

## Supporting Statement - Part A

### 2016 Firearm Inquiry Statistics Program (FIST)

#### Justification

##### **1. Necessity of Information Collection**

The Bureau of Justice Statistics (BJS), a component of the Office of Justice Programs (OJP) within the U.S. Department of Justice (DOJ), seeks Office of Management and Budget (OMB) clearance for its 2016-2018 Firearm Inquiry Statistics (FIST) program.<sup>1</sup> BJS began the FIST program in 1995 as a means to develop national estimates annually of the total number of firearm purchase applications received and denied pursuant to the Brady Handgun Violence Prevention Act of 1993 (the Brady Act) (Pub. L. No. 103-159, 107 Stat. 1536 (1993), codified as amended at 18 U.S.C. Section 921 et seq.). The Brady Act 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). The NICS is operated by the Federal Bureau of Investigation (FBI) and maintains data on persons who are prohibited from purchasing or possessing a firearm under the Brady Act or under state law. The NICS is accessed by the FBI or a state point-of-contact (POC) prior to transferring a firearm.

BJS has implemented the FIST collection annually since the program's inception in 1995.<sup>2</sup> The FIST program falls within the statutory mission of BJS under Title 42, United States Code 3732 (Attachment I), to wit, the collection and analysis of statistical information concerning the operation of the criminal justice system at the Federal, state, and local levels. The Regional Justice Information Service (REJIS)<sup>3</sup> is BJS's FIST data collection agent. Through FIST, BJS obtains background check data on applications and denials from state and local checking agencies and combines this information with FBI NICS transaction data<sup>4</sup> to produce comprehensive national statistics on firearm application and denial activities resulting from the Brady Act and similar state laws governing background checks and firearms transfers.

BJS also obtains information on reasons why firearm applications are denied, and receives information from the ATF Denial Enforcement and NICS Intelligence (DENI) Branch on FBI denials screened and referred to ATF field offices for investigation and possible prosecution. Further, the FIST survey includes questions about how agencies track reasons for denial and on agency needs related to improved data tracking capabilities.

BJS publishes FIST data in its *Background Checks for Firearm Transfers* series, available on the [BJS website](#). *Background Checks for Firearm Transfers, 2013-2014 - Statistical Tables* is the most recent

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<sup>1</sup> BJS is requesting approval under this clearance to implement the FIST collection for calendar years 2016, 2017, and 2018. BJS intends to follow the same procedures for all three years included under this clearance. .

<sup>2</sup> BJS has conducted the FIST program annually since the program's inception in 1995, with two exceptions: BJS did not collect 2011 FIST data due to a variety of reasons, notably the amount of time spent on addressing methodological issues for the 2010 FIST collection and determining a new sampling plan for future collections; and BJS combined the 2012 and 2013 data collection years in an effort to produce more timely data.

<sup>3</sup> REJIS was awarded the FIST cooperative agreement in FY 2014 and will be BJS's data collection agent for the 2016 collection. The award includes three optional supplemental years. The FIST award will be re-competed in FY 2019.

<sup>4</sup> FBI NICS transaction data are the number of applications and denials that are processed by the NICS system.

FIST publication. As detailed in the statistical tables, nearly 15 million applications for a firearm transfer or permit were received in 2014, of which about 1.3% were denied (91,000 by the FBI and 102,000 by state and local agencies). REJIS recently completed the 2015 collection and is in the process of preparing the data for publication. The release of the 2015 statistical tables is scheduled for late summer 2017.

### **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 to a point-of-transfer check. Over 1,300 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.

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 non-immigrant 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.

### **BJS's NCHIP and NARIP programs**

In addition to its criminal justice statistics function, BJS administers the National Criminal History Improvement Program (NCHIP) and NICS Act Record Improvement Program (NARIP) grant programs. Through the NCHIP program, BJS provides direct awards and technical assistance to the states (including Washington, D.C.), tribes, and localities to improve the quality, timeliness, and immediate accessibility of criminal history records and related information that are queried during the firearm background check process. BJS has awarded nearly \$667 million in NCHIP funding to eligible state and local entities since the program's inception in 1995.

The NARIP implements the grant provisions of the NICS Improvement Amendments Act (NIAA) of 2007 (P.L. 110-180) enacted on January 8, 2008, 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 NIAA 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. BJS has awarded over \$110 million in NARIP funding since the program's inception in FY 2009 to support state and local initiatives to provide these records to NICS. Currently, thirty states are eligible to apply for NARIP funds. Additional states are currently pursuing ATF certification to become eligible to receive NARIP funding.

### **Uniqueness of FIST collection**

The FIST collection uniquely contributes to the goals of the NICS by enhancing efforts to collect and analyze data on applications and denials for firearm transfers and permits. Through FIST, BJS is able to obtain more detailed information on firearm background check activities that can be used to inform policy and programmatic decisions, including assessing the impact of the Brady Act over time on preventing firearm transfers to prohibited persons.

The FBI also collects and reports on information related to firearm background check activities in their annual NICS Operations Report. The FBI report includes data that are more technical in nature and report on the status and functioning of the NICS. The report provides useful information on operational functions such as the volume of hits on the system, system downtime, immediate proceed and denial rates, and electronic check rates, but it is not intended to provide a comprehensive overview of the number of applications for firearms received and denied annually. Rather, it is designed to inform readers about how well the NICS is functioning.

For those states that maintain an interface to the NICS, the FBI provides a computer inquiry system but does not conduct the background check processing. The FBI NICS computer transaction data are counts of firearm transactions, rather than counts of the number of applications and denials for firearm transfers or permits. The FBI transaction counts may include in their total multiple transactions for the same applications (such as running an applicant's name several ways, rerunning a check if a delay is encountered, etc.) and periodic "rechecks" that select state agencies run on all current carry permit holders. These transactions and other types are not included in the FIST counts because they are not connected to the transfer of a firearm and the state POCs surveyed are able to parse out the checks that are not connected to a transfer.

Conversely, BJS uses FIST data to produce a national estimate of the number of firearm applications (as opposed to transactions) received and denied annually. The FIST collection obtains comprehensive information from state and local agencies on denials and reasons for denials, while the FBI reports complete information only on denials issued by the NICS Section. NICS transaction data do not include complete data on denials issued at the state and local levels because state POCs do not routinely report denial information to NICS due to resource limitations. The FBI NICS Section requests that POCs send denials to NICS, but they do not enforce this as a requirement. Further, some local agencies in the FIST survey are not in a NICS POC state and may not be able to report denials to the FBI through a state interface. Thus, the FBI NICS data do not provide a complete picture of denial activity because they do not include information on denials issued at the state and local levels.

The FIST collection is also unique because, in contrast to the broader state data compiled by the FBI, FIST provides more comprehensive information on background check activities conducted at the state and local levels, and also produces state-level estimates of firearm applications and denials. Additionally, through FIST, BJS produces more detailed information about two different firearm permit types that states issue that are not specified in the FBI NICS data: 1) permits required for a transfer (“purchase permits”) and 2) concealed carry permits that may be used to waive a background check at the time of transfer (“exempt carry permits”).

## **2. Needs and Uses**

The United States continues to experience episodes of deadly gun violence, and with each high-profile shooting event comes increased Congressional and public 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. These events also reignite the debate over gun control measures, including mandatory universal background checks.

The FIST collection serves as a tool for researchers, administrators, practitioners, 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. The passage of the NIAA to support state and local initiatives to provide disqualifying records to NICS demonstrates Congressional support of efforts to improve the quality and accessibility of disqualifying records available to NICS. It also illustrates the need to continue to collect—and improve the collection of—data on firearm application and denial trends to assess differences in reasons for denial and/or denial rates over time. The FIST collection supports 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, FIST findings can be used to assess the continued need to support national criminal history record improvement efforts and measure the impact these efforts have had on improving the accessibility of timely and accurate data needed to make decisions about firearm transfers and denials. In recent years, there has been increased interest in the reasons why applicants are denied from purchasing a firearm, which the FIST collection helps to answer by collecting more complete information from state and local agencies on reasons why firearm applications are denied.

At the state and local levels, FIST data can be used to inform policy decisions related to background check procedures and further demonstrate the importance of ensuring that records of individuals prohibited from possessing a firearm are made available to the national systems. FIST data have been used to support the continued operation of POC states. The FIST collection obtains information from state agencies on the number of unique applications received and denials issued, which provides the means to compare state POC data to the FBI NICS transaction data. This can assist state efforts to monitor the volume of firearm background activities that agencies are conducting on an annual basis and to evaluate the effectiveness of their systems. Historically, FIST data have illustrated that checks conducted by POC states have a higher percentage of applications denied compared to non-POC states. POC states generally have additional state prohibitors and better access to state and local records which accounts for a higher percentage of denials. At the federal level, FIST data can be used by DOJ to assess the effectiveness of post-denial activities, gun violence prevention initiatives, and firearm enforcement laws.

FIST data, notably the percent of applications that have been denied annually since the passage of the Brady Act, have also been cited in Congressional testimony related to proposed gun control legislation and enhanced background check measures and in media articles. A key FIST finding often cited is that over 2.8 million firearm transfer and permits applications, or 1.6% of total applications,<sup>5</sup> have been denied since the inception of the Brady Act. From 1998 (when FIST data were first reported) to 2009 the denial rate decreased but then began to fluctuate. In recent years the denial rate again decreased slightly before rising in 2014 to 1.3% (from 1.1% in 2013). Since 2012, BJS has published state-level estimates for the number of firearm applications received and denied annually, which provides a more comprehensive picture of activities at the state level. BJS has observed an increased interest in and demand for this data in recent years and expects that it will continue to be an area of key interest in debates over gun control legislation and universal background checks.

Additionally, the FIST collection enhances BJS's efforts to quantitatively evaluate the impact that the NCHIP and NARIP grant programs have on improving the quality, completeness, and accessibility of records at the national level, notably on increasing the number of records for non-felony denials available to NICS for firearm background checks. As the demand increases for federal agencies to demonstrate quantifiable outcome program measures, FIST data continue to be an important tool to evaluate the impact of the NCHIP and NARIP funding streams.

The FIST survey also includes questions about the processes agencies follow to track data on reasons for denial as well as questions to identify what resources agencies felt were needed to improve their tracking capabilities. These questions are designed to provide insight on how agencies track these data to improve reporting and identify if and how BJS can assist states by providing training and technical assistance on the subject matter, and/or through NCHIP or NARIP funding assistance.

Finally, BJS continues to seek new opportunities to use FIST data to address relevant and emerging policy questions. For example, given the recent focus on improving the availability of prohibiting mental health records at the national level, BJS approved the use of FIST funds to allow REJIS to develop a report that provides information on laws that impact firearm possession by persons who have come into contact with a mental health court or facility. REJIS will summarize the state legislation passed since the NIAA's enactment and produce a series of tables to categorize federal and state laws on prohibitive dispositions, records reporting requirements, and relief from disabilities procedures.

These examples illustrate just some of the ways that FIST data can be used to inform policy and programmatic decision-making related to firearm background checks. Absent the FIST collection, there would be limited alternate means to assess the enforcement of the Brady Act and similar state laws, including levels of background check trends and activities nationwide.

### **Coordination and collaboration**

Through the FIST collection, REJIS partners with the FBI to obtain NICS transaction data that are used to create the estimate of the total number of firearm purchase applications received and denied nationally. The FBI NICS Section has also reached out to BJS and REJIS for other related purposes, for example to elicit feedback on a new Purpose ID that is being rolled out for state permit rechecks and revocations checks.

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<sup>5</sup> Data reported as of December 31, 2014, the most recently available published FIST data.

Another example of cross-agency collaboration is the effort to report information on post-denial activities. Under this collection, REJIS requests and obtains data from the ATF Denial Enforcement and NICS Intelligence (DENI) Branch on FBI denials screened by DENI and referred to ATF field offices for investigation. This information enables ATF to assess post-denial activities, including prosecutorial decisions and steps involved in the process. The information obtained under the FIST collection can be used to inform administrators and officials on the effectiveness of decisions by ATF and Federal prosecutors on who to prosecute, and identify potential issues related to enforcement of federal firearm laws.

At the state and local levels, the FIST program engages state and local checking agencies to report data on the number of applications and denials on an annual basis, as well as the reasons for denial. All (100%) of state agency reporters provided FIST data for the past three collection years, due in part to BJS and REJIS's ongoing outreach efforts. Through FIST, BJS and REJIS have also strengthened local engagement efforts, which has resulted in increased participation. For example, West Virginia county sheriffs were added to the FIST universe in 2014 and, largely due to REJIS's strong outreach efforts, 78% of these offices provided data that year.

BJS and REJIS will continue to make outreach efforts to state and local checking agencies to obtain responses and provide technical assistance to complete the survey, and to strengthen relationships among agencies nationwide to promote strong cross-collaboration and increase the response rate.

### **Publications using FIST data**

FIST data have been published most recently in statistical tables on the BJS website and in several related publications published to the National Criminal Justice Reference Service (NCJRS) site. A sampling of these publications is as follows:

*Background Checks for Firearm Transfers*. Describes overall trends in the estimated number of applications and denials for firearm transfers or permits since the inception of the Brady Act and describes background checks for firearm transfers conducted annually.<sup>6</sup>

Statistical tables in electronic format only:

- *Background Checks for Firearm Transfers, 2015 (estimated publication date is summer 2017)*
- *Background Checks for Firearm Transfers, 2013-2014 6/16. NCJ249849*
- *Background Checks for Firearm Transfers, 2012, 12/14. NCJ247815*
- *Background Checks for Firearm Transfers, 2010, 2/13. NCJ238226*
- *Background Checks for Firearm Transfers, 2009, 10/10. NCJ231679*
- *Background Checks for Firearm Transfers, 2008, 08/09. NCJ227471*
- *Background Checks for Firearm Transfers, 2007, 07/08. NCJ223197*
- *Background Checks for Firearm Transfers, 2006, 03/08. NCJ221786*

Statistical tables and reports in print and electronic formats:

- *Background Checks for Firearm Transfers, 2005, 11/06. NCJ 214256*

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<sup>6</sup> The *Background Checks for Firearm Transfers* series is available on the BJS website - <http://www.bjs.gov/index.cfm?ty=dcdetail&iid=246>.

- *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.<sup>7</sup>

- *Survey of State Procedures Related to Firearm Sales, 2005, 11/06, NCJ 214645*
- *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*

Other related publications:

- *Summary of State Firearm Transfer Laws, December 31, 2013.* Describes laws that regulate transfers of firearms and were in effect as of December 31, 2013. Summaries are included for the United States (federal law), the 50 states, and the District of Columbia. Topics covered include permits, background checks, waiting periods, prohibited persons, and other types of firearm transfer laws.
- *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.<sup>8</sup>
- *Enforcement of the Brady Act, 2010: Federal and State Investigations and Prosecutions of Firearm Applicants Denied by a NICS Check in 2010.*<sup>9</sup> Reports on investigations and prosecutions of persons who were denied a firearm in 2009. The report describes how ATF screens denied-person cases and retrieves firearms that were obtained illegally.

<sup>7</sup> The *Survey of State Procedures Related to Firearm Sales* series is available on the BJS website - <http://www.bjs.gov/index.cfm?ty=dcdetail&iid=291>.

<sup>8</sup> This publication is available on the NCJRS website - <http://www.ncjrs.gov/pdffiles1/bjs/grants/231187.pdf>

<sup>9</sup> This publication is available on the NCJRS website - <http://www.ncjrs.gov/pdffiles1/bjs/239272.pdf>.

FIST data have been referenced in various external reports, journal publications, and newspaper articles about topics related to firearm sales and background check procedures, for example:

- Georgetown University’s 2016 article “Background Checks and Firearm Registration: How Regulatory Policies Can Affect the Gun Market”
- The Law Center to Prevent Gun Violence’s 2016 article “For the Record: NICS and Public Safety – Essential Improvements to the NICS”
- Injury Prevention’s 2016 article “Evaluation of California’s Armed and Prohibited Persons System: Study Protocol for a Cluster-Randomized Trial” (Wintemute, et al.)

BJS and REJIS routinely respond to inquiries and information requests from media outlets and research and advocacy groups, including: Time Magazine, the New York Times, Politifact Virginia, the Journal Record, The Trace, Everytown for Gun Safety, Congressional Research Service, the Brady Campaign, the Firearms Coalition, and FactCheck.org. These inquiries frequently involve requests for or questions about multiple years of data to enable comparisons over time.

### ***3. Use of Information Technology***

BJS implemented the FIST web-form during the 2012 collection to increase data quality and reduce respondent burden. The web-form was designed with expert formatting, based on recommendations by Dillman, Smyth, and Christian (2009),<sup>10</sup> to allow respondents to enter data with ease, thus improving accuracy, reducing breakoffs, and minimizing missing and inconsistent items. To reduce differences in response due to mode effects, particularly mode effects due to the different web and mail response modes, the web-form was developed to closely mirror the visual presentation of the paper survey and the wording of the questions is consistent between the two modes. To ensure clarity of the questions asked and to encourage better item response, explanations of terms are included with each question. The web-form was developed to increase data quality by reducing problems associated with three potential types of survey error: enforced skip patterns and range checks that minimize missing and inconsistent items; reduced costs due to the elimination of additional editing and data entry (processing error); and reduced data retrieval due to the significant reduction in missing and inconsistent items (non-response error).

To reduce burden, respondents are given multiple opportunities to skip through questions that do not pertain to them. Further, the web-form is linked to the data management database. Because data from both modes will reside in the same database and any data not submitted via the web-form will be entered from a web-based portal (though it will still be possible to decipher the mode by which a survey was submitted), logical consistency checks on both response modes will be the same, as will data quality monitoring. The FIST survey can be found in Attachment II<sup>11</sup>, and screenshots of the web-form are in Attachment III.

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<sup>10</sup> Dillman, Don A., Smyth, Jolene D., and Christian, Leah Melani. (2009). *Internet, Mail and Mixed-Mode Surveys: The Tailored Design Method*. John Wiley and Sons: New York.

<sup>11</sup> As described in more detail later, the FIST survey is tailored to individual state agencies with state-specific terminology used for firearm background check activities. Thus, there is slight variation in the FIST survey to account for differences in terms related to types of checking and permitting functions. REJIS reviews the state terminology annually as part of their frame maintenance activities to ensure the survey language is accurate.



For the 2016 collection, as done in previous years, FIST respondents will be given a unique User ID and password to securely access the web-form. Respondents will have the opportunity to review their responses for accuracy prior to submission and will be able to print their responses easily with a built-in print button. Should any responses require revision, respondents will be able to access and amend their previous responses. The web-form will include a toll-free help number at the bottom of each screen that respondents can call to receive technical assistance if any issues are encountered while completing the web-form. Additionally, the form will provide links to two email addresses (one for technical issues, and one for questions about the survey itself) that will sync with their default email application to easily generate an email.

### **Encouraging the use of the FIST web-form**

The paper survey has historically been the preferred mode of response for the majority of respondents. Approximately 65% of respondents submitted paper surveys via mail for the 2015 collection, about 25% submitted responses via the web-form, 6% via fax, and 5% via email. BJS will continue to promote the use of the web-form option by providing clear instructions in the survey correspondence and retaining a user-friendly format. BJS will also continue to use multi-mode response options and accept data via the respondent's preferred mode (paper survey, fax, phone, or email) to maximize response rates and reduce burden.

REJIS currently maintains email addresses for about 78% of the local agency respondents and 84% of the state agency reporters. REJIS will email the 2016 survey notification letter and instructions to complete the web-form to those agencies for which there is an email address on file to further encourage the use of electronic submission and limit the immediate availability of the paper instrument. For those agencies that REJIS does not maintain email addresses for, REJIS will mail a packet of information including the survey cover letter and paper survey. REJIS will send a paper survey in follow-up attempts to non-respondent agencies.

REJIS will continue to update the contact list of agencies in the FIST population and note when point-of-contact information changes and/or will contact the agency to identify a new point-of-contact if an email is returned as undeliverable. The FIST survey also includes a section for respondents to provide contact information, including an email address, for the appropriate POC.

### **4. Efforts to Identify Duplication**

Based on BJS's knowledge of the federal statistical system in general, NICS operations, and other relevant surveys, BJS has determined that the 2016 FIST collection does not duplicate efforts to collect data reported by any other federal agency. The FIST program is the sole data collector of complete national information on firearm transfer and permit applications and denials from state POCs and local agencies, and the information requested is not directly attainable from any other data source. As previously acknowledged, FBI NICS transaction data may have no record of a state or local agency denial decision or reason for denial, whereas the FIST collection is able to obtain this information. The FIST collection integrates data obtained from the FBI NICS and ATF to provide the only comprehensive source of national data on firearm background check activities pursuant to the Brady Act and similar state laws.

### **5. Efforts to Minimize Burden**

The FIST survey was designed with input from survey methodologists, subject matter experts, and stakeholders in the law enforcement community. BJS is proposing to use the same survey instrument to obtain 2016 data that was used for the 2015 collection. The nonsubstantive change request memo approved by OMB (Attachment IV) details past efforts BJS and REJIS took to enhance the FIST survey. For example, BJS added clearer instructions to the survey and modified the screener questions to help respondents more easily determine which questions pertain to their agency based on their background check responsibilities. Further, BJS introduced state-specific language to reference the types of checks the agency is responsible for conducting, issuing, or tracking. The respondent is given multiple opportunities to skip questions that do not pertain to them, which will also reduce the respondent burden. The web-form provides the additional advantage of eliminating questions that the respondent may not need to see, thus further reducing response burden.

The FIST web-form is designed to streamline the survey process by eliminating questions that the respondent may not need to see, and thus reduce burden. It is also designed to reduce item nonresponse by requiring a response to critical items before a respondent can continue the survey. BJS found that requiring responses to these items reduced item nonresponse, and did not observe that it caused significant incidents of break-offs. While the web-form is designed to ensure logical responses, given previous responses, data will be monitored to check for item completeness and logic to ensure data quality.

BJS and REJIS, with OMB's approval, enhanced the FIST survey for the 2015 collection to improve and clarify the survey questions, maximize response rates, and address item non-response. Specifically:

- BJS updated the screener question to include broader criteria for survey participation. The original question asked if “background checks for firearm transfers or permits” were conducted during the calendar year. Based on feedback received that the language was not clear, the question was reworded to ask if agencies “process, track, or conduct background checks for firearm transfers or permits to purchase or carry” a firearm. This was an improvement because, as described in Part A, some agencies conduct background checks for the permits or transfers in question, while others are merely record keepers and another agency actually conducts the background check. REJIS identified cases where an agency erroneously determined it was ineligible to participate in the survey because the question was limited to only those agencies that actually conducted the checks. Since the new language was implemented during 2014 collection, there have been very few instances of self-exclusion by a respondent that have required follow-up and clarification.
- BJS retained the survey screener questions for only the three states (MN, NE, and WA) where the checking/permitting function varied amongst local agencies within the state, e.g., a sheriff's office may be doing checks in some counties while the local police department does the checks in others, or in some cases both agencies conduct the checks. By contrast, in some states, Iowa for example, the checking/permitting authority is always the local sheriff and there is no deviation from this authority (i.e., no local police departments do the checks). In states where the checking/permitting authority does not deviate, BJS found that the screener questions actually resulted in confusion and inadvertently increased the respondent burden and/or caused agencies to mistakenly believe they were ineligible to participate in the survey.

- BJS and REJIS revised and customized the FIST survey correspondence and instrument so that state agencies received materials with familiar state-specific terms for firearm permits and transfers instead of more generic terms that created confusion, which presumably reduced the respondent burden and improved data quality.
- BJS eliminated redundant questions, added more clarifying instructions to each section, and removed questions on arrests, appeals, and reversals of denied applications.<sup>12</sup>
- BJS added questions to obtain detailed information on the processes agencies follow to track denials and to ask what resources would enable them to begin or improve tracking of summary statistics of denials.

BJS proposes to use the current FIST survey for the 2016 collection and is not proposing to make any changes to the instrument.

### **Maximizing response rates**

The overall 2015 FIST response rate is about 81%.

To maximize the response rate and minimize the respondent burden while improving the quality of data, REJIS will promote the use of the web-form reporting option. Due to the fact that the paper survey has historically been the preferred response mode and that some checking agencies, notably local agencies, will not have the ability or willingness to complete the survey online, BJS and REJIS will continue to employ multi-modal submission options (web-form, email, paper survey, or fax) to decrease the respondent burden. To minimize respondent burden and maximize the response rate, REJIS will accept FIST data via the preferred mode of the respondent agency.

REJIS will also continue to employ a rigorous contact schedule to maximize the response rate and will make all attempts to personalize and tailor FIST correspondence to individual agencies to include language specific to the types of permits and checks that the agency is responsible for conducting.

BJS and REJIS will look at nonresponse at the state level for all cases.

## **6. *Consequences of Less Frequent Collection***

The annual collection of FIST data is necessary to provide continuity in the reporting of timely and comprehensive information about firearm background check activities at the national level. While the FBI NICS transaction data may provide some indication of firearm background check activity each year, the FIST collection provides more complete and detailed information, and fills in gaps that the NICS transaction data are not designed to address.

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<sup>12</sup> FIST data collections prior to 2014 requested data on arrests and appeals from local agencies. BJS stopped requesting these data during the 2014 collection due to historically high item nonresponse and low number of respondents. Due to the small number of local agencies that reported this data on the FIST survey in 2012 (19 local agencies, or 11%, reported arrest data and 25 agencies, or 19%, provided data on appeals), BJS determined that there was limited utility in reporting the data on arrests and appeals for local agencies because the number of responses was too small to make any assumptions about the data.

The FIST collection captures changes in the number of applications received and denials issued each year, which is important because sizable fluctuations have been observed over time. For example, the total number of applications increased from 15.7 million in 2012 to 17.6 million in 2013 (12%), then decreased to 15 million in 2014 (15%). However, fluctuations in the national denial rate do not always correspond to the fluctuations in applications. A less than annual collection may result in missing data from year when a dramatic increase or decrease in applications and/or denials is observed, which would make the imputation of data for the missing year nonlinear and potentially unreliable.

FIST data can be used to assess if variations in application and denial rates may be linked to events such as shooting incidents, and FIST data may be referenced in federal and state political campaigns. FIST data may also be sensitive to policy and legal changes. For example, the FBI recently (2017) issued new guidance about the types of warrants that should cause a denial under its “fugitive from justice” prohibitor, which will likely impact the FBI and state POC counts of denials in this category. Annual FIST data will allow comparisons to be made with prior years to determine if and how this new guidance impacts reasons why applications are denied.

Collecting FIST data on an annual basis is important to maintaining the FIST universe. There is no established schedule that dictates when federal or state laws or policies related to firearm background checks are created or changed, and these changes impact the composition of the FIST universe. Each year there is typically at least one state that amends its laws to seek ATF approval to qualify the state’s carry permit as an “exempt carry permit.” Recently, ATF qualified permits from West Virginia (2014), Louisiana (2015), Alabama (2016), and Ohio (2016), and Nevada’s carry permit has been qualified, disqualified, and then subsequently qualified again. A less frequent collection may increase costs and respondent burden because REJIS would have to conduct more outreach to state and local agencies to verify and update information.

Further, collecting FIST data less frequently may negatively impact the response rate, in particular for local agencies where maintaining an 80% rate is already challenging. Application and denial data are less common forms of administrative data that agencies typically collect and retain, and local agencies often have fewer resources to respond to these types of data requests. BJS and REJIS have made considerable efforts to build sustainable relationships with FIST respondents to encourage participation, and collecting FIST data less frequently may negatively impact response rates because FIST will no longer be a priority.

BJS reports FIST performance measurement data to OMB to, in part, illustrate how BJS’s NCHIP and NARIP funding programs assist state efforts, over time, to improve the availability, quality, and completeness of records at the national level. As such, an annual data collection is necessary to ensure that timely and accurate progress over time is reported, including changes observed that can potentially be attributed to increased or decreased NCHIP or NARIP funding levels.

## ***7. Special Circumstances***

BJS does not anticipate any circumstances that would require a respondent to report data more than one time annually or that would increase the respondent burden in any foreseeable way.

## ***8. Adherence to 5 CFR 1320.8(d) and Outside Consultation***

The 60-day notice (Vol 82, No. 14 p. 8212) was posted to the Federal Register on January 24, 2017. No comments were received. The 30-day notice was submitted to the Federal Register on March 27, 2017. No comments have been received to date.

The FIST survey design and methodology were reviewed by the following BJS and REJIS project staff: Allen Beck, Ph.D., BJS Statistical Advisor; Allina Lee, BJS Statistical Policy Advisor; Connor Brooks, BJS Statistician; Devon Adams, BJS, Chief, Criminal Justice Data Improvement Program; David Mueller, Ph.D., REJIS, Data Analysis /Program Support Supervisor; Jennifer Karberg, REJIS FIST Project Manager; Ronald Frandsen, REJIS, Research Analyst; and Trent Buskirk, Ph.D., FIST Statistical Consultant.

BJS conducted pretesting (in 2015) on the revised FIST survey in accordance with OMB survey testing protocol and received feedback from subject matter experts and agency representatives from Barrow County Probate Court (GA); Cass County Sheriff's office (IA); Keith County Sheriff's office (NE); Westchester County Clerk's office (NY); Blue Earth County Sheriff's office (MN); and Sanders County Sheriff's office (MT). The nonsubstantive change request memo (Attachment IV) provides details of the testing results.

During routine follow-up and Q&A efforts, REJIS engages in informal discussions with parties from whom FIST data are obtained or those individuals responsible for compiling the data to confirm the data relevant to FIST that the respondent agency maintains, determine how the agency can most accurately and conveniently provide the data, and address how FIST data are used. REJIS also operates a FIST Help Line for respondents. During the course of the most recent FIST collections (2012, 2014, and 2015), REJIS did not receive feedback that the burden associated with completing the FIST survey was excessive, or that the estimated twenty-five minute burden needed to be reevaluated. The most frequent feedback REJIS received from respondents was that the survey was quick and that respondents appreciated having the web-form option.

## ***9. Paying Respondents***

Neither BJS nor REJIS will provide any payment or gift of any type to respondents. Respondents will participate in the FIST collection on a voluntary basis.

## ***10. Assurance of Confidentiality***

Pursuant to 42 U.S.C. 3735 (section 304 of the Omnibus Crime Control and Safe Streets Act of 1968 (Pub. L. No. 90-351), as amended), the information collected as part of the FIST shall be used only for statistical and research purposes, and shall be gathered in a way that precludes their use for law enforcement or any other purpose relating to a particular individual other than for statistical or research purposes. Respondents will be informed that their participation in the survey is voluntary.

The FIST data collected are summary statistics of an administrative nature and do not include any personally identifiable information. BJS does not report data at the agency level. BJS will provide the following data use assurance in the FIST survey invitation:

“The Bureau of Justice Statistics (BJS) is authorized to conduct this data collection under 42 U.S.C. § 3732. BJS, its employees, and its data collection agents will use the information you provide only for

statistical and research purposes pursuant to 42 U.S.C. § 3735 (section 304 of the Omnibus Crime Control and Safe Streets Act of 1968 (Pub. L. No. 90-351), as amended), and will protect it to the fullest extent under federal law. For more information on how BJS and its data collection agents will use and protect your information, see the ([https://www.bjs.gov/content/pub/pdf/BJS\\_Data\\_Protection\\_Guidelines.pdf](https://www.bjs.gov/content/pub/pdf/BJS_Data_Protection_Guidelines.pdf)).”

**11. Justification for Sensitive Questions**

The FIST survey does not contain any questions of a sensitive nature.

**12. Estimate of Respondent Burden**

BJS conducted pretest activities in 2015 on the FIST survey. The survey was sent to nine local agencies, and six agencies responded. The reported respondent burden ranged from ten minutes to forty-five minutes for completion. Upon follow-up, the respondent that reported the forty-five minute burden indicated that he was initially confused by the request, which resulted in a higher than accurate response burden. Based on the results of the pretest, BJS and REJIS’s extensive history conducting the FIST collection, and feedback received during the 2015 collection, BJS estimates that the 2016 respondent burden will remain at twenty five minutes annually for a total estimated burden of 435 hours (Table 1).

BJS calculated the total burden estimate based on 100% response rate to be conservative. Based on the results of the pretest and last FIST collections, BJS estimates that the burden will vary depending on the number of permit or transfer types the respondent agency conducts background checks for:

- Twenty minutes for agencies that conduct background checks for 1 type;
- Thirty minutes for agencies that conduct background checks for 2 types; and
- Thirty minutes for state reporting agencies.

The non-substantive change request memo submitted to and approved by OMB in April 2016 (Attachment II) provides more details about the survey field test and corresponding analysis that was used to estimate the respondent burden.

**Table 1. Annual Estimated Burden Hours for 2016 FIST**

	Number of respondents (based on 100% response rate)	Estimated burden (in minutes)	Total burden hours
Survey administration	1,044	25	435

**13. Estimate of Respondent’s Cost Burden**

The FIST 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 twenty-five 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. BJS used the same process followed in previous years to calculate the estimated respondents' cost burden. The estimated cost burden for respondents was computed based on the Bureau of Labor Statistics' estimation of the national mean hourly wage of police and sheriff patrol officers in 2015 (\$29.45).<sup>13</sup> Thus, the estimated cost burden associated with the estimated twenty-five minute response time is approximately \$12.27 per form, or \$12,822 annually.

#### 14. Costs to Federal Government

The total expected cost to the Federal government for the 2016 FIST collection is \$431,892 annually, to be borne entirely by BJS. This work consists of planning, determining the sample and revising the survey, preparation of materials, collecting the data, evaluating the results, generating the statistical tables, and responding to media and external inquiries. A BJS GS-Level 11 Statistician will oversee REJIS's work on this project.

Table 2 shows the estimated project budget for the 2016 FIST collection.

**Table 2.** Estimates Costs for the 2016 FIST Survey

<b>Bureau of Justice Statistics</b>	
<b>Staff salaries</b>	
GS-11 Statistician (25%)	\$16,250
GS-15 Supervisory Program Manager (3%)	\$4,480
GS-14 Statistical Policy Advisor (2%)	\$2,300
GS-13 Editor (5%)	\$4,740
Other Editorial Staff	\$3,000
Senior BJS Management	\$3,000
Subtotal salaries	\$33,770
Fringe benefits (28% of salaries)	\$9,456
Subtotal: Salary & fringe	\$43,226
Other administrative costs of salary & fringe (15%)	\$6,484
<b>Subtotal: BJS costs</b>	<b>\$49,710</b>
<b>Data Collection Agent</b>	
Personnel	\$200,075
Fringe Benefits	\$40,326
Travel	\$4,860
Equipment	\$0
Supplies	\$5,240
Consultants/Contracts	\$42,050
Other	\$7,600

<sup>13</sup> Source: Bureau of Labor Statistics - <https://www.bls.gov/oes/current/oes333051.htm>.

Total Direct Costs		\$300,151
Total Indirect		\$82,031
<b>Subtotal Data Collection Agent</b>		<b>\$382,182</b>
<b>TOTAL ESTIMATED COSTS</b>		<b>\$431,892</b>

**15. Reasons for Change in Burden**

There will no change in the estimated annual burden per respondent for the 2016 FIST collection. BJS anticipates that the respondent burden will remain twenty-five minutes annually. As described in Part B, BJS is proposing to increase the 2016 FIST sample size to 1,044 to plan for unknown response.

**16. Project Schedule and Publications Plan**

REJIS will adhere to a schedule based on the strategies recommended by Dillman and colleagues (2009). Attachment V provides key milestone dates for the 2016 collection. REJIS will maintain a comprehensive record of all follow up and reporting activity and log details of when data are received, from whom, by what means (web-form, fax, email, etc.) and applicable changes in address and other contact information. This will be done to ensure that duplicate requests are not made to agencies and that the agency’s preferred mode of submission is noted for subsequent years.

REJIS will adhere to an aggressive follow-up schedule that includes letter, email (where practical), and phone follow up efforts. Five attempted contacts will be made to each agency before it is considered to be nonresponsive. REJIS will vary the modes of outreach so the reporting agency receives at least one phone call, one email (if an email address is available), and one fax or letter request. The proposed 2016 FIST correspondence is provided in Attachment VI. BJS will leverage relationships with its NCHIP, NARIP, and Statistical Analysis Center state contacts to follow up with nonrespondent state agency reporters, when necessary.

Table 3 identifies the estimated dates for the initiation of data collection activities, the release of the FIST statistical tables, and completion of data archival for the next three collection years.

**Table 3.** Key goals and timeframes for major recurring/annual FIST tasks

<b>Reference year of the collection</b>	<b>Start data collection</b>	<b>Finish data processing and submit final work products to BJS for review and preparation for publication to BJS website</b>	<b>Release of Background Checks for Firearm Transfers – Statistical Tables (for applicable reference year)</b>	<b>Archive FIST data</b>
2016*	June 2017	April 2018	July 2018	April, 2018
2017	April 2018	January 2019	April 2019	February 2019
2018	April 2019	January 2020	April 2018	February 2020



\* Due to the timing of the PRA clearance submission, BJS anticipates initiating the collection for CY 2016 data in June 2017. BJS's goal is to initiate the 2017 and 2016 collections earlier in the calendar year.

Throughout the data collection process, REJIS will maintain comprehensive records of reported changes to state and local agency contact information and relevant laws concerning firearm background check procedures, and will continue to complete additional frame maintenance activities (as addressed in more detail in Part B) to ensure the accuracy and completeness of the FIST frame.

***17. Display of Expiration Date***

The expiration date will be displayed on the survey form.

***18. Exception to the Certificate Statement***

BJS is not requesting an exception to the certification of the FIST collection.