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Trends for Background Checks for Firearm Transfers, 1999-2008

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Abstract

The Brady Handgun Violence Prevention Act (Brady Act) requires a background check on an applicant for a firearm purchase from a dealer who is a Federal Firearms Licensee (FFL). During the permanent Brady period, from 1999 through 2008, background checks were conducted on over 84 million applicants for firearm transfers or permits. During this period, nearly 1.5 million applications for firearm transfers or permits were denied by the Federal Bureau of Investigation (FBI) or by state and local agencies, a denial rate of 1.7%. This report summarizes the number of applications for firearm transfers and permits, denials that resulted from background checks, reasons for denials, rates of denials, appeals of denials, and arrests of denied persons during the permanent Brady period. Statistics are presented for FBI, state, and local levels. The report also provides a summary of significant changes in federal and state laws and regulations related to firearm sales. Statistical highlights are presented in the body of the report and complete details are included in a table index.

Disclaimer

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Trends for Permanent Brady Background Checks for Firearm Transfers, 1999-2008

Summary Findings:

Background checks of applications for firearm transfers since implementation of the Brady Act

Applications for firearm transfers	National total		
	Permanent Brady (1999-2008)	Interim Brady (1994-1998)	Full Brady Period (1994-2008)
Received	84,340,000	12,740,000	97,080,000
Denied	1,464,000	312,000	1,776,000
Denial Rate	1.7%	2.4%	1.8%

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

- From the inception of the Brady Act on March 1, 1994, through December 31, 2008, over 97 million applications for firearm transfers or permits were subject to background checks. Nearly 1.8 million applications were denied, a denial rate of 1.8%.
- During the permanent Brady period, from 1999 through 2008, background checks were conducted on over 84 million applicants for firearm transfers or permits. Nearly 1.5 million applications have been denied, a denial rate of 1.7%. (Table 1)
- From 1999 to 2008, nearly 1.5 million applications for firearm transfers or permits were denied by the Federal Bureau of Investigation (FBI) (680,905) or by state and local agencies (783,035). Within an overall denial rate of 1.7%, the rate for applications checked by the FBI (1.4%) was lower than the rate for checks by state and local agencies (2.2%). (Table 2)
- Denial rates ranged from over 2% to less than 1% in states for which the FBI conducted all National Instant Criminal Background Check System (NICS) checks during the permanent Brady period. (Table 3)
- Among state agencies that conducted checks during the 10-year period, denial rates ranged from over 5% to less than 1%. (Table 4)
- A felony conviction or indictment was the most common reason for a denial by a state (54%), a local agency (27%), or the FBI (66%) from 1999 to 2008. A domestic violence misdemeanor conviction or restraining order was the second most common reason for denial by a state (14%), a local agency (13%), or the FBI (16%). (Table 5)
- Among all agencies conducting background checks, 48% of applications were denied due to reasons other than a felony conviction in 2008, compared to 27% in 1999. (Table 6)
- The number of records in the NICS Index of persons ineligible to possess a firearm totaled nearly 5.5 million by December 31, 2008. (Table 7)
- From 1999 to 2008, nearly 237,000 denials were appealed (16% of denials) and over 86,000 appeals resulted in reversal of the denial (36% of appeals). (Table 8)

- Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) field offices investigated over 128,000 National Instant Criminal Background Check System (NICS) denials that were referred by the FBI during the 10-year period. (Table 9)
- Over 13,400 denied persons were arrested from 2000 to 2008 for an outstanding warrant or submission of false information on an application, according to state and local checking agencies that reported arrests. (Table 10)

I. Introduction

The Brady Handgun Violence Prevention Act (Brady Act) requires a background check on an applicant for a firearm purchase from a dealer who is a Federal Firearms Licensee (FFL). This report summarizes the number of applications for firearm transfers and permits, denials that resulted from background checks, reasons for denial, rates of denial, appeals of denials, and arrests of denied persons during the permanent Brady period. The permanent provisions of the Brady Act became effective on November 30, 1998. The act established the National Instant Criminal Background Check System (NICS) and requires a check of criminal histories and other records by the Federal Bureau of Investigation (FBI) or a state point of contact (POC).

The Bureau of Justice Statistics (BJS) began the Firearm Inquiry Statistics (FIST) program in 1995 to collect information on background checks conducted by state and local agencies. The state and local data combined with FBI NICS transactions data provides national estimates of the total numbers of applications and denials resulting from enforcement of the Brady Act and similar state laws. Nearly all applications reported from 1999 to 2008 were subject to a NICS check, as well as checks that fulfilled additional state requirements. A small number of applications were subject only to checks required by state laws. (See *Components of the national firearm check system* on page 5 for further details.)

Background

The federal Gun Control Act (GCA), 18 U.S.C. 922(d), prohibits transfer of a firearm to a person who --

- is under indictment for, or has been convicted of, a crime punishable by imprisonment for more than 1 year
- is a fugitive from justice
- is an unlawful user of, or is addicted to, any controlled substance
- has been adjudicated as a mental defective or committed to a mental institution
- is an illegal alien or has been admitted to the United States under a nonimmigrant visa
- was discharged from the U.S. Armed Forces under dishonorable conditions
- has renounced U.S. Citizenship
- is subject to a court order restraining him or her from harassing, stalking, or threatening an intimate partner or child
- has been convicted in any court of a misdemeanor crime of domestic violence.

Brady Act provisions

The Brady Handgun Violence Prevention Act of 1993 (Pub. L. No. 103-159, 107 Stat. 1536, codified as amended at 18 U.S.C. Section 921 et seq.) included interim provisions, 18 U.S.C. 922(s), in effect from February 29, 1994 until November 29, 1998. The U.S. Department of Justice, with the states, developed the National Instant Criminal Background Check System (NICS) during the 57-month interim period, as authorized by the permanent provisions of the Brady Act, 18 U.S.C. 922(t). Since November 30, 1998, the NICS has allowed an FFL 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.

National Criminal History Improvement Program (NCHIP)

The NCHIP program was initiated in 1995 to support state activities for the establishment of record systems and the collection and use of criminal history and related records. From 1995 to 2008, BJS has provided direct awards and technical assistance totaling over \$520 million to states and U.S. territories (including awards made under the Advanced State Award Program). Additionally, \$6 million was transferred to the FBI for implementation of the National Instant Criminal Background Check System (NICS), and over \$18 million was awarded to provide direct technical assistance to states to evaluate the program, collect statistics, and research data on presale firearm checks. To date, all 50 states, the District of Columbia, and 5 U.S. territories have received funds under NCHIP.

In addition to providing direct financial assistance to states and localities to improve the quality, timeliness, and immediate accessibility of criminal history records and related information, NCHIP also funds regular surveys to determine levels of record improvement, public attitudes on privacy and related issues, state responses to current issues, and firearm procedures. FIST is one program that has received NCHIP funding to collect and analyze data on the number of inquiries made in connection with presale firearm checks and the number and basis for rejection of such inquiries.

Components of the national firearm check system

Over 3,000 federal, state, and local agencies conduct background checks on persons who apply to receive a firearm or a permit (see table 11). Variations in federal and state procedures for determining firearm possession eligibility are summarized below.

Overview of the NICS process

Prospective firearm transferees undergo a NICS check requested by an FFL or present a state permit that 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 often provide that a permit will be revoked if the holder is convicted of an offense or otherwise becomes ineligible after receiving the permit. As of December 31, 2008, 18 states issued carry permits that were exempt pursuant to an ATF regulation or state law (see table 11).

Prior to transferring a firearm under the permanent Brady provisions, an FFL is required to obtain a completed Firearm Transaction Record (ATF form 4473) from the applicant. An FFL initiates a NICS check by contacting either the FBI or a state POC. Most inquiries are initiated by telephone, with an increasing number being handled by "E-Check," which enables an FFL to conduct an unassisted NICS check via the Internet. The FBI or POC queries available federal, state, and local systems and notifies the FFL that the transfer may proceed, may not proceed, or must be delayed pending further review of the applicant's record.

State and local NICS participation

Each state government determines the extent of its involvement in the NICS process. Three levels 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 on 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

As of December 31, 2008, the FBI conducted all NICS checks for 29 states (table 12). POC agencies, which may be statewide or local, conducted all NICS checks for 13 other states. In the remaining 8 states, NICS checks are conducted by POC agencies on handgun transfer applicants and by the FBI on long gun transfer applicants. Several states require an additional background check, usually by a local agency that does not access the NICS and uses only state records. State laws may require a check on a permit applicant or a person who seeks to receive a firearm from an unlicensed seller.

II. Methodology

The Regional Justice Information Service (REJIS), through a cooperative agreement with BJS under the FIST program, collected the data for this report from federal, state, and local agencies over the ten-year period. Data were compiled from annual surveys of checking agencies, and aggregated to produce cumulative statistics for this report.

For the purposes of data collection and analysis, state and local 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 2005 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 approximately 3,000 state and local checking agencies (the total varying as checking agencies entered or exited the population). Data from NICS and ATF were added to the state and local data to produce annual national estimates of background checks for firearm transfers from 1999 to 2008.

National estimates of applications and denials 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. Sample design, data collection procedures, methods for determining populations, and other details of the estimation procedure are discussed in detail in each of the annual bulletins and sets of statistical tables released by BJS during the ten-year period.

Definitions

The following definitions are in the order in which they appear in the text.

Firearm is any weapon that is designed to or may readily be converted to expel a projectile by the action of an explosive.

Federal Firearms Licensee (FFL), also known as a federally licensed firearms dealer, is licensed by ATF to engage in the business of manufacturing, importing, or dealing in firearms. An FFL must be enrolled with the FBI NICS Section in order to request a NICS background check.

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.

Denial occurs when an applicant is prohibited from receiving a firearm or a permit that can be used to receive a firearm because a disqualifying factor was found during a background check.

National Instant Criminal Background Check System (NICS) includes records contained within the databases searched by the NICS, which are: the Interstate Identification Index (millions of criminal history records); the National Crime Information Center (protection orders and active felony or misdemeanor warrants); and the NICS Index, a database created solely for the use of NICS and containing information provided by local, state and federal agencies pertaining to persons prohibited under federal law from receiving or possessing a firearm. Additionally, a fourth search of the applicable databases via the Department of Homeland Security's United States Immigration and Customs Enforcement is conducted for background checks initiated on all non-citizens of the United States.

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

Long gun is a firearm with a barrel extended to around 30 inches to improve accuracy and range, and commonly with a shoulder butt, designed to be fired with two hands, such as a rifle or shotgun.

Handgun is a firearm that has a short stock and is designed to be held and fired by the use of a single hand, such as a pistol or revolver.

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 quickly as possible.

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.

Exempt carry permit is a state concealed weapon 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.

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.

III. Findings

National estimates

During the permanent Brady period, over 84 million background checks have been conducted on applicants for a firearm transfer or permit (table 1). The yearly number of applications fluctuated between 1999 and 2002, but has increased every year since 2003. About 1.5 million applications were denied from 1999 to 2008, a denial rate of 1.7%. The yearly rate of denial has decreased from 2.4% in 1999 to 1.5% in 2008.

Background checks for the period included over 48 million (57%) by the FBI and over 36 million (43%) by state and local agencies (table 2). Nearly 681,000 (47%) denials were issued by the FBI and over

783,000 (53%) were issued by state and local agencies. Denial rates for the period were 1.4% for the FBI and 2.2% for state and local agencies.

Approval systems

State procedures for approval of a prospective firearm purchaser may be classified as "instant approval," "purchase permit," "exempt carry permit," or "other approval" systems.

Instant approval

Instant approval (instant check) systems require a prospective seller to transmit an applicant's information to a checking agency by telephone or computer. The checking agency is required to respond to the seller immediately or as quickly as possible (generally within 3 business days). From 1999 to 2008, state agencies conducted over 21.5 million instant checks and denied approximately 505,000 applications, a denial rate of 2.3% (table 2). No local agencies conducted instant checks.

Purchase permits

State purchase permit systems require firearm purchasers to obtain, after a background check, a government-issued document (such as a permit, license, or identification card) that must be presented to a seller in order to receive a firearm. Most purchase permits systems allow a checking agency 7 to 30 business days to approve or deny an application. From 1999 to 2008, state and local agencies received over 7 million applications for purchase permits and denied over 157,000, a denial rate of 2.2%. (Table 2).

Exempt carry permits

An exempt carry permit is a state concealed weapons permit that exempts the holder from a background check at the time of a firearm transfer. A permit is exempt pursuant to a Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF) regulation or state law. Agencies that issue exempt carry permits usually have between 30 and 120 business days to approve or deny an application. From 1999 to 2008, state and local agencies received nearly 4 million applications for exempt carry permits and denied nearly 73,000, a denial rate of 1.8%. (Table 2).

Other approval systems

Other approval systems require a seller to transmit the applicant's information to a checking agency by mail, telephone, or computer. The checking agency is not required to respond immediately but must respond before the end of a state statutory time limit, generally within 7 to 10 business days. Other approval systems processed nearly 4.7 million applications from 1999 to 2008 (predominately in California), and denied over 48,000, a denial rate of 1%. (Table 2).

Analysis of denial rates

The many interrelated factors that influence denial rates have not been fully quantified, but a few observations are possible from the data available.

FBI checks

The FBI conducted all NICS checks for 23 states from 1999 to 2008. Among these states, denial rates ranged from 2.2% for Alaska to 0.2% for Massachusetts (table 3). Denial rates in Massachusetts and Rhode Island (0.8%) may be low in part because these states require a background check by a local agency that is separate from the NICS check. The local background check may eliminate some applicants

before a NICS check is necessary. Delaware is similar because the state police conduct a check that is separate from the NICS process. During the ten-year period, the state police checks had a denial rate of 4.3% compared to 1.6% for FBI checks for Delaware.

Statewide reporting

Denial rates for 1999 to 2008 in states that conducted instant checks ranged from 4.3% in Delaware and Tennessee to 0.2% in Connecticut (table 4). In addition to Connecticut, instant check denial rates were lowest in New Jersey (0.3%) and Illinois (0.7%), where a check at the time of transfer only occurs if the prospective purchaser presents a permit or identification card. The denial rate for checks on permit or identification card applicants was considerably higher in New Jersey (1.9%) and Illinois (2.7%) and more similar to the rate for all statewide agencies (2.2%).

Approval systems established before passage of the Brady Act in 1993, such as California (1%), Virginia (1.2%), and Wisconsin (1.5%), generally had lower denial rates that varied little between 1999 and 2008 (table 4). Higher denial rates generally occurred in states that implemented an instant approval system on or after the effective date of the Brady Act, including Tennessee (4.3%) and Colorado (3.7%). Those two states may also have higher rates because of laws that require their checking agencies to deny an applicant whose record shows an arrest without a disposition, and the disposition cannot be found during a statutory time period. In the absence of a state law, the Brady Act allows a transfer to proceed if a missing disposition is not found within three business days.

Local reporting

Local agencies mainly conduct checks on purchase and exempt carry permit applicants. From 1999 to 2008, over 6 million applications were received by local agencies, of which nearly 115,000 (1.8%) were denied (table 2). Denial rates varied among local agencies by size of the population served, by the jurisdiction, and by the type of permit. From 1999 to 2008, denial rates for purchase permits and exempt carry permits were highest in jurisdictions of over 100,000 people and lowest in jurisdictions of under 10,000 people (table 13). Overall, denial rates during the ten-year period were higher for purchase permits than for exempt carry permits.

Reasons for denial

A record of a felony indictment or conviction was the most common reason for a denial by the FBI (66%), a state agency (54%), or a local agency (27%) from 1999 to 2008 (table 5). A domestic violence conviction or restraining order was the second most common reason for a denial by the FBI (16%), a state agency (14%) or a local agency (13%). The third most common reason for denial by a state (7%) or local (13%) agency was a state law prohibitor, and for the FBI it was a record of unlawful drug use or addiction (8%).

The number of denials by all checking agencies for reasons other than a felony indictment or conviction increased 25% from 1999 to 2008 (table 6). The proportion of non-felony reasons increased from 27% to 48% of total denials during the period. Total denials decreased about 28% from 1999 to 2008 and a 48% decrease occurred in denials due to a felony indictment or conviction.

Availability of records

A NICS check always includes three major federal systems, the National Crime Information Center (NCIC), the Interstate Identification Index (III), and the NICS Index. If the transferee is not a citizen of the United States, the NICS will query Bureau of Immigration and Customs Enforcement (ICE) records. A POC may check additional state records. A check may include contacting an agency that maintains a record that the FBI or POC cannot access directly.

Checking agencies often encounter delays when they access incomplete records. The most frequent delays occur when researching the final disposition of a criminal charge indicated 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.

The NICS Index is used exclusively for NICS checks and contains records of persons who are prohibited by federal law from receiving or possessing a firearm. Records are contributed by local, state, and federal agencies. The index began with 938,000 records on November 30, 1998, according to the FBI NICS Section. The volume of records increased to over 5 million on December 31, 2008 (table 7). Over 4 million entries in the index were records of illegal or unlawful aliens. During the 10-year period the number of mental health records in the index increased from 21 to over 648,000.

The NCIC database consists of property and person files, and contains prohibitory records for firearm possession or transfer. Records are contributed by local, state, and federal agencies and authorized courts. Active orders of protection are one category of records maintained in NCIC and researched during the NICS check to identify persons prohibited by federal law from receiving or possessing a firearm. The total number of state-submitted orders of protection in NCIC increased from 123,609 on November 30, 1998 to 1,284,390 on December 31, 2008. As of December 31, 2008, 49 states and 2 U.S. territories contributed records to the protection order file.

From 1999 to 2008, all states maintained databases that record felony convictions, and many maintained data on other disqualifying factors such as fugitive status, court restraining orders, mental illness, and domestic violence misdemeanor convictions. States differ as to the degree of automation used in record searching and whether records are in a central database or in databases maintained by county courts or other local agencies.

Appeals of denials

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

A person denied by the FBI may appeal to the NICS Appeal Services Team (AST). The AST may also review a POC denial if a request is made by the denied person. FBI decisions may be further appealed to federal district court.

Twenty-one states allow a reconsideration by the checking agency and 28 states allow an appeal to a court (table 14). Three states provide an administrative review by an agency that is separate from the checking agency. 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 may 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.

Of the nearly 681,000 denials issued by the FBI from 1999 to 2008, over 101,000 (15%) were appealed (table 8). Almost 29,700 FBI denials (29%) were reversed upon appeal. Of the more than 668,000 denials issued by state agencies, over 134,000 (20%) were appealed, and nearly 56,000 (42%) were reversed upon appeal. Local agencies received 1,308 appeals (1% of denials) and reversed 458 denials (35%) after reconsideration.

Actions against denied persons

An applicant who is denied a firearm or a permit by a background check may be subject to arrest and prosecution if the denied person is wanted in an outstanding warrant or has submitted an application with false information. 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.

ATF enforcement

NICS denial data is electronically transmitted by the FBI on a daily basis to ATF's Brady Operations Branch. Standard referrals by the FBI 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 3 business days and the dealer is allowed to transfer the firearm. When the FBI finds a prohibitory record and is informed by the dealer that a transfer occurred, a "delayed denial" referral is made to ATF.

After an initial screening by Brady Operations, denials are referred to ATF field divisions, with priority given to the delayed denials. Referrals are made in accordance with criteria established for the federal judicial districts within each division's territory. A NICS coordinator in each ATF division receives and distributes referrals to the appropriate field office. Special agents at the field offices verify prohibition information, conduct additional investigations, and retrieve firearms that were obtained unlawfully. The FBI is notified if ATF determines that a person should not have been denied.

Brady Operations screened almost 741,000 NICS denials received from the FBI from 1999 to 2008, and referred over 128,000 denials (17%) within the established guidelines to field divisions (table 9). The referred cases were made up of over 32,000 delayed denials (4% of all denials) and nearly 96,000 standard referrals (13%). Denials due to felony convictions, domestic violence misdemeanor convictions, and protective orders comprised about 77% of the referrals to the field divisions. (For more information, see *Enforcement of the Brady Act, 2007*, <http://www.ncjrs.gov/pdffiles1/bjs/grants/227604.pdf>.)

State and local enforcement

When a denied person is suspected of violating federal law, most state POC agencies refer the case to the nearest ATF field office. States differ as to how potential state law violations are investigated. In some states, the checking agency immediately notifies the police or sheriff's department that has jurisdiction over a denied person's residence or the gun shop where the transaction occurred. The local agency is then responsible for investigation and prosecution of the case. Other states have a unit with statewide jurisdiction that screens cases before deciding whether a referral should be made to a state police troop or local law enforcement.

From 2000 to 2008, 13,409 denied persons were arrested, according to checking agencies that reported arrest counts to FIST (table 10). State agencies reported 13,092 arrests and local agencies reported 317. Of the states that reported, Virginia had the highest number of arrests, 6,661.

IV. Significant events, 1999 - 2008

1999. Colorado discontinued its NICS POC in March, but resumed this function in August. South Carolina discontinued its POC in October and turned over responsibility for sales checks to the FBI (the state retained checks for exempt carry permits). The Connecticut POC implemented a new electronic checking system in October, which included checks on persons who purchase firearms at gun shows.

2000. On January 1, California began limiting a person's handgun purchases to 1 in a 30-day period. A New York law that became effective in June required all firearm purchasers at a gun show to undergo a NICS check through a licensed dealer. In December, the Oregon POC began conducting background checks on all long gun transfers and gun show transactions as a result of a ballot referendum approved earlier in the year.

2001. A Colorado ballot referendum effective in March required licensed dealers to process background checks on all persons who purchase a firearm at a gun show. An amendment to Tennessee's instant check law, effective in June, mandated denial of a prospective purchaser who has an arrest for a disqualifying offense without a recorded disposition. This amendment further provided that if the denied person appeals and no disposition is found within 15 business days, the firearm transfer may proceed at the discretion of the dealer. In July, an amended NICS regulation reduced, from 180 days to 90 business days, the period during which limited approval data may be retained for system auditing purposes.

2002. Vermont discontinued its POC operations in February and Arizona followed suit in August. The FBI implemented two additions to the NICS checking process during the summer of 2002. The "E-Check" program allowed firearms dealers to initiate a background check through the Internet. A new automated process enabled the NICS to query databases managed by the Bureau of Immigration and Customs Enforcement (ICE) when an applicant is not a citizen of the United States.

2003. Homeland security legislation effective in January authorized the transfer of firearms law enforcement functions from the Treasury Department to the Department of Justice. The new division within Justice is known as the Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF). In October, Indiana discontinued its POC operations. The federal ban on undetectable firearms was renewed in December.

2004. A new federal law required destruction of identifying data from an allowed NICS transaction within 24 hours after a dealer is notified of the decision, except in states where a different retention period is mandated by law. In May, South Carolina repealed a law that limited a person's handgun purchases to 1 in a 30-day period. The federal prohibition on the manufacture, transfer, and possession of semiautomatic assault weapons and large capacity ammunition feeding devices expired in September. An amendment kept the Massachusetts assault weapons ban in effect.

2005. On July 1, Georgia discontinued its POC operation (state probate courts retained checks for exempt carry permits). Later that month, Illinois began conducting background checks on private transfers at gun shows.

2006. The federal definition of "misdemeanor crime of domestic violence" was amended in January to include a tribal law misdemeanor. A person convicted of such an offense is prohibited from shipping, transporting, possessing, or receiving a firearm in interstate or foreign commerce.

2007. The Missouri law that required a permit for the purchase of a handgun was repealed in August.

2008. The Brady Act was amended in January to require federal agencies to provide records to NICS. States and tribes may be provided financial assistance to improve information systems, contingent upon

sharing of prohibited person records with NICS and establishing procedures for restoring rights to persons prohibited from firearm possession by mental health disabilities. During the year, 7 states enacted laws that facilitated transmission of prohibited person records to the NICS and 5 states authorized new restoration of rights procedures.

From 1999 to 2008, NICS procedures were the most frequent subject of changes to federal firearm laws and regulations (see table 15). All 50 states enacted new legislation related to sales or possession of firearms. The most frequent subjects of state legislation were prohibited persons and the records used to identify them.

Subjects of new state laws or amendments included convicted felons or other specific offenders (16 states), persons restrained by court orders (12 states), domestic violence offenders (9 states), persons with mental illness commitments or adjudications (9 states), minors (9 states), and juvenile offenders (8 states). (Table 16.) Legislation that facilitated transmission of prohibitory records to the FBI was enacted in 19 states. Measures to increase state checking agency access to records of prohibited persons were enacted in 14 states.

Ronald J. Frandsen, Michael Bowling, and Gene A. Lauver of REJIS authored this report. Devon B. Adams and Allina D. Boutilier of BJS contributed to and reviewed the report, and David M. Naglich of REJIS assisted in the collection and analysis of the FIST data presented. Terry Tomazic, Ph.D., professor of research methodology at St. Louis University, provided statistical consultation.
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Table Index

Trends for Background Checks for Firearm Transfers, 1999-2008

Table Index

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Table 1. Number of applications and estimates of denials for firearm transfers or permits during the permanent Brady period, 1999-2008

	Number of applications		Total
	Received	Denied	Percent denied
Total^a	84,340,000	1,464,000	1.7
1998 ^b	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

Note: Counts are rounded to the nearest 1,000; annual numbers may not add to cumulative total (see table 2).

^aTotals combine Firearm Inquiry Statistics (FIST) estimates for state and local agencies with transactions and denials reported by the FBI.

^bNovember 30 to December 31, 1998. Counts are from the FBI's NICS operations report for the period.

Table 2. Number of applications and denials, by type of agency and type of check, 1999 - 2008

Type of checks conducted	Applications^a	Denials^a	Percent denied
National total (FIST and FBI)	84,340,362	1,463,940	1.7%
FBI total	48,159,005	680,905	1.4%
State and local total (FIST) ^b	36,181,357	783,035	2.2%
State agencies			
Total	30,974,930	668,222	2.2%
Instant checks	21,520,780	504,814	2.3%
Purchase permits	3,202,911	75,936	2.4%
Exempt carry permits	2,098,762	43,426	2.1%
Other approvals	4,152,477	44,046	1.1%
Local agencies^c			
Total	6,207,965	114,813	1.8%
Purchase permits	3,824,049	81,436	2.1%
Exempt carry permits	1,865,517	29,137	1.6%
Other approvals	518,399	4,240	0.8%

^aTotals for the 10-year period include December 1998.

^bAgencies that conduct exempt carry permit checks in Arizona, Arkansas, Kentucky, Mississippi, North Dakota, South Carolina, Texas, and Wyoming request an FBI background check, but the state agency makes the decision to approve or deny an applicant. Applications in these states are included in FBI checks but denials are included in state and local checks, causing a reduction of FIST total applications by 1,001,538 for 1999 to 2008.

^cTotals were estimated. See **Methodology** for more detail.

Table 3. Transactions and denials for selected FBI states, 1999-2008

State	Background checks	Denials	Percent denied
Total	31,766,565	393,483	1.2%
Alaska	383,887	8,589	2.2%
Alabama	2,098,823	31,709	1.5%
Arkansas	1,431,663	25,314	1.8%
Delaware ^a	152,629	2,443	1.6%
Idaho	657,586	12,274	1.9%
Kansas	910,715	9,204	1.0%
Kentucky	4,257,205	26,576	0.6%
Louisiana	1,697,951	31,878	1.9%
Massachusetts ^a	623,504	957	0.2%
Maine	453,878	2,871	0.6%
Minnesota ^a	1,746,415	18,043	1.0%
Missouri	1,950,031	20,824	1.1%
Mississippi	1,435,916	16,268	1.1%
Montana	691,387	10,966	1.6%
North Dakota	304,295	3,382	1.1%
New Mexico	752,580	11,868	1.6%
Ohio	2,759,373	39,351	1.4%
Oklahoma	1,524,625	19,545	1.3%
Rhode Island ^a	92,580	736	0.8%
South Dakota	411,182	4,977	1.2%
Texas	5,946,954	80,390	1.4%
West Virginia	1,166,506	10,696	0.9%
Wyoming	316,880	4,622	1.5%

Note: States are those for which the FBI has conducted all NICS checks during the permanent Brady period. Totals for the ten-year period include December, 1998.

^aIn addition to a NICS check by the FBI, a prospective purchaser must undergo a separate check required by State law.

Table 4. Number of firearm applications received and denied by selected state agencies, 1999-2008

	Applications	Denials	Percent denied
Transfer checks or permits			
California	3,726,580	37,480	1.0%
Colorado	1,487,449	55,681	3.7%
Connecticut ^a	...	...	...
Purchase permits	...	...	...
Instant checks	612,445	1,519	0.2%
Delaware	102,607	4,436	4.3%
Florida	3,187,569	70,130	2.2%
Illinois ^a	4,020,775	75,682	1.9%
Purchase permits	2,389,709	64,472	2.7%
Instant checks	1,631,066	11,210	0.7%
Maryland	287,253	5,299	1.8%
New Hampshire ^c	148,319	1,492	1.0%
New Jersey ^{a,b}	781,780	8,942	1.1%
Purchase permits	403,814	7,838	1.9%
Instant checks	377,966	1,104	0.3%
Oregon	1,200,806	22,959	1.9%
Tennessee	2,018,707	87,694	4.3%
Utah ^d	734,858	21,255	2.9%
Virginia	2,102,134	25,019	1.2%
Wisconsin ^c	356,210	5,340	1.5%
Exempt carry permits			
Arizona	236,165	12,558	5.3%
South Carolina	123,495	2,378	1.9%
Utah	142,405	2,106	1.5%
Wyoming	15,450	301	1.9%

Note: Each listed state reported complete statewide data for applications and denials from 1999 to 2008.

... Not available or Not applicable.

^aConnecticut, Illinois, and New Jersey conduct checks on permit or identification card applicants and on firearm transfer applicants.

^bNew Jersey permit checks are conducted by local agencies, but counts are reported by the state.

^cCounts include handguns only for these states.

Table 5. Reasons for denial of firearm transfer applications by checking agencies, 1999-2008

Reason for denial	1999-2008		
	FBI ^a	State	Local
Total	100%	100%	100%
Felony indictment/conviction	66.1%	54.2%	26.9%
State law prohibition	1.7%	7.4%	13.0%
Domestic violence			
Misdemeanor conviction	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 or disability	0.6%	2.1%	4.3%
Drug user/addict	7.5%	1.0%	8.3%
Local law prohibition	...	0.0%	5.5%
Other prohibitions ^b	0.8%	14.5%	27.0%

Note: Reasons for denials are based on 18 U.S.C. 922 and state laws.

-- Not available or Not applicable

^aDuring 2008 the FBI began a new classification system and reclassified all denials from 1999 to 2008.

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

Table 6. Changes in the number of applications, denials, and reasons for denials, 1999-2008

	2008	1999	Percent change 1999-2008
Applications	9,901,000	8,621,000	14.8%
Denials^a	147,000	204,000	-27.9%
Felony denials	77,000	148,000	-48.0%
All other reasons	70,000	56,000	25.0%
Percent felony	52%	73%	-27.8%
Felony denials per 1,000 applications	7.8	17.2	-54.7%

Note: Counts are rounded. See notes on table 1

^aDuring 2008 the FBI began a new classification system and reclassified all denials from 1999 to 2008.

Table 7. Counts of National Instant Criminal Background Check System (NICS) Index prohibited person records, December 31, 2008

Type of record	Index totals	Submissions	
		State	Federal
Total	5,483,941	1,185,471	4,298,470
Felony ^a	250,188	247,062	3,126
Under Indictment/Information ^a	230	17	213
Fugitive from Justice ^a	349,029	343,173	5,856
Controlled Substance	5,601	4,439	1,162
Mental Committed/Adjudicated	648,120	531,295	116,825
Illegal or Unlawful Alien	4,109,873	41	4,109,832
Dishonorable Discharge	15,871	4	15,867
Renounced U.S. Citizenship	13,623	1	13,622
Protection/Restraining Order ^a	1,056	955	101
Misdemeanor Domestic Violence ^a	46,286	19,982	26,304
Denied Persons	44,064	38,502	5,562

^aNew reporting requirements began on May 19, 2008 and many records in the "Denied Persons" file were reclassified to more specific classifications.

Table 8. Appeals by type of checking agency, 1999-2008

Type of checking agency	Appeals		Reversed	
	Number	Percent of Denials ^a	Number	Percent of Appeals
Total	236,766	16.2%	86,078	36.4%
FBI	101,128	14.9%	29,676	29.3%
State	134,330	20.1%	55,944	41.6%
Local	1,308	1.1%	458	35.0%

^aSee table 2 for the number of denials.

Table 9. ATF investigation of National Instant Criminal Background Check System (NICS) denials by the FBI, 1999-2008

	Total	Percent
FBI denials referred to ATF Brady Operations	740,981	100.0%
Brady Operations referrals to ATF field divisions		
Total referred to field	128,098	17.3%
Delayed denials	32,358	4.4%
Standard denials	95,740	12.9%
Not referred to field	554,451	74.8%
Not referred and overturned^a	58,432	7.9%
Reasons for referrals to ATF field divisions		
Convicted felon	38,722	30.2%
Misdemeanor crime of domestic violence	35,768	27.9%
Subject to protective order	24,104	18.8%
Under indictment or information filed	9,718	7.6%
Illegal or unlawful alien	7,366	5.8%
Fugitive from justice	6,058	4.7%
Unlawful user of controlled substance	3,563	2.8%
State prohibitor	1,313	1.0%
Other reasons ^b	1,486	1.2%

^aCount only includes overturned denials after November 9, 2005. Overturns prior to that date are included in delayed and standard denials.

^bThe category "other reasons" is compiled from three other prohibiting categories utilized by the Brady Operations Branch to refer denials for field investigation.

Source: Bureau of Alcohol, Tobacco, Firearms, and Explosives, Brady Operations Branch.

Table 10. Reported arrests of denied persons, 2000-2008

	Number of arrests of denied persons									
	2000-2008	2008	2007	2006	2005	2004	2003	2002	2001	2000
Total	13,409	1,299	1,360	1,314	1,428	1,502	1,473	1,742	1,964	1,327
States	13,092	1,270	1,327	1,285	1,398	1,490	1,430	1,697	1,901	1,294
Colorado ^a	1,826	152	167	189	185	215	137	246	276	259
Connecticut ^b	65	/	/	/	0	27	21	14	3	/
Delaware ^a	24	/	/	/	3	7	14	/	/	/
Georgia ^c	349	...	...	...	...	98	81	97	64	9
Maryland ^b	559	/	/	/	/	/	/	208	221	130
New Jersey ^a	36	9	/	/	/	/	/	/	/	27
Oregon ^a	1,048	91	84	103	125	98	124	131	198	94
Pennsylvania ^a	2,524	208	311	313	244	343	375	382	348	/
Virginia ^a	6,661	810	765	680	841	702	678	619	791	775
Local agencies	317	29	33	29	30	12	43	45	63	33

/ Not reported (no agencies were surveyed for arrest data in 1999).

... Not applicable.

^aArrests were made by state police troops or local agencies and may not always be reported to the state.

^bA statewide unit responded to all falsified applications and illegal attempts to buy firearms.

^cNo longer operated as a point of contact state after 2004.

Table 11. Agencies conducting firearm background checks, December 31, 2008

Jurisdiction	Names or description of checking agencies	
	Purchase check or permit	Exempt carry permit ^a
United States	Federal Bureau of Investigation	---
Alabama	---	---
Alaska	---	---
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
Florida	Department of Law Enforcement	---
Georgia	---	159 county probate courts
Hawaii	Four police departments	---
Idaho	---	44 county sheriffs
Illinois	State Police FOID and FTIP units	---
Indiana	---	---
Iowa	Dept. of Public Safety / 99 county sheriffs	Dept. of Public Safety / 99 county sheriffs
Kansas	---	---
Kentucky	---	State Police
Louisiana	---	---
Maine	---	---
Maryland	State Police Firearms Enforcement Division	---
Massachusetts	351 police departments	351 police departments
Michigan	595 sheriffs and police departments	County licensing boards
Minnesota	568 sheriffs and police departments	87 county sheriffs
Mississippi	---	Department of Public Safety
Missouri	---	---
Montana	---	56 county sheriffs
Nebraska	95 sheriffs and police departments	---
Nevada ^b	Department of Public Safety	---
New Hampshire	Department of Safety	---
New Jersey	State Police / 505 local police departments	---
New Mexico	---	---
New York ^c	58 county sheriffs; some police departments	---
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

--- FBI conducts purchase checks or jurisdiction has no exempt permits.

^aAgencies listed issue carry permits that may be used to waive a purchase check.

^bAs of July 1, 2008, the state's carry permit is no longer an alternative to a NICS check.

^cLicense required for purchase may also allow carrying.

**Table 12. National Instant Criminal Background Check System (NICS):
Checking agencies -- FBI or State point of contact -- for firearm transfers, 2008**

State	FBI conducts checks for all firearms^a	POC conducts checks for all firearms	POC checks handguns FBI checks long guns
Total	29	13	8
Alabama	X		
Alaska	X		
Arizona	X		
Arkansas	X		
California		X	
Colorado		X	
Connecticut		X	
Delaware	X		
Florida		X	
Georgia	X		
Hawaii ^b		X	
Idaho	X		
Illinois		X	
Indiana	X		
Iowa ^b			X
Kansas	X		
Kentucky	X		
Louisiana	X		
Maine	X		
Maryland			X
Massachusetts	X		
Michigan ^b			X
Minnesota	X		
Mississippi	X		
Missouri	X		
Montana	X		
Nebraska ^b			X
Nevada		X	
New Hampshire			X
New Jersey		X	
New Mexico	X		
New York	X		
North Carolina ^b			X
North Dakota	X		
Ohio	X		
Oklahoma	X		
Oregon		X	
Pennsylvania		X	
Rhode Island	X		
South Carolina	X		
South Dakota	X		
Tennessee		X	
Texas	X		
Utah		X	
Vermont	X		
Virginia		X	

Washington ^b		X
West Virginia	X	
Wisconsin		X
Wyoming	X	

Note: Includes checks on purchases or on permits required for purchase.

^aThe FBI also conducts all NICS checks for the District of Columbia, Guam, Northern Mariana Islands, Puerto Rico, and the U.S. Virgin Islands.

^bStates with multiple points of contact.

Table 13. Local denial rates by community size and type of permit, 1999-2008

Population served by checking agency	Applications	Denials	Percent denied
Purchase permits			
Under 10,000	124,837	1,589	1.3%
10,000 to 100,000	561,107	9,628	1.7%
Over 100,000	388,213	10,853	2.8%
Total	1,074,157	22,070	2.1%
Exempt carry permits			
Under 10,000	48,453	456	0.9%
10,000 to 100,000	253,212	3,598	1.4%
Over 100,000	186,778	3,427	1.8%
Total	488,443	7,481	1.5%

Note: Counts are from agencies that provided data.

Table 14. Forums for appeals of denials, December 31, 2008

State	Type of check	Appeal forums		
		Denying agency	Other agency	Court system
Total		21	3	28
Arizona	Exempt carry	X	...	X
California	Other approval	X	...	...
Colorado	Instant check	X	...	...
Connecticut	Instant check	X	...	...
	Purchase permit	...	X	...
Delaware	Instant check	X	...	X
	Exempt carry	...	...	X
Florida	Instant check	X	...	...
Georgia	Exempt carry	...	...	X
Illinois	Instant check	X	...	X
	Purchase permit	X	...	X
Iowa	Purchase permit	...	...	X
	Exempt carry	...	...	X
Maryland	Other approval	X	...	X
Massachusetts	Purchase permit	...	...	X
	Exempt carry	...	...	X
Michigan	Purchase permit	...	...	X
	Exempt carry	...	...	X
Minnesota	Purchase permit	...	...	X
	Exempt carry	...	...	X
Mississippi	Exempt carry	X	...	X
Montana	Exempt carry	...	...	X
Nebraska	Purchase permit	...	...	X
Nevada	Instant check	X	...	...
New Hampshire	Instant check	X	...	X
New Jersey	Instant check	X	...	...
	Purchase permit	...	...	X
North Carolina	Purchase permit	...	...	X
	Exempt carry	...	...	X
North Dakota	Exempt carry	...	...	X
Oregon	Instant check	X	...	...
Pennsylvania	Instant check	X	X	X
South Carolina	Exempt carry	X	...	...
Tennessee	Instant check	X	...	...
Texas	Exempt carry	...	...	X
Utah	Instant check	X	...	...
	Exempt carry	...	X	...
Virginia	Instant check	X	...	X
Washington	Other approval	...	...	X
Wisconsin	Instant check	X	...	X
Wyoming	Exempt carry	X	...	...

X Statute or regulation provides a specific appeal procedure. In addition, some denying agencies may reconsider a decision even if not required to do so by law.

... Not applicable

Table 15. Summary of significant changes in federal laws and regulations related to firearms sales, effective between January 1, 1999, and December 31, 2008

Subject of new or amended law or regulation	Year
The Brady Act was amended to require federal agencies to provide records to the NICS. States and tribes and their courts may be provided financial assistance to improve information systems, contingent upon sharing of prohibited person records with the NICS. As a condition of grant eligibility, states must establish procedures for restoring rights to persons prohibited from firearm possession by mental health disabilities.	2008
The definition of "misdemeanor crime of domestic violence" was amended to include a tribal law misdemeanor. A person who has been convicted of such an offense is prohibited from shipping, transporting, possessing, or receiving a firearm in interstate or foreign commerce.	2006
The prohibition on the manufacture, transfer, and possession of semiautomatic assault weapons and large capacity ammunition feeding devices expired.	2004
A new law required destruction of identifying data from an allowed NICS transaction within 24 hours after a dealer is notified of the decision, except in states where a different retention period is mandated by law.	2004
A federal ban was renewed on firearms not detectable by walk-through metal detectors or airport x-ray machines.	2003
The ATF firearms division, formerly within the Treasury Department, became part of the Department of Justice.	2003
The NICS initiated a procedure to query Bureau of Immigration and Customs Enforcement (ICE) databases when a firearm applicant is not a citizen of the U.S.	2002
An amended NICS regulation reduced, from 180 days to 90 days, the period during which limited approval data may be retained for system auditing.	2001

Table 16. Summary of significant changes in State laws related to firearms sales, effective between January 1, 1999, and December 31, 2008

Subject of new or amended law	Number of states* 1/1/99 - 12/31/08
Persons prohibited from buying or possessing firearms	
Convicted felons or other specific offenders	16
Restrained by court order	12
Domestic violence conviction	9
Mentally ill (committed or adjudicated)	9
Minor (under age)	9
Adjudicated delinquent or committed juvenile offense	8
Incorporate federal prohibitions into state law	5
Straw purchase (on behalf of prohibited person)	4
Illegal or non-immigrant aliens	4
Arrested or indicted for or charged with crime	3
Drug or alcohol addicts or offenders	3
Fugitives from justice	1
Records of prohibited persons	
Facilitated transmission of records to FBI	19
Increased State agency access to records	14
Background checks processing	
Use of the NICS required	8
Gun show checks authorized	5
State POC discontinued (FBI took over checks)	5
Addition of long gun checks by State agency	1
Sunset date of State instant check extended	1
Permits to purchase or carry	
Change in NICS-alternative status of state permit	10
Permit-to-carry law enacted	6
Permit-to-purchase requirement repealed	1
Other significant changes	
Resident / nonresident transfer rules: amend or repeal	7
Restoration of firearm rights (except mental disabilities)	7
Restoration of firearm rights - mental disabilities	6
Fee increase or decrease for record check or permit	6
Transfers of certain types of firearms prohibited	5
Appeals of purchase or permit denials - new procedures	5
Changes in retention rules for transaction data	5
Waiting period law repealed or amended	3
Handgun purchases limited to one per month	1
One-per-month handgun purchase limit repealed	1
Registration of assault weapons	1

*A state is only counted once in each category even if it passed more than one law on the topic.