	48	1.9

\*The number of appeals reversed may include appeals from prior years.

The FBI NICS Appeal Services Team (AST) reviews and investigates appeals of NICS denials. Of the 67,000 denials issued by the FBI in 2005, about 8,300 (or about 12%) were appealed. About 21% of appeals resulted in the denial being overturned.

**Table 8. Appeals by type of checking agency, 1999-2005**

Type of checking agency	2005				1999-2005			
	Appeals		Reversed		Appeals		Reversed	
	Number	Percent	Number	Percent	Number	Percent	Number	Percent
Total	22,827	17.3%	7,595	33.3%	160,981	16.0%	56,754	35.3%
FBI	8,279	12.4	1,697	20.5	69,091	15.9	20,093	29.1
State	14,463	26.6	5,870	40.6	90,886	18.4	36,316	40.0
Local	85	0.8	28	32.9	1,004	1.3	345	34.4

**In 2005, 1,400 arrests of persons denied firearm or permit**

In 2005 agencies reported 1,400 arrest of persons denied a firearm or a permit. During the permanent Brady period, over 9,700 persons have been arrested, according to checking agencies that reported arrests to FIST (table 9).

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 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 the agency with jurisdiction over either the location of the transaction (usually a dealer's premises) or the applicant's residence, or both agencies.

In seven States persons who falsify an application or attempt an illegal transfer are reported to a special police unit to make an arrest determination (table 10). In some States all persons denied a firearm are reported to a special police unit.

Of the States reporting for 2005, Virginia had the largest number of arrests of denied persons due to outstanding warrants or other reasons.

State	Number of arrests in 2005
Colorado	185
Connecticut*	0
Delaware	3
Oregon	125
Pennsylvania	244
Virginia*	841

\*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.

**FBI referred 67,700 NICS denials to ATF in 2005**

The FBI electronically transmits NICS denial data to ATF's Brady Operations Branch daily. In 2005 the FBI referred a total of 67,713 NICS denials to ATF's Brady Operations Branch. Standard referrals by the FBI NICS contain data on prohibited persons who unlawfully attempted to purchase a firearm. Some prohibited persons obtain a firearm during an "open transaction," where the FBI has not completed a check in three business days and the dealer is allowed to transfer the firearm. When the FBI finishes the check and finds a

prohibitory record, they make a "delayed denial" referral to ATF.

Referral status	Referred to ATF in 2005	
	Total	Percent
Total	67,713	100%
Not referred	58,138	85.9
Pending	0	0
Referred		
Delayed	3,215	4.7
Standard	6,360	9.4

The FBI determines if a firearm was transferred to the subject of the delayed denial. ATF is responsible for retrieving these firearms. In POC States local law enforcement, a state-

**Table 9. Number of arrests reported by type of agency, 2005 and 1999-2005**

Type of agency	Number of arrests							
	2005	2004	2003	2002	2001	2000	1999	1999-2005
Total	1,428	1,509	1,473	1,742	1,964	1,327	301	9,744
State	1,398	1,497	1,430	1,697	1,901	1,294	295	9,512
Local	30	12	43	45	63	33	6	232

**Table 10. Notification procedures of State agencies regarding denied persons subject to arrest, 2005**

State agencies	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)
California	■	...	■	...	...
Colorado	■	...	■	...	■
Connecticut	■	...	...	■	...
Delaware	■	...	■	...	...
Florida	■	...	■	■	■
Illinois	■	...	...	■	■
Indiana	■	...	...	...	■
Maryland	...	■	...	■	...
Nevada	■	...	...	...	■
New Hampshire	■	...	■	...	■
New Jersey	■	■	...	■	...
Oregon	■	...	■	...	...
Pennsylvania	■	...	■	...	■
Tennessee	■	...	...	...	■
Utah	■	...	■	...	■
Virginia	...	■	...	■	■
Wisconsin	■	■	■	■	■
Totals	15	4	9	7	11

... Not applicable or information 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 location of the denied person's residence.

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

wide firearms unit, or ATF may be responsible for the retrieval, depending on the specific jurisdictions for the dealer and the applicant.

**ATF field offices investigated 9,575 NICS denials in 2005; 135 accepted for prosecution by U.S. Attorneys**

ATF's Brady Operations Branch searches databases for additional information on denied persons referred by the FBI. ATF and United States Attorneys have developed referral criteria for all 94 judicial districts that reflect the types of cases most likely to merit prosecution. After initial screening, 9,575 denials which met the established guidelines were referred to Field Divisions.

A NICS coordinator in each ATF division distributes referrals to the appropriate field office. A State point of contact may also refer denials to the nearest field office. Agents verify prohibiting information and conduct other investigations. If ATF finds that a person should not have been denied, they notify the FBI or the POC. In a delayed denial case, the agent contacts the firearm purchaser and seizes or takes an abandonment of the firearm. The agent could also coordinate a transfer of the firearm to a licensed dealer or to a third party who is not a prohibited person.

The referred transactions included 3,215 delayed denials and 6,360 standard referrals. A total of 135 cases (41 delayed denials and 94 standard referrals) were accepted for prosecution.

**Methodology**

The Regional Justice Information Service (REJIS), through a cooperative agreement with BJS under the FIST program, collected the data from Federal, State, and local agencies.

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.

The sample for the FIST survey was selected from the population of 2,950 State and local checking agencies. All 27 statewide agencies were included, along with a stratified random sample of local agencies. Overall, 682 agencies provided data for a response rate of 85.4%

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. Pennsylvania reported 371,338 instant checks, included in the FIST national estimate, and 111,150 applications for nonexempt carry permits. Pennsylvania provided the combined number of denials of all applications,

which was prorated to obtain the number of denials of instant checks.

**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, a 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 dishonorably discharged from the U.S. Armed Forces
- 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 of a misdemeanor crime of domestic violence.

The GCA also prohibits transfers of long guns to persons under age 18 and transfers of handguns to persons under 21. State laws may include additional prohibitors.

*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).

**Number of agencies, sample, and response rate in FIST program survey, 2005**

Population served	Number of agencies			Response rate
	Total	Sample	Responses	
Total	2,950	799	682	85.4%
Statewide	27	27	27	100.0%
Under 10,000	1,660	321	281	87.5
10,000 to 100,000	1,150	405	338	83.5
Over 100,000	113	46	36	78.3

Since November 30, 1998, the NICS has allowed a licensee to contact the system by telephone or other electronic means for information, to be supplied immediately, on whether receipt of a firearm by a prospective transferee would violate Federal or State law.

In addition 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.

### **Components of the national firearm check system**

About 3,000 Federal, State, and local agencies conduct background checks on persons who apply to purchase a firearm or for a permit that may 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 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. State laws also often provide that a permit will be revoked if the holder is convicted of an offense or otherwise becomes ineligible after receiving the permit.

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

A licensee initiates a NICS check by contacting either the FBI or a point of contact (POC) agency designated by State government. Most inquiries are initiated by telephone. In 2002 the FBI added online checking (known as E-Check) as another means to contact the NICS. About 101,000 inquiries were made by this method in 2005, double the number of E-Check inquiries in 2004.

The FBI or POC checks available Federal, State, and 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.

#### *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 full POC requests a NICS check on all firearm transfers originating in the State.
- A partial 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.

The FBI conducts all NICS checks for 29 States. POC agencies conduct all NICS checks in 13 States. In eight States NICS checks are conducted by POC agencies on handgun transfers and by the FBI on long gun transfers (see Appendix table A). The FBI conducts all NICS checks for the District of Columbia, Guam, Northern Mariana Islands, Puerto Rico, and the U.S. Virgin Islands. The only change in State participation during 2005 occurred on July 1, when the FBI assumed responsibility for Georgia NICS checks.

Participation in the NICS by POC agencies includes initiating checks on persons who apply for qualified State permits. Most 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 table B.

The NICS is integrated with most State instant approval, purchase permit, or other approval systems. Twenty-eight States maintained approval systems for purchase or permits required for purchase at yearend 2005. Fifteen States operated instant check systems; 12 required purchase permits; and 5 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; Minnesota is counted twice because it gives a buyer the option of a purchase permit or an "other approval" process.)

At yearend 2005, 17 States issued carry permits that exempted the holder from a check under the permanent Brady law or a State law or both. ATF ruled that Georgia and Nevada concealed handgun permits were no longer exempt, effective October 19, 2005. On that date Alaska began issuing permits that are "not NICS exempt" in addition to "NICS exempt" permits.

In addition to the Brady Act's regulation of sales by 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

In eight States transferees are required to undergo two checks conducted by different agencies. Seven States (Delaware, Indiana, Massachusetts, Minnesota, Missouri, New York, and Rhode Island) have checking agencies that are not points of contact, and licensees in these States must contact the FBI for NICS checks. In New Jersey local agencies that conduct permit checks are not points of contact and licensees must contact the State Police for NICS sales checks.

For more information on approval systems in specific States, see *Survey of State Procedures Related to Firearm Sales, 2005* <<http://www.ojp.usdoj.gov/bjs/abstract/ssprfs05.htm>>, (forthcoming December 2006).

### Definitions

*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 regulation 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.

*Other approval systems* require a seller to transmit a purchaser's application to a checking agency by telephone or other electronic means; 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, or identification card)

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 disquali-

fying factor during a background check.

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

**Appendix table A. National Instant Criminal Background Check System: Checking agencies — FBI or State point of contact — for firearm transfers, 2005**

State	FBI conducts checks for all firearms	POC conducts checks for all firearms	POC — handguns FBI — long guns
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	■		
Total	29	13	8

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

\*States with multiple points of contact.

**Appendix table B. Agencies conducting firearm background checks, December 31, 2005**

Jurisdiction	Names or description of checking agencies	
	Purchase check or permit	Exempt carry permit <sup>a</sup>
United States	Federal Bureau of Investigation	---
Alabama	---	---
Alaska	---	Department of Public Safety
Arizona	---	Department of Public Safety
Arkansas	---	State Police
California	Department of Justice Firearms Division	---
Colorado	Bureau of Investigation Insta-Check Unit	---
Connecticut	State Police Special Licensing & Firearms	---
Delaware	State Police Bureau of Identification	Three county superior courts
Georgia	---	---
Florida	Department of Law Enforcement	---
Hawaii	Four police departments	---
Idaho	---	44 county sheriffs
Illinois	State Police FOID and FTIP units	---
Indiana	State Police Firearms Division	State Police Firearms Division
Iowa	Dept. of Public Safety / 99 county sheriffs	Dept. of Public Safety / 99 county sheriffs
Kansas	---	---
Kentucky	---	---
Louisiana	---	---
Maine	---	---
Maryland	State Police Firearms Enforcement Division	---
Massachusetts	351 police departments	351 police departments
Michigan	595 sheriffs and police departments	---
Minnesota	568 sheriffs and police departments	87 county sheriffs
Mississippi	---	Department of Public Safety
Missouri	115 sheriffs and police departments	---
Montana	---	56 county sheriffs
Nebraska	95 sheriffs and police departments	---
Nevada	Highway Patrol	---
New Hampshire	Department of Safety	---
New Jersey	State Police / 505 local police departments	---
New Mexico	---	---
New York	58 county sheriffs; some police departments	--- <sup>b</sup>
North Carolina	100 county sheriffs	100 county sheriffs
North Dakota	---	Bureau of Criminal Investigation
Ohio	---	---
Oklahoma	---	---
Oregon	State Police Firearms Unit	---
Pennsylvania	State Police Firearms Division	---
Rhode Island	39 police departments	---
South Carolina	---	Law Enforcement Division
South Dakota	---	---
Tennessee	Bureau of Investigation Instant Check	---
Texas	---	Department of Public Safety
Utah	Bureau of Criminal Identification	Bureau of Criminal Identification
Vermont	---	---
Virginia	State Police Firearm Transaction Program	---
Washington	291 sheriffs and police departments	---
West Virginia	---	---
Wisconsin	Department of Justice Handgun Hotline	---
Wyoming	---	Wyoming Attorney General

---Permits not required or FBI conducts firearm background checks.

<sup>a</sup>Agencies listed issue carry permits that may be used to waive a purchase check.

<sup>b</sup>License required for purchase may also allow carrying.

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BJJS Bulletins present the first release of findings from permanent data collection programs.

This Bulletin was written by Michael Bowling and Gene Lauver, of the Regional Justice Information Service and Matthew Hickman and Devon Adams of BJS, who provided statistical verification. Allen J. Beck reviewed the report. Carolyn C. Williams edited the report and Jayne Robinson prepared it for final printing, under the supervision of Doris J. James.

November 2006, NCJ 214256

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This report in portable document format and in ASCII and its related statistical data and tables — including two appendix tables — are available at the BJS World Wide Web Internet site: <<http://www.ojp.usdoj.gov/bjs/abstract/bcft05.htm>>.