

## Supporting Statement - Part A

### 2019-2022 Firearm Inquiry Statistics (FIST) Program

#### 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 2019-2022 Firearm Inquiry Statistics (FIST) program. BJS's clearance for this collection expired on June 30, 2020. BJS seeks a reinstatement of its recently-lapsed clearance. BJS began the FIST program in 1995 as a means to develop annual national estimates of the total number of firearm transfer and permit 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>1</sup> The FIST program falls within the statutory mission of BJS under Title 34, United States Code § 10132 (**Attachment 1**). The Regional Justice Information Service (REJIS) 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 federal transaction data to produce comprehensive national statistics on firearm application and denial activities resulting from the Brady Act and similar state laws.

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.

BJS publishes FIST data in its *Background Checks for Firearm Transfers* series, available on the [BJS website](#). As detailed in the statistical tables, more than 17.2 million applications for a firearm transfer or permit were received in 2017, of which about 1.4% were denied. BJS recently completed the 2018 collection and is in the process of finalizing the data for analysis.

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<sup>1</sup> BJS has collected FIST data 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.

### *Components of the national firearm check system*

The Gun Control Act, 18 U.S.C. 922, 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.

Pursuant to the Brady Act, 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 1,400 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 full POCs, meaning they request a NICS check on all firearm transfers originating in the state, as partial POCs, meaning they request a NICS check on all handgun transfers while FFLs are required to contact the FBI directly for NICS checks for long gun transfers, or as non-POCs, in which case FFLs are required to contact the FBI directly for NICS checks on all firearm transfers originating in the state.

### *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 approximately \$791 million in NCHIP funding to eligible state and local entities between the program's inception in 1995 and 2019.

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 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 would 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 \$155 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-one states and two tribal authorities 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 publishes information related to firearm background check activities in their annual NICS Operations Report. The FBI report provides technical details 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 comprehensive national statistics on the number of firearms applications received and denied annually. As described below, the FIST Program is designed to provide certain data not contained in the NICS Operations Report.

BJS uses FIST data to produce a national estimate of the number of firearm applications, as opposed to transactions, received and denied annually. The FBI NICS system counts firearm transactions, rather than the number of applications for firearm transfers or permits. The FBI state transaction counts include a large volume of periodic "rechecks" that some state agencies run on all current carry permit holders. The rechecks and certain other types of checks are not included in the FIST counts because they are not connected to the transfer of a firearm. Moreover, the state POCs surveyed by FIST are able to parse out the checks that are not connected to a transfer.

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 some state POCs are unable to routinely report denial information to NICS due to resource limitations. Further, some local agencies in the FIST survey are not in a NICS POC state and cannot report denials to the FBI. Thus, the FBI NICS data do not provide a complete picture of denial activity because they do not include information on all 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 detailed information about two different state firearm permit types that are not distinguished in the FBI NICS state 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 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. 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 a firearm, which the FIST collection helps to answer by collecting more complete information from state and local agencies on reasons for denial.

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 may account 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 is that over 3 million firearm transfer and permits applications, or 1.5% of total applications,<sup>2</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. Since 2009, the rate has fluctuated between 1.1 and 1.5% per year. Since 2012, BJS has published state-level estimates for the number of firearm applications received and denied annually. 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

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<sup>2</sup> Bureau of Justice Statistics *Background Checks for Firearm Transfers, 2016-2017*. NCJ254757.

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.

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 transfer and permit 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 was rolled out for state permit rechecks and revocations checks.

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 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. Generally, 90 to 100 percent of state agency reporters provide FIST data, due in part to BJS and REJIS's ongoing outreach efforts. BJS and REJIS have also strengthened local engagement efforts, which resulted in a participation rate of 81% for local agencies in 2018.

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 reports 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>3</sup>

Statistical tables in electronic format only:

- *Background Checks for Firearm Transfers, 2016-2017. NCJ 254757*
- *Background Checks for Firearm Transfers, 2015. NCJ 250978*
- *Background Checks for Firearm Transfers, 2013-2014. NCJ 249849*
- *Background Checks for Firearm Transfers, 2012. NCJ 247815*
- *Background Checks for Firearm Transfers, 2010. NCJ 238226*
- *Background Checks for Firearm Transfers, 2009. NCJ 231679*
- *Background Checks for Firearm Transfers, 2008. NCJ 227471*
- *Background Checks for Firearm Transfers, 2007. NCJ 223197*
- *Background Checks for Firearm Transfers, 2006. NCJ 221786*

Statistical tables and reports in print and electronic formats:

- *Background Checks for Firearm Transfers, 2005. NCJ 214256*
- *Background Checks for Firearm Transfers, 2004. NCJ 210117*
- *Background Checks for Firearm Transfers, 2003: Trends for the Permanent Brady Period, 1999-2003. NCJ 204428*
- *Background Checks for Firearm Transfers, 2002. NCJ 200116*
- *Background Checks for Firearm Transfers, 2001. NCJ 195235*
- *Background Checks for Firearm Transfers, 2000. NCJ 187985*
- *Background Checks for Firearm Transfers, 1999. NCJ 180882.* Data on this subject for years prior to the permanent Brady period 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>4</sup>

- *Survey of State Procedures Related to Firearm Sales, 2005. NCJ 214645*
- *Survey of State Procedures Related to Firearm Sales, Midyear 2004. NCJ 209288*
- *Survey of State Procedures Related to Firearm Sales, Midyear 2003. NCJ 203701*
- *Survey of State Procedures Related to Firearm Sales, Midyear 2002. NCJ 198830*

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<sup>3</sup> The *Background Checks for Firearm Transfers* series is available on the BJS website - <http://www.bjs.gov/index.cfm?ty=dcdetail&iid=246>.

<sup>4</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>.

- *Survey of State Procedures Related to Firearm Sales, Midyear 2001. NCJ 192065*
- *Survey of State Procedures Related to Firearm Sales, Midyear 2000. NCJ 186766*
- *Survey of State Procedures Related to Firearm Sales, Midyear 1999. NCJ 179022*
- *Survey of State Procedures Related to Firearm Sales, 1997. NCJ 173942*
- *Survey of State Procedures Related to Firearm Sales, 1996. NCJ 160705*
- *Survey of State Procedures Related to Firearm Sales. 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.* 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>5</sup>
- *Enforcement of the Brady Act, 2010: Federal and State Investigations and Prosecutions of Firearm Applicants Denied by a NICS Check in 2010.*<sup>6</sup> Reports on investigations and prosecutions of persons who were denied a firearm in 2010. The report describes how ATF screens denied-person cases and retrieves firearms that were obtained illegally.

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:

- The Journal of Law, Medicine, & Ethics' 2017 article "Background Checks for all Gun Buyers and Gun Violence Restraining Orders: State Efforts to Keep Guns from High-Risk Persons" (Vernick, Alcorn, & Horwitz)
- Annals of Epidemiology's 2018 article "California's Comprehensive Background Check and Misdemeanor Violence Prohibition Policies and Firearm Mortality" (Castillo-Carniglia, et al.)
- Routledge Studies in Crime and Society's 2018 book "Gun Studies: Interdisciplinary Approaches to Politics, Policy and Practice" (Carlson, Goss, & Shapira)
- Criminology & Public Policy's 2019 article "What Role Does Serious Mental Illness Play in Mass Shootings, and How Should We Address It?" (Skeem & Mulvey)
- Health Affairs' 2019 article "Background Checks for Firearm Purchases: Problem Areas and Recommendations to Improve Effectiveness" (Wintemute)
- Politifact's 2020 article by Amy Sherman "Do gun background checks work? What the research shows"

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

<sup>5</sup> This publication is available on the NCJRS website - <http://www.ncjrs.gov/pdffiles1/bjs/grants/231187.pdf>

<sup>6</sup> This publication is available on the NCJRS website - <http://www.ncjrs.gov/pdffiles1/bjs/239272.pdf>.

Record, The Trace, Everytown for Gun Safety, Congressional Research Service, the Brady Campaign, the Firearms Coalition, the University of Alabama at Birmingham, 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

The paper survey has historically been the preferred mode of response for the majority of respondents. Approximately 62% of respondents submitted paper surveys via mail for the 2018 collection, about 31% submitted responses via the web-form, 5% via fax, and 3% 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.

BJS first 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>7</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 the effects of web and mail modes, the web form was developed to closely mirror the visual presentation of the paper survey and maintain consistent wording of the questions. To ensure clarity 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 opportunities to skip through questions that do not pertain to them. Further, the web-form is linked to the survey 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. Two FIST survey form examples (described further in Part B) can be found in **Attachments 2 and 3**,<sup>8</sup> and screenshots of the web-form are in **Attachment 4**.

For the collections covered under this clearance request, 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 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

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<sup>7</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>8</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.



encountered. Additionally, the form will provide a link to an email address, for questions about the survey, that will sync with their default email application to easily generate an email.

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

REJIS currently maintains email addresses for about 89% of the local agency respondents and 88% of the state agency reporters. REJIS will email the 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 FIST collection does not duplicate efforts to collect data reported by any other federal agency. The FIST program is the sole collector of complete national data on firearm transfer and permit applications and denials from state and local agencies. The data requested are not directly attainable from any other source. As previously noted, 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 proposes to retain six questions from the 2018 survey instrument, combine two current questions into one, add two new questions only for select state agencies, and remove three questions. For a combined 2019 and 2020 collection, some questions will be asked for both years. Minor language revisions are also proposed to increase clarity. (See Part B for details.) The survey includes clear instructions and screener questions to help respondents more easily determine which questions pertain to their agency based on their background check responsibilities. Further, the survey uses 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 web form 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 proposes to collect 2019 and 2020 data in the same survey. A portion of state agency reporters will be asked to only confirm published data. Ten states have published data on their websites and five states will provide a report if asked. FIST will ask these respondents only to confirm the data presented on a filled form. The remaining state agencies will be surveyed. The process will be the same for 2020 and 2021 state data.

For those states with local checking agencies, BJS proposes to ask respondents all questions for 2020, including reasons for denial, but to collect only counts of applications and denials for 2019.

The survey forms will retain enhancements made in prior years. BJS and REJIS, with OMB's approval, enhanced the FIST survey for the 2015-2018 collections 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 B, 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. For the 2019/2020, 2021, and 2022 local collections, the screener question will

be further refined to read “Did your agency record, process, or conduct background checks for firearm transfers or permits at any time between January 1 and December 31 (of the applicable year)?”

- BJS retained the survey screener questions for only the three states (MN, NE, and WA) where the checking/permitting function varied among 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, while in some cases both agencies conduct the checks). By contrast, in some states, 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.

#### *Maximizing response rates*

A preliminary finding for the 2018 data collection, the most recent year completed, shows the overall FIST response rate is about 82%.

To maximize the response rate and minimize the respondent burden while improving the quality of data, REJIS will prioritize the use of the web form reporting option. Because the paper survey has historically been the preferred response mode and that some checking agencies, notably local agencies, prefer not 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 provide a partial picture of national firearm background check activity each year, the FIST collection provides more complete and detailed information, and fills in gaps that the NICS transaction data do not address.

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 10.6 million in 2010 to 16.6 million in 2015 (56%). However, the fluctuations in the national denial rate do not always correspond to the fluctuations in applications as it was roughly the same in 2015 (1.4%) as it was in 2010 (1.5%). Both the number of applications and the denial rate fluctuated for the years in between 2010 and 2015. 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 political campaigns. FIST data may also be sensitive to policy and legal changes. For example, in 2017 the FBI issued new guidance about the types of warrants that should cause a denial under the “fugitive from justice” prohibitor. When analysis of 2016 and 2017 data is complete, a comparison of the two years will show whether the new guidance caused a significant change in the percentage of total denials attributable to the fugitive/warrant prohibition.

Legal changes also impact the composition of the FIST universe and the volume of applications and denials. 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). In prior years, Nevada’s carry permit has been qualified, disqualified, and then subsequently qualified again. A less frequent collection schedule could not account for these types of yearly changes.

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 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 universe agencies and encourage participation. Collecting FIST data less frequently may negatively impact response rates because agency personnel would need to become reacquainted with the survey.

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**

Due to delays in the publication of the 2016 and 2017 data, the clearance for the FIST program expired. BJS plans to publish 2018 in August 2021. To improve reporting timeliness, BJS is proposing to combine the 2019 and 2020 reference years into one data collection to be fielded in calendar year 2021. BJS intends to publish the 2019 and 2020 data in one report. The 2021 and 2022 collections will ask for one year of data each, and BJS intends to resume annual publication of FIST data.

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

The 60-day notice was posted to the Federal Register (Volume 86, Number 10, pages 4125-4126) on Friday, January 15, 2021 (**Attachment 5**). In response to this notice, BJS received two public comments (**Attachment 6**). One from Brady: United Against Gun Violence and one from Arnold Ventures and NORC. Both comments were supportive of the collection. The comment from Arnold Ventures/NORC suggested FIST could collect information on how often firearms are transferred without a passed background check due to the allotted time for the check expiring. This information may be found in the NICS Operations Report series. This comment also suggested an audit be conducted of the NICS to barriers to information flow from state data collections into the NICS. However, this was not suggested to be part of the FIST data collection but rather as a way to improve the quality of data FIST receives.

The comment received from Brady was also supportive of reinstating the FIST program. The comment also suggested expanding the data collection to collect information on dealer referrals and prosecutions and that FIST data be published in a timelier fashion. BJS is prioritizing timelier reporting. As stated above, BJS intends to publish the 2018 data in August 2021 and to combine the 2019/2020 data collection to achieve a more regular reporting schedule. BJS will consider if and how it could expand the FIST data collection to capture information related to the transfer of firearms not already documented elsewhere.

The 30-day notice was posted to the Federal Register (Volume 86, Number 78, pages 22074-22075) on Monday, April 26, 2021 (**Attachment 7**). No comments have been received to date.

The FIST survey design and methodology were reviewed by the following BJS and REJIS project staff: Jinney Smith, Ph.D., BJS, Deputy Director; Allen Beck, Ph.D., BJS Statistical Advisor; Joseph Conklin, BJS, Senior Statistician; Kevin Scott, Ph.D., BJS, Chief, Law Enforcement Statistics Unit; Connor Brooks, BJS Statistician; Devon Adams, BJS, Chief, Criminal Justice Data Improvement Program; Jennifer Karberg, REJIS Research Supervisor; Ronald Frandsen, REJIS Research Analyst/FIST Project Manager; and Trent Buskirk, Ph.D., FIST Statistical Consultant.

BJS and REJIS contacted three state checking agencies in Oregon, Pennsylvania, and Virginia, and three local checking agencies in Minnesota and Nebraska to ask for feedback on the new and revised questions. Agencies received the full questionnaire and follow up questions to ascertain whether the new questions were understandable and answerable. All four agencies that responded indicated that they understood the new or revised questions and would be able to provide answers to them as written.

During routine follow-up and Q&A efforts, REJIS engages in informal discussions with parties who provide or compile data in order to confirm that the data is relevant to FIST, 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. REJIS has not received feedback that the burden associated with completing the FIST survey was excessive, or that the estimated twenty-five-minute burden needs 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 34 U.S.C. § 10134, 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 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 34 U.S.C. § 10132. BJS, its employees, and its data collection agents will use the information you provide only for statistical and research purposes pursuant to 34 U.S.C. § 10134, 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 ([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. In 2020, six agencies were sent the proposed 2019 survey forms. Respondents indicated they did not have trouble answering the questions and would be able to provide the data requested. Based on the results of the pretest, BJS and REJIS’s extensive history conducting the FIST collection, and feedback received during the 2015 collection and on the 2019 form, BJS estimates an average burden of 30 minutes for the 2019/2020 collection and 25 minutes for the 2021 and 2022 collections.

As previously described, a portion of state reporting agencies will be asked to only confirm 2019 and 2020 data they previously published. Those state agencies that have not published 2019 and 2020 data will be asked to provide data for both years. Local reporting agencies will be asked to answer all questions for 2020 but only counts of applications and denials for 2019. Surveys will have fewer questions overall but some questions will need to be repeated in the proposed 2019/2020 combined form (see Part B for details). Some agencies will see new questions that may require looking up data. Thus, BJS estimates that the average respondent burden for the 2019/2020 collection will be 30 minutes for all agencies for a total estimated burden of 537 hours. The average respondent burden for the 2021 and 2022 data collections will be twenty-five minutes annually for a total estimated burden of 419 hours for each

collection year (Table 1). BJS calculated the total burden estimate based on 100% response rate to be conservative.

**Table 1. Annual Estimated Burden Hours for 2019-2022 FIST Collections**

Reference year	Number of respondents (based on 100% response rate)	Estimated burden (in minutes)	<b>Total burden hours</b>
2019//2020 <sup>9</sup>	1,073	30	<b>537</b>
2021	1,006	25	<b>419</b>
2022	1,006	25	<b>419</b>

### 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 2019 (\$32.50).<sup>10</sup> Thus, the estimated cost burden associated with the estimated 30-minute response time for the 2019/2020 collection is \$16.25 per form or \$16,348 total. The estimated cost burden associated with the 25-minute response time for the 2021 and 2022 collections ranges from \$13.95 to \$14.37 per form or \$14,034–\$14,453 annually.

**Table 2. Estimated Costs for Respondents**

	Survey Year		
	2019/2020	2021	2022
Number of respondents	1,073	1,006	1,006
Mean Hourly Wage	\$32.50	\$33.48	\$34.48
Estimated burden per form	30	25	25
Estimated cost burden per form	\$16.25	\$13.95	\$14.37
<b>Total Cost</b>	<b>\$17,436.25</b>	<b>\$14,033.70</b>	<b>\$14,452.87</b>

### 14. Costs to Federal Government

<sup>9</sup> Local checking agencies in Alabama will be included in the 2019/2020 collection, but are not projected to be in 2021 or 2022 collections because ATF determined that Alabama’s carry permit did not meet the qualifications for an alternative to the NICS point-of-transfer check. See “Universe and Respondent Selection” in Part B for more details.

<sup>10</sup> Source: Bureau of Labor Statistics - <https://www.bls.gov/oes/current/oes333051.htm>.

The total expected cost to the Federal government for the 2019-2021 FIST collections is \$335,952–\$356,023 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-12 Statistician will oversee REJIS’s work on this project.

Table 3 shows the estimated project budget for the 2019-2022 FIST collections.

**Table 3. Estimated Costs for the 2019-2022 FIST Surveys**

	Survey Collection Year			Total
	2019/2020	2021	2022	
<b><u>Bureau of Justice Statistics</u></b>				
<b>Staff salaries</b>				
GS-12 Statistician (25%)	\$17,821	\$18,356	\$18,907	\$55,084
GS-15 Supervisory Program Manager (3%)	\$4,324	\$4,454	\$4,587	\$13,365
GS-13 Editor (5%)	\$5,185	\$5,340	\$5,500	\$16,025
Other Editorial Staff	\$3,000	\$3,090	\$3,183	\$9,273
Senior BJS Management	\$3,000	\$3,090	\$3,183	\$9,273
<i>Subtotal salaries</i>	\$33,330	\$34,330	\$35,360	\$103,020
Fringe benefits (28% of salaries)	\$9,332	\$9,612	\$9,901	\$28,845
<i>Subtotal: Salary &amp; fringe</i>	\$42,662	\$43,942	\$45,261	\$131,865
Other administrative costs of salary & fringe (15%)	\$6,399	\$6,591	\$6,789	\$19,779
<b><i>Subtotal: BJS costs</i></b>	<b>\$49,061</b>	<b>\$50,533</b>	<b>\$52,050</b>	<b>\$151,644</b>
<b><u>Data Collection Agent</u></b>				
Personnel	\$157,393	\$162,114	\$166,977	\$486,484
Fringe Benefits	\$37,601	\$38,729	\$39,891	\$116,221
Travel	\$1,999	\$2,044	\$2,105	\$6,148
Equipment	\$0	\$0	\$0	\$0
Supplies	\$12,212	\$12,574	\$12,951	\$37,737
Consultants/Contracts	\$16,303	\$16,432	\$16,925	\$49,660
Other	\$0	\$0	\$0	\$0
<i>Total Direct Costs</i>	\$225,508	\$231,893	\$238,850	\$696,251
Total Indirect	\$61,383	\$63,226	\$65,123	\$189,732
<b><i>Subtotal Data Collection Agent</i></b>	<b>\$286,891</b>	<b>\$295,119</b>	<b>\$303,973</b>	<b>\$885,983</b>
<b>TOTAL ESTIMATED COSTS</b>	<b>\$335,952</b>	<b>\$345,652</b>	<b>\$356,023</b>	<b>\$1,037,627</b>

**15. Reasons for Change in Burden**



Because both 2019 and 2020 data will be collected on the same form, but there are fewer questions being asked, BJS anticipates that the burden will increase from the average of 25 minutes to 30 minutes for the 2019/2020 collection only. BJS anticipates that the respondent burden will return to the previous average of 25 minutes per respondent annually for the 2021 and 2022 collections.

**16. Project Schedule and Publication Plan**

REJIS will adhere to a schedule based on the strategies recommended by Dillman and colleagues (2009). **Attachment 8** provides key milestone dates for the 2019-2021 collections. 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 mode (web form, fax, email, etc.), and applicable changes in address and other contact information. These steps will be followed 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 a 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 FIST correspondence is provided in **Attachment 9**. BJS will leverage relationships with its NCHIP, NARIP, and Statistical Analysis Center state contacts to follow up with non-respondent state agency reporters, when necessary.

Table 4 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 4. Key goals and timeframes for major recurring/annual FIST tasks**

Reference year of the collection	Start data collection	Finish data processing and submit final work products to BJS for review and preparation for publication to BJS website	Release of Background Checks for Firearm Transfers – Statistical Tables (for applicable reference year)	Archive FIST data
2019/2020	May 2021	October 2021	April 2022	April 2022
2021	April 2022	October 2022	April 2023	April 2023
2022	April 2023	October 2023	April 2024	April 2024

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.