



Bureau of Justice Statistics Bulletin

June 1999, NCJ 175034

A National Estimate

Presale Handgun Checks, the Brady Interim Period, 1994-98

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The Brady Handgun Violence Prevention Act (P.L. 103-159, November 30, 1993) provided for an interim period from February 28, 1994, through November 29, 1998, before its permanent provisions became effective. The period permitted the U.S. Department of Justice time to establish the National Instant Criminal Background Check System (NICS). Operating primarily through telephones and computers, NICS indexes and accesses relevant criminal justice agency databases.

During the 57-month interim period, the Brady Act required federally licensed firearm dealers (FFLs) to request a presale background check of potential handgun purchasers. These requests were made to the Chief Law Enforcement Officer (CLEO) of the jurisdiction where the FFL operated. The CLEO had 5 days to respond. The 12.7 million background checks resulted in about 312,000 rejections, a rejection rate of 2.4%.

On November 30, 1998, the permanent provisions of the Brady Act became effective. All FFLs must request a presale background check of potential purchasers of all firearms, both handguns and long guns.

Highlights

Presale handgun checks: Estimates of inquiries and rejections, 1998 and 1994-98

	Presale checks for handguns				
	1/1/98-11/29/98			3/1/94-11/29/98	
	All States	Original Brady States*	Brady States in 1998	All States	Original Brady States*
Inquiries and rejections					
Inquiries/applications	2,384,000	1,248,000	891,000	12,740,000	7,238,000
Rejected	70,000	47,000	29,000	312,000	203,000
Rejection rate	2.9%	3.8%	3.2%	2.4%	2.8%
Reasons for rejection					
Felony indictment/conviction	44,000	30,000	16,000	207,000	130,000
Other	26,000	17,000	13,000	105,000	73,000

Notes: All estimated counts are rounded. Percentages were calculated from unrounded data. Detail may not add to total because of rounding.
*Original Brady States were 32 States required

to follow presale review procedures set out in the Brady Act when it became effective on February 28, 1994. At the end of the Brady interim period (11/29/98), 23 of the 32 were still Brady States. (See table 2.)

- During the first 11 months of 1998, about 70,000 (2.9%) of an estimated 2,384,000 applications to purchase a handgun were rejected due to presale background checks of the potential handgun purchaser.
- About 63% of the rejections were for a prior felony conviction or a current felony indictment. Domestic violence misdemeanor convictions accounted for 10% of the rejections; domestic violence protection orders, 3%.
- On November 30, 1998, the permanent provisions of the Brady Act became effective, requiring presale background checks for the sale of all firearms (not just handguns) through the FBI's National Instant Criminal Background Check System (NICS).
- Including December 1998, the first month of the permanent provisions of the Brady Act, the number of handgun application rejections totaled an estimated 78,000 for the 12 months of 1998.
- From the inception of the Brady Act in March 1994 to November 1998, approximately 312,000 handgun applications were rejected as a result of background checks; from March 1994 to December 1998, approximately 320,000 were rejected.
- During the first month of the permanent provisions, the FBI conducted 506,554 background checks on potential firearm buyers. The State points of contact made an additional 386,286 checks.

Table 1. Reasons for rejection of handgun purchase applications, national estimates, January - November 1998

Reason for rejection	All States	Original Brady States	Brady States during 1998
Total	100.0%	100.0%	100.0%
Felony (indictment/conviction)	63.3	68.7	54.8
Fugitive	6.1	7.5	13.4
Domestic violence			
Misdemeanor conviction	9.9	7.9	11.9
Restraining order	3.4	2.8	0.3
State law prohibition	6.6	2.5	6.2
Mental illness or disability	0.7	0.2	0.4
Drug addiction	0.9	1.1	2.4
Local law prohibition	0.3	0.1	0.1
Other*	8.8	9.2	10.5

*Includes illegal aliens, juveniles, persons discharged from the armed services dishonorably, persons who have renounced their U.S. citizenship, and other unspecified persons. At the end of November 1998, 23 of the 32 original Brady States were still under the Brady Act. Firearm Inquiry Statistics information covers only the 50 States; National Criminal History Improvement Program information on pages 6 and 7 includes States, the District of Columbia, and U.S. Territories.

The Firearm Inquiry Statistics (FIST) program administered by BJS collected the data. FIST was initiated in 1994 to describe presale background checks of applicants to buy a handgun from a FFL. CLEOs made the checks in accordance with the Brady Act or comparable State legislation. FIST does not include information on appeals to rejected applications.

During the first 11 months of 1998, about 2,384,000 background checks of potential handgun buyers prevented an estimated 70,000 purchases, a rejection rate of 2.9% (*Highlights*). The most prevalent reason for rejection of a handgun purchase was that the applicant was either under felony indictment or had been convicted of a felony (63.3%) (table 1). Denials owing to domestic violence offenses or restraining orders (13.3%) and State law prohibitions (6.6%) were the next most common reasons for rejection.

When the interim period began there were 32 original Brady States and 18 Brady-alternative States, as classified by the Bureau of Alcohol, Tobacco and Firearms (ATF). At the end of the period, there were 23 Brady States and 27 Brady-alternative States.

For the first 11 months of 1998, original Brady States rejected 47,000 handgun applicants. Current Brady States rejected 29,000. Two-thirds of the rejections in the original Brady States

in 1998 were due to felony indictment or convictions, compared to slightly more than half of the rejections in current Brady States.

From March 1994 to November 1998, an estimated 12.7 million handgun purchase applications were submitted to CLEOs, of which about 312,000 were rejected. Two-thirds (207,000) were rejected because the applicant had been convicted of a felony or was under a felony indictment at the time the application was processed.

During this period the original Brady States processed more than 7.2 million applications, rejecting 203,000 (2.8%). Sixty-four percent of the applicants rejected in these States had been convicted of a felony or were under a felony indictment.

In 1998 all of the States maintained databases that record past felony convictions, and many States retained databases of other disqualifying information, such as fugitive status, court restraining orders, mental illness, and domestic violence misdemeanor convictions (table 2). In some States information is not available at the State level for statewide dissemination, but some local CLEOs, courts, or other local agencies within the State maintain automated databases of this type of information. Some States have other data files related to their own prohibitions. Beginning November 30, 1998,

background checks that are handled entirely by the FBI's NICS may not access all of the State-level files. (See the discussion of NICS, page 8.)

Statewide reporting of handgun applications and rejections, 1998

State governments, the FBI, and ATF cooperated to identify about 5,400 law enforcement agencies to serve as CLEOs. Among the CLEOs responding to this survey, 18 served as the only CLEO for their State and provided statewide totals for January to November 1998 (table 3).

The 18 States represented 47% of the U.S. population and 46% of the total applications processed during the 11-month period. They processed 1,103,683 applications and rejected 28,349; a rejection rate of 2.6%.

The reasons for rejection included the following:

Reason for rejection by 18 statewide CLEOs	
Felony (indictment/conviction)	68%
Domestic violence	
Misdemeanor conviction	9
Restraining order	4
Fugitive	6
State law prohibition	5
Mental illness or disability	1
Drug addiction	1
Other*	7

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

The interim period: cumulative summary and significant events

ATF calculated the number of applications for firearm purchases from March 1994 to the end of 1995. (See *Presale Firearm Checks*, BJS Bulletin, NCJ 162787, February 1997.)

When data collection for FIST began in January 1996, the estimated number of inquiries for handgun purchases during that year was 67% of the total number

of firearm inquiries ("F" code) to the National Crime Information Center (NCIC), approximately 3,842,000. To

estimate the number of inquiries for handgun purchase applications before 1996, ATF estimates were multiplied by

67%. After the first 10 months of the interim period, the number of NCIC "F" code counts per 100,000 adult U.S. residents remained relatively consistent:

Year	Rate
1994*	2,262
1995	2,083
1996	1,957
1997	1,984
Jan.-Nov. 1998	1,927

*January and February were imputed, using the average of those months, 1995-97.

The ATF estimates for 1994 and 1995 were calculated using the number of firearm-coded inquiries to NCIC. The percentage of denials used for those estimates was based on the experiences of jurisdictions that had implemented presale firearms check procedures before the Brady Act.

Table 2. Background checks for handgun purchases, by State, November 1998

State ^a	Brady status		Number of law enforcement agencies responsible for record checks	State databases being accessed				
	Original 3/1/94	11/29/98		Criminal histories	Wanted fugitives	Re-straining orders	Mental health	Domestic violence misdemeanor
Alabama	■	■	67	■	■	■		
Alaska	■	■	35	■	■	■		■
Arizona	■	■	1	■	■	■		
Arkansas	■	■	1	■	■	■		■
California ^b			1	■	■	■	■	■
Colorado	■		1	■	■	■		■
Connecticut ^b			1	■	■	■	■	■
Delaware ^b			1	■	■	■	■	■
Florida ^b			1	■	■	■	■	■
Georgia	■		1	■	■	■	■	■
Hawaii ^b			4	■			■	■
Idaho	■		1	■	■	■	■	■
Illinois ^b			1	■	■	■	■	■
Indiana			1	■				
Iowa			100	■	■	■		■
Kansas	■	■	123	■				■
Kentucky	■	■	5	■	■	■		
Louisiana	■	■	64	■	■	■		
Maine	■	■	129	■	■	■		
Maryland			1	■	■	■		■
Massachusetts ^b			270	■	■	■	■	■
Michigan			595	■	■	■	■	■
Minnesota	■		568	■	■	■	■	
Mississippi	■	■	262	■				
Missouri			115	■	■	■		■
Montana	■	■	56	■	■	■		
Nebraska			95	■	■	■		
Nevada	■	■	1	■	■	■		■
New Hampshire	■		1	■	■	■		■
New Jersey ^b			505	■	■	■		■
New Mexico	■	■	113	■				■
New York			58	■	■	■	■	■
North Carolina	■		100	■	■	■	■	■
North Dakota	■	■	53	■	■	■		
Ohio	■	■	1	■	■	■		■
Oklahoma	■	■	440	■				
Oregon			1	■	■	■	■	
Pennsylvania	■	■	67	■	■	■		
Rhode Island ^b	■	■	39	■	■	■	■	■
South Carolina	■	■	1	■	■	■		■
South Dakota	■	■	66	■	■	■		
Tennessee	■		96	■	■	■		■
Texas	■	■	991	■	■	■		■
Utah	■		1	■	■	■		■
Vermont	■	■	22	■	■	■		■
Virginia ^b			1	■	■	■	■	■
Washington ^b	■		291	■	■	■	■	■
West Virginia	■	■	1	■	■	■		■
Wisconsin			1	■	■	■	■	■
Wyoming	■	■	40	■	■			
Total	32	23	5,391	50	44	36	16	34

Note: Not all States that reported having a database reported reasons for rejections.
^aIn the Brady States contacts were the chief law enforcement officers; in Brady-alternative States these contacts were identified according to criteria of each State.
^bBackground checks were required for handguns and long guns.

Table 3. Number of applications to buy handguns received or rejected in 18 States reporting complete data, January-November 1998

State	Number of applications		Rejection rate
	Received	Rejected	
Total	1,103,683	28,349	2.6%
Arizona	54,754	1,950	3.6%
Arkansas	28,835	1,397	4.8
California	171,654	1,546	0.9
Colorado	41,383	2,804	6.8
Connecticut	26,981	153	0.6
Florida*	160,438	5,499	3.4
Georgia	74,977	6,326	8.4%
Idaho	18,539	772	4.2
Illinois*	146,970	1,490	1.0
Maryland	25,222	236	0.9
Nevada	21,097	734	3.5
New Jersey	18,995	193	0.9
Ohio	53,713	481	0.9%
Oregon	42,523	1,069	2.5
Utah	24,140	733	3.0
Virginia*	148,278	2,251	1.5
West Virginia	15,162	258	1.7
Wisconsin	30,022	457	1.5

Note: Each State had 1 CLEO that reported complete statewide data for applications and rejections for January through November 1998. Seven other States contributed data but could not be included for various reasons.
 *Counts in this table include handguns and long guns.

On average each year from 1994 to 1998 States reported 34 statutory changes dealing with firearms (tables 4 and 5). Over the same period the estimated number of inquiries about the criminal histories of handgun buyers remained stable at around 2.5 million. Except for 1995, the estimated rate of rejection to those inquiries was between 2.5% and 2.9%. Inquiries to the FBI regarding weapons, the "F" counts, also varied relatively little, with a high of 4 million in 1995 and a low of 3.6 million in 1998.

Events during the interim period

1994 The Bureau of Justice Statistics initiated the National Criminal History Program (NCHIP) to provide funds to States to improve criminal history operations. Five States passed legislation that moved them from Brady status to alternative status, and significant

changes in State firearm laws were made.

1995 Several sheriffs filed suit in federal court to contest mandatory State participation in the Brady handgun checks, resulting in a Supreme Court decision in 1997. Two more States moved to Brady-alternative status, and in other States significant changes in the law took effect.

1996 The "Lautenberg Amendment" to the Federal Gun Control Act (GCA) became effective in October. It prohibits persons convicted of a misdemeanor of domestic violence from purchasing firearms. State and local CLEOs began to implement the amendment's provisions in their background check procedures. Thirty-one significant State laws took effect,

and two more States attained alternative status.

1997 On June 27 the Supreme Court ruled that State participation in the Brady checks must not be mandatory (see *Printz v United States*, 521 U.S. 98, 117 S.Ct. 2365 (1997)). As a result, some smaller agencies ceased activity, and FIST adjusted its national estimate to account for the decision. California implemented its paperless process for firearm checks.

1998 The permanent provisions of the Brady Act took effect on November 30, resulting in the FBI's implementation of the NICS. In addition to handguns, background checks for long guns and pawn redemptions were required.

Table 4. Significant activity during the interim Brady period, 1994-98

	1994	1995	1996	1997	January - November 1998	December 1998
Federal firearms law	Interim Brady takes effect	Lawsuit contests Brady participation by States	Domestic violence misdemeanor added to disqualifiers	Supreme Court rules Brady participation by CLEOs must not be mandatory		Permanent Brady provisions implemented; long gun and pawn redemption checks added
State firearms laws	CO, ID, MN, TN, and UT change from Brady to Brady-alternative	NH and NC change from Brady to Brady-alternative	GA and WA change from Brady to Brady-alternative	CA begins paperless process for firearms checks	PA and TN inaugurate statewide gun check systems	IN, NJ, and VT inaugurate statewide gun check system
Number of significant changes in State laws ^a	38	42	31	18	35	8
Other events	National Criminal History Program initiated by BJS	Brady anniversary report published by Bureau of Alcohol Tobacco and Firearms	First Firearm Inquiry Statistics program national estimates	Some smaller Chief Law Enforcement Officers stop Brady checks ^b		National Instant Criminal Background Checks system becomes operational
National estimates	3/1/94-12/31/94	1/1/95-12/31/95	1/1/96-12/31/96	1/1/97-12/31/97	1/1/98-11/29/98	11/30/98-12/31/98
Number of handgun inquiries/applications	2,483,000	2,706,000	2,593,000	2,574,000 ^c	2,384,000	261,000
Number of rejections	62,000	41,000	70,000	69,000	70,000	7,700
Rejection rate	2.5%	1.5%	2.7%	2.7%	2.9%	2.9%
Inquiries to FBI about firearm possession ("F")	3,679,000	4,009,000	3,842,000	3,930,000	3,623,000	155,858

Notes: In 1994 and 1995 the estimate of handgun inquiries/applications was based on 67% of "F" counts, and the rejection rate was that of previously implemented State check systems. National estimates from 1996 to 1998 are based on national surveys. The NICS largely replaced "F" code inquiries, which will be discontinued in 1999.

^aBased on effective date of legislation. Sources: *Survey of State Procedures Related to Firearm Sales, 1997* (forthcoming, NCJ 173942) for 1994-97, and a survey of the States for 1998.

^bBased on survey of FIST participants, 1998.

^cThe number of applications was reduced from 2,671,000, based on a special study of Indiana's combined reporting of licenses and applications, which reduced the published count by 97,000. There was no impact on the published 1997 rejection rate.

Table 5. Summary of significant changes in State laws related to firearm sales passing or becoming effective between February 28, 1994, and December 31, 1998

Subject of new or amended law or regulation*	Number of States
Added category of persons prohibited from possessing firearms	
Felons or other specific offenders	14
Drug or alcohol addicts or offenders	10
Mentally ill (committed)	10
Domestic violence offenders (convicted or restrained)	10
Minors (under age)	11
Adjudicated delinquent or committed offense as juvenile	6
Failed firearm safety course	3
Other restrictions	7
National instant check implementation (major changes)	
Statewide system for all firearms	4
Instant check for handguns	1
Addition of long gun checks by State agency	6
Qualified as a Brady-alternative State	
Instant check system	5
Permit or other approval-type system	4
Permit-to-carry law enacted	9
Restoration of the right to possess a firearm — procedures modified	8
Fee increase for record check or purchase permit	7
Subjecting domestic abusers to seizure or restricted use of firearms	7
Database required to be accessed during every check	5
Waiting period rules	5
Registration of firearms	2
Permit to purchase enacted	1
Regulation of private (non-Federal firearms licensee) transfers	1

*Includes governors' executive orders and administrative regulations.

Rejections during the interim period

The FIST data can be used to compare reasons for rejections in 1996, 1997, and the first 11 months of 1998. For all States, when reason for rejection was specified, the most prevalent reason was that the applicant was either indicted for or convicted of a felony (67.8% in 1996, 61.7% in 1997, and 63.3% in the first 11 months of 1998).

In 1997 and the first 11 months of 1998, a misdemeanor conviction for domestic violence (9.1% and 9.9% respectively) was the next most prevalent reason for rejection of a handgun purchase. This category was added as a prohibition in October 1996. Prior to that time, being a violator of a State law prohibition had ranked third among specific reasons for rejection; afterwards, it ranked fourth (table 6).

Background

Federal prohibitions

The Federal Gun Control Act (GCA), as codified at 18 U.S.C. 922, prohibits the

transfer of any firearm to any 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 addicted to any 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 United States citizenship
- is subject to a court order restraining him or her from harassing, stalking, or threatening an intimate partner or child or
- has been convicted in any court of a misdemeanor crime of domestic violence.

Additionally, among other provisions, the GCA makes it unlawful for any licensed importer, manufacturer, dealer, or collector to transfer a long gun to a person less than 18 years of age or any other firearm to a person less than 21 years of age. (For further detail see the full text of the GCA on the ATF website listed on page 12.)

Many States, prior to the Brady Act, imposed procedural or prohibitory requirements beyond the minimal requirements of Federal law. (See *Survey of State Procedures Related to Firearm Sales, 1997*, BJS report, NCJ 173942, December 1998). These States, under the Brady Act, were allowed to continue their operations.

Interim Brady Act provisions

The interim provisions of the Brady Act prohibited sale of a handgun by a FFL for 5 days or until the licensee had

Table 6. Reasons for rejection of handgun purchase applications, national estimates, January 1996- November 1998

Reason for rejection	All States		
	1996	1997	1/1/98-11/29/98
Total	100%	100%	100%
Felony (indictment/conviction)	67.8	61.7	63.3
Fugitive	6.0	5.9	6.1
Domestic violence			
Misdemeanor conviction	--	9.1	9.9
Restraining order	--	2.1	3.4
State law prohibition	5.5	6.1	6.6
Mental illness or disability	3.9	0.9	0.7
Drug addiction	1.2	1.6	0.9
Local law prohibition	0.7	0.9	0.3
Other*	13.4	11.7	8.8

--Not applicable.

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

Table 7. National Criminal History Improvement Program funding and accomplishments, 1994-98

	Amount of NCHIP funds received	Purposes that NCHIP funded							
		Participating in the Interstate Identification Index (III)	Locating missing dispositions of criminal cases	Enhancing criminal case disposition reporting	Improving the justice system communications network	Securing AFIS (digitized fingerprint) and live-scan terminals	Refining restraining order system	Establishing or enhancing sex offender registry	Enhancing criminal record system in other ways*
Alabama	\$2,258,819		■	■	■	■	■	■	■
Alaska	2,321,318	■		■		■	■	■	■
American Samoa	200,000								■
Arizona	3,049,144	■	■	■	■	■	■	■	■
Arkansas	2,213,996		■	■				■	■
California	17,825,542	■	■	■	■		■	■	■
Colorado	2,810,359	■	■	■	■	■	■	■	■
Connecticut	3,047,968	■		■	■	■	■	■	■
Delaware	2,352,369		■	■	■	■	■	■	■
District of Columbia	1,248,676	■	■	■			■	■	■
Florida	\$6,366,986		■	■	■	■	■	■	■
Georgia	3,794,910			■	■	■	■	■	■
Guam	200,000			■	■				
Hawaii	2,047,125	■				■	■	■	■
Idaho	1,141,000		■	■	■	■	■	■	■
Illinois	8,392,000		■	■	■	■	■	■	■
Indiana	4,242,273			■	■	■	■	■	■
Iowa	2,120,093			■	■	■		■	■
Kansas	2,362,000	■	■	■	■			■	■
Kentucky	2,640,000			■		■		■	■
Louisiana	\$2,566,396		■	■			■	■	■
Maine	3,491,500		■	■	■	■	■	■	■
Maryland	3,360,000		■	■	■	■	■	■	■
Massachusetts	6,575,250	■		■	■	■	■	■	■
Michigan	5,660,874		■			■		■	■
Minnesota	3,270,360		■	■		■	■	■	■
Mississippi	2,818,496		■	■	■	■	■	■	■
Missouri	3,741,122		■	■	■	■	■	■	■
Montana	1,741,383			■	■	■	■	■	■
Nebraska	2,347,485	■	■	■		■	■	■	■
Nevada	\$1,265,000		■	■	■			■	
New Hampshire	2,836,713		■	■	■	■		■	■
New Jersey	4,882,748			■	■	■	■	■	
New Mexico	3,644,992		■	■	■	■	■	■	■
New York	14,021,095		■	■	■	■	■	■	■
North Carolina	3,761,715		■	■	■	■	■	■	
North Dakota	2,193,913		■	■	■	■	■	■	■
Ohio	7,126,343		■	■	■	■	■	■	■
Oklahoma	2,025,517		■	■	■	■	■	■	■
Oregon	2,964,850		■	■	■	■	■	■	■
Pennsylvania	\$8,953,260		■	■	■	■	■	■	■
Puerto Rico	400,000		■						■
Rhode Island	1,740,244			■	■	■	■	■	■
South Carolina	3,056,020			■	■	■	■	■	■
South Dakota	1,473,300		■	■	■	■	■	■	■
Tennessee	3,262,155	■	■	■	■	■	■	■	■
Texas	14,561,200	■		■	■	■	■	■	■
Utah	2,171,054	■	■	■	■	■	■	■	■
Vermont	3,843,836			■	■	■	■	■	■
Virginia	4,708,913		■	■	■	■	■	■	■
Washington	3,822,682		■	■		■	■	■	■
West Virginia	2,614,800		■		■	■	■	■	■
Wisconsin	3,656,000		■	■	■	■	■	■	■
Wyoming	896,264	■	■	■		■	■	■	■
Totals	\$206,090,058	14	39	49	35	44	35	49	45

*Other improvements included juvenile record conversion, offsetting costs of certain types of background checks, research and evaluation, training, interfacing with the National Incident-Based Reporting System, and so forth.

been advised that, based on a background check, a prospective purchaser was not prohibited from purchase under Federal or State law. Thirty-two States (identified as original Brady States) and Puerto Rico were required to follow the review procedures at the start of this interim period.

The interim provisions of the Brady Act also allowed States with prohibitory statutes comparable to Federal law to follow a variety of alternative procedures. The Brady-alternative States generally employed either an "instant check" or a "permit or other approval-type" system (as designated by the ATF). By the end of 1996, the number of States following the Brady Act review procedures rather than alternative State statutes, had dropped to 23 (table 2).

When the U.S. Supreme Court negated mandatory background checks by CLEOs in Brady States, most CLEOs in the Brady States voluntarily conducted the checks. In Brady-alternative States, checks continued in accordance with State law. The impact of this decision on making a national estimate of presale handgun checks is addressed in *Methodology* on page 10.

Changes in State firearm laws since the effective date of the Brady Act

After passage of the Brady Act, numerous States enacted legislation to implement the Act's interim and permanent provisions. State firearm sale regulations in existence before passage of the Brady Act were also frequent subjects of legislative amendments.

A minimum of 14 States enacted laws intended to prohibit certain categories of persons from purchasing, receiving, possessing or transferring firearms (table 5). Most new State prohibitions involve persons who —

- were convicted of a felony, violent misdemeanor, or other specified offense;
- have committed offenses involving drugs or alcohol;
- are under the age at which firearm possession is allowed;
- were adjudicated delinquent or committed offenses as juveniles; or
- have not completed a firearm safety course.

Eight States modified procedures for restoration of the right to possess a firearm. In addition to prohibiting purchases by domestic violence offenders, seven States enacted new legislation to permit court-ordered seizure of firearms from persons subject to restraining orders.

State statutes requiring permits or other documents to purchase or carry firearms generated substantial legislative activity during the interim period. Four States modified their existing permit system; one established a new permit or other approval-type system; nine enacted laws related to carrying a handgun; and seven increased fees to conduct a record check or get a permit. Many of these permits or licenses can be used to waive purchase requirements such as a new background check or a waiting period.

Nine States qualified for Brady-alternative status under the act's interim provisions by enacting new or substantially amended instant check or permit or other approval-type systems. Several other jurisdictions enacted legislation that either established a statewide system for implementing the national instant check or expanded the scope of State firearm regulations to include background checks on long gun purchasers.

National Criminal History Improvement Program (NCHIP)

The Brady Act established a grant program (NCHIP) to ensure immediate availability of complete and accurate State records. An additional authorization of \$20 million was made available through the National Child Protection Act of 1993 (Public Law No. 103-209, 107 Statute 2490), and \$6 million were authorized under the Violence Against Women Act (42 U.S.C. 13701 et seq.). Another \$25 million were provided to establish State sex offender registries as a component of NCHIP. The program under which these funds are awarded is designed to assist States to develop or improve existing criminal history records systems and to establish an interface with the NICS.

Under NCHIP, over \$200 million were given in direct awards to the States during fiscal years 1995, 1996, 1997, and 1998 (table 7). The appropriation for 1999 is \$45 million. NCHIP funds have also supported direct technical assistance to States, evaluation, and research related to improving criminal and other non-felony records within the States.

As a result of NCHIP, State criminal history databases are becoming increasingly automated as the number of records continues to grow. A survey of State criminal history information systems at yearend 1997 reported 54,210,000 subjects in manual (7.4 million) and automated (46.8 million) files nationwide, an increase of over 4.3 million subjects from 1995, the next most recent year surveyed. Forty-one States increased their percentage of automated files during the period. By December 31, 1997, 49 States had automated at least some records in their criminal history record file, 20 States had fully automated criminal history files, and 45 States had fully automated master name indexes. Of the States that in 1997 maintained partially automated criminal history files, 23 updated a prior manual record when the subject was subsequently arrested (up from 19 in 1995). (See *Survey of State Criminal History Infor-*

mation Systems, 1997, BJS report, NCJ 175041, April 1999.)

The FIST program was established under NCHIP. Information requested from checking agencies does not include data traceable to an applicant, and none of the FIST information provided from agencies to BJS contains or reveals the identity of individual applicants. The computer program that some agencies used for both operational purposes and to collect FIST data transmits only the appropriately aggregated or categorized responses. Moreover, the computer program assists agencies to purge records after the delay specified by law.

National Instant Criminal Background Check System (NICS)

Permanent Brady Act provisions

The NICS provides national minimum requirements for checking firearm purchase applications. Since November 30, 1998, a licensed dealer can contact the FBI or State point of contact (POC) and request an immediate response on whether a firearm transfer would violate Federal or State law. The NICS became effective November 30, 1998, implementing the permanent provisions of the Brady Act. The NICS, at 18 U.S.C. 922(t), allows a Federal Firearms Licensee (FFL) to contact the system by telephone or other electronic means for information on whether receipt of a firearm by a prospective transferee would violate Federal or State law. In addition to regulation of handgun sales by FFLs, the permanent provisions of the Brady Act require licensees to 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.

When applying to purchase a firearm from an FFL, prospective transferees are required to undergo a NICS check or to present a permit which the ATF has qualified as an alternative to a

NICS check at the point of sale. Qualifying permits are those which —

1. allow a transferee to possess, acquire, or carry a firearm
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 violate Federal, State, or local law.

A permit issued after November 30, 1998, qualifies as an alternative only if the information available to the State authority includes the NICS check.

A licensee initiates a NICS check at the point of sale by contacting either the FBI or a State POC. The FBI or the POC checks applicable databases and responds with a notice to the FFL that the transfer may proceed, may not proceed, or is delayed pending further review of the transferee's record. (See <http://www.fbi.gov/programs/nics/index.htm>)

State involvement in presale firearm checks

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

1. *Full State POC participation* — a State POC conducts a NICS check (permit or point of sale) on all firearm transfers originating in the State
2. *Partial State POC participation* — a State POC conducts a NICS check (permit or point of sale) on all handgun transfers, with FFLs in the State required to contact the FBI for approval of long gun transfers
3. *Checks via NICS only* — there is no State POC, requiring FFLs to contact the FBI for NICS checks on all firearm transfers originating in the State.

Firearms dealers in 23 States request checks on prospective handgun owners via NICS only, and dealers in 27, via a State POC (table 8). For transfers of

Table 8. National Instant Criminal Background Check System: Checking agencies — FBI or State point of contact — for transfers of handguns and long guns, December 1998

	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	■		■	
Total	23	27	34	16

Note: Details of State participation in the NICS change from time to time.
*The New Mexico State Department of Public Safety is a temporary POC for dealers not yet registered with the FBI.

long guns, dealers in 34 States go through NICS alone, while those in 16 use a POC. NICS checks by the FBI are without charge; POC fees are determined by State law. The details

of State participation in NICS change from time to time.

The NICS process does not supplant State firearm regulations. State background check statutes that existed prior to the NICS remain in force unless they are repealed by legislative action or allowed to expire. Six States continue to maintain parallel systems that require background checks in addition to the NICS.

The FBI and 18 State POCs (those volunteering to provide the data) conducting NICS background checks reported their December 1998 activity to FIST (table 9). While a number of States withdrew from background checks, Pennsylvania, Tennessee, and Vermont became State POCs. Although California, Colorado, and New Jersey distinguished between handguns and long guns, many States ignored the distinction, referring to firearms.

Methodology

Two approaches were used for the collection of data from local law enforcement agencies. The first involved an ongoing survey among CLEOs based on a random sampling procedure. The second consisted of telephone contact with remaining local CLEOs in the U. S. to obtain data from those that collected and would share information on handgun applications.

Based on data provided by both sets of CLEOs, national estimates were developed using weighting factors derived from the original stratification. When a CLEO did not provide data for all months, a simple linear extrapolation or interpolation was used to generate an 11-month total.

Ongoing survey

The following presents the approach used to derive the estimates for January 1, 1998, to November 29, 1998, from a sample of chief law enforcement officers charged with determining eligibility to purchase a handgun.

Table 9. Number of applications to buy firearms received or rejected, as reported by the FBI and 18 States, December 1998

	Number of applications		Rate of rejection
	Received	Rejected	
NICS checks			
FBI	506,554	9,557	1.9%
POC	386,286	--	
Arizona*	14,349	409	2.9%
California	38,352	427	1.1
Handguns	17,827	175	1.0
Long guns	20,525	252	1.2
Colorado	12,164	768	6.3
Handguns	4,149	252	6.1
Long guns	7,714	501	6.5
Both	301	15	5.0
Connecticut*	4,434	6	0.1
Delaware*	1,032	61	5.9
Florida*	28,798	780	2.7
Georgia*	34,752	2,149	6.2
Illinois*	19,754	198	1.0
Maryland	2,445	13	0.5
Nevada*	5,915	210	3.6
New Jersey	7,244	96	1.3
Handguns	3,228	46	1.4
Long guns	3,987	50	1.3
Both	29	0	
Oregon	4,487	109	2.4
Pennsylvania*	49,944	1,455	2.9
Tennessee*	30,918	1,726	5.6
Utah*	9,655	262	2.7
Vermont*	1,893	72	3.8
Virginia*	23,443	275	1.2
Wisconsin	2,867	41	1.4
Total for the 18 States	292,446	9,057	3.1%

Note: Applications reported by the States are a part of the total 386,286 submissions to the NICS by the POCs.

*Counts include handguns and long guns.

The data were stratified by size of the population served. Information collected included the following: (1) handgun applications made to the CLEO; (2) handgun applications rejected by the CLEO; and (3) the reasons for rejection.

The sample for the survey was selected from a population of 5,400 CLEOs. These CLEOs were stratified into: State agencies which served an entire State population; local CLEOs which served a population greater than 100,000; local CLEOs which served a population between 10,000 and 100,000; and local CLEOs which served a population of less than 10,000. Population size was based on 1990 Census information. The popula-

tion categories were chosen to be consistent with those commonly used by the FBI when conducting similar studies. A total of 600 CLEOs were randomly selected for the study.

From the start of this study to November 29, 1998, three States implemented operation of statewide CLEOs, and one State began reporting data for local jurisdictions. These changes reduced the total number of CLEOs selected to 563.

The sample universe included 25 statewide CLEOs (Pennsylvania added during 1998), 113 CLEOs that service populations over 100,000, 184 CLEOs from the 10,000 to 100,000 category, and 241 from the under 10,000 category. For each State, 4% or a minimum of five CLEOs were selected in their respective categories.

Overall, 244 CLEOs provided data — a response rate of 43%. Respondents included 25 statewide CLEOs, 37 local CLEOs serving populations of more than 100,000, 88 local CLEOs from the 10,000 to 100,000 category, and 94 local CLEOs serving under 10,000.

New Jersey provided data on the number of applications and the number of rejections for the whole State but did not provide reasons for rejections. Local New Jersey CLEOs in the sample provided data on the reasons for rejection. For applications, rejections, and rejection rates, information from the statewide CLEO was used. The descriptive information about reasons for rejections used data from both the local and State CLEOs.

Maine was one of several States that used both local CLEOs and the State police in areas not served by a local CLEO. In the other States, data from the State police were classified in the under 10,000 category because of the rural area that was normally being served. However, because the State police report accounted for 40% of Maine and a wide range of population classifications, State police data were classified as statewide data.

Indiana has two processes under which a person can qualify to purchase a handgun. One involves the acquisition of a handgun license that can be used for multiple purposes, including purchasing a handgun. The second involves a sales application at the time of the purchase. In order to determine which of the two processes should be used, a special study was conducted of Indiana's handgun procedures. This study is available through the BJS Internet site. As a result of this study, it was decided that the count for handgun licenses was the most appropriate statistic to use for this Bulletin. Handgun license numbers were also used for 1996 and 1997 in computing the cumulative estimates for 1994 through 1998.

Agencies with a rejection rate over four standard deviations above the average standard rejection rate were classified as outliers and their data were not used for projection of estimates. In addition, agencies were classified as outliers if their final rejection rate could not be determined with sufficient accuracy. The data provided by the outliers were added to the total estimated counts to get the final national totals.

To compensate for the June 1997 Supreme Court decision, the CLEOs from Brady States that had been selected for this study were surveyed to determine if they stopped performing background checks. For each size category, a percentage of the population that had stopped participating was computed. These percentages were then applied to the estimated number of rejections for that size category and subtracted from the total estimated number of rejections.

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 ways CLEOs process, code, store, and retrieve their information; differences in interpretation of the survey questions; and even activities which delay personnel from doing paperwork.

Also, the process of a researcher receiving data and storing it in the computer for analysis can introduce nonsampling error. 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 help CLEOs in assembling the information in a form useable by FIST. Extensive verification of the data ensured the accuracy of the numbers.

Because of the sampling design, State comparisons cannot be made. The estimates are only for the 50 States and do not include U.S. territories or the District of Columbia.

Supplemental survey

The following presents the approach used to supplement the ongoing survey among CLEOs. In November 1998 telephone contact was attempted with all agencies not invited to participate in the ongoing survey. Also omitted from contact were those statewide CLEOs reporting directly to FIST and local police departments within those States. CLEOs not participating in the ongoing survey were asked if they collected the following data in 1998 and would share those data with FIST: handgun applications made to the CLEO; handgun applications rejected by the CLEO; and the reasons for rejection.

Of the CLEOs that said they collected and maintained data, 512 agreed to send to FIST the data they had collected in the period from January through November. Simple linear extrapolation or interpolation was used to supply an 11-month total for those CLEOs that could supply only a portion of November or had data missing for previous months of 1998.

CLEOs in this supplemental survey either served a population between 10,000 and 100,000 or served a population of less than 10,000, based on 1990 census information. All local CLEOs serving a population greater

than 100,000 had been asked to participate in the ongoing survey, as had all CLEOs that served an entire State population. The number of CLEOs in the ongoing survey were compared with those of the supplemental survey by population category and U.S. region.

The supplemental survey increased the number of the smallest agencies in the study from 94 to 444, and those serving a population between 10,000 and 100,000 from 88 to 250. These increases were not concentrated in any particular region, but were distributed across all regions.

The agencies in the supplemental survey and those in the ongoing survey together served a population of 179,061,298 (72% of the 248,102,973 population identified in the 1990 census).

The addition of CLEOs did not skew the distribution of agencies toward any particular region or regions, and it improved representation in the Northeast and South. A relative balance in terms of population was also maintained. Moreover, the supplement addressed the issue of agencies dropping out of the study over time. Between 1996 and 1998, the number of CLEOs participating in the ongoing survey fell from 311 to 244. Two factors were chiefly responsible for this phenomenon. After the Supreme Court's decision, agencies were allowed to discontinue background checks and thus no longer collected and submitted data to FIST. At the same time, the continuing effort required to report data decreased interest in participation among some agencies. FIST was able to compensate for the decline in participation by the addition of new CLEOs.

Respondents contacted by telephone may be subject to nonsampling error in much the same manner as with respondents in the ongoing survey. Error may occur from nonresponse, differential handling of data, differences in interpretation of questions, and activities causing delay in paperwork.

In addition, as in the ongoing survey, the process of a researcher receiving and storing data can introduce nonsampling error. Efforts were made to minimize the potential for error. CLEOs providing data by telephone were asked to review and revise their reports, and various quality checks were performed in receiving and processing the data.

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 CLEOs supplied data on either paper or diskette. Several different forms were provided to meet the varying office procedures of the CLEOs. In addition REJIS wrote and provided special software that was distributed free of charge to requesting CLEOs. This software was designed to simplify the record tabulating functions of the CLEO. It also helped to reduce the burden of keeping the statistical data, since one of the capabilities of the software was to automatically report the data needed for the study. In all cases the data that the CLEO sent to REJIS contained only statistical information and would not allow the identification of an individual.

Respondents contacted during the supplemental survey supplied data either directly by telephone to the caller or on a special tally sheet prepared by FIST staff and returned to REJIS by facsimile.

Determining populations

For local CLEOs, a State would choose to have county officials (usually sheriffs) as the CLEOs or municipal officials (police departments) or a combination of the two. To evaluate properly the application and rejection rates for purchasing handguns within a

given area, the appropriate CLEO 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 participating county CLEO were acting as their own CLEOs, their populations were subtracted from the county population.
- If a municipal CLEO was discovered to be providing services for other selected municipalities, then populations for those municipalities were added to the populations of the city having the CLEO.
- Those CLEOs 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).

Sources of additional information

NICS regulations are found at 27 CFR 178 (ATF) and 28 CFR 25 (FBI). Additional information on State firearm laws is available on the Internet from BJS in the *Survey of State Procedures Related to Firearm Sales, 1997*, BJS report, NCJ 173942, December 1998. 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/>

FBI: <http://www.fbi.gov/programs/nics/index.htm>

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 such as the Firearm Inquiry Statistics program. State and local officials have cooperated in reporting the data presented.

Donald A. Manson and Darrell K. Gilliard of BJS and Gene Lauver of Regional Justice Information Service wrote this report. Terry Tomazic, Ph.D., professor of research methodology at St. Louis University, provided statistical consultation. Carol G. Kaplan supervised the project. REJIS collected and analyzed the FIST data presented. Tom Hester produced and edited the report. Marilyn Marbrook, assisted by Yvonne Boston, administered final report production.

Further information on the FIST program can be obtained from —

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June 1999, NCJ 175034

This report, as well as other reports and statistics, can be found at the Bureau of Justice Statistics World Wide Web site:
<http://www.ojp.usdoj.gov/bjs>