

Firearm Denials – 10 Years of the National Instant Check System

Background Checks, Investigations, and Prosecutions, 1999 to 2008

Ron Frandsen

Regional Justice Information Service (REJIS)

Sources of Information & Funding

- ❑ Trends for Background Checks for Firearm Transfers, 1999-2008,
<http://www.ncjrs.gov/pdffiles1/bjs/grants/231187.pdf>
- ❑ Enforcement of the Brady Act (3 editions, 2006-2008),
<http://www.ncjrs.gov/pdffiles1/bjs/231052.pdf>

- ❑ Data for the publications provided by federal, state, and local law enforcement agencies
- ❑ Funding – Bureau of Justice Statistics, Firearm Inquiry Statistics (FIST) project

- ❑ Ron Frandsen: Phone 314-633-0320; e-mail rfrandse@rejis.org

Brady Act - Basic Requirements

- ❑ Method for blocking unlawful firearm transfers
- ❑ Licensed firearms dealers request checks on all buyers
- ❑ Checks run by FBI or State Point of Contact (POC)
 - State may check all buyers or only handgun buyers
 - FBI checks buyers that State does not check
- ❑ Since 11/30/98, FBI/POCs access National Instant Criminal Background Check System (NICS) for records of felons & other prohibited persons
- ❑ State may be more strict than Brady (require permit or check gun show or private sales)

Applications & Denials for Firearm Transfers or Permits, 1999-2008

	Applications	Denials	% Denied
Total	84,340,000	1,464,000	1.7
1998	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
2006	8,612,000	135,000	1.6
2007	8,658,000	136,000	1.6
2008	9,901,000	147,000	1.5

Applications & Denials by Type of Agency, 1999-2008

Type of Agency	Applications	Denials	% Denied
National total	84,340,362	1,463,940	1.7%
FBI total	48,159,005	680,905	1.4%
State and local total	36,181,357	783,035	2.2%
State agencies	30,974,930	668,222	2.2%
Local agencies	6,207,965	114,813	1.8%

FBI Firearm Transfer Checks for States, Highs and Lows, 1999-2008

FBI conducted all NICS checks for these states

□ <u>Applications:</u>		
High – Texas		5,946,954
Low – Rhode Island*		92,580
□ <u>Denials:</u>		
High – Texas		80,390
Low – Rhode Island*		736
□ <u>Percent Denied:</u>		
High – Alaska		2.2%
Low – Massachusetts*		0.2%

(RI & MA also require state check)

State POC Firearm Transfer Checks, Highs and Lows, 1999-2008

□ Applications:

High – California	3,726,580
Low – Delaware	102,607

□ Denials:

High – Tennessee	87,694
Low – New Jersey*	1,104

□ Percent Denied:

High – DE & TN	4.3%
Low – Connecticut*	0.2%

*(NJ & CT require permits in addition to transfer checks)

Reasons for denial of firearm transfer applications, 1999-2008

Reason for denial	FBI	State	Local
Felony indict/convict	66.1%	54.2%	26.9%
State law prohibition	1.7%	7.4%	13.0%
Domestic violence			
Misdemeanor convict	12.0%	10.1%	11.4%
Restraining order	4.4%	3.5%	1.9%
Fugitive	5.5%	6.8%	1.3%
Illegal alien	1.3%	0.5%	0.5%
Mental illness/disability	0.6%	2.1%	4.3%
Drug user/addict	7.5%	1.0%	8.3%
Other reasons	0.8%	14.5%	32.5%

Changes in applications, denials, and reasons for denials, 1999-2008

	2008	1999	% Change
Applications	9,901,000	8,621,000	15%
Denials	147,000	204,000	-28%
Felony denials	77,000	148,000	-48%
All other reasons	70,000	56,000	25%
Percent felony	52%	73%	-28%
Felony denials per 1,000 applications	7.8	17.2	-55%

Counts of NICS Index prohibited person records, December 31, 2008

	Index	State	Federal
Total Records	5,483,941	1,185,471	4,298,470
<u>Largest Files:</u>			
Felony	250,188	247,062	3,126
Fugitive from Justice	349,029	343,173	5,856
Mental Committed	648,120	531,295	116,825
Illegal/Unlawful Alien	4,109,873	41	4,109,832
Misd. Domestic Viol.	46,286	19,982	26,304

Total Records

November, 1998 938,000 (480% increase in 10 years)

Gangs and Guns

- ❑ Gang member status not reason to deny firearm but may cause extra scrutiny during background check
- ❑ NICS check searches NCIC database, which includes Gang File*
- ❑ If person is in Gang File, checking agency may use all time allowed to find a prohibiting record (felony etc.)

*Criteria includes:

Self Admission or Informant Identification

Association or Arrest with Known Members

Display of Colors, Tattoos, or Signals

Actions Against Denied Persons by FBI and ATF, 1999-2008

- ❑ FBI sends daily report on persons denied a firearm to ATF Brady Operations Branch
- ❑ Brady Ops screens cases and refers meritorious cases to ATF field divisions (based on criteria developed by ATF offices and U.S. Attorneys within each division's territory)

	<u>Total</u>	<u>Percent</u>
FBI referrals to Brady Operations	740,981	100.0%
Brady Ops referrals to field divisions	128,098	17%
Not referred to field	554,451	75%
Overtured (not referred)	58,432	8%

Reasons for Referrals to ATF Field Divisions, 1999-2008

	Total	Percent
Convicted felon	38,722	30%
Domestic violence misdemeanor	35,768	28%
Subject to protective order	24,104	19%
Under indictment/information filed	9,718	8%
Illegal or unlawful alien	7,366	6%
Fugitive from justice	6,058	5%
Unlawful user controlled substance	3,563	3%
State prohibitor	1,313	1%
Other reasons	<u>1,486</u>	1%
	128,098	

Investigation & Prosecution of FBI Denial Cases, 2006-2008

	Cases	
FBI referrals to Brady Ops	230,131	
Brady referrals to ATF field	21,280	
Unlawful possession cases	6,966	
Resulted in firearm retrieval	3,956	(Guns retrieved - 3,979)
Referred by ATF for prosecution	392	(616 Charges)
Guilty plea or verdict	138	(164 Charges)

Reported Arrests of Denied Persons by State & Local Agencies, 2000-2008

Total	13,409	
States	13,092	
Virginia	6,661	(reported 9 years)
Pennsylvania	2,524	(reported 8 years)
Colorado	1,826	(reported 9 years)
Oregon	1,048	(reported 9 years)
Five other states	1,033	(reported 2-5 years)
Local agencies	317	

Investigations of State POC Denial Cases, 2006-2008

	Pennsylvania	Virginia
Total denials	27,778	7,379
Referred for investigation	1,229	2,831
State police troops	769	2,831
Local police departments	331	n/a
ATF field offices	129	n/a
Investigation outcomes		
Firearms retrieved	n/a	16
Fugitives apprehended	355	152
Arrests reported	542	2,253
Convictions	423	n/a

10 Years of NICS: Known & Unknown

Known

- Applications denied – nearly 1.5 million
- Most frequent reason for denial – felony record
- Non-felony reasons increased over 10 years
- Increase in prohibited person records – 480%
- Small % of denied persons arrested & prosecuted

Unknown

- How many were deterred from trying to buy gun?
- How many deterred or denied people went to the unregulated market?