

Attachment VII. Revised Supporting Statement A10

A. Justification

1. Necessity of Information Collection

National Criminal History Improvement Program

Among the many operations related to the criminal justice statistics function of the Bureau of Justice Statistics (BJS) is the administration of the National Criminal History Improvement Program (NCHIP), established by the Brady Handgun Violence Prevention Act of 1993 (the Brady Act). Through the NCHIP program, BJS provides direct awards and technical assistance to the states and localities to improve the quality, timeliness, and immediate accessibility of criminal history records and related information. The Brady Act (Pub. L. No. 103-159, 107 Stat. 1536 (1993), codified as amended at 18 U.S.C. Section 921 et seq.) mandates a criminal history background check on any person who attempts to purchase a firearm from a Federal Firearms Licensee (FFL). The permanent provisions of the Brady Act established the National Instant Criminal Background Check System (NICS), which is accessed by the Federal Bureau of Investigations (FBI) or a state point of contact (POC) prior to transferring a firearm. The NICS is a system comprising data on persons who are prohibited from purchasing or possessing a firearm under the Brady Act or under state law.

The Brady Act 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 addicted to, a controlled substance;
- has been adjudicated as a mental defective or committed to a mental institution;
- is an illegal alien or has been admitted to the U.S. under a nonimmigrant visa;
- was dishonorably discharged from the U.S. Armed Forces;
- has renounced U.S. citizenship;
- is subject to a court order restraining him or her from harassing, stalking, or threatening an intimate partner or child;
- has been convicted of a misdemeanor crime of domestic violence; and/or
- is under age 18 for long guns or under age 21 for handguns.

The NICS Improvement Act of 2007

In addition to administering NCHIP, BJS also administers the National Instant Criminal Background Check System Act Record Improvement Program (NARIP). This program implements the grant provisions of the NICS Improvement Amendments Act of 2007 (P.L. 110-180) enacted on January 8, 2008. The Act (known informally as the NICS Improvement Act) was enacted in the wake of the April 2007 shooting tragedy at Virginia Tech, after it was determined that the shooter's prohibiting mental health history was not available to the NICS to deny the transfer of the firearms used in the shootings. The NICS Improvement Act seeks to address the gap in information about such prohibiting mental health adjudications and commitments, and other prohibiting factors. Closing these information gaps will enable the system to operate more

effectively to keep guns out of the hands of those prohibited by Federal or state law from receiving or possessing them.

Components of the national firearm check system

Prospective firearm applicants are required to undergo a NICS check that has been requested by an FFL, or the applicant must present a state permit that the Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF) has qualified as an alternative point-of-transfer check. About 3,000 Federal, state, and local agencies conduct background checks on persons who apply to purchase a firearm or for a permit that may be used to make a purchase. Federal and state procedures for determining firearm possession eligibility vary by state, and each state government determines the extent of its involvement in the NICS process. States may operate as a full POC that requests a NICS check on all firearm transfers originating in the state, as a partial POC that requests a NICS check on all handgun transfers (FFLs are required to contact the FBI for NICS checks for long gun transfers), or as a non-POC in which case FFLs are required to contact the FBI for NICS checks on all firearm transfers originating in the state.

In 2009, the NICS processed nearly 11 million applications for firearm transfers or permits, of which 1.4% were denied by state and local agencies (83,000) or by the FBI (67,000).

Background Information: Firearm Inquiry Statistics Program

In 1995, BJS began the Firearm Inquiry Statistics (FIST) program to provide national estimates of the total number of firearm purchase applications received and denied pursuant to the Brady Act and similar state laws. The FIST program collects information on background checks conducted by state and local agencies, and combines this information with FBI NICS transaction data to create an estimate of the total number of firearm purchase applications received and denied nationally. For those states that maintain an interface to NICS, the FBI provides a computer inquiry system but does none of the background check processing. Thus, the FBI records only the computer transaction data but may have no knowledge of the purchase application decision or reasons for denial. In order to produce comprehensive national statistics, it is necessary to collect data from the states that maintain NICS interfaces and integrate these data with the NICS data provided by the FBI. NICS also does not provide data on arrest and appeal data at the state and local levels. The FIST data collection provides the only existing national estimate of the total number of applications and rejections resulting from the Brady Act and similar state laws governing background checks and firearms transfers.

In addition to assessing the number of applications and rejections for firearm purchases and transfers, the information collection also obtains comprehensive data from the ATF Brady Operations on reasons for denial and appeal information, firearm retrievals, and referrals for investigation and prosecution. As the only centralized, comprehensive source of background check data, the FIST program is essential to assessing the full impact of the Brady Act, from application for a firearm transfer to prosecution as a result of denial, and of the NCHIP program nationally.

The FIST program falls within the statutory mission of BJS under Title 42 U.S.C. Section 3732 (Attachment I), to wit, the collection and analysis of statistical information regarding the operation of the criminal justice system at the Federal, state, and local levels.

2. Needs and Uses of Information

The FIST information collection is a voluntary national survey that assesses the number of applications and rejections for firearm purchases and transfers, and integrates data from ATF on the reasons for denial and appeal information, firearm retrievals, and referrals for investigation and prosecution as a result of denials. The results are assembled into statistical tables that are published on the BJS website, and numerous related publications have been published using FIST data. This data collection serves as a tool for researchers, administrators, and policymakers at all levels of government to observe levels of background check trends and activities nationwide and to understand the continuing effects of the Brady Act and its enforcement.

Coordination

The FIST program involves close collaboration among numerous Federal, state, and local agencies. At the Federal level, the FIST data collection agent will coordinate with the FBI and ATF to integrate data obtained from these agencies to create the most comprehensive picture possible of the firearm purchase and transfer process, from application to denial to post-denial activities, including prosecutions pursued as a result of a denial. An ongoing objective of the information collection is to collaborate with the FBI and ATF to identify ways to improve data systems and enhance data quality. At the state and local levels, the FIST program engages state and local checking agencies to collect data on the number of applications and rejections on an annual basis, as well as the reasons for denial. The data collection agent will also conduct outreach efforts with state and local agencies to obtain responses and provide technical assistance to complete the survey. A primary objective of the collection is to minimize the reporting burden on respondents by being flexible in the data collection methods and enabling respondents to submit the information in the most efficient and effective method, either via mail, fax, or electronically by a fillable pdf (email). The data collection agent will also continue to obtain data from state reports and, when able, will collect data published on state agency websites.

Examples of collaboration

FBI

Under this data collection, transaction data from the FBI NICS unit will be used to create the estimate of the total number of firearm purchase applications received and denied nationally. These data will continue to be extracted from monthly reports sent to the data collection agent from the FBI. In addition to partnering with the FBI to obtain these data for the collection, the current data collection agent is collaborating with the FBI to conduct more detailed analyses on the characteristics of arrests that resulted in the ineligible application and develop a profile of persons denied from purchasing a firearm due to a disqualifying record. A goal of the FIST program is to eventually use the data obtained under this collection and, in collaboration with the FBI, compare outcomes of the Federal and state checking agencies to identify ways to enhance and improve systems and operations at all levels.

ATF

Another example of cross-agency collaboration is the efforts to expand the scope of FIST data to include information about post-denial activities. Under this collection, the data collection agent will request and obtain data from the ATF Brady Operations on reasons for denial and appeal information, firearm retrievals, and referrals for investigation and prosecution. This information can be used to assess post-

denial activities, including prosecutorial decisions and steps involved in the process. Continued efforts in this area would enhance studies to highlight the effectiveness of decisions by ATF and Federal prosecutors on who to prosecute and identify potential issues related to procedural problems and discrepancies.

State and local agencies

The FIST collection underscores the importance of engaging state and local checking agencies to provide information about firearm transfer activities. The data collection agent will continue to make outreach efforts to state and local POCs, and strengthen relationships among agencies nationwide to promote strong cross-collaboration and increase the response rate.

Users of BJS Data

The FIST data collection is available for public access on the BJS website and related publications are available on the National Criminal Justice Reference Service (NCJRS) site. It is expected that the most frequent consumers of the data will be governmental officials, policymakers, researchers, media, and program administrators who are interested in observing national trends in firearm application and denial activities and/or have a vested interest in policies and procedures related to the background check process. As the sole comprehensive source of data on the firearm transfer process from application to denial to prosecution as a result of denial, the FIST collection provides the only quantifiable means to fully assess the impact of the Brady Act and NCHIP initiatives nationally.

The ability of the shooter involved in the Virginia Tech tragedy to obtain a firearm because his prohibiting mental health information was not available to NICS increased public and Congressional attention on the importance of ensuring that all prohibiting records are available to NICS so firearms can be kept out of the hands of persons ineligible to possess them. The passage of the NICS Improvement Act and dedicated NARIP funds to support state and local initiatives to provide these records to NICS further evidences Congressional support of efforts to improve the accessibility and quality of disqualifying records available to NICS, and illustrates the need to obtain data to track application and denial trends to assess differences in reasons for denial and/or denial rates over time. The FIST information collection will continue to support efforts to analyze trends in national background check activities for firearm transfers, reasons for denials, and the decision making process involved in approvals and post-denial activities. As such, the FIST information collection can be used as a compelling measure to highlight the continued need for congressional support to fund efforts to strengthen and improve national criminal history record improvement efforts to ensure the accessibility of timely and accurate data need to make decisions about firearm transfers and denials.

Efforts to expand the FIST audience and keep abreast of current Federal, state, and local policies and procedures related to background checks will be an ongoing focus of the FIST program, including having a continuing presence at the FBI NICS annual user conference, and the national conferences of the Justice Research and Statistics Association (JRSA) and the National Institute of Justice (NIJ).

Publications using FIST data

Data collected as part of the FIST information collection have been analyzed and results published in a BJS bulletin series, presented as statistical tables on the BJS website, and used to create related publications published to the NCJRS site. FIST data have also been referenced in various external reports, journal publications, and newspaper articles about topics related to firearm sales and background check procedures.

Sampling of publications

Background Checks for Firearm Transfers. Describes background checks for firearm transfers conducted annually.¹

Statistical tables in electronic format only:

- *Background Checks for Firearm Transfers*, 2009, forthcoming
- *Background Checks for Firearm Transfers*, 2008, 8/07. NCJ 227471
- *Background Checks for Firearm Transfers*, 2007, 7/08. NCJ 223197
- *Background Checks for Firearm Transfers*, 2006, 3/08. NCJ 221786

Statistical tables and reports in print and electronic formats:

- *Background Checks for Firearm Transfers*, 2005, 11/06. NCJ 214256
- *Background Checks for Firearm Transfers*, 2004, 10/05. NCJ 210117
- *Background Checks for Firearm Transfers, 2003: Trends for the Permanent Brady Period, 1999-2003*, 9/04. NCJ 204428
- *Background Checks for Firearm Transfers*, 2002, 9/03. NCJ 200116
- *Background Checks for Firearm Transfers*, 2001, 9/02. NCJ 195235
- *Background Checks for Firearm Transfers*, 2000, 7/01. NCJ 187985
- *Background Checks for Firearm Transfers*, 1999, 6/99. NCJ 180882 Data on this subject for the Brady Interim period prior to the permanent provisions are available in Presale Handgun Checks, the Brady Interim Period, 1994-98.

Survey of State Procedures Related to Firearm Sales. Provides an overview of the firearm check procedures in each of the states and their interaction with the National Instant Criminal Background Check System (NICS) operated by the FBI.²

- *Survey of State Procedures Related to Firearm Sales, Midyear 2004*, 8/05. NCJ 209288
- *Survey of State Procedures Related to Firearm Sales, Midyear 2003*, 8/04. NCJ 203701
- *Survey of State Procedures Related to Firearm Sales, Midyear 2002*, 4/03. NCJ 198830
- *Survey of State Procedures Related to Firearm Sales, Midyear 2001*, 4/02. NCJ 192065
- *Survey of State Procedures Related to Firearm Sales, Midyear 2000*, 4/01. NCJ 186766
- *Survey of State Procedures Related to Firearm Sales, Midyear 1999*, 3/00. NCJ 179022
- *Survey of State Procedures Related to Firearm Sales*, 1997, 12/98. NCJ 173942
- *Survey of State Procedures Related to Firearm Sales*, 1996, 9/97. NCJ 160705
- *Survey of State Procedures Related to Firearm Sales*, 5/96. NCJ 160763
- *Survey of State Records Included in Presale Background Checks: Mental Health Records, Domestic*

¹ The *Background Checks for Firearm Transfers* series is available on the BJS website - <http://bjs.ojp.usdoj.gov/index.cfm?ty=gsearch>

² The *Survey of State Procedures Related to Firearm Sales* series is available on the BJS website - <http://bjs.ojp.usdoj.gov/index.cfm?ty=gsearch>.

- *Violence Misdemeanor Records, and Restraining Orders, 2003, 8/04*. Examines the quality and accessibility of certain criminal and noncriminal records when States conduct a firearm presale background check. NCJ 206042

Other related publications:

Trends for Background Checks for Firearm Transfers, 1999-2008, 7/10. Summarizes the number of applications for firearm transfers and permits, denials that resulted from background checks, reasons for denial, rates of denials, appeals of denials, and arrests of denied persons during the permanent Brady period.³

Enforcement of the Brady Act, 2008: Federal and State Investigations and Prosecutions of Firearm Applicants Denied by a NICS Check in 2008, 6/2010.⁴ Reports on investigations and prosecutions of persons who were denied a firearm in 2008. The report describes how the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) screens denied-person cases and retrieves firearms that were obtained illegally.

3. Efforts to Minimize Burden

The FIST data collection received OMB approval in 2007 to administer and collect survey data twice a year for an annual estimated burden of 30 minutes per respondent, or a total estimated public burden of 341.5 hours. In response to funding cuts and efforts to further reduce respondent burden, it was decided to change the survey methodology to collect the data once annually, which has reduced the estimated burden to a cumulative total of 15 minutes per respondent per year, or an estimated 163.25 hours annually. BJS and the data collection agent determined that the necessary information could be effectively collected on an annual basis, and this schedule is expected to continue for future collections.

Recognizing that this is a voluntary survey, all reasonable efforts will be made to make the data collection process as convenient as possible for the respondent. Based on the agency's reporting characteristics and procedures, the data collection process will be tailored to the individual characteristics of individual state and local reporting agencies to make the process as convenient as possible for each respondent. The data collected are statistics that are routinely maintained by the reporting agencies, thus the information is readily accessible. The associated burden is the time spent reporting and verifying the accuracy of these statistics to the data collection agent.

Respondents may submit data on paper (fax or regular mail), diskette, or electronically using a fillable pdf (email). The data collection agent will maintain a record of how the agency elected to submit data in the past, and will continue to make every effort to tailor the collection processes to the agency's preferred method. When possible, the data collection agent will obtain the relevant data from state websites and reports and ask the responding agencies to verify its accuracy at the end of the collection period.

As new technologies become available to more easily and safely transmit information electronically, a continued goal of the project will be to encourage a greater degree of electronic reporting. A stated

³ This publication is available on the NCJRS website - <http://www.ncjrs.gov/pdffiles1/bjs/grants/231187.pdf>.

⁴ This publication is available on the NCJRS website - <http://www.ncjrs.gov/pdffiles1/bjs/231052.pdf>.

deliverable of the FY2011 FIST program is to create and implement a web-based reporting form that enables respondents to enter data online to simplify the record tabulating functions and further reduce the reporting burden. To encourage responses and provide support, regular follow up calls will also be made by the data collection agent to respondents to offer assistance in completing the survey, provide clarification about the survey questions, or follow up on outstanding surveys.

4. Efforts to Avoid Duplication

The FIST program is the sole data collector of national information on firearm applications and denials from POCs and local agencies, and the information requested is not directly attainable from any other data source. NICS transaction data provided by the FBI may have no record of the purchase application decision or reason for denial, and the data do not provide arrest or appeal data at the state and local levels. The FIST collection will integrate data obtained from the FBI NICS and ATF to provide the only comprehensive national assessment of the firearm transfer process from application to denial to prosecution as the result of denial. Thus, there will be no duplication of effort created by this information collection.

5. Minimizing Burden on Small Businesses

Not applicable. No information will be gathered from small businesses.

6. Consequences of Not Conducting Collection

The FIST information collection is the only comprehensive source of national data on the number of applications and rejections for firearm transfers, and numerous studies have been or could be conducted using these data to monitor and evaluate the implementation of the Brady Act and analyze the reasons for denial and post-denial activities. Absent this collection, there would be no other means to assess the impact of NCHIP initiatives and enforcement of the Brady Act, including the effectiveness of post-denial activities, levels of background check trends and activities nationwide, appeal and arrest activities at the state and local levels, recommended changes to procedures and policies, and the development of new systems. The FIST data collection will also contribute to the goals of the NICS Improvement Act by enhancing efforts to collect and analyze statistics on denial reasons for firearm purchase applications, and identify changing trends in disqualifying factors over time.

Additionally, findings from these related analyses can be used to highlight to policymakers the continuing effects of the Brady Act and its enforcement, and also provide the means to assess the effectiveness of decisions by ATF and Federal prosecutors on who to prosecute. If discrepancies in data are found during the studies of post-denial activities, researchers can determine if the source of discrepancies are related to procedural problems, data-quality problems, inadequacy of resources, or a combination of these factors.

Other identified future goals of the FIST project are to expand the scope of post-denial studies to develop findings and recommendations to help researchers and policymakers assess the effectiveness of current initiatives undertaken to prevent firearms from being possessed by individuals who are not authorized to have them, determine how databases and analytic programs created in the development of the FIST information collection can be applied to other projects, and identify potential recommendations for

changes in the nation's background check procedures and enforcement of firearm laws. A deliverable identified in the FY2011 solicitation is the production of an annual report on investigations and prosecutions of persons who were denied a firearm in 2010. The report is to present information on how ATF screens denied-person cases and retrieves firearms that were obtained illegally, as well as statistics on charges most often filed against denied persons by U.S. Attorneys and the results of these prosecutions. Additional state-level prosecution data will be obtained and included in this annual report.

Without the continued support for the FIST information collection, the data necessary to complete these important analyses would not be available.

7. Special Circumstances That Would Increase Respondent Burden

There are no anticipated circumstances that would require a respondent to report more than once annually, or increase the respondent burden in any other foreseeable way.

8. Public Comment and Consultation

The 60 day notice was published on August 24, 2010. To date, no comments or questions have been received by BJS. The survey forms list a number for respondents to call with any questions or concerns about the data collection. To date, no changes to the forms have been suggested or concerns voiced about the survey questions or content. The only request fielded by the current data collection agent from respondent agencies was for the survey to be sent electronically, which was done. A future goal of the FIST information collection is to create a web-based reporting form to enable respondents to enter data online to simplify the record tabulating functions of the agency.

9. Provision of Payments or Gifts to Respondents

Not applicable. Participation in the survey is voluntary, and no gifts or incentives will be offered to respondents.

10. Assurance of Confidentiality

Respondents will be informed that survey participation is voluntary. The data collected are in the public domain are not subject to confidentiality assurances. The data collected are summary statistics of an administrative nature, and do not allow for the identification of any individual.

11. Justification for Sensitive Questions

Not applicable. There are no questions of a sensitive nature included in the information collection.

12. Estimate of Respondent Burden

The data collection form will be sent to approximately 816 state and local agencies in the United States once annually. It is estimated that the average completion time for each agency to respond to the survey

and/or verify the accuracy of reported figures will be a total of 15 minutes annually. The overall response rate for the FY2009 collection was approximately 70 percent.

Each year, the collection agent is expected to contact each of the states to determine any changes to in state laws related to firearms checks. The expected burden in FY 2010 is 5 minutes per state (for a total of 55 minutes across 11 sampled states).

BJS and the data collection agent will continue to identify ways to encourage a higher response rate in future data collections and, in the FY2011 FIST funding announcement, BJS has established as a performance metric for the selected data collection agent a goal of achieving an overall response rate of 80 percent (approximately 653 responses). Thus, assuming an 80 percent response rate, the total estimated respondent burden for the FIST data collection is 164.20 hours annually, representing a decrease from the estimated 341.5 hours approved by OMB in 2007. This decrease is attributed to the change in data collection schedule from twice to once annually.

13. Estimate of Respondents' Cost Burden

This information collection will require only the information that is already generated and maintained by the respondents. There will be no additional cost to respondents other than the time associated with filling out the survey form and verifying the data upon its submission, which is estimated to be a cumulative total of 15 minutes per respondent annually.

The survey form, in most cases, will be completed by one person in the agency. A diverse range of respondent positions and salary grades is anticipated, as some respondents may be civilian employees while others fall within a wide range of law enforcement officials. Salary information is not collected for the FIST project. The estimated cost burden for respondents was calculated based on the Bureau of Labor Statistics' estimation of the national mean hourly wage of police and sheriff patrol officers in 2009 (\$26.52). Thus, the estimated cost burden associated with the estimated 15 minute response time is approximately \$6.63 per form, or \$4,329 in total. This is a significant decrease in the cost burden from 2007, which was \$17,649. This decrease is attributed in part to a change in the data collection schedule from twice to once annually. BJS also reassessed the titles of individuals who completed the surveys and adjusted the cost burden accordingly.

14. Cost to Federal Government

The total cost to the Federal government for this survey is estimated at \$325,400 all to be borne by the Bureau of Justice Statistics. Costs are calculated based on two months full-time work of a GS-12 Justice Statistics Policy Analyst, and two weeks full-time work of a GS-15 Supervisor:

15.4 percent of GS-12 (Justice Statistics Policy Analyst) - \$11,520
3.8 percent of GS-15 (Supervisor) - \$4,800

The total estimated costs also factors in benefits (25 percent of salary) and applicable estimated administrative costs. Additionally, an estimated \$300,000 in FY2011 FIST funding is expected to support project activities related to data collection, follow up, and outreach.

Summary of Cost Estimates

Costs (BJS)

Salaries	\$16,320
Benefits	\$4,080
Associated project costs	\$300,000
Other costs (related to administrative, peer review, and publications-related tasks)	\$5,000
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Total Cost	\$325,400

15. Reasons for Change in Burden

The request for renewal of the FIST information collection is not associated with an increase in reporting burden. Rather, BJS and the data collection agent have made efforts to decrease the reporting burden by changing the methodology to collect survey data from respondents once a year instead of twice annually, and the data collection agent will continue to be flexible in the ways that data will be accepted. The annual reporting burden has decreased from a cumulative total of 30 to 15 minutes per respondent annually. It is estimated that the total respondent burden will decrease from the approved 341.5 hours (2007) to 163.25 due to the change in data collection schedule.

16. Publication Plan and Schedule

Information collected will be reported and published in statistical tables on the BJS website. The projected schedule for data collection, publication, and data release is as follows:

Preparation	Month 1
Data Collection	Months 1-2
Data Processing/Analysis/Follow up	Month 2 - 9
Update Agency Contact List	Months 5 - 7
Data Verification/Final Report(s) Preparation	Months 9-12
Publication Release (Statistical Tables)	Month 12

The data collection agent for the FY2011 collection period will be selected through a competitive bid process. While all efforts will be made to expedite the review process and avoid delays in data collection, the proposed FY2011 data collection schedule may need to be revised based on the award schedule.

17. Reasons for Not Displaying Expiration Date

Not applicable. The expiration date will be shown on the survey forms.

18. Exceptions to the Certification Statement

Not applicable. There are no exceptions identified in Item 19, "Certification for Paperwork Reduction Act Submissions," of Office of Management and Budget (OMB) Form 83-I (Attachment II).