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## **Enforcement of the Brady Act, 2008**

Federal and state investigations and prosecutions of  
firearm applicants denied by a NICS check in 2008

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## Enforcement of the Brady Act, 2008

### Abstract

The Brady Handgun Violence Prevention Act (Brady Act) requires criminal history background checks by the Federal Bureau of Investigation (FBI) and state agencies on persons who attempt to purchase a firearm from a licensed dealer. In 2008, the FBI and state agencies denied a firearm to over 123,000 persons due to National Instant Criminal Background Check System (NICS) records of felonies, domestic violence offenses, and other prohibiting factors. *Enforcement of the Brady Act, 2008* reports on investigations and prosecutions of persons who were denied a firearm in 2008. The report describes how the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) screens denied-person cases and retrieves firearms that were obtained illegally. Statistics presented include charges most often filed against denied persons by United States Attorneys and results of prosecutions. Investigation statistics from two states are also presented. Key statistics are compared for the years 2008 and 2007. Statistical highlights are presented in the body of the report and complete details are included in an Appendix.

### Disclaimer

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## Background

**The Brady Act.** The Brady Handgun Violence Prevention Act (Brady Act) was enacted in 1993 to provide a method for blocking transfers of firearms to prohibited persons. From February 28, 1994 to November 30, 1998, the interim Brady provisions, 18 U.S.C. 922(s), required a Federal Firearms Licensee (FFL) to request a background check on a handgun applicant from the Chief Law Enforcement Officer (CLEO) of the jurisdiction where the licensee operated. A handgun could be transferred if a notice of denial was not transmitted to the FFL within five days by the CLEO.

**National Instant Criminal Background Check System.** Pursuant to the permanent provisions of the Brady Act, 18 U.S.C. 922(t), the NICS began operations on November 30, 1998. The NICS allows a licensee to contact the system by telephone or other electronic means for information, to be supplied immediately, on whether receipt of a firearm by a transferee would violate federal or state law. In addition to regulation of handgun sales, the permanent provisions mandate background checks on long gun purchasers and persons who redeem a pawned firearm. A licensee has the option of requesting a check on a person who attempts to pawn a firearm.

A NICS inquiry is not required if a transferee presents a state permit qualified by ATF as an alternative to the point-of-transfer check. Qualified permits allow a transferee to possess, acquire, or carry a firearm, and were issued not more than five years earlier by the state in which the transfer is to take place, after verification by an authorized government official that possession of a firearm by the transferee would not be a violation of law. A permit issued after November 30, 1998 qualifies as an alternative only if the information available to the state authority includes the NICS.

The NICS process begins when a licensee receives a completed Firearms Transaction Record (ATF Form 4473) and government-issued photo identification from an applicant. Completion of a state disclosure form may also be required. Submitting false information in regard to a firearm transaction is illegal under federal law and many state statutes.

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

After a search of available federal and state records, the checking agency responds with a notice to the licensee that the transfer may proceed, may not proceed, or is delayed

pending further review of the applicant's record. If further review of a record indicates that the transfer would not violate federal or state law, the checking agency notifies the licensee that the transfer may proceed. If the licensee does not receive a response within three business days, the transfer may proceed at the licensee's discretion. A person who is not allowed to proceed may appeal to the FBI or POC and submit information to correct the record on which the denial was based.

NICS checking agencies most often block the transfer of a firearm or a permit to a person whose records indicate a felony indictment or conviction, a fugitive warrant, unlawful drug use or addiction, a mental defective adjudication or an involuntary commitment to a mental institution, illegal or non-immigrant alien status, a domestic violence restraining order, or a misdemeanor domestic violence conviction. These and other prohibitors are stated in the Gun Control Act (GCA), 18 U.S.C. 922. A NICS denial may also be based on a state law prohibition.

**NICS Denials in 2008.** The FBI conducted over 5.8 million NICS transfer checks in 2008 and denied nearly 71,000 applications, a denial rate of over 1%. The most frequent reason for denial by the FBI was a record of a felony indictment or conviction, which accounted for 56% of the denials. Domestic violence misdemeanor convictions and restraining orders made up 11% of the FBI denials. (Table 1.) Fugitives from justice made up 13% of denials and illegal drug users accounted for 10%. (Appendix table A).

**Table 1. Background checks by the FBI in 2008**

	Number	Percent
Applications for firearm transfer	5,813,249	
Denials / denial rate	70,725	1%
Selected reasons for denial / percent of denials		
Felony indictment or conviction	39,526	56%
Domestic violence misdemeanor conviction	5,163	7%
Domestic violence restraining order	2,900	4%

## **ATF Investigations**

NICS denial data is electronically transmitted by the FBI on a daily basis to ATF's Brady Operations Branch. Transactions denied by the FBI contain data on prohibited persons who unlawfully attempted to purchase a firearm. Some prohibited persons obtain a firearm during a "delayed transaction," where the FBI has not completed a check in three business days and the dealer is allowed to transfer the firearm. When the FBI finds a prohibitory record and is informed by the dealer that a transfer occurred, a "delayed denial" referral is made to ATF.

As a way to assist ATF investigations, the FBI NICS Section implemented a system enhancement that ranks a delayed denial transaction based on ATF categories applicable to the specific denial and separates the ranked delayed denials from the standard denials. (*NICS Operations 2005*, FBI CJIS Division, January 2008, [http://www.fbi.gov/hq/cjisd/nics/ops\\_report2005/ops\\_report2005.pdf](http://www.fbi.gov/hq/cjisd/nics/ops_report2005/ops_report2005.pdf)).

In addition, Brady Operations queries the daily NICS referrals to identify collateral (pre-pawn) checks where a person who attempted to pawn a firearm was found to be prohibited. Research by Brady Operations that covered October 2001 to November 2005 concluded that collateral checks have a denial rate of 3.3%, which is over two times greater than the overall FBI denial rate. The pawnbroker who requested the collateral check is contacted to find out if the denied person left the pawnshop with the firearm. If the denied person still possesses the firearm, the referral is expedited in the same manner as a delayed denial. If the pawnbroker retained the firearm, the denial is processed as a standard denial.

Brady Operations searches databases available to ATF for additional data on denied persons referred by the FBI. After an initial screening, denials are referred to the 19 ATF field divisions serviced by Brady Operations (six other divisions' territories are only comprised of POC states). All delayed denials are required to be referred within 48 hours. Routinely, delayed denials are referred within 24 hours of receipt from the FBI. Referrals are made in accordance with criteria established for the federal judicial districts within each division's territory. ATF and United States Attorneys have developed referral criteria for all 94 judicial districts that reflect the types of cases most likely to merit prosecution. Cases involving restraining orders, domestic violence misdemeanors, non-immigrant aliens, violent felonies, warrants, and indictments are most often included in referral criteria.

Brady Operations screened 78,906 NICS denials received from the FBI during 2008 and referred 5,573 denials (7%) within the established guidelines to field divisions. The referred cases were made up of 2,472 delayed denials (3% of all denials) and 3,101 standard denials (4%). The remaining denials (73,333 – 93%) did not meet referral guidelines or were overturned after review by Brady Operations or after the FBI received additional information. (Table 2.) Standard denials that were not referred were available in a database if further review was deemed necessary.

Denials for felony convictions, protective orders, and domestic violence misdemeanor convictions comprised 75% of the referrals to the field divisions. (Table 2.) Other reasons for referral included being under indictment or information or being an unlawful user of a controlled substance. The five most common reasons for referral accounted for about 92% of the cases. (Appendix table B.)

**Table 2. NICS denials by FBI referred to ATF field divisions in 2008**

	Cases	Percent
FBI denials referred to ATF Brady Operations	78,906	100%
Brady Operations referrals to ATF field divisions	5,573	7%
Delayed denials	2,472	3%
Standard denials	3,101	4%
Not referred to field or overturned	73,333	93%
Most common reasons for referrals to field		
Convicted felon	1,498	27%
Subject to protective order	1,374	25%
Domestic violence misdemeanor	1,307	23%

A NICS coordinator in each ATF division receives and distributes referrals to the appropriate field office. A state POC may also refer denials to the nearest field office. Special agents at the field offices verify conviction and prohibition information and conduct additional investigations. The FBI is notified if ATF determines that a person should not have been denied.

In a delayed denial case, the agent contacts the firearm purchaser and seizes or takes an abandonment of the firearm or coordinates a transfer of the firearm to a licensed dealer or to a third party who is not a prohibited person. In POC states, a retrieval may be handled by local law enforcement, a statewide firearms unit, or ATF.

In addition to the delayed denials, a small number of 2008 standard denials potentially involved unlawful firearm possession. Field offices investigated a total of 2,154 unlawful possession cases that began in 2008. A retrieval of a firearm (or firearms) by ATF from a prohibited person occurred in 1,218 (57%) of the cases. The subject of the investigation was cleared in 647 cases (30%). About 94% of the cases had been resolved by December 13, 2009, with the subject missing in the remaining 6% of the cases. (Table 3.)

**Table 3. Outcomes of 2008 unlawful possession cases**

	Cases	Percent
Total	2,154	100%
Retrieval of a firearm (or firearms)	1,218	57%
Subject not prohibited	647	30%
Unable to locate subject	131	6%
Other outcomes	158	7%

The 1,218 retrieval cases from 2008 reached the following resolutions: transfers to non-prohibited third parties - 586 (27% of total cases); returns to firearms dealers - 510

(24%); seizures by ATF - 74 (3%); and abandonments by transferees - 48 (2%). These cases resulted in retrieval of 1,225 firearms. (Appendix table C.)

## Prosecutions by U.S. Attorneys

When an investigation is complete, the field office and the U.S. Attorney decide whether the case merits prosecution. A case that is not deemed appropriate for federal prosecution may be referred to a state prosecutor. If the U.S. Attorney decides to prosecute, an arrest is made or a warrant is issued.

The field offices declined to refer 6,086 of the 2008 NICS denial cases for prosecution. The most common reasons for declinations were no prosecutive merit (2,125 cases, 35%), no potential or unfounded (1,325 cases, 22%), and federal or state guidelines were not met (1,267 cases, 21%). (Table 4). Other reasons for declination by a field office included subjects found to not be prohibited (725 cases, 12%) and closure by a supervisor (490 cases, 8%). (Appendix table D.)

**Table 4. 2008 cases declined by ATF field offices**

	Cases	Percent
Total	6,086	100%
Most common reasons for declination		
No prosecutive merit	2,125	35%
No potential or unfounded	1,325	22%
Federal or state guidelines not met	1,267	21%

A total of 147 charges from the 2008 cases were referred by field offices for consideration by prosecutors. The most common charge referred was submitting falsified information when buying firearms, which accounted for 56 charges and 38% of all charges. The second and third most common charges were possession of a firearm by a convicted felon (27 charges, 18%) and possession of a firearm after a domestic abuse charge (15 charges, 10%). (Table 5.)

**Table 5. Charges referred for prosecution, 2008**

Charge definition	Charges	Percent
Total	147	100%
Falsified information when buying firearms	56	38%
Possession of firearm by convicted felon	27	18%
Possess firearm after domestic abuse charge	15	10%
Receive/ship/transport firearm after indictment	12	8%
Possession of firearm while under restraining order	6	4%
Other charges	31	21%



Subsections of the Gun Control Act, 18 U.S.C. 922, were the basis for 122 charges (83% of all charges). The 2008 cases produced charges referred for prosecution against 92 persons, 55 from delayed denials and 37 from standard referrals. (Appendix table E.)

Of the 147 charges referred from the 2008 cases, 42 (29%) had been declined by a prosecutor as of December 13, 2009. A guilty plea was obtained on 39 charges (27%). Eighty-six percent of the charges had been resolved, with 14% pending action by the prosecutor. (Table 6.) In addition, 12 charges (8%) were dismissed as part of a plea agreement, 8 charges (over 5%) were dismissed after indictment, and 4 charges (almost 3%) resulted in a guilty verdict at trial. (Appendix table F.)

**Table 6. Status of 2008 charges referred for prosecution**

Judicial status	Charges <sup>a</sup>	Percent
Total	147	100%
Selected outcomes:		
Declined by prosecutor	42	29%
Guilty plea by defendant	39	27%
Pending action by prosecutor	20	14%
Indictment, information or complaint filed	15	10%

<sup>a</sup>As of December 13, 2009

Of the 43 charges that resulted in guilty pleas and verdicts, 15 (35%) were for submitting falsified information when buying firearms and seven (16%) were for possession of a firearm by a convicted felon (Table 7). State offenses accounted for ten of the charges and the remainder were federal charges. Thirty-one charges in the guilty pleas and verdicts (72%) were based on subsections of the Gun Control Act. Thirty-four defendants plead or were found guilty. (Appendix table G.) A defendant in the District of Maine was found guilty at trial on four charges, which were for supplying falsified information when buying firearms, possession of a firearm by a convicted felon, being an armed career criminal, and an unspecified charge.

**Table 7. 2008 charges that resulted in guilty pleas and verdicts**

Charge definition	Charges	Percent
Total	43	100%
Falsified information when buying firearms	15	35%
Possession of firearm by convicted felon	7	16%
Other charges	21	49%

## Federal Judicial District Summary

The District of Arizona had the highest number of unlawful possession investigations from the 2008 cases (179), followed by the Northern District of Georgia (103). The District of Arizona also had the most field office declinations (555), followed by the Northern District of Georgia (334). The highest number of charges referred for prosecution was in the District of Maine (16), followed by the District of South Dakota (11) and the Northern District of Indiana (10). The District of Maine also had the most charges that resulted in a guilty plea or verdict (8). (Appendix table H.)

## Comparisons With Prior Year

A total of 8,595 defendants were charged in United States Courts with federal firearms offenses during fiscal year 2008 compared to 8,935 defendants in fiscal year 2007, a decrease of 4%. Federal firearms cases closed in fiscal year 2008 involved 8,824 defendants, a decrease of 4% from the 9,160 defendants in cases closed during fiscal year 2007. (*Federal Firearms Cases, FY2008*, NCJ No. 229420, January, 2010, <http://www.ncjrs.gov/pdffiles1/bjs/grants/22940.pdf>).

FBI referrals of NICS denials to Brady Operations increased 7%, from 73,992 in 2007 to 78,906 in 2008. Brady Operations' referrals to ATF field divisions decreased 11%, from 6,275 in 2007 to 5,573 in 2008. Unlawful possession investigations and investigations that resulted in a firearm retrieval each decreased by about 3% during 2008. The number of charges referred by field offices for prosecution fell 25%, from 196 in 2007 to 147 in 2008. The number of charges that resulted in guilty pleas and verdicts fell 10%, from 48 in 2007 to 43 in 2008. (Appendix table I). For a complete summary of the prior year, see *Enforcement of the Brady Act 2007*, NCJ No. 227604, July 2009, <http://www.ncjrs.gov/pdffiles1/bjs/grants/227604.pdf>.

## State Investigations of Denied Persons

As of December 31, 2008, 13 states maintained a full POC for the NICS and conducted background checks on all persons who applied to purchase a firearm from a licensed dealer. Eight states maintained a partial NICS POC and conducted checks on all persons who applied to purchase a handgun from a dealer (the FBI checked long gun purchasers in these states). See *Background Checks for Firearm Transfers, 2008*, <http://www.ojp.usdoj.gov/bjs/pub/html/bcft/2008/bcft07st.htm>. In addition, six states require an applicant for a purchase or a purchase permit to undergo a background check that does not access the NICS Index.

When a denied person is suspected of violating federal law, most state point-of-contact agencies refer the case to the nearest ATF field office. States differ as to how potential

state law violations are investigated. In some states, the checking agency immediately notifies the police or sheriff's department that has jurisdiction over a denied person's residence or the gun shop where the transaction occurred. The local agency is then responsible for investigation and prosecution of the case. Other states have a unit with statewide jurisdiction that screens cases before deciding whether a referral should be made to a state police troop or local law enforcement. Data on denied person investigations from two states is available for 2008 and 2007.

**Pennsylvania.** The Pennsylvania State Police (PSP) Firearms Division is a NICS POC and conducts background checks on prospective firearm purchasers. PSP denials that involve federal prohibitions are referred to ATF. Referrals to ATF increased from 1 in 2007 to 120 in 2008. Cases with potential state law violations may be referred to PSP troops or local law enforcement. PSP denied 10,823 firearm transfers in 2008, an increase of 46% from the 7,420 denials issued in 2007. Denials referred for investigation increased 15%, from 440 in 2007 to 504 in 2008. Apprehensions of wanted persons decreased from 124 in 2007 to 112 in 2008 (10%) and reported arrests decreased from 252 in 2007 to 96 in 2008 (62%). Convictions of denied persons also decreased 62%, from 181 in 2007 to 69 in 2008. (Appendix table J.)

**Virginia.** The Virginia State Police (VSP) Firearms Transaction Center is a NICS POC and conducts background checks on prospective firearm purchasers. VSP reports denied persons with federal prohibitors to ATF. Potential state law violations are reviewed by VSP Troopers, who consult with Commonwealth Attorneys as part of their investigative process. VSP denied 2,777 firearm transfers in 2008, a 25% increase from the 2,222 denials issued in 2007. Denials referred for investigation decreased by about 5%, from 935 in 2007 to 891 in 2008. The number of reported arrests increased by 13%, from 716 in 2007 to 810 in 2008. In addition, VSP investigations led to the apprehension of 77 wanted persons and the retrieval of 11 firearms from prohibited persons in 2008. (Appendix table J.)

## Methodology

The Brady Operations Branch provided the Regional Justice Information Service (REJIS) with statistics on denied person cases received from the FBI's NICS Section and referred to ATF field offices after screening. The National Field Office Case Information System (NFOCIS) unit provided REJIS with records from ATF's case management system (NForce) on field office and U.S. Attorney processing. The records reflect activity up to December 13, 2009. Court decisions are included in the records but sentencing information was not available.

No personal identifiers were included in the records. Cases or charges could only be distinguished by NICS numbers. NICS numbers for the 2008 cases were compared to those for the 2007 cases and a small number of duplicate entries were deleted. In

calculating the number of persons referred for prosecution and the number of persons convicted, it was assumed that each separate NICS number represented one person. However, it is possible that a person could have more than one NICS number.

### **Additional Contributors**

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Provided case management data

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## Appendix

**Table A. Background checks on firearm applicants processed by the FBI in 2008**

	FBI / NICS <sup>a</sup>	
	Number	Percent
Applications	5,813,249	
Denials / Denial rate	70,725	1.2%
Appeals / Appeal rate	10,603	15.0%
Appeals reversed / Reversal rate	3,101	29.2%
Reasons for denials:		
Felony indictment/conviction	39,526	55.9%
State law prohibition	4,803	6.8%
Domestic violence		
Misdemeanor conviction	5,163	7.3%
Restraining order	2,900	4.1%
Fugitive	9,464	13.4%
Illegal or non-immigrant alien	982	1.4%
Mental illness or disability	766	1.1%
Drug use or addiction	6,717	9.5%
Other prohibitions <sup>b</sup>	404	0.6%

-- Not applicable

<sup>a</sup>Firearm transfer transactions reported by the FBI NICS Section.

<sup>b</sup>Includes juveniles, persons dishonorably discharged from the Armed Services, persons who have renounced their U. S. citizenship, and other unspecified persons.

**Table B. NICS denials by FBI referred to ATF field divisions in 2008**

	Cases	Percent
FBI denials referred to ATF Brady Operations	78,906	100.0%
Brady Operations referrals to ATF field divisions		
Total referred to field	5,573	7.1%
Delayed denials	2,472	3.1%
Standard referrals	3,101	3.9%
Not referred to field	66,745	84.6%
Not referred and overturned	6,588	8.3%
Reasons for referrals to ATF field divisions		
Convicted felon	1,498	26.9%
Subject to protective order	1,374	24.7%
Domestic violence misdemeanor	1,307	23.5%
Under indictment or information	481	8.6%
Unlawful user of controlled substance	469	8.4%
Fugitive from justice	267	4.8%
Illegal or unlawful alien	119	2.1%
Other reasons <sup>a</sup>	58	1.0%

<sup>a</sup>The category "other reasons" is compiled from seven other prohibiting categories utilized by the Brady Operations Branch to refer denials for field investigation.

**Table C. 2008 NICS denial cases involving unlawful firearm possession**

Outcome of ATF investigation	Delayed	Standard	All Cases	Percent
Total	2,110	44	2,154	100%
Retrieval of a firearm <sup>a</sup> by:				
Transfer to third party	585	1	586	27.2%
Return to firearms dealer	510	0	510	23.7%
Seizure by ATF	71	3	74	3.4%
Abandonment by transferee	46	2	48	2.2%
	1,212	6	1,218	56.5%
Subject not prohibited	635	12	647	30.0%
Unable to locate subject	130	1	131	6.1%
Firearm not transferred	82	25	107	5.0%
Given to local law enforcement	26	0	26	1.2%
Referred to other agency	25	0	25	1.2%

<sup>a</sup>A total of 1,225 firearms were retrieved by ATF.

**Table D. 2008 NICS denial cases declined by ATF field offices**

Reason for case declination	Delayed	Standard	All cases	Percent
Total	2,542	3,544	6,086	100.0%
No prosecutive merit	818	1,307	2,125	34.9%
No potential or unfounded	394	931	1,325	21.8%
Federal or state guidelines not met	510	757	1,267	20.8%
Not a prohibited person	560	165	725	11.9%
Closed by supervisor	239	251	490	8.1%
Referred to another agency	20	129	149	2.4%
Assisted prosecution	1	4	5	0.1%

Note: The number of cases declined is obtained from NForce. On occasion, a field office will close a case initially transferred from the Brady Operations Branch and open the case under a different number; therefore the number of prosecuted cases may seem low compared to the number of cases referred to the field.

**Table E. Charges in 2008 NICS denial cases referred for prosecution**

18 USC 922		Delayed	Standard	All charges <sup>a</sup>	Percent
Subsection	Charge definition				
	Total <sup>b</sup>	90	57	147	100.0%
(a)(6)	Falsified information when buying firearms	28	28	56	38.1%
(g)(1)	Possession of firearm by convicted felon	17	10	27	18.4%
(g)(9)	Possession of firearm after domestic abuse charge	11	4	15	10.2%
(n)	Receive/ship/transport firearm after indictment	11	1	12	8.2%
(g)(8)	Possession of firearm while under restraining order	3	3	6	4.1%
Other		3	3	6	4.1%
	Total 18 USC 922	73	49	122	83.0%
	Other statutes	17	8	25	17.0%

<sup>a</sup>Charges were referred against 92 persons, 55 from delayed denials and 37 from standard referrals.

<sup>b</sup>Fifteen charges were for state offenses; the remainder were federal charges.

**Table F. Judicial status of charges in 2008 NICS denial cases referred for prosecution**

Judicial status (as of December 13, 2009)	Delayed	Standard	All charges	Percent
Total	90	57	147	100.0%
Declined by prosecutor	23	19	42	28.6%
Guilty plea by defendant	27	12	39	26.5%
Pending action by prosecutor	11	9	20	13.6%
Indictment, information or complaint filed	11	4	15	10.2%
Dismissed per plea agreement	9	3	12	8.2%
Dismissed after indictment	5	3	8	5.4%
Guilty verdict at trial	0	4	4	2.7%
Not guilty verdict at trial	0	1	1	0.7%
Dismissed prior to indictment	4	2	6	4.1%

**Table G. Charges in guilty pleas and verdicts, 2008 NICS denial cases**

18 USC 922 Subsection	Charge definition	Delayed	Standard	All charges <sup>a</sup>	Percent
	Total <sup>b</sup>	27	16	43	100.0%
(a)(6)	Falsified information when buying firearms	7	8	15	34.9%
(g)(1)	Possession of firearm by convicted felon	4	3	7	16.3%
(n)	Receive/ship/transport firearm after indictment	4	0	4	9.3%
(g)(9)	Possession of firearm after domestic abuse charge	1	2	3	7.0%
(g)(8)	Possession of firearm while under restraining order	2	0	2	4.7%
	Total 18 USC 922	18	13	31	72.1%
	Other statutes	9	3	12	27.9%

<sup>a</sup>34 defendants plead or were found guilty, 21 from delayed and 13 from standard denials.

<sup>b</sup>Ten charges were for state offenses; the remainder were federal charges.



**Table H. Federal judicial district summary, 2008 NICS denial cases**

Districts with the most unlawful possession cases

Arizona	179
Georgia Northern	103
Ohio Southern	93
Kansas	92
South Carolina	87

Districts with the most case declinations

Arizona	555
Georgia Northern	334
Ohio Southern	283
New Mexico	210
Kentucky Eastern	188

Districts with the most charges referred for prosecution

Maine	16
South Dakota	11
Indiana Northern	10
New York Northern	8
Ohio Northern	7
New York Eastern	7

Districts with the most charges that resulted in a guilty plea or verdict

Maine	8
Indiana Northern	3
Ohio Northern	3
(Nine districts have two each)	

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**Table I. Selected statistics on NICS denial cases, 2008 and 2007**

	Number of Cases		Percent Change
	2008	2007 <sup>a</sup>	
FBI denials referred to Brady Operations Branch	78,906	73,992	6.6%
Brady Operations referrals to ATF field divisions	5,573	6,275	-11.2%
Unlawful possession investigations	2,154	2,212	-2.6%
Investigations resulting in firearm retrieval	1,218	1,258	-3.2%
Field office declinations	6,086	6,072	0.2%
	Number of Charges		Decrease
	2008	2007	
Referred for prosecution	147	196	-25.0%
Declined by prosecutor	42	74	-43.2%
Guilty plea or verdict	43	48	-10.4%

<sup>a</sup>Source: Enforcement of the Brady Act, 2007, (NCJ No. 227604, July 2009), <http://www.ncjrs.gov/pdffiles1/bjs/grants/227604.pdf>

**Table J. Investigations of State POC Denial Cases, 2008 and 2007**

	Pennsylvania <sup>a</sup>			Virginia <sup>b</sup>		
	2008	2007	Change	2008	2007	Change
Total denials	10,823	7,420	45.9%	2,777	2,222	25.0%
Referred for investigation	504	440	14.5%	891	935	-4.7%
State police troops	294	300	-2.0%	891	935	-4.7%
Local police departments <sup>c</sup>	90	139	-35.3%	---	---	---
ATF field offices	120	1	11,900%	---	---	---
Investigation outcomes						
Firearms retrieved	---	---		11	5	120.0%
Apprehend fugitive	112	124	-9.7%	77	75	2.7%
Arrests reported	96	252	-61.9%	810	716	13.1%
Prosecutor declinations	41	76	-46.1%	---	---	---
Convictions	69	181	-61.9%	---	---	---

---Not applicable or not available

<sup>a</sup>Source: Pennsylvania State Police, Firearms Annual Reports, 2008 and 2007, <http://www.portal.state.pa.us/portal/server.pt?open=512&objID=4451&&PageID=462425&level=2&css=L2&mode=2>.

<sup>b</sup>Source: Virginia State Police.

<sup>c</sup> Pennsylvania cases were initially referred to state police troops and further referred to local police departments.