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**Document Title:** Cost-Benefit of Point-of-Contact (POC) Versus Non-POC Firearm Eligibility Background Checks

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## **Cost-Benefit of Point-of-Contact (POC) Versus Non-POC Firearm Eligibility Background Checks**

### **Abstract**

This report describes an assessment of the cost-benefit of firearm purchase eligibility background checks performed by state points of contact (POCs) – which include checks of both state records and the FBI’s National Instant Criminal Background Check System (NICS) – versus those performed by the FBI in non-POC states where only a NICS check is involved. While the research focused on the Georgia and Oregon POCs, it addresses the more general question of what value, if any, state POCs add to the overall efficacy of firearm eligibility background checks and at what cost; thus, it should have national implications. The study was funded by the Bureau of Justice Statistics (BJS), U.S. Department of Justice and could not have been performed without the cooperation and support of the FBI, Georgia Bureau of Investigation and Oregon State Police.

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**Cost-Benefit of Point-of-Contact (POC) Versus  
Non-POC Firearm Eligibility Background Checks**

**Final Report**

Submitted to:

Bureau of Justice Statistics  
U.S. Department of Justice  
Washington, DC

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## EXECUTIVE SUMMARY

This report describes an assessment of the cost-benefit of firearm purchase eligibility background checks performed by state points of contact (POCs) – which include checks of both state records and the FBI’s National Instant Criminal Background Check System (NICS) – versus those performed by the FBI in non-POC states where only a NICS check is involved. While the research focused on the Georgia and Oregon POCs, it addresses the more general question of what value, if any, state POCs add to the overall efficacy of firearm eligibility background checks and at what cost; thus, it should have national implications. The study was funded by the Bureau of Justice Statistics (BJS), U.S. Department of Justice and could not have been performed without the cooperation and support of the FBI, Georgia Bureau of Investigation and Oregon State Police.

### Background

The Gun Control Act of 1968 designated the following seven categories of individuals as ineligible to purchase firearms:

1. Persons under indictment for or convicted in any court of a crime punishable by imprisonment for a term exceeding one year
2. Fugitives from justice
3. Unlawful users of controlled substances
4. Adjudicated mental defectives
5. Illegal aliens
6. Persons dishonorably discharged from the military
7. Citizenship renunciates

In 1996 the number of categories expanded to nine when the Violence Against Women Act denied individuals the right to purchase a firearm if they are subject to certain civil restraining orders, and the Lautenberg Amendment disqualified persons convicted of domestic violence misdemeanors.

The Brady Act, which was signed into law on November 30, 1993, contained two sets of provisions. Under *interim Brady*, which became effective on February 28, 1994, background checks were required on prospective handgun purchasers only. *Permanent Brady*, which requires background checks on individuals attempting to purchase handguns and long guns, called for the U.S. Attorney General to establish a National Instant Criminal Background Check System (NICS) by November 30, 1998. Developed by the Federal Bureau of Investigation (FBI) in cooperation with the Bureau of Alcohol, Tobacco, Firearms and Explosives (BATF), U.S. Department of Justice, and state and local law enforcement agencies, NICS makes name-based inquiries of three distinct sets of FBI files: (i) Interstate Identification Index (III) to check criminal histories, (ii) National Crime Information Center (NCIC) to check “hot files” including warrants and protection orders, and (iii) the NICS Index which contains both criminal and non-criminal records on individuals prohibited from purchasing firearms including previously

denied persons, mental defectives/commitments, controlled substance abusers, illegal aliens, dishonorable discharges and citizenship renunciates.

A complete NICS check occurs in two steps. First, an automated check of the NICS system (i.e., the three above identified databases) is carried out for every prospective firearm purchaser. Second, if necessary, a follow-up step is carried out by NICS's FBI staff to research potentially disqualifying record "hits"; for example, to locate a missing arrest disposition. As explained below, while every state uses the NICS system, some states employ their own staff to perform the follow-up research.

Under permanent Brady, states may choose among three optional modes of operation referred to as full point of contact (full POC), non-POC and partial-POC. In full-POC states, Federal Firearms Licensees (FFLs) first query NICS and related state files through one or more organizational units – referred to as points of contact – and then, if necessary, the staff of the POCs carry out the required follow-up research. In non-POC states, FFLs contact the NICS Operations Center directly by telephone or via the Internet and any required follow-up research is performed by the NICS's FBI staff. In partial POC states, FFLs query NICS and state files through a POC for handgun purchases or permits but query NICS directly for long gun purchases. While POC states charge a fee to the FFLs for each background check, there is no charge in non-POC states; Congressional appropriations to the FBI allow for waiving of the fees. However, since the fees may not fully underwrite the cost of implementing and operating a POC, there may be an economic incentive for a state to elect non-POC status. Politically, a state's attitude toward gun ownership may also influence its choice of status. Many POC states have enacted prohibiting legislation that is stricter than federally-mandated regulations.

In some states which elected POC status, including Georgia, there has been on-going pressure to reconsider, thereby eliminating the costs of subsidizing POC operations. Persuaded that POC status is in the best interests of their state, the Georgia Bureau of Investigation sought assistance from BJS in justifying their POC's costs. In response, BJS invited SDC to propose a study comparing POC versus non-POC firearm eligibility background checks. SDC's proposal broadened the framework of the study by adopting a cost-benefit approach which would compare not only the outcomes of the checks but also their respective costs; BJS awarded SDC a research grant in September 2000. In consultation with BJS, a decision was made to generalize the study, to the degree possible, by inviting, say, two POC states to participate.

Of course, comparing POC checks with non-POC checks requires substantial cooperation from NICS inasmuch as they would have to perform "dual checks", thus duplicating those already performed by the participating POCs. In response to a request from BJS, and after lengthy discussions among FBI, BJS and SDC, NICS agreed to participate but on the conditions that (i) the three-month data collection period recommended by SDC be deferred to March – May 2002, their "slow period", and (ii) NICS would perform dual checks only on those state POC transactions indicating a hit on at least one of the NICS databases.

## Approach

The preeminent consideration in selecting state POCs to participate was avoiding those whose inherent characteristics might confound the findings of the study. Thus, partial POC states and those with multiple points of contact were immediately excluded. Additionally, states requiring permits for the purchase of handguns – where holding a permit waives a background check at the time of purchase – were excluded because there would be no transaction record of such background checks in the study’s data sample. Of the eligible states, Georgia and Oregon were willing to participate and pledged their full cooperation.

The study’s most important research question is what value, if any, does state POC access to files unavailable to NICS add to the overall efficacy of firearm eligibility background checks, and at what cost? The analysis framework of the study is best summarized by the below outcome matrix which depicts the outcomes of firearm eligibility background checks if they are performed by state POCs and then again – in a dual replicative mode – by NICS as they would for non-POC states. Clearly, the NP/SD and ND/SP categories, where the NICS and state POC outcomes differ, are of particular interest to the study.

		STATE POC ELIGIBILITY CHECK OUTCOME		
		Firearm Purchase Proceed	Firearm Purchase Denial	Total FBI NICS Eligibility Checks
FBI NICS ELIGIBILITY CHECK OUTCOME	Firearm Purchase Proceed	<i>(NP/SP)</i> <i>NICS Proceeds/ State POC Proceeds</i>	<i>(NP/SD)</i> <i>NICS Proceeds/ State POC Denies</i>	<i>Total NICS Proceeds</i>
	Firearm Purchase Denial	<i>(ND/SP)</i> <i>NICS Denies/ State POC Proceeds</i>	<i>(ND/SD)</i> <i>NICS Denies/ State POC Denies</i>	<i>Total NICS Denials</i>
Total State POC Eligibility Checks		<i>Total State POC Proceeds</i>	<i>Total State POC Denials</i>	<i>Total Eligibility Checks</i>

SDC requested, and NICS and the Georgia and Oregon POCs provided, summary data on each transaction and sufficient cost information so that a cost per POC – and non-POC – check could be determined. For reasons of privacy and confidentiality, SDC neither requested (nor received) any information from the three agencies which could have identified the purchaser. It should also be noted that the sets of outcomes of the three agencies, while compatible, differ slightly. Georgia and NICS distinguished between an “immediate proceed” and a “proceed after research” while Oregon did not. More importantly, the study design had to account for (i) Georgia’s policy of denying a purchase on an “open arrest” (i.e., a potentially disqualifying felony arrest but missing the disposition which indicates whether the prospective purchaser had been convicted), and (ii) checks designated by NICS as unresolved (i.e., transactions where NICS did not have

sufficient information on which to proceed or deny the sale). In an actual non-POC check, NICS informs the FFL of the unresolved status (at which point there is no legal prohibition to the sale) and continues to research the check for up to 21 days. In the simulated study setting, NICS simply recorded such transactions as unresolved.

When SDC began to receive the results of the dual NICS checks, it was at first unable to match every check supplied by NICS with its state POC counterpart. Working closely with NICS and the two state POCs, the reason became obvious; in both Georgia and Oregon, the checks sent to NICS were sometimes being replicated. By the time the phenomenon became fully understood and a procedure put in place by NICS to distinguish the original transaction from its replications, one month's worth of reliably matched data were lost. As a result, the matched sets of Georgia/NICS and Oregon/NICS transactions are those for the months of April and May 2002.

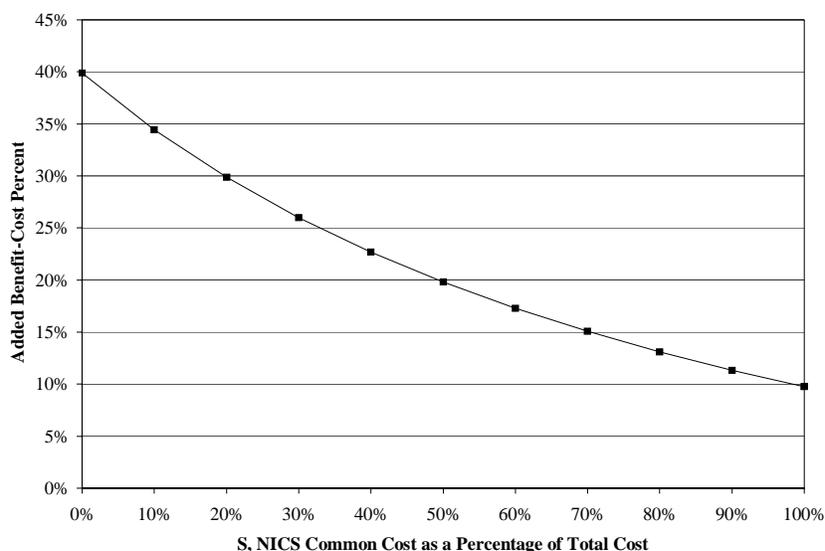
Finally, it should be emphasized that although the purpose of carrying out firearm eligibility checks is to do so in an accurate and timely manner, the limited follow-up research conducted by the FBI staff (on only those POCs checks with NICS hits), in turn, limited SDC to focusing primarily on potential denial-related checks – and not on the accuracy of proceed-related checks. Thus, while this study and the resultant findings are predominantly based on denial-related data, it should not be construed that SDC is more concerned about denial accuracies than about proceed accuracies – SDC is concerned about all accuracies.

### **Summary of Findings**

It should be noted that the two month's worth of study data (i.e., 39,673 matched state POC/NICS transactions) turned out to be an excellent and representative sample of the almost four years worth of data collected by the Georgia and Oregon POCs since their inception.

- A fraction – possibly a substantial fraction – of the firearm eligibility checks submitted by the state POCs to NICS replicate previously submitted checks regarding the same purchase transaction. In Georgia and Oregon, the average numbers of checks submitted per transaction are 1.6 and 1.1, respectively. It is clear that the problem applies to many, if not all POC states, and that in some cases the replications may be deliberate and rooted in POC procedures. Importantly, the replications phenomenon could result in the understatement of true denial rates.
- By broadening their name search algorithm, the Oregon POC casts a very wide net when checking the names of prospective firearm purchasers against their CCH. As a result, their transactions result in hits on one or more state files for more than 70% of all purchase applicants. Of course, Oregon must expend the additional person-effort required to follow-up on these hits. This is in sharp contrast to the less than 30% of Oregon's transactions resulting in hits on one or more of the NICS files.

- While the average rate at which denials that are appealed to NICS are reversed is consistently around 28% across non-POC and partial-POC states, denials appealed to Oregon are reversed less than 11% of the time. According to Georgia, there has never been a formal appeal of a denial filed, perhaps because of the court-based requirements; rather, the Georgia POC handles them informally and a relatively large number of reversals occur, especially for open arrests which later result in non-prohibiting convictions.
- What value do the POC, or state-only, data files add to the overall efficacy of firearm eligibility checks? Clearly, such files would only add value if they enhance the likelihood of making accurate and timely determinations regarding the eligibility of prospective firearms purchasers. However, as noted earlier, in the simulated setting of the study, where NICS was unable to research and resolve the “unresolved” transactions (i.e., as NICS would if they had been actual non-POC state eligibility checks), such a comparison is not possible. Alternatively, one can consider the state-only files to add value if they enhance the likelihood of *denials* to those prospective firearm purchasers who should be denied. It is estimated that POCs are able to increase deniability by 19.5%, in comparison to non-POC denials. This *added benefit percent* is significant and consistent with other observations and findings.
- The costs of performing firearm eligibility background checks across the two state POCs and the non-POC states are derived in terms of a parameter S, the percent of total NICS costs that are common to all POC and non-POC checks (i.e., including automated system checks of the three NICS databases). Given these costs, one can also determine an *added benefit-cost percent* as a function of S, assuming an added benefit percent of 19.5%.



For example, assuming a plausible S of 25%, the added benefit-cost percent is 27.8%, thus justifying the maintenance of POCs.

## Summary of Recommendations

Conducting this cost-benefit study has given SDC the opportunity to look closely at the operations of NICS and of two of the POC states. In the course of selecting the two participating states – Georgia and Oregon – several other POCs were visited. Drawing upon SDC’s extensive experience in this and other related studies, the following five recommendations for improving the effectiveness of firearm eligibility background checks are suggested.

1. Bring federal non-POC and state POC eligibility interpretations into closer alignment.

It is recognized that some POC states have stricter eligibility criteria “on the books” than does the federal government. For example, as noted in this report, Oregon has five statutorily prohibiting categories of misdemeanor convictions in addition to domestic violence. However, in the case of domestic violence misdemeanors, for consistency both NICS and the POC states should be making the same interpretation.

2. Make available to NICS and other states potentially disqualifying information in state files that are currently inaccessible to them, and make sure that the files are appropriately maintained.

The state POCs often have access to local files of firearm purchase eligibility-related information that are unavailable to NICS, as suggested by the 19.5% of additional denials due to POC checks of their state or local files. Prominent among these are mental health and drug abuse records, although in some cases privacy and confidentiality statutes or regulations may preclude even the state POCs from accessing or, once accessed, sharing them. While there are repositories for mental health and drug abuse information in the NICS Index, state contributions to these files have, in general, been quite limited.

Moreover, once this information is furnished to NICS, it is the responsibility of the provider to see that it is maintained. Of particular importance is the updating of records which are subject to change (e.g., a temporary restraining order lapses or a warrant is revoked), setting Identification For Firearms Sales (IFFS) flags correctly, and modifying the flags when required. Thus, even after sharable information is made available to NICS and to other states, the POCs must still be required to maintain that information and to gain access to that which cannot be shared. In sum, while in theory the 19.5% of additional POC denials could be identified by NICS if the appropriate records are shared, it is critical that each state continuously updates and maintains its portion of the NICS records.

3. Remedy deficiencies and repair bugs in state POC instant check systems.

In the course of the study, SDC identified a number of deficiencies and bugs in several state POC instant check systems that adversely impact the background check process. An example is the failure to retain NICS file check results after the initial query, thus resulting in a repetition of the original query each time a transaction is subjected to further research.

4. Conduct further research into the transaction replications issue at both state and federal levels.

Simply stated, the problem is that a fraction – possibly a substantial fraction – of the firearm eligibility checks submitted by the state POCs to NICS replicate previously submitted checks regarding the same transaction. There are at least two motivations for undertaking an appropriate research effort to address this critical problem. First, ascertain why and with what frequency the replications occur in the state POCs (and possibly NICS); and second, assist NICS and POC – and possibly non-POC – states in adapting their procedures and software to address the replications problem with the objective of increasing the overall effectiveness of the firearm eligibility checks.

5. Consistent with the practice of NICS, encourage POC states that do not deny on open arrests or have an “unresolved” decision category to implement an unresolved check status.

By an act of the State Legislature, the Georgia POC discontinued its open arrest denial policy on July 1, 2002. At present, Colorado and Tennessee are the only state POCs denying on open arrests on a statutory basis. In the absence of open arrest denials, where insufficient information exists to ascertain the eligibility of the prospective purchaser, one way to help avert improper firearm transfers is through an “unresolved” type of finding. This is not equivalent to a denial but it is also not a proceed and it leaves it up to the FFL to decide whether or not to make the sale. NICS has found that a number of FFLs, including some of the nation’s largest firearms dealers, have adopted a policy of restraint (i.e., when NICS responds to a check with a determination of unresolved, the FFL refuses to transfer the firearm).

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# 1. INTRODUCTION

Section 1 provides the context for the study in terms of its legislative, jurisdictional and records-related background, as well as its genesis and scope.

## 1.1 Study Background

Effective February 28, 1994, with the signing into law of the Brady Act<sup>1</sup>, Federal Firearms Licensees (FFLs) were henceforth required to request background checks on individuals attempting to purchase a firearm. In an effort to identify ineligible, prospective firearm purchasers, the Brady Act contained two sets of provisions – interim and permanent. Under *interim Brady*, which promptly went into effect in 1994, background checks were required on individuals attempting to purchase handguns only. States that already had legislation on the books requiring a background check, encompassing at least the same categories of prohibited individuals as in the federal law<sup>2</sup>, were not subject to the waiting period; approximately half the states fell into this “Brady Alternative” category – the other half were simply referred to as “Brady states”. For Brady states, prior to the purchase, there would be a mandatory waiting period during which the state’s Chief Law Enforcement Officer (CLEO) would perform a background check. Exhibits 1-1 and 1-2 delineate the handgun purchase procedures in Brady and Brady-Alternative states, respectively.

*Permanent Brady*, which requires background checks on individuals attempting to purchase both handguns and long guns, called for the U.S. Attorney General to establish a National Instant Criminal Background Check System (NICS) by November 30, 1998. Developed by the FBI in cooperation with the Bureau of Alcohol, Tobacco, Firearms and Explosives (BATF), U.S. Department of Justice and local and state law enforcement agencies, NICS makes record inquiries to three distinct sets of FBI files: (i) Interstate

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<sup>1</sup> Public Law 103-159, the Brady Handgun Violence Prevention Act of 1993, which amends the Gun Control Act of 1968 (18 USC 922).

<sup>2</sup> The Gun Control Act of 1968 designated the following seven categories of individuals as ineligible to purchase firearms:

1. Persons under indictment for or convicted in any court of a crime punishable by imprisonment for a term exceeding one year
2. Fugitives from justice
3. Unlawful users of controlled substances
4. Adjudicated mental defectives
5. Illegal aliens
6. Persons dishonorably discharged from the military
7. Citizenship renunciates

In 1996 the number of categories expanded to nine when the Violence Against Women Act denied individuals the right to purchase a firearm if they are subject to certain civil restraining orders, and the Lautenberg Amendment disqualified persons convicted of domestic violence misdemeanors.

Identification Index (III) to check criminal histories, (ii) National Crime Information Center (NCIC) to check “hot files” including wants and warrants and protection orders, and (iii) the NICS Index which contains both criminal and non-criminal records on individuals prohibited from purchasing firearms. More specifically, the NICS Index is comprised of the following records:

1. Denied Persons File
2. Mental Defectives/Commitments
3. Controlled Substance Abusers
4. Illegal Aliens
5. Dishonorable Dischargees
6. Citizenship Renunciates

In addition to NICS’s submissions, the NICS Index is populated by voluntary submissions from local, state and federal agencies.

It should be noted that, in essence, a complete NICS check occurs in two steps. First, an automated check of the NICS system (i.e., the above three identified databases) is carried out for every prospective firearm purchaser. Second, if necessary, a follow-up step is carried out by NICS’s FBI staff to obtain, for example, a missing disposition. As explained below, while every state uses the NICS system, some states employ their own staff to carry out the follow-up research.

Under interim Brady, states were designated Brady or Brady-Alternative states by virtue of their state laws. However, under permanent Brady, the states may choose among three optional modes of operation:

1. Full POC: The state government serves as the “point-of-contact” (POC) for NICS. In a full-POC state, the FFLs query NICS through one or more organizational units – referred to as POCs – for all firearm transfers. From a conceptual point of view, POCs replace CLEOs as the liaison between the FFL and the FBI. In this role, they first perform the NICS system checks and checks of related state files (thereby determining whether the sale would violate federal laws, state laws, or both), and then, if necessary, they carry out their follow-up research.
2. Non-POC: The state government chooses not to serve as the point-of-contact for NICS. In a non-POC state, the FFLs contact the NICS Operations Center directly, by either telephone or other electronic means, thereby initiating a NICS system check for all firearm transfers. NICS’s FBI staff perform both the NICS system check and, if necessary, the follow-up research to determine whether the sale would violate state or federal laws.
3. Partial POC: The state government serves as the point-of contact for NICS for handgun purchases or permits but not for long gun purchases. In partial POC states, the FFLs query NICS and state files through the POC for handgun

purchases but contact the NICS Operations Center directly for long gun purchases.

It should also be noted that in some states a NICS check is not required if a firearm purchaser has a valid permit to possess or acquire a firearm<sup>3</sup>. Under permanent Brady, permits issued on or after November 30, 1998 are valid alternatives if the BATF has reviewed the issuing criteria and background check process and classified the permit as an “in-lieu-of” permit. Exhibit 1-3 identifies the POC-related status of each of the 50 United States and the District of Columbia as of April 2001<sup>4</sup> (the date at which Georgia and Oregon were selected for the study). Exhibit 1-4 furnishes an overview of NICS operations and Exhibits 1-5 and 1-6 describe the purchase eligibility check procedures in POC and non-POC states, respectively.

### **POC Versus Non-POC States**

Given that POC states’ eligibility checks are in theory more complete – i.e., they check not only the files searched by NICS but also their own state files – why have half the states (i.e., 25) chosen non-POC status? The factors impacting their decisions are principally economic, political, or a combination of the two. From a cost perspective, NICS checks are performed at no charge to the inquiring FFLs.<sup>5</sup> While a POC state is at liberty to charge a fee, typically the FFLs pass the fees on to their customers; even charging them as much as the “traffic will bear” may not fully underwrite the expenses of implementing and operating a POC. Although Idaho operated an instant check system during interim Brady, they elected not to become a POC state citing the added expense of performing background checks for the purchase of long guns.

Politically, the states have widely disparate attitudes toward gun ownership. There is little incentive for strong ownership advocacy states (e.g., Louisiana and Texas) to implement eligibility check procedures that are stricter than the federally-mandated regulations. On the other hand, POC states which tend to interpret the laws barring the sale of firearms more strictly, may concomitantly enact stricter legislation or implement stricter policies. First, a number of POC states allow more than the federally-mandated three business days for their POCs to make an eligibility determination (e.g., Maryland allows seven, California 10, and Connecticut 14). Second, many POCs have added eligibility criteria to the nine federally-mandated disqualifiers (e.g., per state statute

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<sup>3</sup> The Gun Control Act states that a firearm may be transferred to an individual without a NICS check if (i) that individual has presented a permit allowing him/her to possess or acquire a firearm; (ii) the permit was issued not more than five years earlier in the state in which the transfer is to take place; and (iii) the state law provides that a permit is to be issued after an authorized government official has verified that the information available to him/her does not indicate that possession of a firearm by that individual would be in violation of the law.

<sup>4</sup> Since April 2001, both Arizona and Vermont have converted from full POC to non-POC status.

<sup>5</sup> In FY 1998, Congress appropriated \$40 million to the FBI in order to waive the fees the FFLs would otherwise have been compelled to pay.

166.470, Oregon has five disqualifying misdemeanor conviction categories in addition to domestic violence)<sup>6</sup>. Third, a number of states have waiting periods which must expire after a sale application is submitted before the firearm can be transferred (e.g., Hawaiian handgun purchasers must wait 14 days before receiving either a handgun or long gun from an FFL). Fourth, if the FBI discovers an open felony arrest (i.e., an arrest for which no disposition is available) and cannot obtain its disposition within the federally-mandated time limit and hence ascertain the eligibility of the individual, NICS notifies the FFL that the Brady Act does not prohibit transfer of the firearm and that its research will continue. However, several POCs (e.g., Georgia<sup>7</sup> as a matter of policy, Colorado and Tennessee on statutory authority) would nevertheless deny the sale.<sup>8</sup> In such cases, the burden shifts to the potential purchaser to establish eligibility by locating the missing disposition and appealing the denial. Finally, situations can arise in which a POC may interpret the federally-mandated eligibility criteria differently from the FBI. While SDC intuitively expects there to be cases where a POC denies a sale the FBI would have approved, this difference of interpretation can result in a POC's approving a sale the FBI would have denied. Illustratively, if a domestic violence misdemeanor arrest charge results in a conviction for, say, a simple assault (e.g., the charge was pled down or reduced), the FBI would still deny a firearm sale; on the other hand, a number of POC states would not. This issue is discussed in detail in Section 3.

### **State Versus Federal Records**

With regard to criminal histories, a NICS background check is essentially a check of III and of other criminal history information in the FBI's possession. As a result, there are cases in which criminal records may be available to an inquiring POC but not to NICS. First and foremost, some criminal records are not indexed in III because their arrest fingerprint cards have never been submitted to the FBI. Other records are not in III because they are not fingerprint-supported and thus do not qualify for entry in III. Inasmuch as firearm purchase eligibility checks are not fingerprint-based, such state-based records would be reviewed by POC states in the course of a background check within their own state. It is also possible for a record to be disqualifying even if, from an offense point-of-view, it does not qualify for entry in III. As an example, Massachusetts

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<sup>6</sup> That some of the nine types of disqualifiers are permanent and others are not is worth noting [Tien and Rich, 1990]. On the criminal side, while a felony conviction would permanently render one ineligible to purchase a firearm (i.e., unless one receives a gubernatorial pardon), a felony indictment resulting in a dismissal of the charge or an acquittal would leave one only temporarily ineligible. Similarly, on the noncriminal side, while a court commitment would render a mentally defective individual ineligible to purchase a firearm, only current users of controlled substances are precluded from purchasing firearms.

<sup>7</sup> Lacking statutory authority, the Georgia POC was compelled by the FBI and the Criminal Justice Information Services (CJIS) Advisory Board to discontinue its open arrest denial policy effective July 1, 2002.

<sup>8</sup> The justification for denying on an open arrest is predicated on a 1994 open letter from BATF to state and local law enforcement officials urging them to tell FFLs to refuse a firearm sale if they had "reasonable cause to believe that the buyer is prohibited".

has a database of serious misdemeanants that may contain prohibiting domestic violence convictions and yet is inaccessible to the FBI; consequently, all NICS checks (including those from Massachusetts, which is a non-POC) would be unable to make use of this important database unless Massachusetts were to abstract from it all ineligible individuals and enter them in the NICS Index. The FBI has begun checking other files for potentially disqualifying information which may not be in III; the National Sex Offender Registry (NSOR), for example.

Searches of NCIC and the NICS Index pose similar record availability concerns. Just as with III, these files are only as effective as the extent to which they are populated by state (and federal) data. For example, the National Protection Order File is part of NCIC, yet only 42 states currently contribute to it. Consequently, NICS will “hit” upon a disqualifying restraining order (it must have been served, be active and restrain the subject from harassing, stalking, or threatening an intimate partner or child of the partner) only if the state where it was issued has transmitted it to the National Protection Order File. While a POC may check its own state protection order file, it of course has no access to those issued in non-contributing states. Over time, as more states contribute to it, the National Protection Order File will increase in size and utility. The future of other NICS Index components, is less certain. In particular, non criminal justice categories, such as mental defectives and certain users of controlled substances, present special, if not insurmountable, problems. As indicated by Tien and Rich [1990], the challenges inherent in identifying ineligible noncriminals include whether there are databases maintaining the information and, if so, determining the feasibility, as well as the legality, of accessing them, especially if they belong to private organizations. Ultimately, procedures will need to be developed for making this information available to the NICS Index, while ensuring privacy and confidentiality. As for state mental health files, because of state legal restrictions and related privacy and security concerns, some state criminal history repositories may be allowed access to them and others may not; moreover, right of access may still not give these repositories the right to share the information with the FBI’s Mental Defectives/Commitments files – benefiting POC states but not non-POC states. To sidestep this problem, some states (e.g., Maryland and Michigan) supply the *names only* of individuals adjudicated to be mentally defective – but no mental health information – to the Denied Persons File within the NICS Index.

The Denied Persons File was originally intended to contain only the names of individuals who have been denied firearms because they have already been deemed ineligible. However, it is also becoming a place-holder for records which for either legal or practical reasons cannot be housed elsewhere; it is used not only for the names of mental defectives, but also for subjects of certain dispositions and warrants. Specifically, the FBI’s Advisory Policy Board has approved the posting of dispositions associated with non-fingerprint supported criminal records to this file. More than 24,000 of Vermont’s criminal records, which fall largely into this category and are thus ineligible for III, have been entered in the NICS Index. Similarly, the subject of a warrant inadvertently discovered by a court during its search for a missing disposition may be placed by the FBI in the Denied Persons File. The FBI is not permitted to post the warrant to NCIC – only the Originating Agency, e.g., law enforcement agency, has the authority to do so. To date, 12 POC states, including Georgia, have contributed records to the Denied

Persons File. An on-going concern with the Denied Persons File is the degree to which the states update their entries; an entry based on a temporal situation (e.g., warrants and restraining orders, and substance abuse) must be deleted when the situation no longer exists<sup>9</sup>.

NICS is “instant” in the sense that system inquiries immediately either return records or do not return records. Whether this results in an immediate proceed or denial is a function of the operational practices of NICS and the POC state. For non-POC states, NICS provides immediate proceeds and researches initially delayed transactions while the FFL is still on the phone. Depending on the state, the POC’s interface programming may also provide an immediate status to the inquiring FFL. When there is no prospectively prohibiting information about the firearm purchaser, there is immediate approval. Thus, the response is “instant” to the FFL, even if a review is pending on a record, while the prospective firearm purchaser may be required to wait – up to three days in a non-POC state or longer in a POC state – for a final determination. A NICS E-Check System, which enables FFLs in non-POC states to access NICS via an Internet Service Provider (ISP), has been operational since August 19, 2002.

## 1.2 Study Genesis

In November 1999, SDC became aware of a situation concerning the Georgia POC (i.e., Georgia Firearms Program [GFP]). Apparently, for the financial reason articulated in Section 1.1, the GFP’s parent organization, the Georgia Bureau of Investigation (GBI), was concerned that GFP might be discontinued, thereby converting the state to non-POC status. Persuaded that such a decision would not be in the best interest of the state, the GBI sought BJS’s help. After consultation with the State of Georgia, BJS invited SDC to submit a proposal to perform a study comparing POC versus non-POC firearm eligibility background checks.

In response to the invitation, SDC broadened the framework of the study by proposing a cost-benefit approach which would not only compare the outcomes of the checks but also their respective costs. Also, in consultation with BJS, the decision was made to generalize the study to the degree possible by selecting, say, two participants from among the 25 POC and partial-POC states. In September 2000, BJS awarded SDC a 12-month Cooperative Agreement entitled, “Cost-Benefit of POC Versus Non-POC Firearm Purchase Eligibility Checks”.

Of course, comparing state POC checks with non-POC checks requires substantial cooperation from NICS inasmuch as they would have to perform “dual checks”, thus duplicating those already performed by the participating POCs. Although the FBI’s initial response to a request from BJS that they participate in the study was negative, citing the additional workload it would impose on the heavily burdened staff of the NICS

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<sup>9</sup> Temporal entries in the NICS Index require an expiration date. Ten days prior to an entry’s expiration, a report is sent to the entering agency which, in turn, has ten days to review the entry and determine if the date should be modified or the record should be allowed to expire.

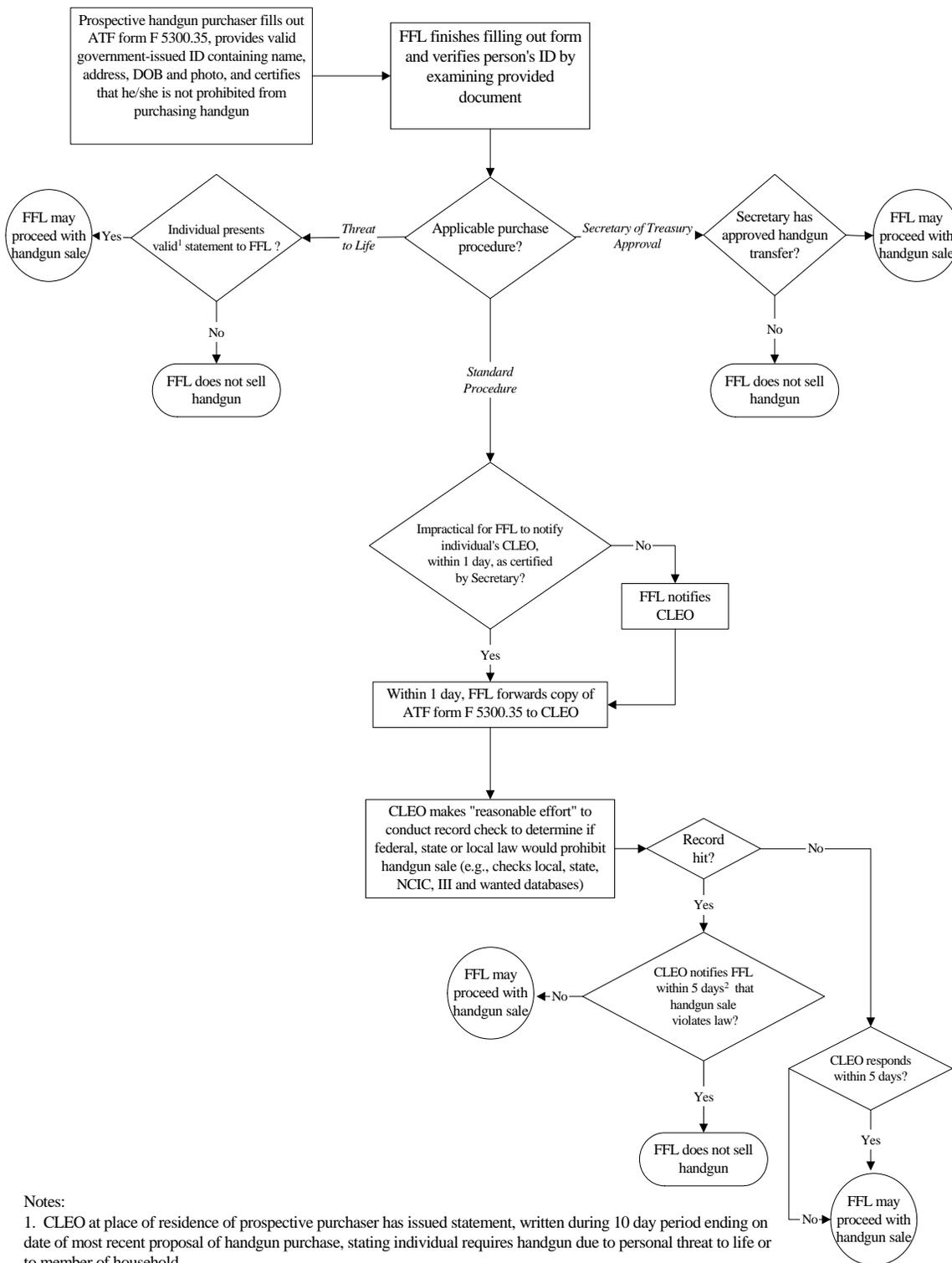
Operations Center in Clarksburg, West Virginia, it was agreed that a meeting among BJS, NICS and SDC should take place to examine the FBI's prospective role in greater detail; on June 26, 2001, the proposed meeting took place in Clarksburg. Among the BJS attendees were Mr. Larry Greenfeld, the then Acting Director, and Ms. Carol Kaplan, Chief, Criminal History Improvement Programs; FBI attendees included Mr. Timothy Munson, then NICS Section Chief, and Ms. Kimberly Del Greco, then NICS Operations Director. This time, the outcome was favorable with the FBI agreeing to participate; the major caveat being that the three-month data collection period that SDC proposed was deferred to March – May 2002, the “slow period” for the NICS Operations Center. Additionally, NICS agreed to meet with SDC in February 2002 to review in detail the procedures for their conduct of the dual checks and how the associated transaction data would be collected and transmitted to SDC.

### **1.3 Scope of Study**

As noted above, the study was motivated in part by the desire of the Georgia POC to obtain some hard evidence of the efficacy of state POCs with which to justify continued support of the Georgia Firearms Program. Recognizing that focusing on a single state would make it difficult to generalize the findings of the study, it was agreed to broaden the study and involve at least one additional POC participant.

Additionally, SDC proposed to BJS that the study look not just at the outcomes of firearm eligibility background checks performed by state POCs versus those performed by NICS for non-POC states, but also at their relative costs. With BJS's and NICS's concurrence, the study was further broadened to compare the cost-benefits of the two categories of background checks. Thus, the resultant findings have national implications for both POC and non-POC states.

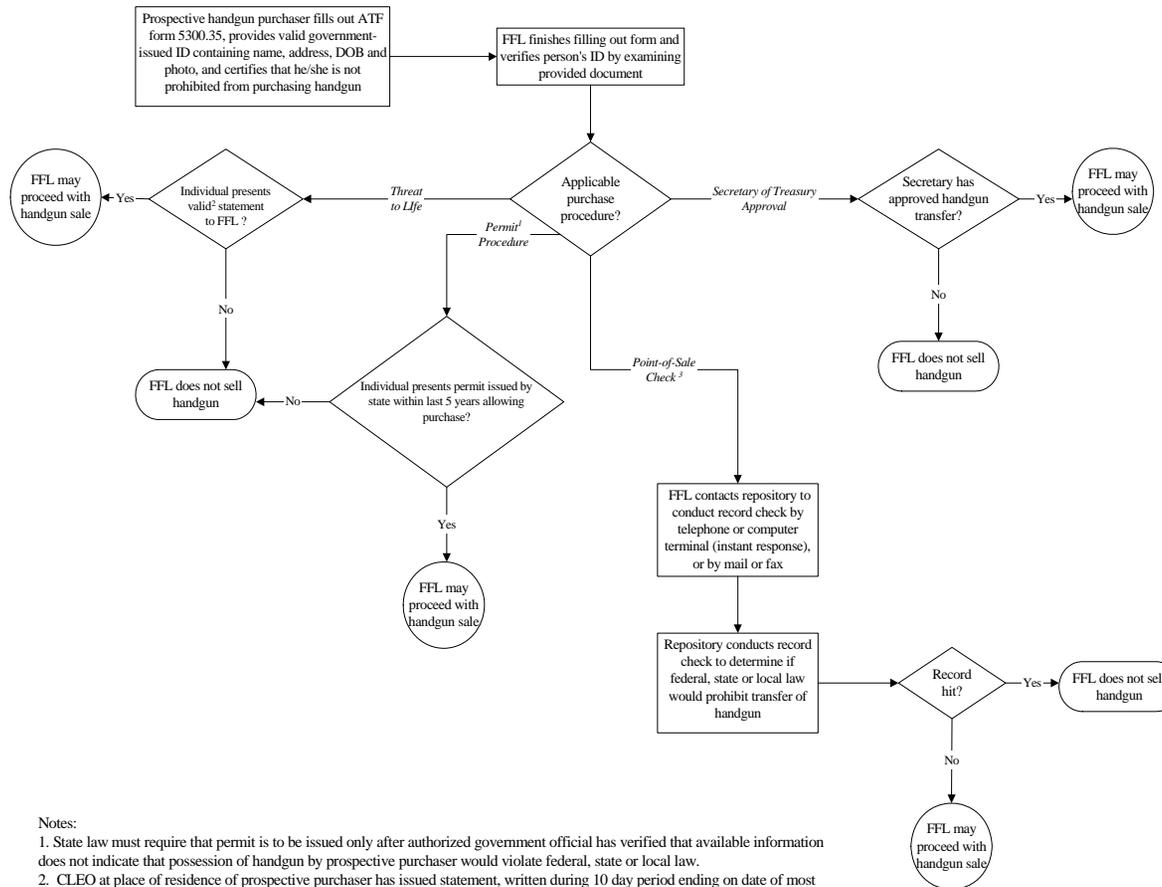
### Exhibit 1-1 Handgun Purchase Procedure: Brady State



Notes:

1. CLEO at place of residence of prospective purchaser has issued statement, written during 10 day period ending on date of most recent proposal of handgun purchase, stating individual requires handgun due to personal threat to life or to member of household.
2. 5 days refers to the time from when the FFL furnished notice and must be days for which state offices are open.

**Exhibit 1-2 Handgun Purchase Procedure: Brady-Alternative State**



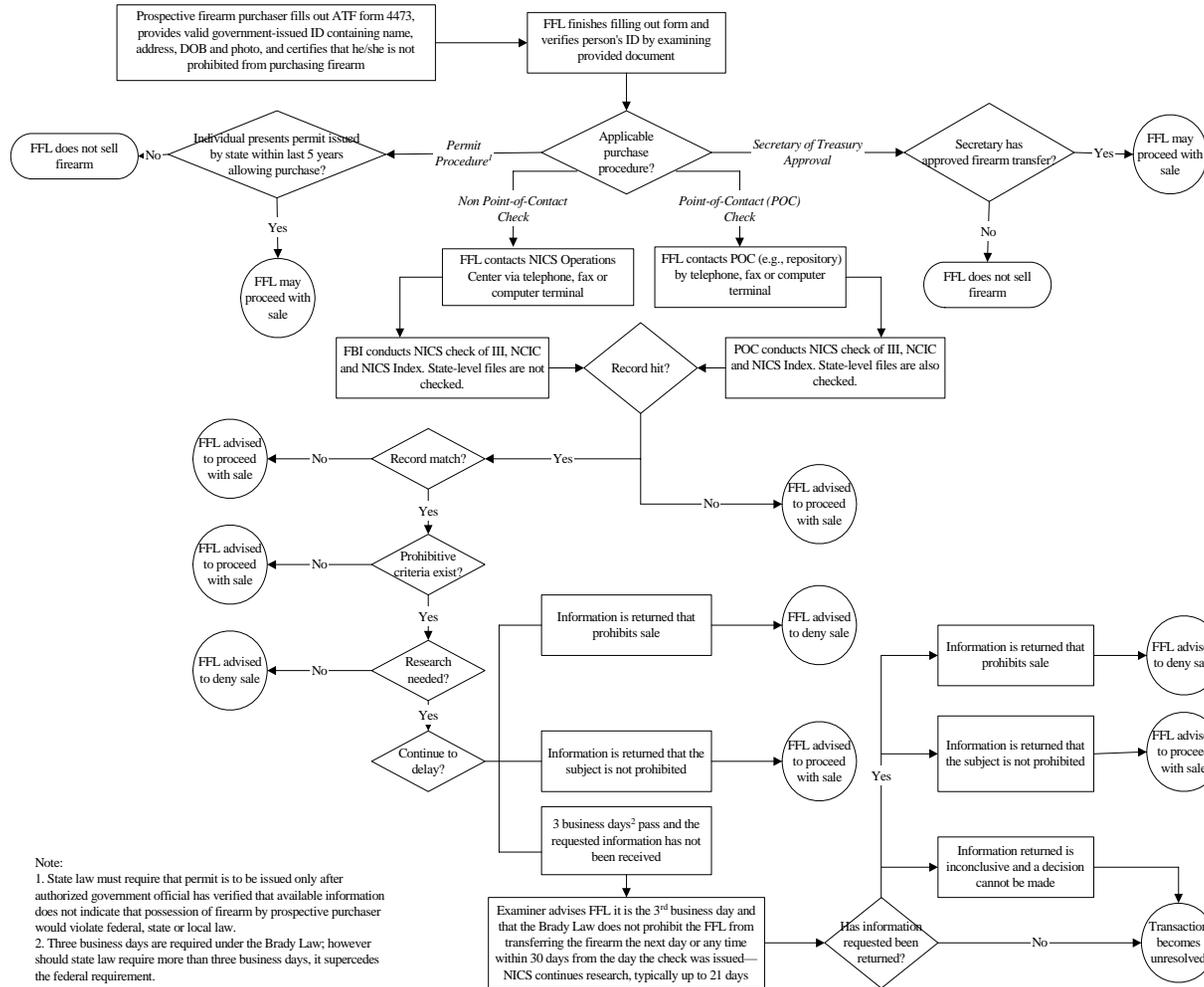
Notes:

1. State law must require that permit is to be issued only after authorized government official has verified that available information does not indicate that possession of handgun by prospective purchaser would violate federal, state or local law.
2. CLEO at place of residence of prospective purchaser has issued statement, written during 10 day period ending on date of most recent proposal of handgun purchase, stating individual requires handgun due to personal threat to life or to member of household.
3. State law must require that authorized government official verify that available information does not indicate that possession of handgun by prospective purchaser would violate federal, state or local law.

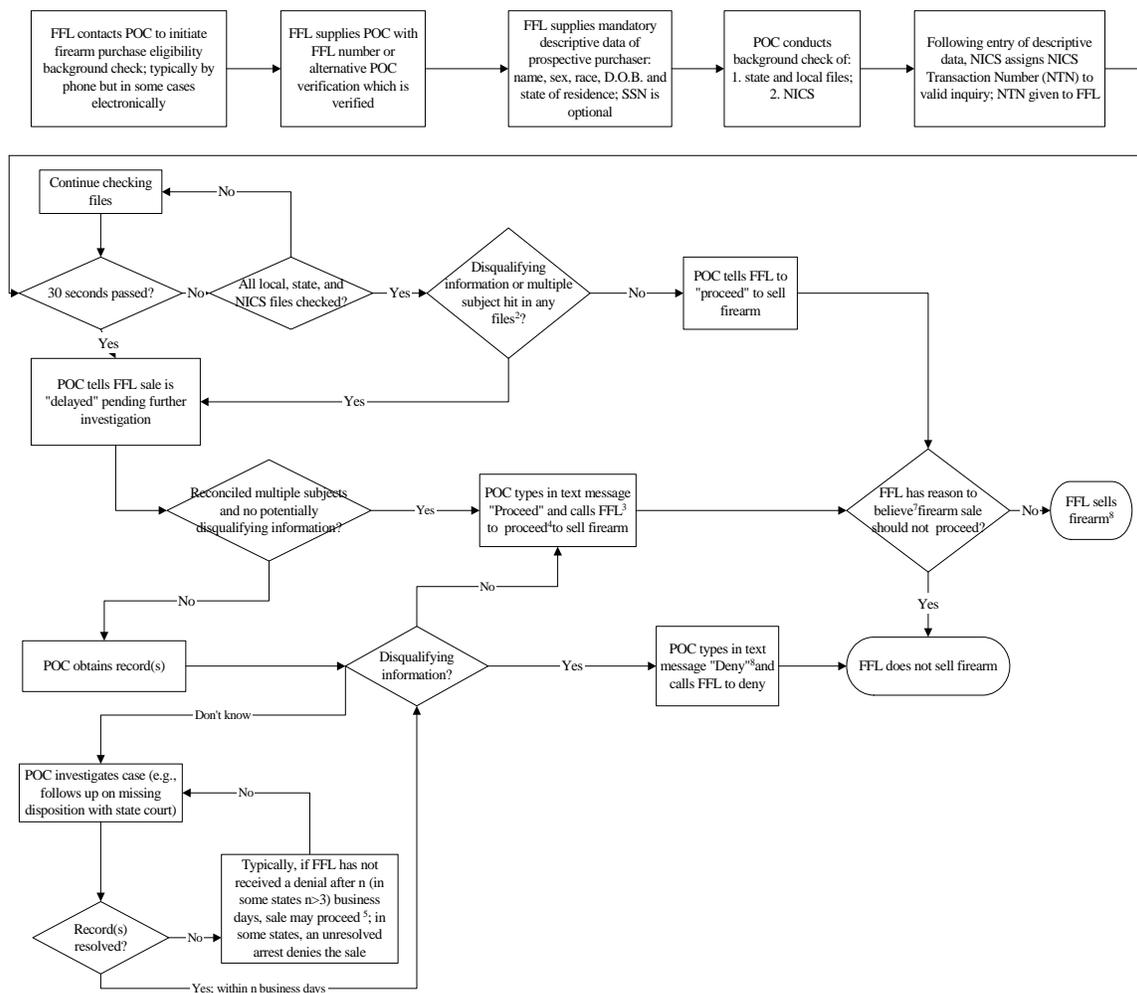
***Exhibit 1-3 POC-Related Status of the States (April 2001)***

<b>State</b>	<b>Full POC</b>	<b>Partial POC</b>	<b>Non- POC</b>
Alabama			X
Alaska			X
Arizona	X		
Arkansas			X
California	X		
Colorado	X		
Connecticut	X		
Delaware			X
District of Columbia			X
Florida	X		
Georgia	X		
Hawaii	X		
Idaho			X
Illinois	X		
Indiana		X	
Iowa		X	
Kansas			X
Kentucky			X
Louisiana			X
Maine			X
Maryland		X	
Massachusetts			X
Michigan		X	
Minnesota			X
Mississippi			X
Missouri			X
Montana			X
Nebraska		X	
Nevada	X		
New Hampshire		X	
New Jersey	X		
New Mexico			X
New York		X	
North Carolina		X	
North Dakota			X
Ohio			X
Oklahoma			X
Oregon	X		
Pennsylvania	X		
Rhode Island			X
South Carolina			X
South Dakota			X
Tennessee	X		
Texas			X
Utah	X		
Vermont	X		
Virginia	X		
Washington		X	
West Virginia			X
Wisconsin		X	
Wyoming			X
<b>TOTAL</b>	<b>16</b>	<b>10</b>	<b>25</b>

### Exhibit 1-4 Firearm Purchase Procedure: NICS Overview



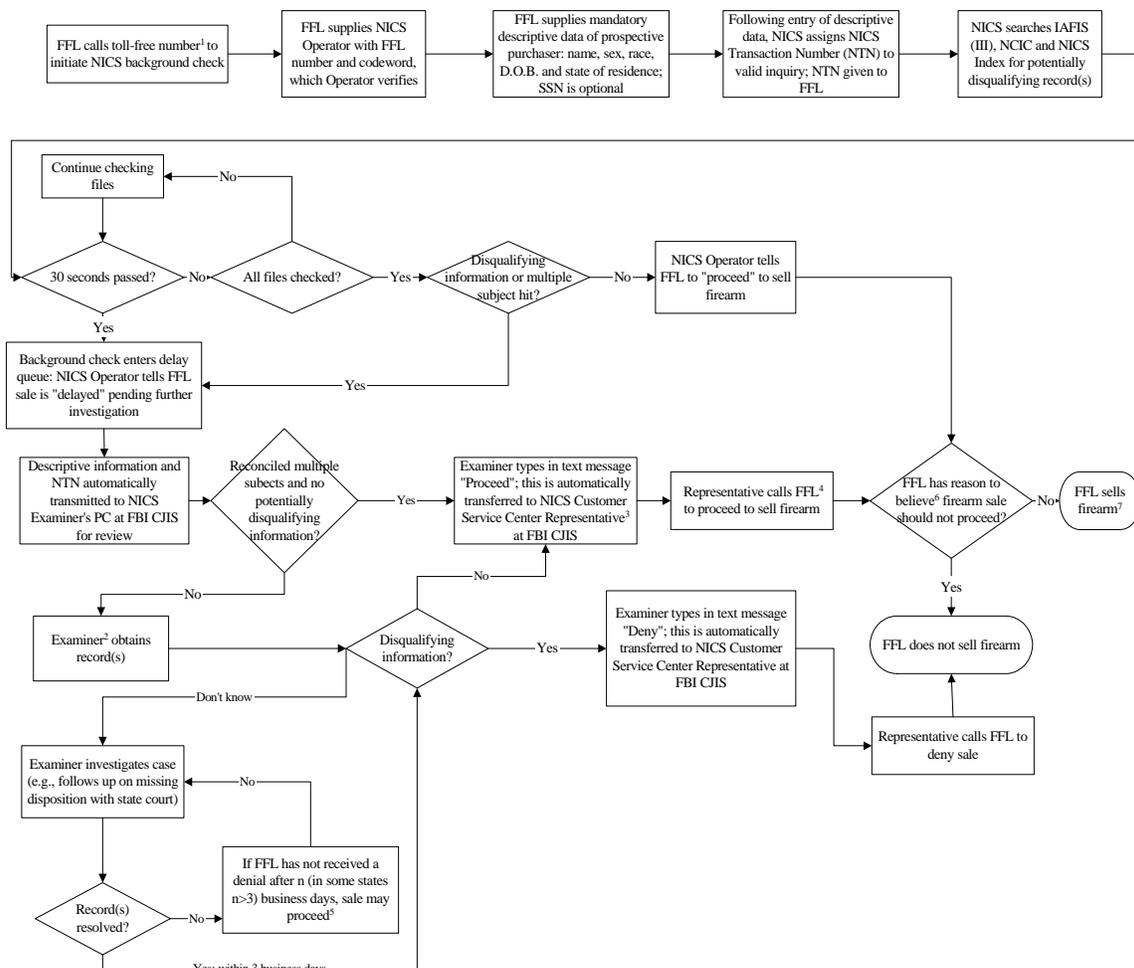
### Exhibit 1-5 Firearm Purchase Procedure: POC State



Notes:

1. POCs access NICS via the NCIC communications network. They enter a specific purpose code for NICS query, descriptive data and FFL number.
2. NICS searches the relevant databases and returns one of the following responses to the POC, which includes the NTN: 1. No record -- if NICS determines no matching record exists; 2. Partial response -- if NICS has not completed the search of all records; response will specify databases searched/not searched. It also provides any potentially disqualifying information. Follow-up response including complete search results is sent as soon as all databases have been searched; 3. Single matching record response -- if one matching record is found; 4. Multiple matching record response -- if more than one matching record is found.
3. FFLs may also call the POC and provide an NTN to request information on the status of a delayed background check.
4. When notifying the FFL within 3 business days that a sale may proceed, the POC provides the NTN.
5. If after n business days, the POC has not been able to determine that the unresolved record is disqualifying, he/she may continue to follow-up. However, the FFL is allowed to sell the firearm, whether or not he has received a call from the POC. In cases where disqualifying information is uncovered after the sale of the firearm has been completed -- referred to as a "delayed denial" -- the Bureau of Alcohol, Tobacco and Firearms (BATF) is responsible for retrieval of the firearm.
6. When notifying the FFL that a sale is denied, the POC may or may not provide a STN or NTN. . When a sale is denied, the POC should provide a denial notification to NICS, which includes the name of the person denied the firearm and the NTN. Notification may be provided immediately by electronic means or at a later time. If the POC does not provide denial notification, NICS assumes the sale was allowed.
7. For example, the prospective customer is intoxicated or in a highly agitated state.
8. For auditing purposes, FFLs are required to record a "Proceed", "Delay" or "Denied" response in addition to the NTN on the ATF form.

### Exhibit 1-6 Firearm Purchase Procedure: Non-POC State



Notes:

1. Phone calls reach one of two contract call centers in Uniontown, PA and Moundsville, WV. FFLs may contact NICS at the NICS Operations Center between 8:00 am - 1:00 am Eastern Standard Time, everyday, except Christmas. Internet access to NICS is now available to FFLs; they are responsible for communications and computer costs.
2. NICS Examiners follow-up on potentially disqualifying records in the states assigned to them. They constantly refer to binders consisting of state-specific statutes prohibiting the sale of a firearm. Assignment of states to Examiners is based loosely on volume of firearm checks.
3. NICS Operations Center staff are cross-trained to serve as both NICS Examiners and Customer Service Representatives.
4. FFLs may also call the Customer Service Center and provide an NTN to request information on the status of a delayed background check.
5. If after 3 business days, the NICS Examiner has not been able to determine that the unresolved record is disqualifying, he/she may continue to follow-up. However, the FFL is allowed to sell the firearm, whether or not he has received a call from the NICS Operations Center. In cases where disqualifying information is uncovered after the sale of the firearm has been completed – referred to as a "delayed denial" – the Bureau of Alcohol, Tobacco and Firearms (BATF) is responsible for retrieval of the firearm.
6. For example, the prospective customer is intoxicated or in a highly agitated state.
7. For auditing purposes, FFLs are required to record a "Proceed", "Delay" or "Denied" response in addition to the NTN on the ATF form.

## 2. STUDY APPROACH

Section 2 considers the study's research design, how the participating states POCs were chosen and the collection and processing of data from POCs and from NICS.

### 2.1 Study Design

The research objective of the study is to assess the cost-benefit of firearm purchase background eligibility checks performed by (a) two state Points of Contact (POCs) – which also include a check of the FBI National Instant Criminal Background Check System (NICS) – versus those performed by (b) NICS for non-POC states. It should be noted that while the proposed research is focused on two state POCs, the research results should be generalizable and have national implications, particularly for states that act as full or partial POCs.

In particular, the study is focused on five research questions:

1. What are the outcomes of POC checks (which include NICS checks) as compared to non-POC checks?
2. What are the principal reasons for the denials which result from the eligibility checks of the various files performed by the POC and NICS?
3. What are the comparative demographic compositions of the purchase applicant sub-populations comprising the various outcome groupings?
4. To the extent it is possible to determine them, what factors (e.g., age, gender, type of gun, geography, day of week, time of day, etc.) help to explain the observed outcomes, especially those outcomes where NICS and the state POCs differ?
5. What are the costs associated with making POC checks as compared with making non-POC checks?

The analysis framework of the study is best summarized by the outcome matrix in Exhibit 2-1 which depicts the outcomes of firearm eligibility checks if they are performed by state POCs and then again – in a dual, replicative mode – by NICS. In simplest terms, both the POC and NICS determine whether to proceed or deny each eligibility check, resulting in four possible joint outcomes for each check:

1. NICS Proceeds/State POC Proceeds (NP/SP)
2. NICS Proceeds/State POC Denies (NP/SD)
3. NICS Denies/State POC Proceeds (ND/SP)
4. NICS Denies/State POC Denies (ND/SD)

Clearly, the NP/SD and ND/SP categories, where NICS and the state POCs differ, are of greatest interest to the study.

## 2.2 Participant Selection

Selection of state POCs to participate in the study involved a number of considerations. Preeminent was avoiding state POCs whose inherent characteristics would confound the findings of the study. Columns A, B and C of Exhibit 2-2, which lists the 25 POC states and their key selection-related attributes, identify such characteristics:

- Column A: For the sake of completeness (i.e., comparing outcomes for both handgun and long gun eligibility checks) and generalizability, partial-POC states were excluded.
- Column B: States requiring permits for the purchase of handguns (i.e., permits are not required in any state for long gun purchases) would filter out prospective purchasers who failed to qualify for a permit. Moreover, in states where holding a permit waives the background check at time of purchase, there would be no transaction record of the background check in the study's data sample.
- Column C: In several POC states, there are multiple Points of Contact, as opposed to a single one. This condition could have posed difficult, if not insurmountable, study conduct and data collection problems.

By eliminating POC states with "N" entries in columns A, B or C, the population of prospective participants was immediately reduced from 25 to 11.

Another potentially confounding characteristic appears in column L. As it turns out, when NICS attempts to locate a missing disposition in a POC state, depending upon their relationship with the state's courts, they either contact the courts directly or obtain it through the POC. By including a state in the latter category, when NICS performs a dual check requiring them to locate a missing disposition, it would end up with the POC being asked for a disposition they had recently been required to locate when they performed the original check. Thus, it was SDC's preference to eliminate the states with an "N" entry in column L. This left a pool of four states to select from: Georgia, Oregon, Pennsylvania and Tennessee, respectively.

On further inquiry, it was learned that on June 11, 2001 the Tennessee Legislature enacted a gun law amendment that institutes a confounding "criminal history challenge" procedure that gives the POC 15 days to obtain final disposition information. In Pennsylvania's case, when SDC invited the Pennsylvania Instant Check System (PICS) to consider participating, its parent organization, the Pennsylvania State Police, respectfully declined. This left two candidate POCs, Georgia, and Oregon, each of which was willing to participate in the study and had pledged its full cooperation.

It should also be stated that during the selection process, the Florida Department of Law Enforcement (FDLE), the parent agency of FPP (Firearm Purchase Program), the state's

POC, approached SDC and asked to be a study participant. While they would have been considered seriously, the FPP's software does not retain the NICS Transaction Numbers (NTNs) assigned by the FBI. Without the NTNs, it would have been impossible to match the NICS and POC checks and, while willing to make the necessary software modifications, the FDLE was unable to implement such a change in time to participate.

Exhibits 2-3 and 2-4 contain flow chart descriptions of the eligibility check procedures in Georgia and Oregon, respectively. Similarly, Exhibits 2-5 and 2-6 describe the sets of expected outcomes in the two participating states in the context of the outcome matrix described in Section 2.1. The following sections examine the characteristics of proceed and deny outcomes and consider the circumstances under which the NICS and POC outcomes may differ.

### **The Proceed Outcome**

When the background check of a prospective firearm purchaser reveals no disqualifying information, the agency responsible for performing the check does not "approve" the purchase; rather, the agency notifies the FFL to "proceed" the sale. The distinction is an important one since an FFL always retains the right to refuse the sale of a gun, regardless of the results of the background check. For example, if the FFL believes the purchaser may be intending to use the firearm for an unlawful purpose or the purchaser is in an emotional condition that may interfere with the safe operation of the firearm, the FFL may refuse to sell it.

Although the ultimate result is the same, it is also useful to draw an operational distinction between an "immediate proceed" and a "proceed after research". In the former case there are no hits on any of the files checked or if there were, it was immediately obvious that the hits(s) were either not disqualifying or they were related to a person other than the prospective purchaser (e.g., there is a gender or substantial age difference). In the latter case, there are one or more hits which require that the agency research them further to determine whether they are disqualifying. Most often, this occurs when the background check reveals a felony arrest but the criminal record fails to contain a disposition. With the passage of the Lautenberg Amendment, which retroactively added domestic violence misdemeanor convictions to the list of disqualifiers, research is often needed to determine if a past conviction for, say, simple assault meets the Lautenberg conditions as to the offense and/or the relationship between the victim and the perpetrator.

With respect to the checks performed for the non-POC states, NICS is allowed three business days in which to determine eligibility. If the background check reveals potentially disqualifying information but the check cannot be resolved in the three business days allotted, NICS makes a finding of "unresolved". It is then up to the FFL to decide whether or not to proceed the sale; some FFLs have a standard practice of refusing to sell firearms when the outcome of a NICS background check is unresolved.

## **The Deny Outcome**

As in the case of proceeds, denials may result from researching one or more file hits returned from NICS checks, state checks or both. After a sale, should information come to light that causes a sale that had proceeded to become denied, the Bureau of Alcohol, Tobacco, Firearms and Explosives (BATF) is notified and it becomes BATF's responsibility to retrieve the firearm.

In cases where there was a potentially disqualifying felony arrest, and further research failed to resolve the check (e.g., no disposition could be located within three business days) – this is referred to as an “open arrest” – it had been the practice of the Georgia POC to deny the sale. Although this practice was in place during the time frame of the study (March 2002 – May 2002), it was discontinued effective July 1, 2002.

## **Differing Outcomes**

Of the four cells in the outcome matrix in Exhibit 2-1, the NP/SD and ND/SP cells are, as previously indicated, of the greatest interest to the study because the NICS and state POC outcomes differ. Under what circumstances might that occur in the course of the study? One would expect the POC to deny a sale that NICS proceeds when the state has access to records that NICS does not. While it could happen that the state has a criminal record that does not appear in III (for example, the record might not meet the FBI's standards for inclusion in III), it is more likely that there exists an entire file of information not available to NICS. For instance, the Oregon POC checks a state file of persons on probation which in Oregon prohibits one from possessing a firearm unless the court has specifically ruled otherwise. Of course, NICS would have no way of knowing that a prospective purchaser is presenting an invalid ID (e.g., suspended driver's license) while a state POC may be able to check the state's motor vehicle files and make that determination. Additionally, if an out-of-state resident is attempting to purchase a firearm and the POC runs a check of that person's home state criminal history files, a disqualifying hit may be found that would not show up in the course of checking III, NCIC and the NICS Index.

Another possible explanation for differing outcomes is a difference in interpretation or procedure. Both Georgia and Oregon deny – and NICS proceeds – firearms purchases on the basis of a domestic violence misdemeanor conviction even though the relationship is not a prohibitor according to the Lautenberg Amendment. Conversely, both Georgia and Oregon proceed – and NICS denies – firearm purchases in the case of a domestic violence arrest leading to a conviction for a lesser offense where the relationship is a Lautenberg prohibitor (i.e., the lesser offense contains the elements specified in 18 U.S.C. 922(g)(9)). Illustratively, if a prospective purchaser had been arrested for spousal assault but was convicted of disturbing the peace, NICS would deny the sale while the Georgia and Oregon POCs would proceed it.

Finally and importantly, some states have stricter prohibitors than does the federal government. Oregon, for example, disqualifies purchasers convicted of any of five misdemeanors – other than domestic violence – in the four years prior to the purchase.

These are assault IV, menacing, reckless endangering, assault on a public safety officer and intimidation II, respectively. NICS is fully aware of state-specific prohibitors and will also deny on that basis<sup>10</sup>. However, during the study, when Georgia was still denying purchases on the basis of open arrests, NICS did not deny Georgia transactions on that basis; the procedure was neither statutorily mandated nor consistent with federal policy.

### **2.3 Data Collection**

In accordance with the study design, during the three-month period, March 2002 through May 2002, the Georgia and Oregon state POCs agreed to perform their firearm eligibility checks as usual and to provide SDC with summary data on each transaction and sufficient cost information so that a cost per POC check could be determined. For its part, NICS agreed to perform follow-up research on every one of the state POC transactions that got a hit on at least one of the three databases of the NICS system. Consequently, it should be emphasized that although the purpose for carrying out firearm eligibility checks is to do so in an accurate and timely manner, the limited follow-up research conducted by the FBI staff (on only those POCs checks with NICS hits), in turn, limited SDC to focusing primarily on potential denial-related checks – and not on the accuracy of proceed-related checks. Thus, while this study and the resultant findings are predominantly based on denial-related data, it should not be construed that SDC is more concerned about denial accuracies than about proceed accuracies – SDC is concerned about all accuracies.

Additionally, NICS agreed to furnish SDC with summary data on each transaction and sufficient cost information so that a cost per POC – and non-POC – check could be determined. In particular, the Georgia POC, Oregon POC and NICS agreed to the consistent data formats described in Exhibit 2-7.

The following should be noted in regard to the data formats:

- For reasons of confidentiality, SDC neither requested (nor received) any information from the three agencies that would have identified the purchaser (e.g., name, social security number, etc.).
- NICS generated a second NICS Transaction Number (NTN) when it performed the dual check. However, the original NTN's were used to match POC and NICS transactions.
- The sets of outcomes of the three agencies, while compatible, are slightly different. More specifically, only Georgia denied on open arrests, only Oregon has a “pending” outcome category, and only NICS designates transactions as “unresolved”.

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<sup>10</sup> NICS maintains liaison with the office of every state’s Attorney General to keep abreast of changes in state legislation. Updated state information is circulated to every NICS employee as it is received.

- While SDC asked all three agencies for the responses to their NICS file checks, only the state POCs were asked for the type of firearm(s) being purchased and the purchaser's demographics.
- The Georgia POC does not run checks against state parole and probation files or stolen gun files.

As it turned out, the software employed by the Oregon POC to support their background checks had not been programmed to retain the NTN's generated by their NICS background checks; without the NTN's, it would have been impossible to match Oregon POC transactions with their NICS counterparts. Motivated by their desire to participate in the study and with the support of BJS NCHIP funds, Oregon contracted with their third-party software vendor and promptly implemented the programming changes required to capture the NTN's.

With respect to cost data, SDC's approach was first to ask NICS for their Fiscal Years' 2000 and 2001 data. After reviewing and refining the NICS data, SDC then used it as a "template" for requests to the two state POCs. Recognizing that the federal government and the states have different fiscal years – NICS's is October-September while both Georgia's and Oregon's is July-June – and recognizing that the chances of obtaining accurate and reliable cost data is improved if fiscal year (instead of, say, calendar year) data were requested, all cost data were provided on a fiscal year basis.

As detailed in Exhibit 2-8, SDC ended up with a sample of 64,287 firearm eligibility check transactions; 54.1% from Georgia and 45.9% from Oregon. The sample size decreased across the three months with March, April and May comprising 38.2%, 32.5% and 29.4% of the total, respectively. This pattern is entirely consistent with NICS's reported monthly transaction volumes for both the non-POC and POC states.

When SDC began receiving the results of the dual NICS checks, it was at first unable to match every check supplied by NICS with its state POC counterpart. Working closely with NICS and the two state POCs, the reason became obvious; in both Georgia and Oregon, the checks sent to NICS were sometimes being replicated. In fact, on the average, Georgia and Oregon generate approximately 1.6 and 1.1 NICS checks per transaction, respectively.<sup>11</sup> Because NICS cannot distinguish the replicated checks from

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<sup>11</sup> The replication problem in the Georgia POC is rooted in the design of their software. If there are no hits on the NICS system, there is no replication problem. However, if there should be a hit on one of the three NICS databases (i.e., III, NCIC, NICS Index)—which has a better than 25% chance of occurring—Georgia initiates a second query to NICS in order to obtain the actual records; this, in turn, generates another NTN. Because of the idiosyncrasies of the software, every time the transaction is researched further, another check is spun off to NICS, resulting in the generation of yet an additional NTN. NICS staff report identifying as many as nine queries associated with a single Georgia firearms transaction. In the Oregon POC, the problem is simpler and less pervasive and has to do with computer system errors. Occasionally, they occur because of an equipment malfunction; for example, a faulty keyboard. More frequently, replicated

the original, every such check is assigned a new NTN and while the state POCs were sending SDC only the original transaction, NICS was not consistently able to distinguish the original from its replications. By the time the phenomenon became fully understood and a procedure put in place by NICS to address it, one month's worth of reliably matched data were lost. As a result, the matched sets of Georgia/NICS and Oregon/NICS transactions are those for the months of April and May 2002. Consistent with retention regulations, all the information NICS used in support of this project has been destroyed and purged.

It should also be noted that the replications problem is not restricted to Georgia and Oregon and is common to many, if not all, POC states. Both BJS and NICS agree that this is an issue warranting further investigation.

Finally, it should be stated that the cost data provided by NICS were detailed, clear and complete and constituted an excellent template for data requests to Georgia and Oregon. Both states furnished cost data of comparable quality.

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checks are created when the Oregon computer system cannot properly load (i.e., recall) the results of the original transaction which, in turn, forces them to regenerate it, which results in an entirely new NTN.

***Exhibit 2-1 Eligibility Check Outcome Matrix***

		STATE POC ELIGIBILITY CHECK OUTCOME		
		Firearm Purchase Proceed	Firearm Purchase Denial	Total NICS-Only Eligibility Checks
NICS-ONLY ELIGIBILITY CHECK OUTCOME	Firearm Purchase Proceed	<i>(NP/SP) NICS Proceeds/ State POC Proceeds</i>	<i>(NP/SD) NICS Proceeds/ State POC Denies</i>	<i>Total NICS Proceeds</i>
	Firearm Purchase Denial	<i>(ND/SP) NICS Denies/ State POC Proceeds</i>	<i>(ND/SD) NICS Denies/ State POC Denies</i>	<i>Total NICS Denials</i>
	Total State POC Eligibility Checks	<i>Total State POC Proceeds</i>	<i>Total State POC Denials</i>	<i>Total Eligibility Checks</i>

**Exhibit 2-2 Selection-Related State POC Characteristics**

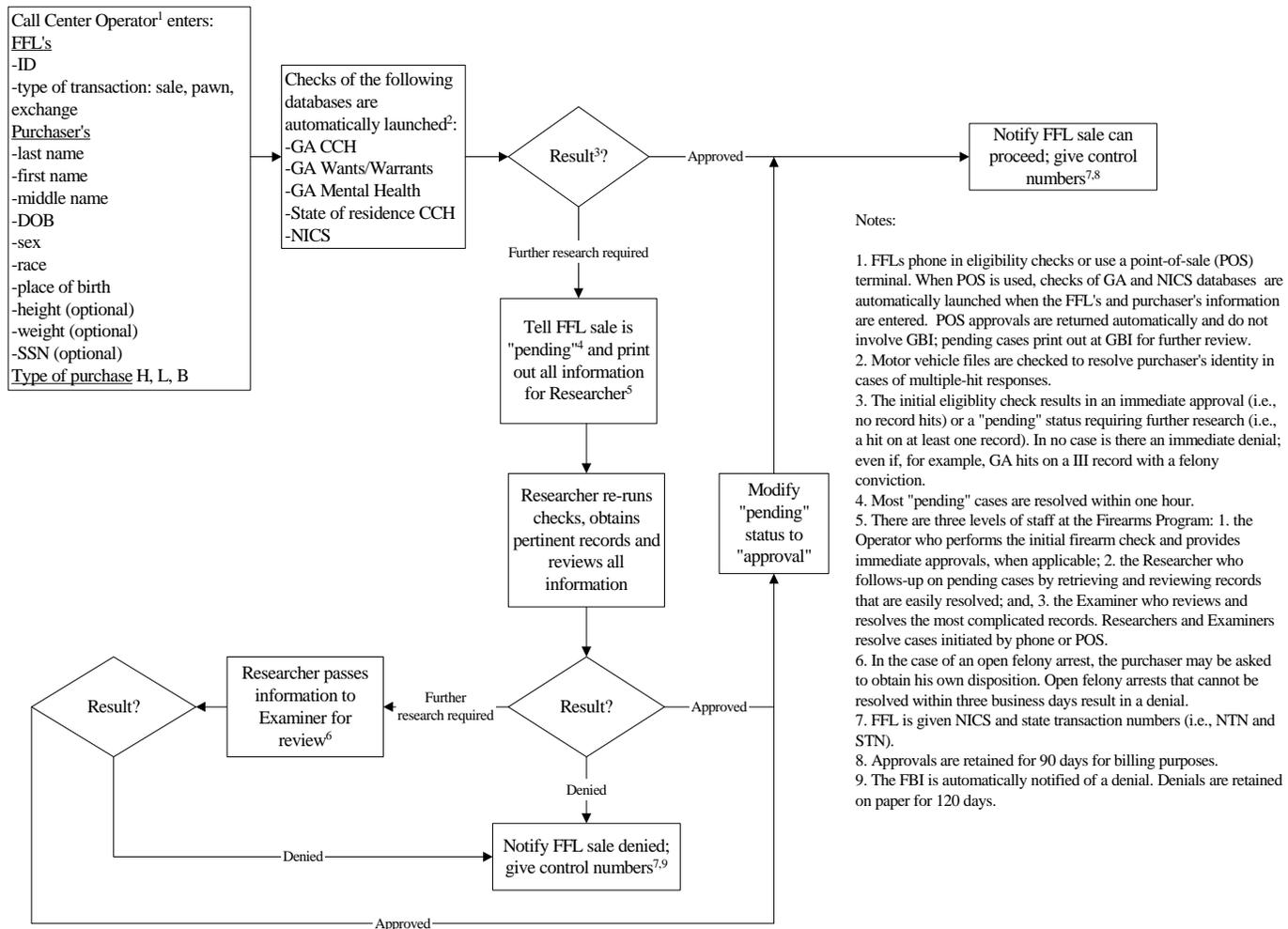
Point-of-Contact (POC) States (25) <sup>1</sup>	A. Full POC <sup>2,3</sup>	B. Permit Not Required for Firearm Purchase?	C. Single Point of Contact?	D. Disqualifying Criteria Same as Federal Requirements?	E. Purchase Approved on Open Felony Arrest <sup>4</sup> ?	F. Background Check Time Limit Same as Federal Requirement <sup>5</sup> ?	G. Approved Sale Proceeds Without Mandatory Waiting Period <sup>6</sup> ?	H. Number of Firearm Transfer Applications Received in 2000 <sup>7</sup> ?	I. Ratio of State to National Violent Crime Indices <sup>7,8</sup> ?	Records Sharing with FBI		L. NICS Obtains Missing Dispositions Directly from Courts?
										J. National Sex Offender Registry?	K. FBI Protection Order File?	
Arizona	Y	Y	Y	N	Y	Y	Y	126,880	1.05	Y	Y	N
California	Y	Y	Y	N	Y	N	N	386,210	1.23	Y	Y	N
Colorado	Y	Y	Y	N	N	N	Y	137,916	0.66	Y	N	N
Connecticut	Y	N	Y	N	N	N	N <sup>7</sup>	76,148	0.64	Y	N	N
Florida	Y	Y	Y	N	Y	Y	Y	231,783	1.60	Y	Y	N
Georgia	Y	Y	Y	Y	N	Y	Y	213,110	1.00	Y	Y	Y
Hawaii	Y	N	N	N	N	N	N	N/A	0.48	N	N	N
Illinois	Y	N	Y	N	Y	N	N	375,361	1.30	Y	Y	N
Indiana	N	Y	Y	N	Y	N	Y	19,442	0.69	N	Y	Y
Iowa	N	N	N	N	Y	N	N	N/A	0.53	N	Y	Y
Maryland	N	Y	Y	N	N	N	N	34,316	1.55	Y	Y	N
Michigan	N	N	N	N	N	N	Y	N/A	1.10	Y	N	N
Nebraska	N	N	N	Y	Y	Y	Y	N/A	0.65	N	Y	Y
Nevada	Y	Y	Y	Y	N	Y	Y	47,240	1.04	N	N	N
New Hampshire	N	Y	Y	Y	Y	Y	Y	12,938	0.35	N	Y	N
New Jersey	Y	N	Y	N	N	N	N	77,211	0.76	Y	N	N
New York	N	N	N	N	Y	N	Y	N/A	1.09	N	Y	Y
North Carolina	N	N	N	N	N	N	Y	N/A	0.98	Y	N	Y
Oregon <sup>8</sup>	Y	Y	Y	N	N	N	Y	53,726	0.69	N	Y	Y
Pennsylvania	Y	Y	Y	N	N	Y	Y	469,540	0.83	N	Y	Y
Tennessee	Y	Y	Y	N	N	Y	Y	213,249	1.40	Y	Y	Y
Utah	Y	Y	Y	N	Y	N	Y	64,917	0.51	Y	N	N
Virginia	Y	Y	Y	N	Y	Y	Y	182,170	0.56	Y	N	N
Washington	N	Y	N	N	Y	N	Y	N/A	0.73	Y	Y	Y
Wisconsin	N	Y	Y	N	N	Y	N	32,314	0.47	Y	N	N
Total "Yes"	15	16	18	4	12	10	17	2,754,471	--	16	15	10

Key: Y = Yes; N = No; -- = Not Applicable; N/A = Not Available

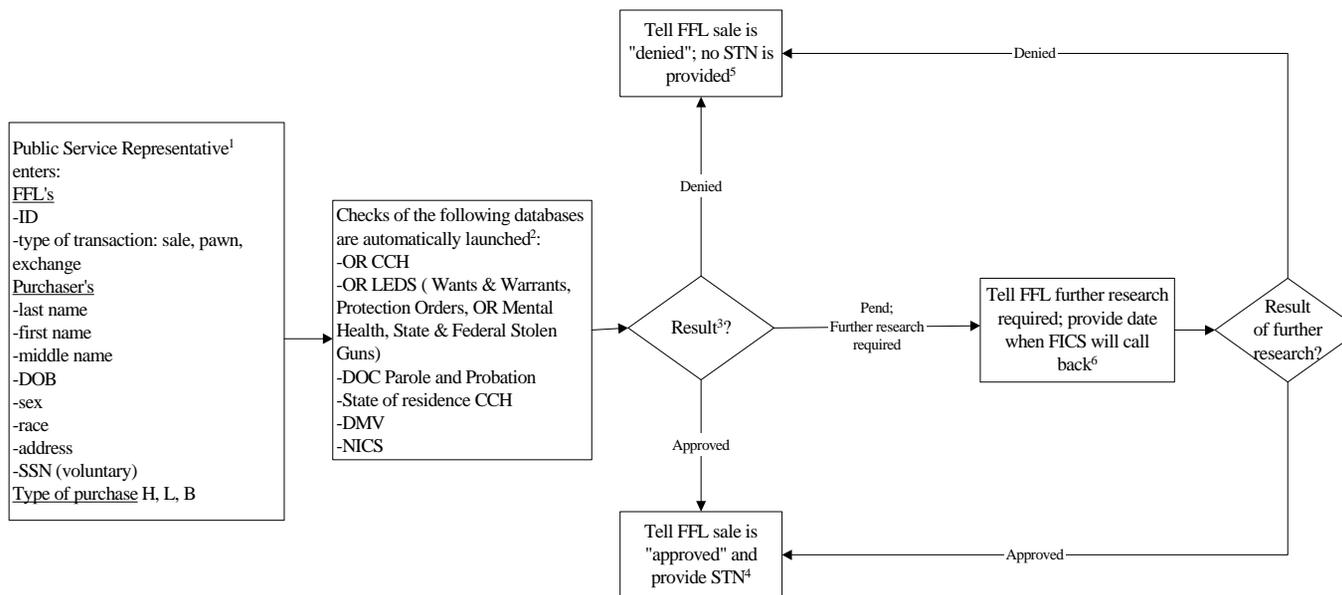
Notes:

- At the study's inception, Vermont was a POC state; they subsequently switched to non-POC status.
- From "Survey of State Procedures Related to Firearm Sales, Midyear 2000" (REJIS, May 2001).
- Based on an open felony arrest (i.e., a felony arrest for which no disposition can be located within background check time limit), certain states deny the purchase of a firearm.
- Maximum time allowed for law enforcement to approve purchase; extensions permitted in certain circumstances. Federal 3 business-day rule applies unless state has stricter (i.e., longer) time period.
- A period of time which must expire prior to the transfer of the firearm.
- From "Background Checks for Firearm Transfers, 2000" (BJS, July 2001).
- From "Crime in the United States, 2000" (FBI, October 2001).
- Oregon became a full POC state on December 8, 2000. Data in column H is for January through November 2000.

### Exhibit 2-3 Georgia POC Procedures



### Exhibit 2-4 Oregon POC Procedures



Notes:

1. FFLs take thumbprints of each prospective buyer which are kept on file for five years regardless of the check's outcome. Buyer must be present at the time of purchase.
2. Oregon checks Probation since, as a condition of probation, a probationer may not be entitled to possess a gun. It is also possible for a person to be arrested, convicted and on probation with no prints on file because the state mandates only felony and sex and drug misdemeanor prints be submitted to the repository. Since Oregon has no on-line access to probation conditions, it denies on all probationers. If a non-Oregon resident is buying a long gun, his/her state CCH is checked. Motor vehicle files are checked to validate address and ID (e.g., FFL incorrectly instructs buyer to use address on license rather than current address on application and it does not match DMV records).
3. The initial eligibility check results in an immediate "approved" (i.e., no record hits), an immediate "denied" (i.e., at least one prohibiting record) or a "pend" status requiring further research (i.e., a hit on at least one record).
4. FFL is furnished a state transaction number (i.e., STN). Once an approval is given to an FFL, he has 30 days to transfer the gun.
5. FICS provides STNs for approvals only. All "denied" cases are documented; the completed paper transaction records are imaged and shredded. A state database of denials is retained.
6. If a check cannot be resolved in 30 minutes, it becomes a "pend". The FFL is notified when FICS will call back with a response. The time can range from one day to one week. If FICS cannot resolve it within one week, they will extend it again. If FICS does not call back, the FFL has the right to sell the gun. In the unlikely case that FICS cannot resolve it, the sale may proceed. All researched "pend" cases are documented; the completed paper transaction records are imaged and shredded.

**Exhibit 2-5 Georgia POC Outcome Matrix**

		GEORGIA FIREARMS PROGRAM (GFP) CHECK OUTCOME	
		Firearm Purchase Proceed	Firearm Purchase Denial
NICS-ONLY CHECK OUTCOME <sup>1</sup>	Firearm Purchase Proceed	- No record found - Record found is not prohibiting <sup>2</sup>	<u>Hit on prohibiting GA record not in NICS<sup>3</sup>:</u> - GA CCH - GA Wants/Warrants - GA Mental Health - GA Motor Vehicles <sup>4</sup> <u>Hit on prohibiting record not in NICS:</u> - State of resident CCH for out of state purchaser <u>GA statute/policy regarding</u> - Open felony arrest <sup>5</sup> - DVM conviction; relationship not a prohibitor in Lautenberg Amendment <sup>6</sup>
	Firearm Purchase Denial	- DVM arrest/conviction for lesser offense; relationship a prohibitor in Lautenberg Amendment <sup>6</sup>	- Records with federal prohibitors <sup>2</sup> - DVM conviction; relationship a prohibitor in Lautenberg Amendment <sup>6</sup>

Notes:

1. If a potentially prohibiting record is found and 3 business days have elapsed with the status not determined, FBI designates the transaction as "unresolved", in which case the FFL may proceed the sale at its discretion. NICS continues to research unresolved transactions after the third business day.
2. In most cases, the FBI and the states interpret the nine categories prohibiting an individual from purchasing a firearm -- as legislated in the Gun Control Act -- similarly. However, in some instances, their interpretations of the law differ. See Notes 5 and 6.
3. NICS (National Instant Criminal Background Check System) refers to the federal files accessed by Point-of-Contact (POC) states and FBI during a firearm eligibility check; namely, the NICS Index, III and NCIC.
4. GFP checks the Motor Vehicles files when the identity of the buyer is in question.
5. Until 7/1/02, GFP denied on an open (i.e., disposed but disposition unavailable) felony arrest; FBI does not.
6. GFP denies on all domestic violence misdemeanor (DVM) convictions; GFP approves DVM arrests resulting in a conviction for a lesser offense (e.g., charge was amended by prosecutor or pled down to simple assault). FBI denies on all DVM arrests resulting in a conviction -- whether it's a DVM conviction or a conviction for a lesser offense -- in situations where the victim/perpetrator relationship is a prohibitor in Lautenberg Amendment.

**Exhibit 2-6 Oregon POC Outcome Matrix**

		<b>OREGON FIREARM INSTANT CHECK SYSTEM (FICS) CHECK OUTCOME<sup>2</sup></b>	
		<b>Firearm Purchase Proceed</b>	<b>Firearm Purchase Denial</b>
<b>NICS-ONLY CHECK OUTCOME<sup>1</sup></b>	<b>Firearm Purchase Proceed</b>	- No record found - Record found not prohibiting <sup>3</sup>	<u>Hit on prohibiting OR record not in NICS<sup>4</sup>:</u> - OR CCH - OR Wants/Warrants - OR Protection Orders - OR Mental Health - State and Federal Stolen Gun Files - OR Motor Vehicles <sup>5</sup> - OR DOC Parole and Probation <u>Hit on prohibiting record not in NICS:</u> - State of resident CCH for out of state purchaser <u>OR statute/policy regarding:</u> - DVM conviction; relationship not a prohibitor in Lautenberg Amendment <sup>6</sup> - Arrest for military desertion <sup>7</sup>
	<b>Firearm Purchase Denial</b>	- DVM arrest/conviction for lesser offense; relationship a prohibitor in Lautenberg Amendment <sup>6</sup>	- Records with federal prohibitors <sup>3</sup> - DVM conviction; relationship a prohibitor in Lautenberg Amendment <sup>6</sup>

Notes:

1. If a potentially prohibiting record is found and 3 business days have elapsed with the status not determined, FBI designates the transaction as "unresolved", in which case the FFL may proceed the sale at its discretion. NICS continues to research unresolved transactions after the third business day.
2. If a FICS check cannot be resolved in 30 minutes, the FFL is notified when FICS will call back with a response. The time can range from one day to one week. If FICS cannot resolve it within one week, they will extend it again. In the unlikely case that FICS cannot resolve it, the sale may proceed. FICS refers to such transactions as "pending".
3. In most cases, the FBI and the states interpret the nine categories prohibiting an individual from purchasing a firearm -- as legislated in the Gun Control Act -- similarly. However, in some instances, their interpretations of the law differ. See Notes 6 and 7.
4. NICS (National Instant Criminal Background Check System) refers to the federal files accessed by Point-of-Contact (POC) states and FBI during a firearm eligibility check; namely, the NICS Index, III and NCIC.
5. FICS checks the Motor Vehicles files when the identity of the buyer is in question.
6. FICS denies on all domestic violence misdemeanor (DVM) convictions; FICS approves DVM arrests resulting in a conviction for a lesser offense (e.g., charge was amended by prosecutor or pled down to simple assault). FBI denies on all DVM arrests resulting in a conviction -- whether it's a DVM conviction or a conviction for a lesser offense -- in situations where the victim/perpetrator relationship is a prohibitor in Lautenberg Amendment.
7. FICS denies on any arrest for military desertion since it could be a precursor to a dishonorable discharge; FBI does not.

### Exhibit 2-7 Transaction Data File Formats

Field Description	Field Format		
	Georgia POC	Oregon POC	NICS
State	GA	OR	GA/OR
State Transaction Number	XXXXXXXX	02XXXXXXXX	--
Original NICS Transaction Number	YYYYYYYY	YYYYYYYY	YYYYYYYY
New NICS Transaction Number	--	--	ZZZZZZ
Date of Call (for NICS, Date Check Initiated)	mmdd	mmdd	mmdd
Time of Call (for NICS, Time Check Initiated)	hhmm	hhmm	hhmm
Type of Purchase	1 = Handgun 2 = Long Gun 3 = Both	1 = Handgun 2 = Long Gun 3 = Both	--
Purchaser's Year of Birth	yy	yy	--
Purchaser's Gender	1 = Male 2 = Female	1 = Male 2 = Female	--
Outcome	1 = Immediate Proceed 2 = Proceed After Research 3 = Open Arrest Denial 4 = Other Denial	1 = Proceed 2 = Denial 3 = Pend	1 = Immediate Proceed 2 = Proceed After Research 3 = Denial 4 = Unresolved
Date of Outcome	mmdd	mmdd	mmdd
FBI III File Hit?	0 = No 1 = Yes	0 = No 1 = Yes	0 = No 1 = Yes
FBI NCIC File Hit?	0 = No 1 = Yes	0 = No 1 = Yes	0 = No 1 = Yes
FBI NICS Index File Hit?	0 = No 1 = Yes	0 = No 1 = Yes	0 = No 1 = Yes
State CCH File Hit?	0 = No 1 = Yes	0 = No 1 = Yes	--
State Wants, Warrants and Restraining Orders File Hit?	0 = No 1 = Yes	0 = No 1 = Yes	--
State Probation and Parole File Hit?	--	0 = No 1 = Yes	--
State Mental Health File Hit?	0 = No 1 = Yes	0 = No 1 = Yes	--
State Stolen Guns File Hit?	--	0 = No 1 = Yes	--
Reason for Denial	1 = Felony Conviction 2 = Open Disposition 3 = Felony Warrant 4 = Involuntary Hospitalization 5 = Family Violence Conviction 6 = Open Family Violence Conviction 7 = Forcible felon 8 = Non-Felony Warrant C = Controlled Substance D = Mental Defective E = Illegal Alien F = Dishonorable Discharge G = Citizen Renounced H = Restraining Order I = Denied Person File J = U.S. Secret Service Protective File	02 = Convicted of a Felony 03 = Outstanding Felony Warrant 04 = Pre-Trial for Felony Crime 05 = Committed to Mental Health Institution 06 = Found Mentally Ill After 1/90 07 = Assault IV Conviction <sup>1</sup> 08 = Menacing Conviction <sup>1</sup> 09 = Reckless Endangering Conviction <sup>1</sup> 10 = Assault Public Safety Officer Conviction <sup>1</sup> 11 = Intimidation II Conviction <sup>1</sup> 12 = Stolen Gun 13 = Restraining Order 14 = Fugitive from Justice 15 = Probation 16 = Purchaser Cancelled Sale 18 = Convicted of Felony as Juvenile <sup>1</sup> 19 = Dishonorable Discharge 20 = Illegal Alien/Renounced Citizen 21 = No Current Identification 22 = Convicted of Domestic Abuse 23 = Convicted/Acquitted of Felony by Reason of Insanity 24 = Other State's Misdemeanor Disqualifier 25 = Convicted/Acquitted of Disqualifying Misdemeanor by Reason of Insanity	00 = Felony Conviction/Indictment 01 = Fugitive from Justice 02 = Domestic Violence Misdemeanor Conviction 03 = Restraining Order 04 = Illegal Alien 05 = Citizen renunciate 06 = Mental Incompetent 07 = Drug Abuser 08 = Dishonorable Discharge 09 = Denied Person 10 = Other

**Notes:**

1. Applies only to the four years prior to firearm purchase

***Exhibit 2-8 Size of Data Sample by Month***

**Transactions**

		POC State		
		Georgia	Oregon	Total
Month in 2002	March	13,451	11,075	24,526
	April	10,737	10,152	20,889
	May	10,600	8,272	18,872
	Total	34,788	29,499	64,287

**Denials**

POC State		
Georgia	Oregon	Total
516	255	771
553	204	757
458	177	635
1,527	636	2,163

### 3. STUDY FINDINGS

In this section, SDC analyzes the state POC-specific and matched NICS/state POC transaction data, looks at the appeals of denied transactions and considers the relative costs of performing firearm eligibility checks. The section concludes with a summary of SDC's findings.

#### 3.1 State POC Eligibility Check Characteristics

##### Purchaser Demographics

As Exhibit 3-1 shows, while almost 45% of the firearms purchased in Georgia were handguns, in Oregon handguns constituted just over one-third of the firearm purchases. Interestingly, handguns are even more prevalent among Georgia's denials than among all transactions, but in Oregon there is a greater emphasis on long guns among the denials. In both states, denied female purchasers exhibited a marked preference for handguns as compared to their male counterparts. While Oregon denies both males and females at approximately the same rate, in Georgia the rate of denials for males (4.6%) is almost 40% higher than that for females (3.3%).

The ages of Georgia firearm purchasers range from 18, the minimum age permitted nationally for a long gun, to 100 with a median age of 38. Similarly, the Oregon firearm purchasers range in age from 18 to 77 with a median age of 39. According to Exhibit 3-2, in Georgia more handgun purchasers are in their twenties than in the other age groups; this tendency is even more pronounced among the denied purchasers in both Georgia and Oregon. Looking at ages 21 and above, the range in which handgun purchases are permitted under federal law, Georgia's highest handgun denial rate (6.2%) is in the 21 to 30 category and overall, the highest rate (4.9%) occurs in the 21 to 30 and 41 to 50 categories. Likewise, in Oregon, handgun purchasers ages 21 to 30 were denied at the highest rate (3.2%) which is 78% above the overall rate (1.8%) of handgun denials.

##### Hits on Federal and State Files

Exhibit 3-3 describes the frequency of hits on the three sets of files searched in a NICS background check for the original Georgia and Oregon POC checks. It should be stated that Georgia only described a return from a searched file as a "hit" when it required some type of further research to determine whether it would be disqualifying. Thus, in comparison with Oregon, the Georgia hit frequencies can only be stated as being *greater than* or *less than* some threshold.

As one might expect, hits on III (i.e., the FBI's criminal history database) dominate hits on NCIC (i.e., primarily warrants and protection orders) and hits on the NICS Index (i.e., an amalgam of other files including denied persons, illegal aliens, mental defectives, and controlled substance abusers). Hits on NCIC and the NICS Index were infrequent; 2.5% and 0.8% of all transactions, respectively, in Oregon; and at least 2.2% and 0.5% in

Georgia, respectively<sup>12</sup>. Overall, the chances of the background check on a prospective Oregon purchaser resulting in a hit on at least one of the NICS files is 28.3%; the comparable Georgia statistic is at least 23.5%. Since Brady requires that NICS checks be performed on all prospective firearm purchasers, whether the state is a POC or non-POC, we would infer that at least one in four background checks results in a hit on one of the NICS files. In fact, according to NICS, approximately 29% of the NICS checks performed are “delayed”, indicating there had been a hit on one or more of the NICS files [FBI, 2001].

With respect to state files (see Exhibit 3-4), notice the dramatic difference between the frequency of Oregon’s hits on their state computerized criminal history (CCH) system (60.5%) and the frequency of Oregon hits on III (26.8%) in Exhibit 3-3. Is this because the majority of Oregon’s gun purchasers have a state criminal record? No, the reason for the difference is that the Oregon POC has chosen to “cast a wide net” and has designed their name search algorithm accordingly so that there is a greater chance of a hit on someone in the state’s criminal history database<sup>13</sup>. Illustratively, this can be accomplished by searching on names that ‘sound like’ the name given to the FFL by the purchaser and/or by turning the date of birth provided by the purchaser into a broad band of dates. While both state POCs check warrants and mental health records, the Oregon POC searches two additional files that Georgia does not. In Oregon, unless explicitly deleted by the court, a sentence of probation automatically carries with it a condition prohibiting firearm possession. Thus, Oregon automatically checks to see if a prospective purchaser is serving a probation sentence. Additionally, Oregon checks every firearm whose transfer is requested against a master stolen gun file. Also, note that during the study’s data collection period (i.e., March – May 2002), Georgia did not have a state protection order file; protection orders were entered in the national protection order file which is part of the FBI’s NCIC. A state file was implemented effective July 1, 2002.

### Reasons for Purchase Denials

For the 1,572 Georgia transactions and 636 Oregon firearm transactions resulting in a denial, the POC transaction data record the reason for the denial. After recoding the reasons for denial contained in the POC data (see Exhibit 2-7) into a “standard” set of reasons, a comparative listing for the two POCs was compiled as it appears in Exhibit 3-5(a). As the table indicates, in Georgia open arrest dominated (63.7%), followed by convicted felon (19.8%) and warrant (8.1%). From a POC’s point of view, a single disqualifier is sufficient. While there may have been more than one disqualifier in a purchaser’s records, only one reason – usually the most compelling – is recorded in Georgia and Oregon. For example, in the case of a prospective purchaser with a felony

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<sup>12</sup> The FBI permits the POC states to elect to have their NCIC responses “filtered” (i.e., to have the search algorithm tightened in order to reduce the number of records returned). Both Georgia and Oregon elected to have their NCIC responses filtered.

<sup>13</sup> Some of these hits are on the easily distinguishable noncriminal records of civilian applicants for employment, occupational licenses or volunteer positions whose fingerprints are commingled with Oregon’s criminal fingerprints.

conviction and an outstanding warrant on his/her record, although both have the same consequence, the stated (i.e., recorded) reason for denial would most probably be the felony conviction. If the denial results in an appeal, all the records are available for review but only a single reason is recorded in the POC transaction database.

In Oregon, convicted felon is the most prevalent reason for denial (37.7%) followed by state disqualifier (26.1%) and other (13.5%). Oregon's state disqualifiers, which supplement the nine federal disqualifiers, include the five categories of: misdemeanors; probation conditions; acquittals by reason of insanity; other states' misdemeanor disqualifiers; and a miscellaneous category (i.e., stolen guns, transactions cancelled by the purchaser and situations where the identification presented by the purchaser to the FFL is not currently valid). Exhibit 3-5(b) shows that when Georgia's open arrests and Oregon's state disqualifiers are excluded from the list, the reasons for denial are more comparable in frequency of occurrence. For example, convicted felon accounts for 54.7% and 51.1% of the denials in Georgia and Oregon, respectively.

Exhibit 3-6 examines for Oregon the frequencies of occurrence of the various reasons for denial according to the files that were hit when the background check was performed. Clearly, for denied purchasers who experienced a hit on a criminal history database (i.e., FBI's III or Oregon's CCH) the stated reason for the denial is highly likely to be a felony or misdemeanor conviction. Similarly, for hits on the FBI's NCIC or Oregon's warrants/restraining orders file, the reason for denial was likely to be fugitive from justice or restraining order. It is of interest that of the denied persons whose eligibility checks resulted in a hit on Oregon's stolen gun file, 40% were denied for a felony conviction. Perhaps these particular stolen guns were purchased from FFLs specializing in used firearms (e.g., pawn shops) which might attract higher-risk purchasers. The fact that Georgia's 'hits' refer only to transactions requiring follow-up, precludes a comparison with Oregon's data.

#### Aggregate Eligibility Check Outcomes

Exhibit 3-7(a) summarizes the outcomes of the background checks performed by Georgia, Oregon and NICS for which SDC received transaction data. Georgia and Oregon furnished SDC with three months of data but, for the reasons noted earlier, NICS provided SDC with data for two months. Recall also that NICS performed its dual checks only on transactions that resulted in a hit on one of the three NICS databases; this agreed-upon procedure eliminated from their consideration transactions that would have produced no such hit (i.e., transactions that NICS would have immediately proceeded). For the sake of comparison, SDC inferred the immediate proceeds from the NICS and state POC data sets, as described in Section 3.2.

Georgia's and NICS's data distinguish between transactions that resulted in an immediate proceed (i.e., there were no hits to research or it was immediately obvious that the hit(s) were either not regarding the prospective purchaser or not disqualifying) and those that were proceeded after research; Oregon's do not. In fact, 68.5% of Georgia's proceeds and 64.3% of NICS's were immediate. The Oregon data did not make the same distinction. With respect to denials, Georgia's data are categorized as open arrest denials

and all other denials. The NICS data reveal a denial rate of exactly 2.0% which is consistent with the 2% reported by NICS in their 2000 annual report [FBI, 2001].

Given that the state POCs have access to state and/or local files that, at least presently, are not shared with NICS, one might ask what value do these state-only data files add to the overall efficacy of firearm eligibility checks? In response to this critical question, consider the following table, which decomposes the 636 Oregon denials into the four possible combinations of NICS and state file hits: (i) no hits; (ii) hits on NICS files only; (iii) hits on state files only; and (iv) hits on both.

		Oregon State File Hit for Transactions Denied by Oregon?		
		No	Yes	Row Total
		Number % of Total	Number % of Total	Number % of Total
NICS File Hit for Transactions Denied by Oregon?	No	19 3.0%	74 11.6%	93 14.6%
	Yes	68 10.7%	475 74.7%	543 85.4%
	Column Total	87 13.7%	549 86.3%	636 100.0%

Note that a denial is possible in Oregon, absent a hit on any files. Two possible reasons for the 19 denials in this category are the sale was cancelled by the purchaser or the purchaser did not possess current identification, such as a valid driver’s license. Out of the 636 denied transactions, there were 74 (11.6%) for which there were hits on state files but no NICS hits. Thus, we can place a lower bound on the Oregon state POC’s contribution to overall firearm eligibility check efficacy; that is, these 74 denials were exclusively due to a POC action based on state or local files. Assuming that NICS would have located information justifying the denial of the remaining 543 (85.4%), the *value added* by Oregon’s POC is *at least*  $(74/543) \times 100 = 13.6\%$ ! Unfortunately, a similar analysis cannot be undertaken for the Georgia data, since Georgia did not provide all the hits for each transaction.

In addition to proceeds and denials, there are two other outcome categories. The Oregon POC has an operational procedure for which there is no statutory authority where they refer to the outcome of the transaction as a “pend”. If a background check cannot be resolved in 30 minutes, the FFL is notified when the POC will call back with a response. The time can range from one day to one week. If the POC is unable to resolve the transaction within one week, they will extend it again. While in the unlikely event that the POC cannot resolve it, the sale may legally proceed, Oregon FFLs do not sell firearms in the case of pend transactions. As Exhibit 3-7(a) shows, only one tenth of one percent of Oregon’s outcomes are in the pend category.

The “unresolved” outcome occurs if NICS, by federal law, cannot resolve a transaction in three business days (e.g., they have yet to locate a missing disposition), in which case the

FFL is not prohibited from transferring the firearm under the Brady Act. Originally, NICS had referred to such a transaction as a “default proceed” but subsequently changed the designation to “unresolved”, which more appropriately describes the status of the check. While the FFL has the authority to transfer the firearm, it may elect not to do so when the background check’s status is unresolved. For some FFLs, including several national chain stores, corporate policy precludes the transfer of a firearm under unresolved circumstances. Of the POC transactions for which NICS performed dual checks, 6.7% were reported as unresolved. It must be recognized that in the study’s simulated setting, NICS was not always able to fully commit the three business days to researching unresolved transactions that they would otherwise have devoted to checks actually performed for non-POC states. Thus, the fraction of unresolved cases is probably higher than it would be were NICS legally responsible for performing the POC checks.

Inasmuch as the FBI data were limited to April and May, 2002, the state POC and NICS transactions could only be matched for those two months resulting in a matched set of 39,673 transactions. For a variety of reasons, including date errors, duplicate transactions, etc., a small fraction (i.e., less than 1%) of the 39,761 NICS transactions could not be matched to their state POC counterparts. Exhibit 3-7(b) summarizes the outcomes for the matched data which, with minor variation, mirror the outcomes for all transactions. Section 3.2, which follows, focuses exclusively on the matched data.

### **3.2 NICS Versus State POC Eligibility Check Outcomes: Matched Data**

This section compares the outcomes of the firearm purchase eligibility checks performed by the Georgia and Oregon POCs with the dual checks performed by NICS.

Prior to discussing the outcomes, the following caveats and comments must be stated:

1. As noted earlier, the issue of replicated transactions confounded the process of matching POC transactions with their NICS counterparts resulting in the loss of matched transactions for the month of March. Thus, the outcomes can only be compared for the 2-month period, April – May, 2002.
2. Despite the fact that data collection was to have taken place in NICS’s “slow” period, they were still extremely busy during March, April and May. That fact, coupled with unraveling the replications problem, caused NICS to perform the follow-up research often weeks after they had originally been performed by the POCs. Due to the time lag, a sale proceeded by one of the POCs could have been denied by NICS (e.g., the purchaser may have been convicted of a felony in the interim); on the other hand, while less likely, a POC denial could have been reversed in the interim.
3. Inasmuch as NICS was to check only transactions that resulted in hits on one or more of the three databases checked by NICS, SDC had no information regarding transactions they would have immediately proceeded. Thus, in order to include

these important transactions in the outcome matrices, SDC *inferred* them, as explained below.

4. Because of items 2 and 3, by the time SDC had received and analyzed three months worth of data, NICS was legally unable to retain their records of the study any longer. This made it difficult, if not impossible, to re-check the data; in particular, to confirm that selected POC transactions were correctly matched with their corresponding NICS checks. For this reason, SDC has been cautious about making definitive statements about the somewhat abbreviated data sets.

#### NICS Versus Georgia POC Outcomes

Of the 21,337 April/May transactions provided to SDC by the Georgia POC (see Exhibit 2-8), 8,681 transactions were matched with those furnished by NICS. As item 3 above states, these matches did not include the transactions that NICS would have immediately proceeded, had they been responsible for the checks. To infer these, SDC looked for transactions that were in the Georgia data but not in the NICS data which, according to Georgia, evidenced no NICS hits and identified the following such *NICS Immediate Proceed* cases:

<u>Georgia POC Outcome</u>	<u>Number</u>
Immediate Proceed	11,262
Proceed After Research	1,289
Open Arrest Denial	17
Other Denial	<u>17</u>
Total	12,585

Thus, the total number of transactions in the Georgia POC vs. NICS outcome matrix in Exhibit 3-8 is  $8,681 + 12,585 = 21,266$ . The small discrepancy between this number and Georgia's 21,337 reported April/May transactions (i.e., 71 or 0.3%) is probably due to erroneous data or duplicated transactions.

Looking at the first row in Exhibit 3-8, it can be seen that of the 12,604 transactions that NICS immediately proceeded, Georgia denied 18 (0.1%) on open arrests and another 19 (0.1%) outright. The 19 could be attributable to the presence of information in Georgia's state files not available to NICS or, perhaps, previously disqualifying information being revised in the interim period between the POC and NICS checks. Similarly, of the 6,489 transactions NICS proceeded after research (i.e., row 2), Georgia denied 98 (1.5%) based on open arrests (which, as noted earlier, would not have been a reason for NICS denials since it is neither a statutory requirement nor consistent with federal policy and thus not recognized by NICS) and another 61 (0.9%) outright. Again, there may have been local information available to Georgia and not to NICS or there could have been revisions to disqualifying records; also, it is possible that Georgia's outright denial of the 61

transactions was predicated on differing interpretations or procedures. For example, if the purchaser had been convicted of a domestic violence misdemeanor but the perpetrator/victim relationship was not a disqualifying one under the Lautenberg Amendment (e.g., the victim was, say, the perpetrator's sibling), NICS would have proceeded the transaction that Georgia would have denied.

Of the 592 transactions NICS denied (i.e., row 3), Georgia immediately proceeded 28 (4.7%) and proceeded 225 (38.0%) after research. There are at least two known situations in which this difference in outcomes would arise: (i) when the purchaser became disqualified in the interim between the POC and NICS checks and (ii) where the purchaser had been arrested for a domestic violence misdemeanor and convicted for a lesser offense (e.g., a spousal assault charge was reduced to disturbing the peace). To be thorough, it is also possible that Georgia could have researched a III record with a firearm disqualification flag, found no prohibitors, but did not update the record or remove the flag. It is NICS's policy to deny automatically on such flags with no research. Nevertheless, it is difficult to conceive of such a large fraction of the NICS denials falling into these categories. In regard to the 1,581 unresolved transactions (i.e., row 4), unfortunately NICS did not pursue them beyond an initial determination that there was insufficient information (e.g., a missing disposition) on which to base a proceed or denial; had these originated in non-POC states, NICS would have devoted *at least* three business days to their resolution.

#### NICS Versus Oregon POC Outcomes

Of the 18,424 April/May transactions provided to SDC by the Oregon POC (see Exhibit 2-8), 5,270 transactions were matched with those furnished by NICS. As item 3 above states, these matches did not include the transactions that NICS would have immediately proceeded, had they been responsible for the checks. To infer these, SDC looked for transactions that were in the Oregon data but not in the NICS data which, according to Oregon, evidenced no NICS hits and identified the following such *NICS Immediate Proceed* cases:

<u>Oregon POC Outcome</u>	<u>Number</u>
Proceed	13,087
Denial	<u>50</u>
Total	13,137

Thus, the total number of transactions in the Oregon POC vs. NICS outcome matrix in Exhibit 3-9 is  $5,270 + 13,137 = 18,407$ . The small discrepancy between this number and Oregon's 18,424 reported April/May transactions (i.e., 17 or 0.5%) is probably due to erroneous data or duplicated transactions. Oregon's pend decisions can be ignored because there are so few of them (i.e., 0.1%). Recall that Oregon has no statutory authority for a pend; although FFLs may legally sell the firearm in the case of a pend, in practice they do not.

Of the 13,291 transactions immediately proceeded by NICS (i.e., row 1), Oregon denied 58 (0.4%). In Oregon, it is most likely to occur when there is a hit on one of the state files that are inaccessible to NICS; these include probations, stolen guns and mental health records. Similarly, Oregon denied 74 transactions that NICS proceeded after research (i.e., row 2); this amounts to 1.9% of all NICS's proceeds after research. As in Georgia, some of these may be cases where a prior disqualifying record was updated between the POC and the NICS checks or where a domestic violence misdemeanor conviction did not have a disqualifying Lautenberg relationship between perpetrator and victim. Also, Oregon disqualifies in cases of arrests for military desertion without determining whether the arrestee had been dishonorably discharged; NICS does not. In fact, it is left up to the prospective purchaser to produce evidence that he/she had not been dishonorably discharged.

In row 3 of Exhibit 3-9, it is seen that of the 189 transactions NICS denied, Oregon proceeded 73 (38.6%). Again, NICS denies and Oregon proceeds in cases of an arrest for a domestic violence misdemeanor that results in a conviction for a lesser offense. It is also possible that the purchaser had been convicted of a disqualifying offense some time between the POC and NICS checks. As is the case for Georgia, the 951 unresolved transactions (i.e., row 4) were not pursued further by NICS under the simulated environment of the study.

#### Eligibility Check Outcome Matrix

In Exhibit 3-10, the comparative state POC and NICS eligibility check outcomes are summarized in a single table by aggregating the rows and columns as suggested by Exhibit 2-1. More specifically:

- For NICS and the Georgia POC, Immediate Proceed and Proceed after Research outcomes are merged and labeled "Proceed".
- For Georgia, Open Arrest Denial and Other Denial outcomes are merged and labeled, "Denial".
- Unresolved outcomes are reallocated to the cells of the 2 x 2 matrix by assuming that unresolved transactions proceeded by the state POC would have ultimately been proceeded by NICS (i.e., these are allocated to the NP/SP cell) and those denied by the state POC would ultimately have been denied by NICS (i.e., these are allocated to the ND/SD cell).
- For Georgia, the 360 transactions that were unresolved by NICS and denied on an open arrest by Georgia were allocated to the NP/SD and ND/SD cells in proportion to the fractions of Georgia's 208 (i.e., 18 + 98 + 92) open arrest denials that were proceeded and denied by NICS, respectively.
- For Oregon, the 14 transactions that were unresolved by NICS and pended by Oregon were allocated to the NP/SD and ND/SD cells in proportion to the fractions of Oregon's 10 (i.e., 1 + 8 + 1) pends that were proceeded and denied by NICS, respectively.

As indicated in Section 2.1, Exhibit 3-10 is the primary focus of SDC's effort. There are three sets of findings in Exhibit 3-10. First, the NP/SD outcome states that Georgia and Oregon deny 1.9% and 0.8%, respectively, of the transactions that NICS proceeds. This could be attributable to the presence of information in state files not available to NICS or perhaps, previously disqualifying information being revised in the interim period between the POC and NICS checks. As noted earlier, it is also possible that some of the state POCs' denials were predicated on differing interpretations or procedures. Illustratively, had the purchaser been convicted of a domestic violence misdemeanor when the perpetrator/victim relationship was not a disqualifying one under the Lautenberg Amendment (e.g., the victim was, say, the perpetrator's sibling), NICS would have proceeded the transaction while Georgia and Oregon would have denied it. Oregon also disqualifies in cases of arrests for military desertion without determining whether the arrestee had been dishonorably discharged; NICS does not. In fact, it is left up to the prospective purchaser to produce evidence that he/she had not been dishonorably discharged.

Second, the ND/SP outcome states that Georgia and Oregon proceed 29.4% and 22.5%, respectively, of the transactions that NICS denies. As noted earlier, the difference in outcomes could arise when the purchaser became disqualified in the interim between the POC and NICS checks or when the purchaser had been arrested for a domestic violence misdemeanor but convicted of a lesser offense (e.g., a spousal assault charge was reduced to disturbing the peace).

Third, one should return to the critical question: What value do the POC, or state-only, data files add to the overall efficacy of firearm eligibility checks? Clearly, such files would only add value if they enhance the likelihood of making accurate and timely determinations regarding the eligibility of prospective firearms purchasers. However, in the simulated setting of the study, where NICS was unable to research and resolve the "unresolved" transactions (i.e., as NICS would if they had been actual non-POC state eligibility checks), such a comparison is not possible. Alternatively, one can consider the state-only files to add value if they enhance the likelihood of *denials* to those prospective firearm purchasers who should be denied. (Additionally, one can also consider the state-only files to add value if they enhance the likelihood of proceeds to those prospective firearm purchasers who should proceed – unfortunately, as noted earlier, such an assessment could not be performed because of the simulated setting that focused on those checks with NICS hits.) In other words, the added value, in percent, to non-POC checks by a POC is:

$$[(\text{Total POC Denials} - \text{NICS Denials})/\text{NICS Denials}] \times 100$$

For Georgia, and referring to Exhibit 3-10, the added value is:

$$[(1,006 - 862)/862] \times 100 = 16.7\%$$

For Oregon, and referring to Exhibit 3-10, the added value is:

$$[(396-324)/324] \times 100 = 22.2\%,$$

which, not surprisingly, is consistent with the earlier finding that “the value added by the Oregon POC is at least 13.6%”. Moreover, the consistency of the Georgia and Oregon figures underscores the critical finding that POCs do provide added value to NICS; the averaged Georgia and Oregon results suggest it is **19.5%**.

### **3.3 Appeals of Denied Transactions**

As explained in FBI [2001], codified federal and state appeal procedures grant a prospective firearm purchaser, whose eligibility background check results in a denial, the right to challenge (i.e., appeal) the decision. Most often, denials are appealed either when the denied person claims that he/she is not the person identified in the disqualifying record(s) or that the disqualifying record is incorrect or incomplete. To resolve an identity question, the denied person submits fingerprints which are then checked against federal and/or state fingerprint records. A denial may be reversed if the denied person obtains and submits court records that correct or complete a previously disqualifying record. In non-POC states, or partial POC states with respect to handgun purchases, a denied person appeals directly to NICS. In POC states, a denied person has the option of appealing the denial either to the state POC or to NICS. As a result of the appeal, the initial denial will either be upheld or reversed; of course, in the latter case, the applicant may then purchase the firearm.

As Exhibit 3-11 shows, from November 30, 1998 (the day NICS commenced operations) through October 11, 2002, NICS issued a total of 258,542 denials; 25.6% of which were in partial POC states. Of these denials, 34,017 (13.2%) were appealed, of which 9,456 were reversed, a rate of 27.8%. With regard to appeals of state POC denials, in the same time period, NICS received 1,866 – constituting 5.2% of all appeals to NICS – which resulted in 1,035 (55.5%) reversals. Note that 80 and 707 of those appeals were received from Georgia and Oregon, respectively, with corresponding reversal rates of 62.5% and 24.8%.

In sharp contrast to NICS’s 13.2% rate of appeals, Oregon’s denials are appealed at a rate of 43.8% of which only 10.8% are reversed. Georgia’s official appeals process entails petitioning the Superior Court of jurisdiction; surprisingly, according to the Georgia POC, they have yet to receive a single official appeal! Rather, denied persons contact the POC who review the denial decisions “as a service to Georgia’s citizens”. Unfortunately, the Georgia POC has neither kept records of the numbers of such contacts nor of the ensuing “appeal” decisions. The only related figures they could provide were of open arrest denials that had been reversed when missing dispositions were retrieved, thus accounting for the relatively high number of reversals.

Another observation regarding Exhibit 3-11 should be noted; the finding that Exhibit 3-11’s denial rates for Georgia (4.8%) and Oregon (2.4%) are quite consistent with Exhibit 3-10’s rates of 4.7% and 2.2%, respectively, underscores the fact that the two months’ worth of data are an excellent and representative sample of almost four years’ worth of data, at least in regard to denials.

### 3.4 Check Costs

Exhibit 3-12 identifies the costs incurred by NICS and the Georgia and Oregon POCs in the conduct of firearm eligibility background checks. While the federal and state fiscal years differ, the agencies were asked to provide their cost information for the two fiscal years, FY 2000 and FY 2001, on the assumption that the data would be more readily available. Also, they were asked to break down their personnel and non-personnel costs according to the line item categories identified in the exhibit. For the most part, they were able to provide the requested breakdowns but not in all cases; for example, the Oregon POC was unable to segregate its materials and supplies expenses. Expectedly, the scale of the NICS operation dwarfs that of either POC. One also notices the disparity between the fractions of Georgia's and Oregon's costs in the non-personnel category; i.e., 60.9% versus 23.6% in FY 2001. This is due to the contractual/consulting line item which, for Georgia, includes (i) the POC's contracted call center staff, (ii) reimbursements of \$1.95 per transaction to those FFLs using a point-of-service (POS) system to enter their transactions and (iii) a monthly terminal maintenance fee paid to the POS vendor.

As indicated earlier, the NICS costs actually cover two components:<sup>14</sup> (i) the *common* costs – including the automated system check cost – which should be the same for either a POC or non-POC check; and (ii) the cost of the follow-up research conducted by NICS's FBI staff for the non-POC hits on their three databases. In this simple two component model, SDC would include hardware, software, networking, training, auditing, etc. costs that pertain to both POC and non-POC checks as being part of the common component; while including telecommunications, personnel, materials, contractual, etc. costs that pertain to non-POC activities as being part of the follow-up research component. Unfortunately, NICS does not have its costs broken down by these two components. Instead, Exhibit 3-13 attempts to show this breakdown by averaging the two years worth of data and in terms of a parameter *S*, which is defined as the percent of the total cost that pertains to the common component of cost. The cost per non-POC check would, of course, be the sum of the common and follow-up research costs.

Similarly, Exhibit 3-14 attempts to find the total cost per POC check, also by averaging the two years worth of data and in terms of the parameter *S*. In this case, the cost per POC check would be the sum of the state check and the NICS common costs. The state cost per POC check is computed to be \$6.94 for Georgia and \$8.73 for Oregon. Recognizing that the Oregon POC checks a greater number of files than does Georgia and that their state criminal history check, by its design, casts a wider net, one might expect Oregon's per transaction cost to be larger.

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<sup>14</sup> It must be recognized that the NICS budget provides for the services they furnish to the POC states. It includes the costs of maintaining the NICS Index, processing appeals from the POC states, performing background checks for them should they experience technical difficulties with their state systems, and performing research that is shared with the POC states.

Having identified the state cost per POC check enables us to develop some insightful national estimates. For example, what would be the cost of underwriting the expense of the FFL fees in all the POC states? According to a recent BJS publication [REJIS, September 2002], in 2001 there were 7,958,000 firearm purchase applications processed nationwide. Subtracting the 4,292,000 processed by NICS on behalf of the non-POC states, leaves 3.7 million applications processed by the POC states. The average of the FY 2001 Georgia and Oregon costs is  $(\$6.94 + \$8.73)/2 = \$7.84$ . Consequently, an estimate of the annual cost of eliminating the FFL fees for background checks in the POC states is  $3.7 \text{ million} * \$7.84 = \$29 \text{ million}$ . While this is an approximation at best (i.e., the \$7.84 average is based on only two POC states), it does suggest what the total cost might be.

With respect to revenues, NICS is precluded from charging a fee for its firearm background inquiries. On the other hand, Georgia and Oregon are both permitted to charge a transaction fee (i.e., per individual, not per firearm) within certain statutory limits. As the Exhibit 3-14 shows, the average charge is \$5.00 for Georgia and \$9.58 for Oregon during FY 2000 and FY 2001.

Based on the formulas contained in Exhibits 3-13 and 3-14, the costs per POC and non-POC check are illustrated in Exhibit 3-15. As expected, as S (the percent of total NICS cost pertaining to costs common to both POC and non-POC checks) increases, the non-POC cost per check decreases while the comparable POC cost increases; interestingly, because of the cost data, the two costs are comparable at \$12 when  $S = 50\%$ .

However, there remains the goal of determining the cost-benefit of POC versus non-POC checks. Actually, given that the “added benefit” of POC versus non-POC checks has been determined in Section 3.2 to be 19.5%, it is straightforward to determine an “added benefit-cost percent” of POC versus non-POC checks; more specifically,

$$\text{Added Benefit-Cost Percent} = \frac{\text{Added Benefit (in \%)} \text{ or } 19.5\%}{(\text{POC Cost per Check}) / (\text{Non-POC Cost per Check})}$$

The above relationship is plotted in Exhibit 3-16. Again, as expected, the added benefit-cost percent decreases as S increases; however, it is important to note that there is always an added benefit-cost for POC versus non-POC – it is about 10% even when  $S = 100\%$ .

Finally, for purposes of illustration, if it can be assumed that  $S = 25\%$ , then:

● Two-Year Average:	
Non-POC Cost	\$13.98
Georgia POC Cost	\$8.89
Oregon POC Cost	\$10.69
Average POC Cost	\$9.79
● Added Benefit Percent:	19.5%
● Added Benefit-Cost Percent:	27.8%
● Two-Year Average Billed FFL Fee per Check:	
Georgia	\$5.00
Oregon	\$9.58
● "Over" ("Under") Billing:	
Georgia	(\$3.90)
Oregon	(\$1.11)

### 3.5 Summary of Findings

The key findings of the study are summarized herein while the study's recommendations are presented in Section 4.

- A fraction – possibly a substantial fraction – of the firearm eligibility checks submitted by the state POCs to NICS replicate previously submitted checks regarding the same purchase transaction, as also noted by REJIS [2002]. In Georgia and Oregon, the average numbers of checks submitted per transaction are 1.6 and 1.1, respectively. It is clear that the problem applies to many, if not all POC states, and that in some cases the replications may be deliberate and rooted in POC procedures. For example, California intentionally resubmits names in changed orders to reduce the chances of missing a record. The reasons for the replications in Georgia and Oregon are primarily software, hardware and systems problems. Sometimes it is necessary for NICS to contact POC states to ascertain the status of a previously generated transaction. To respond, some states run another NICS check thereby generating another NTN (i.e., a replication). Importantly, the replications phenomenon could result in the understatement of denial rates.
- Interestingly, with regard to buyer demographics, in both Georgia and Oregon, denied female purchasers exhibited a marked preference for handguns as compared to their male counterparts.

- By broadening their name search algorithm, the Oregon POC casts a very wide net when checking the names of prospective firearm purchasers against their CCH. As a result, their transactions result in hits on one or more state files for more than 70% of all purchase applicants. Of course, Oregon must expend the additional person-effort required to follow-up on these hits. This is in sharp contrast to the less than 30% of Oregon's transactions resulting in hits on one or more of the NICS files.
- While the average rate at which denials that are appealed to NICS are reversed is consistently around 28% across non-POC and partial-POC states, denials appealed to Oregon are reversed less than 11% of the time. According to Georgia, there has never been a formal appeal of a denial filed, perhaps because of the court-based requirements; rather, the Georgia POC handles them informally and a relatively large number of reversals occur, especially for open arrests which later result in non-prohibiting convictions.
- State POCs add value to the overall efficacy of firearm eligibility checks; it is estimated that POCs are able to increase deniability by 19.5%, in comparison to non-POC denials. This added benefit percent is significant and consistent with other observations and findings.
- The costs of performing firearm eligibility background checks across the two state POCs and the non-POC states are derived in terms of a parameter  $S$ , the percent of total NICS costs that pertain to automated system checks of the three NICS databases. Given these costs, one can also determine an added benefit-cost percent, assuming an added benefit percent of 19.5%.
- For example, assuming a plausible  $S$  of 25%, the added benefit-cost percent is 27.8%, thus justifying the maintenance of POCs.

*Exhibit 3-1 Purchase Type by Purchaser's Gender*

**Georgia Transactions**

	Purchase Type			
	Handgun	Long Gun	Both	Overall
<b>Male</b> (N = 29,268)	44.1%	54.4%	1.5%	<b>100%</b>
<b>Female</b> (N = 5,520)	48.5%	50.1%	1.5%	<b>100%</b>
<b>Overall</b> (N = 34,788)	<b>44.8%</b>	<b>53.7%</b>	<b>1.5%</b>	<b>100%</b>

**Georgia Denials**

	Purchase Type			
	Handgun	Long Gun	Both	Overall
<b>Male</b> (N = 1,344)	54.8%	43.2%	1.9%	<b>100%</b>
<b>Female</b> (N = 183)	63.9%	34.4%	1.6%	<b>100%</b>
<b>Overall</b> (N = 1,527)	<b>55.9%</b>	<b>42.2%</b>	<b>1.9%</b>	<b>100%</b>

**Georgia Denial Rates**

	Purchase Type			
	Handgun	Long Gun	Both	Overall
<b>Male</b>	5.7%	3.6%	6.1%	<b>4.6%</b>
<b>Female</b>	4.4%	2.3%	3.7%	<b>3.3%</b>
<b>Overall</b>	<b>5.5%</b>	<b>3.4%</b>	<b>5.7%</b>	<b>4.4%</b>

**Oregon Transactions**

	Purchase Type			
	Handgun	Long Gun	Both	Overall
<b>Male</b> (N = 26,175)	35.5%	62.7%	1.8%	<b>100%</b>
<b>Female</b> (N = 3,324)	33.7%	63.6%	2.7%	<b>100%</b>
<b>Overall</b> (N = 29,499)	<b>35.3%</b>	<b>62.8%</b>	<b>1.9%</b>	<b>100%</b>

**Oregon Denials**

	Purchase Type			
	Handgun	Long Gun	Both	Overall
<b>Male</b> (N = 560)	29.1%	69.1%	1.8%	<b>100%</b>
<b>Female</b> (N = 76)	35.5%	60.5%	3.9%	<b>100%</b>
<b>Overall</b> (N = 636)	<b>29.9%</b>	<b>68.1%</b>	<b>2.0%</b>	<b>100%</b>

**Oregon Denial Rates**

	Purchase Type			
	Handgun	Long Gun	Both	Overall
<b>Male</b>	1.8%	2.4%	2.1%	<b>2.1%</b>
<b>Female</b>	2.4%	2.2%	3.4%	<b>2.3%</b>
<b>Overall</b>	<b>1.8%</b>	<b>2.3%</b>	<b>2.3%</b>	<b>2.2%</b>

**Exhibit 3-2 Purchase Type by Purchaser's Age**

**Georgia Transactions**

		Purchase Type			
		Handgun (N = 15,583)	Long Gun (N = 18,696)	Both (N = 509)	Overall (N = 34,788)
Purchaser's Age	Under 21	0.0%	3.8%	0.0%	2.0%
	21 to 30	36.3%	20.9%	19.3%	27.8%
	31 to 40	25.8%	27.6%	27.5%	26.8%
	41 to 50	19.7%	24.6%	27.7%	22.4%
	51 to 60	12.4%	15.7%	17.5%	14.2%
	Over 60	5.9%	7.4%	8.1%	6.7%
	Overall	100%	100%	100%	100%

**Georgia Denials**

		Purchase Type			
		Handgun (N = 854)	Long Gun (N = 644)	Both (N = 29)	Overall (N = 1,527)
Purchaser's Age	Under 21	0.0%	3.7%	0.0%	1.6%
	21 to 30	41.2%	16.9%	31.0%	30.8%
	31 to 40	25.4%	25.8%	27.6%	25.6%
	41 to 50	20.8%	29.8%	31.0%	24.8%
	51 to 60	9.0%	16.5%	10.3%	12.2%
	Over 60	3.5%	7.3%	0.0%	5.0%
	Overall	100%	100%	100%	100%

**Georgia Denial Rates**

		Purchase Type			
		Handgun	Long Gun	Both	Overall
Purchaser's Age	Under 21	0.0%	3.4%	0.0%	3.4%
	21 to 30	6.2%	2.8%	9.2%	4.9%
	31 to 40	5.4%	3.2%	5.7%	4.2%
	41 to 50	5.8%	4.2%	6.4%	4.9%
	51 to 60	4.0%	3.6%	3.4%	3.8%
	Over 60	3.3%	3.4%	0.0%	3.3%
	Overall	5.5%	3.4%	5.7%	4.4%

**Oregon Transactions**

		Purchase Type			
		Handgun (N = 10,406)	Long Gun (N = 18,536)	Both (N = 557)	Overall (N = 29,499)
Purchaser's Age	Under 21	0.0%	3.3%	0.0%	2.0%
	21 to 30	21.7%	16.6%	13.1%	18.3%
	31 to 40	20.0%	22.2%	25.1%	21.5%
	41 to 50	23.2%	24.8%	25.7%	24.2%
	51 to 60	21.6%	20.1%	25.9%	20.7%
	Over 60	13.5%	13.1%	10.2%	13.2%
	Overall	100%	100%	100%	100%

**Oregon Denials**

		Purchase Type			
		Handgun (N = 190)	Long Gun (N = 433)	Both (N = 13)	Overall (N = 636)
Purchaser's Age	Under 21	0.0%	5.3%	0.0%	3.6%
	21 to 30	37.9%	21.0%	0.0%	25.6%
	31 to 40	22.1%	27.3%	38.5%	25.9%
	41 to 50	22.1%	27.0%	46.2%	25.9%
	51 to 60	12.6%	12.2%	15.4%	12.4%
	Over 60	5.3%	7.2%	0.0%	6.4%
	Overall	100%	100%	100%	100%

**Oregon Denial Rates**

		Purchase Type			
		Handgun	Long Gun	Both	Overall
Purchaser's Age	Under 21	0.0%	3.8%	0.0%	3.8%
	21 to 30	3.2%	3.0%	0.0%	3.0%
	31 to 40	2.0%	2.9%	3.6%	2.6%
	41 to 50	1.7%	2.5%	4.2%	2.3%
	51 to 60	1.1%	1.4%	1.4%	1.3%
	Over 60	0.7%	1.3%	0.0%	1.1%
	Overall	1.8%	2.3%	2.3%	2.2%

**Exhibit 3-3 Hits on NICS Files**

**Georgia**

**Oregon**

		Transactions (N = 34,788)
<b>III Hit?</b>	<b>No</b>	< 78.0%
	<b>Yes</b>	> 22.0%
	<b>Overall</b>	100%

		Transactions (N = 29,499)
<b>No</b>		73.2%
<b>Yes</b>		26.8%
<b>Overall</b>		100%

		Transactions (N = 34,788)
<b>NCIC Hit?</b>	<b>No</b>	< 97.8%
	<b>Yes</b>	> 2.2%
	<b>Overall</b>	100%

		Transactions (N = 29,499)
<b>No</b>		97.5%
<b>Yes</b>		2.5%
<b>Overall</b>		100%

		Transactions (N = 34,742)
<b>NICS Index Hit?</b>	<b>No</b>	< 99.5%
	<b>Yes</b>	> 0.5%
	<b>Overall</b>	100%

		Transactions (N = 29,499)
<b>No</b>		99.2%
<b>Yes</b>		0.8%
<b>Overall</b>		100%

		Transactions (N = 34,743)
<b>Any NICS Hit?</b>	<b>No</b>	< 76.5%
	<b>Yes</b>	> 23.5%
	<b>Overall</b>	100%

		Transactions (N = 29,499)
<b>No</b>		71.7%
<b>Yes</b>		28.3%
<b>Overall</b>		100%

*Exhibit 3-4 Hits on State Files*

**Georgia**

		Transactions (N = 34,788)
<b>CCH Hit?</b>	No	< 90.6%
	Yes	> 9.4%
	Overall	100%

		Transactions (N = 34,788)
<b>Warrant Hit?</b>	No	< 91.3%
	Yes	> 8.7%
	Overall	100%

		Transactions (N = 34,742)
<b>Mental Health Hit?</b>	No	< 98.8%
	Yes	> 1.2%
	Overall	100%

		Transactions (N = 34,743)
<b>Any State Hit?</b>	No	< 82.7%
	Yes	> 17.3%
	Overall	100%

**Oregon**

		Transactions (N = 29,499)
<b>CCH Hit?</b>	No	39.5%
	Yes	60.5%
	Overall	100%

		Transactions (N = 29,499)
<b>Warrant/Restraining Order Hit?</b>	No	63.3%
	Yes	36.7%
	Overall	100%

		Transactions (N = 29,499)
<b>Mental Health Hit?</b>	No	99.1%
	Yes	0.9%
	Overall	100%

		Transactions (N = 29,499)
<b>Probation Hit?</b>	No	72.2%
	Yes	27.8%
	Overall	100%

		Transactions (N = 29,499)
<b>Stolen Gun Hit?</b>	No	86.6%
	Yes	13.4%
	Overall	100%

		Transactions (N = 29,499)
<b>Any State Hit?</b>	No	28.4%
	Yes	71.6%
	Overall	100%

**Exhibit 3-5 Reasons for Denials**

<b>All Reasons for Denial</b>	<b>Georgia (N = 1,527)</b>	<b>Oregon (N = 636)</b>
Convicted Felon	19.8%	37.7%
Fugitive from Justice	8.1%	9.4%
Domestic Violence Misdemeanor Conviction	5.0%	4.4%
Restraining Order	0.3%	4.6%
Illegal Alien/Citizen Renunciate	0.9%	1.6%
Mental Incompetent	0.4%	1.1%
Dishonorable Discharge	0.0%	1.6%
Drug Abuser	1.8%	0.0%
Open Arrest	63.7%	--
State Disqualifier	--	26.1%
Other	0.0%	13.5%
Total	100.0%	100.0%

**(a) All Reasons for Denial**

<b>Adjusted Reasons for Denial (excluding GA Open Arrest and OR State Disqualifier)</b>	<b>Georgia (N = 554)</b>	<b>Oregon (N = 470)</b>
Convicted Felon	54.7%	51.1%
Fugitive from Justice	22.2%	12.8%
Domestic Violence Misdemeanor Conviction	13.9%	6.0%
Restraining Order	0.9%	6.2%
Illegal Alien/Citizen Renunciate	2.3%	2.1%
Mental Incompetent	1.1%	1.5%
Dishonorable Discharge	0.0%	2.1%
Drug Abuser	4.9%	0.0%
Other	0.0%	18.3%
Total	100.0%	100.0%

**(b) Adjusted Reasons for Denial**

**Exhibit 3-6 Reasons for Denials by Files Hit: Oregon Data**

Reasons for Denial	Background Check Produces Hit(s) on:																					
	III		NCIC		NICS Index		Any NICS File		State CCH		State Warrants/Restraining		State Probation		State Mental Health		State Stolen Gun		Any State File		Overall	
	#	%	#	%	#	%	#	%	#	%	#	%	#	%	#	%	#	%	#	%	#	%
Convicted/Indicted Felon	208	39.2%	6	11.3%	4	36.4%	208	38.3%	194	38.6%	48	25.1%	128	46.0%	1	11.1%	32	40.0%	206	37.5%	240	37.7%
Fugitive from Justice	49	9.2%	7	13.2%	1	9.1%	51	9.4%	39	7.8%	41	21.5%	18	6.5%	0	0.0%	9	11.3%	49	8.9%	60	9.4%
Domestic Violence Misdemeanant	27	5.1%	0	0.0%	0	0.0%	27	5.0%	23	4.6%	10	5.2%	11	4.0%	0	0.0%	0	0.0%	24	4.4%	28	4.4%
Restraining Order Subject	18	3.4%	26	49.1%	0	0.0%	28	5.2%	24	4.8%	27	14.1%	12	4.3%	0	0.0%	4	5.0%	29	5.3%	29	4.6%
Illegal Alien/Citizen Renunciate	3	0.6%	0	0.0%	3	27.3%	4	0.7%	4	0.8%	2	1.0%	0	0.0%	0	0.0%	0	0.0%	5	0.9%	10	1.6%
Mental Incompetent	6	1.1%	0	0.0%	0	0.0%	6	1.1%	5	1.0%	2	1.0%	2	0.7%	6	66.7%		0.0%	7	1.3%	7	1.1%
Dishonorable Dischargee	10	1.9%	2	3.8%	0	0.0%	10	1.8%	7	1.4%	0	0.0%	5	1.8%	0	0.0%	1	1.3%	9	1.6%	10	1.6%
State Disqualifier	160	30.2%	8	15.1%	3	27.3%	160	29.5%	151	30.1%	45	23.6%	77	27.7%	2	22.2%	16	20.0%	157	28.6%	166	26.1%
Other	49	9.2%	4	7.5%	0	0.0%	49	9.0%	55	11.0%	16	8.4%	25	9.0%	0	0.0%	18	22.5%	63	11.5%	86	13.5%
Total	530	100.0%	53	100.0%	11	100.0%	543	100.0%	502	100.0%	191	100.0%	278	100.0%	9	100.0%	80	100.0%	549	100.0%	636	100.0%

**Exhibit 3-7 Background Check Outcomes: All Transactions**

<b>Outcome</b>	<b>Georgia March-May, 2002 (N = 34,788)</b>	<b>Oregon March-May, 2002 (N = 29,499)</b>	<b>NICS April-May, 2002 (N = 39,761)</b>
<b>Immediate Proceed</b>	68.5%	Not Detailed	64.3%
<b>Proceed After Research</b>	27.2%	Not Detailed	27.0%
<b>Subtotal Proceeds</b>	95.7%	97.7%	91.3%
<b>Denial on Open Arrest</b>	2.5%	Not Applicable	Not Applicable
<b>Other Denial</b>	1.8%	2.2%	2.0%
<b>Subtotal Denials</b>	4.3%	2.2%	2.0%
<b>Pend</b>	Not Applicable	0.1%	Not Applicable
<b>Unresolved</b>	Not Applicable	Not Applicable	6.7%
<b>Overall</b>	100.0%	100.0%	100.0%

**(a) All Transactions**

<b>Outcome</b>	<b>Georgia April-May, 2002 (N = 21,266)</b>	<b>Oregon April-May, 2002 (N = 18,407)</b>	<b>NICS April-May, 2002 (N = 39,673)</b>
<b>Immediate Proceed</b>	66.1%	Not Detailed	65.3%
<b>Proceed After Research</b>	29.1%	Not Detailed	26.4%
<b>Subtotal Proceeds</b>	95.2%	97.8%	91.7%
<b>Denial on Open Arrest</b>	2.7%	Not Applicable	Not Applicable
<b>Other Denial</b>	2.1%	2.1%	2.0%
<b>Subtotal Denials</b>	4.8%	2.1%	2.0%
<b>Pend</b>	Not Applicable	0.1%	Not Applicable
<b>Unresolved</b>	Not Applicable	Not Applicable	6.4%
<b>Overall</b>	100.0%	100.0%	100.0%

**(b) Matched Transactions**

**Exhibit 3-8 NICS vs. Georgia POC Outcomes (April-May, 2002)**

		Georgia POC Firearm Check Outcome				
		1. Immediate Proceed <sup>1</sup>	2. Proceed After Research <sup>2</sup>	3. Open Arrest Denial <sup>3</sup>	4. Other Denial <sup>4</sup>	Total
		Number % of Row % of Col % of Tot				
<b>FBI NICS Firearm Check Outcome</b>	<b>1. Immediate Proceed</b>	11264	1303	18	19	12604
		89.4%	10.3%	0.1%	0.2%	100.0%
		80.1%	21.0%	3.2%	4.3%	59.3%
		53.0%	6.1%	0.1%	0.1%	59.3%
	<b>2. Proceed After Research</b>	2427	3903	98	61	6489
		37.4%	60.1%	1.5%	0.9%	100.0%
		17.3%	63.0%	17.3%	13.9%	30.5%
		11.4%	18.4%	0.5%	0.3%	30.5%
	<b>3. Denial</b>	28	225	92	247	592
		4.7%	38.0%	15.5%	41.7%	100.0%
		0.2%	3.6%	16.2%	56.4%	2.8%
		0.1%	1.1%	0.4%	1.2%	2.8%
	<b>4. Unresolved</b>	345	765	360	111	1581
		21.8%	48.4%	22.8%	7.0%	100.0%
		2.5%	12.3%	63.4%	25.3%	7.4%
		1.6%	3.6%	1.7%	0.5%	7.4%
<b>Total</b>	14064	6196	568	438	21266	
	66.1%	29.1%	2.7%	2.1%	100.0%	
	100.0%	100.0%	100.0%	100.0%	100.0%	
	66.1%	29.1%	2.7%	2.1%	100.0%	

Notes:

1. The NICS Immediate Proceed/GA Immediate Proceed cell includes 11,262 inferred transactions (i.e., where Georgia Immediate Proceeds, there are no NICS hits, and it is not in the NICS data).
2. The NICS Immediate Proceed/GA Proceed after Research cell includes 1,289 inferred transactions (i.e., where Georgia Proceeds after Research, there are no NICS hits, and it is not in the NICS data).
3. The NICS Immediate Proceed/GA Open Arrest Denial cell includes 17 inferred transactions (i.e., where Georgia Denies on an Open Arrest, there are no NICS hits, and it is not in the NICS data).
4. The NICS Immediate Proceed/GA Other Denial cell includes 17 inferred transactions (i.e., where Georgia Denies, there are no NICS hits, and it is not in the NICS data).

**Exhibit 3-9 NICS vs. Oregon POC Outcomes (April-May, 2002)**

		Oregon POC Firearm Check Outcome			
		1.Proceed <sup>1</sup>	2. Denial <sup>2</sup>	3. Pend	Total
		Number % of Row % of Col % of Tot			
<b>FBI NICS Firearm Check Outcome</b>	<b>1. Immediate Proceed</b>	13232	58	1	13291
		99.6%	0.4%	0.0%	100.0%
		73.5%	15.2%	4.2%	72.2%
		71.9%	0.3%	0.0%	72.2%
	<b>2. Proceed After Research</b>	3894	74	8	3976
		97.9%	1.9%	0.2%	100.0%
		21.6%	19.4%	33.3%	21.6%
		21.2%	0.4%	0.0%	21.6%
	<b>3. Denial</b>	73	115	1	189
		38.6%	60.8%	0.5%	100.0%
		0.4%	30.2%	4.2%	1.0%
		0.4%	0.6%	0.0%	1.0%
	<b>4. Unresolved</b>	803	134	14	951
		84.4%	14.1%	1.5%	100.0%
		4.5%	35.2%	58.3%	5.2%
		4.4%	0.7%	0.1%	5.2%
	<b>Total</b>	18002	381	24	18407
		97.8%	2.1%	0.1%	100.0%
		100.0%	100.0%	100.0%	100.0%
		97.8%	2.1%	0.1%	100.0%

Notes:

1. The NICS Immediate Proceed/OR Proceed cell includes 13,087 inferred transactions (i.e., where Oregon Proceeds, there are no NICS hits, and it is not in the NICS data).
2. The NICS Immediate Proceed/OR Denial cell includes 50 inferred transactions (i.e., where Oregon Denies, there are no NICS hits, and it is not in the NICS data).

*Exhibit 3-10 Summary NICS vs. Georgia/Oregon POC Outcomes (April-May, 2002)*

		<b>Georgia/Oregon POC Firearm Check Outcome</b>		
		<b>Proceed</b>	<b>Denial</b>	<b>Total</b>
		<b>Number % of Row % of Col % of Tot</b>	<b>Number % of Row % of Col % of Tot</b>	<b>Number % of Row % of Col % of Tot</b>
<b>FBI NICS Firearm Check Outcome</b>	<b>Proceed</b>	20,007/17,938	397/145	20,404/18,083
		98.1%/99.2%	1.9%/0.8%	100%/100%
		98.8%/99.6%	39.5%/36.6%	95.9%/98.2%
		94.1%/97.5%	1.9%/0.8%	95.9%/98.2%
	<b>Denial</b>	253/73	609/251	862/324
		29.4%/22.5%	70.6%/77.5%	100%/100%
		1.2%/0.4%	60.5%/63.4%	4.1%/1.8%
		1.2%/0.4%	2.9%/1.4%	4.1%/1.8%
	<b>Total</b>	20,260/18,011	1,006/396	21,266/18,407
95.3%/97.8%		4.7%/2.2%	100%/100%	
100%/100%		100%/100%	100%/100%	
95.3%/97.8%		4.7%/2.2%	100%/100%	

***Exhibit 3-11 Appeals of Denied Eligibility Checks (11/98-9/02)***

<b>Appeal Recipient (Time Frame)</b>	<b>Total Transactions<sup>1</sup></b>	<b>-----Denials<sup>2</sup>-----</b>		<b>-----Appeals<sup>3</sup>-----</b>		<b>-----Reversals<sup>4</sup>-----</b>	
		<b>Number</b>	<b>% of Total</b>	<b>Number</b>	<b>% of Denials</b>	<b>Number</b>	<b>% of Appeals</b>
NICS (11/30/98-10/11/02); appeal received from:							
Non-POC States	13,577,356	192,443	1.4%	24,388	12.7%	6,753	27.7%
Partial-POC States	6,042,045	66,099	1.1%	9,629	14.6%	2,703	28.1%
subtotal	19,619,401	258,542	1.3%	34,017	13.2%	9,456	27.8%
POC States	--	--	--	1,866	--	1,035	55.5%
-Georgia	--	--	--	80	--	50	62.5%
-Oregon	--	--	--	707	--	175	24.8%
Georgia POC (11/1/98-9/30/02)	852,231	40,505	4.8%	0	0.0%	1,308	--
Oregon POC (1/1/99-10/31/02)	321,285	7,570	2.4%	3,312	43.8%	358	10.8%

Notes:

1. NICS transaction totals indicate the number of background checks requested, not the number of firearm transfers.
2. NICS denial information for non-POC states is based upon FBI denials and voluntary submission of denials by states.
3. The Georgia POC has received no formal appeals (i.e., Superior Court petitions). Phone challenges are not considered appeals (i.e., they are viewed as providing assistance to Georgia citizens) and are not recorded.
4. A count of the number of reversed phone challenges cannot be retrieved. Since January 2001, the Georgia POC has utilized NCHIP grant funds to retrieve delinquent dispositions for open felony arrest denials. The "reversals" listed are dispositions received which indicated that a non-felony conviction or other action occurred, one that would not be a prohibitor.

### Exhibit 3-12 Comparative Check Costs

	NICS		Georgia POC		Oregon POC	
	FY 2000 (10/99 - 9/00)	FY 2001 (10/00 - 9/01)	FY 2000 (7/99 - 6/00)	FY 2001 (7/00 - 6/01)	FY 2000 (7/99 - 6/00)	FY 2001 (7/00 - 6/01)
<b>Personnel Expenses</b>						
Regular Salaries	\$22,452,246.00	\$22,452,246.00	\$497,126.44	\$430,741.30	\$257,414.96	\$392,885.29
Benefits	\$6,735,674.00	\$6,735,674.00	\$177,885.71	\$151,059.83	\$113,373.03	\$168,920.36
Overtime	\$1,690,116.00	\$1,690,116.00	\$2,617.21	\$1,915.92	\$507.52	\$2,451.79
Other Personnel	\$40,505.00	\$40,828.14	\$0.00	\$0.00	\$0.00	\$0.00
<b>Total Personnel</b>	<b>\$30,918,541.00</b>	<b>\$30,918,864.14</b>	<b>\$677,629.36</b>	<b>\$583,717.05</b>	<b>\$371,295.51</b>	<b>\$564,257.44</b>
Percent of Total	57.3%	47.4%	42.8%	39.1%	79.0%	76.4%
<b>Non-Personnel Expenses</b>						
Travel	\$248,426.82	\$361,989.81	\$2,250.00	\$1,000.00	\$336.11	\$1,149.22
Hardware/Software/Networking/ Telecommunications Acquisition	\$7,239,246.50	\$18,414,379.40	\$0.00	\$0.00	\$2,477.82	\$23,925.32
Hardware/Software/Networking/ Telecommunications Maintenance	\$5,201,766.00	\$2,301,200.28	\$69,562.00	\$76,262.00	\$19,399.34	\$87,054.46
Materials/Supplies/Non-ADP Equipment	\$100,852.38	\$111,457.20	\$27,000.00	\$27,000.00	\$0.00	\$0.00
Contractual/Consulting <sup>1</sup>	\$9,558,256.00	\$12,658,063.48	\$804,901.00	\$804,901.00	\$1,266.04	\$149.85
Utilities	\$194,791.95	\$175,698.23	\$0.00	\$0.00	\$15,900.40	\$19,433.41
Training <sup>2</sup>	\$44,622.52	\$0.00	\$500.00	\$500.00	\$95.00	\$566.00
Other Non-Personnel <sup>3</sup>	\$473,104.02	\$253,885.00	\$0.00	\$0.00	\$59,343.71	\$41,685.74
<b>Total Non-Personnel</b>	<b>\$23,061,066.19</b>	<b>\$34,276,673.40</b>	<b>\$904,213.00</b>	<b>\$909,663.00</b>	<b>\$98,818.42</b>	<b>\$173,964.00</b>
Percent of Total	42.7%	52.6%	57.2%	60.9%	21.0%	23.6%
<b>Total Expenses</b>	<b>\$53,979,607.19</b>	<b>\$65,195,537.54</b>	<b>\$1,581,842.36</b>	<b>\$1,493,380.05</b>	<b>\$470,113.93</b>	<b>\$738,221.44</b>

Notes:

1. Georgia = per diem and fees to pay for contracted call center staff; maintenance fees for POS vendor; partial transaction fee reimbursement to FFL POS users.
2. NICS (FY 2001) training is included in the FBI CJIS Division's training budget for which NICS reimbursed CJIS.
3. NICS (FY 2000) = space rental, postage and background investigations; NICS (FY 2001) = postage and background investigations.

**Exhibit 3-13 Identifying NICS Common and Follow-up Research Costs**

	<b>NICS Average of FY 2000 and FY 2001</b>
<b>A. Personnel Costs</b>	
Regular Salaries	\$22,452,246.00
Benefits	\$6,735,674.00
Overtime	\$1,690,116.00
Other Personnel	\$40,666.57
<hr/>	
Total Personnel	\$30,918,864.14
Percent of Total	51.9%
<b>B. Non-Personnel Costs</b>	
Travel	\$305,208.32
Hardware/Software/Networking/ Telecommunications Acquisition	\$12,826,812.95
Hardware/Software/Networking/ Telecommunications Maintenance	\$3,751,483.14
Materials/Supplies/Non-ADP Equipment	\$106,154.79
Contractual/Consulting	\$11,108,159.74
Utilities	\$185,245.09
Training	\$22,311.26
Other Non-Personnel	\$363,494.51
<hr/>	
Total Non-Personnel	\$28,668,869.80
Percent of Total	48.1%
<b>C. Total Costs (A + B)</b>	<b>\$59,587,572.37</b>
<b>D. Common Costs (pertaining to all checks) as Percent of Total</b>	<b>S</b>
<b>E. Number of Common (POC + non-POC)<sup>1</sup> Checks</b>	<b>7,619,693</b>
<b>F. Common Cost per Check (for either POC or non-POC)</b>	<b>S*\$59.6M/7.6M</b>
<b>G. Number of Non-POC Checks<sup>2</sup></b>	<b>3,717,912</b>
<b>H. Follow-up Research Cost per Non-POC Check</b>	<b>(100-S)*\$59.6M/3.7M</b>
<hr/>	
<b>J. Total Cost per Non-POC Check</b>	<b>F + H</b>

Notes:

1. Source: FBI/NICS; adjusted by SDC to delete replications by dividing number of POC state checks by 1.35, the average of total transactions per check in Georgia and Oregon (i.e., (1.6 + 1.1)/2 = 1.35)
2. Source: FBI/NICS

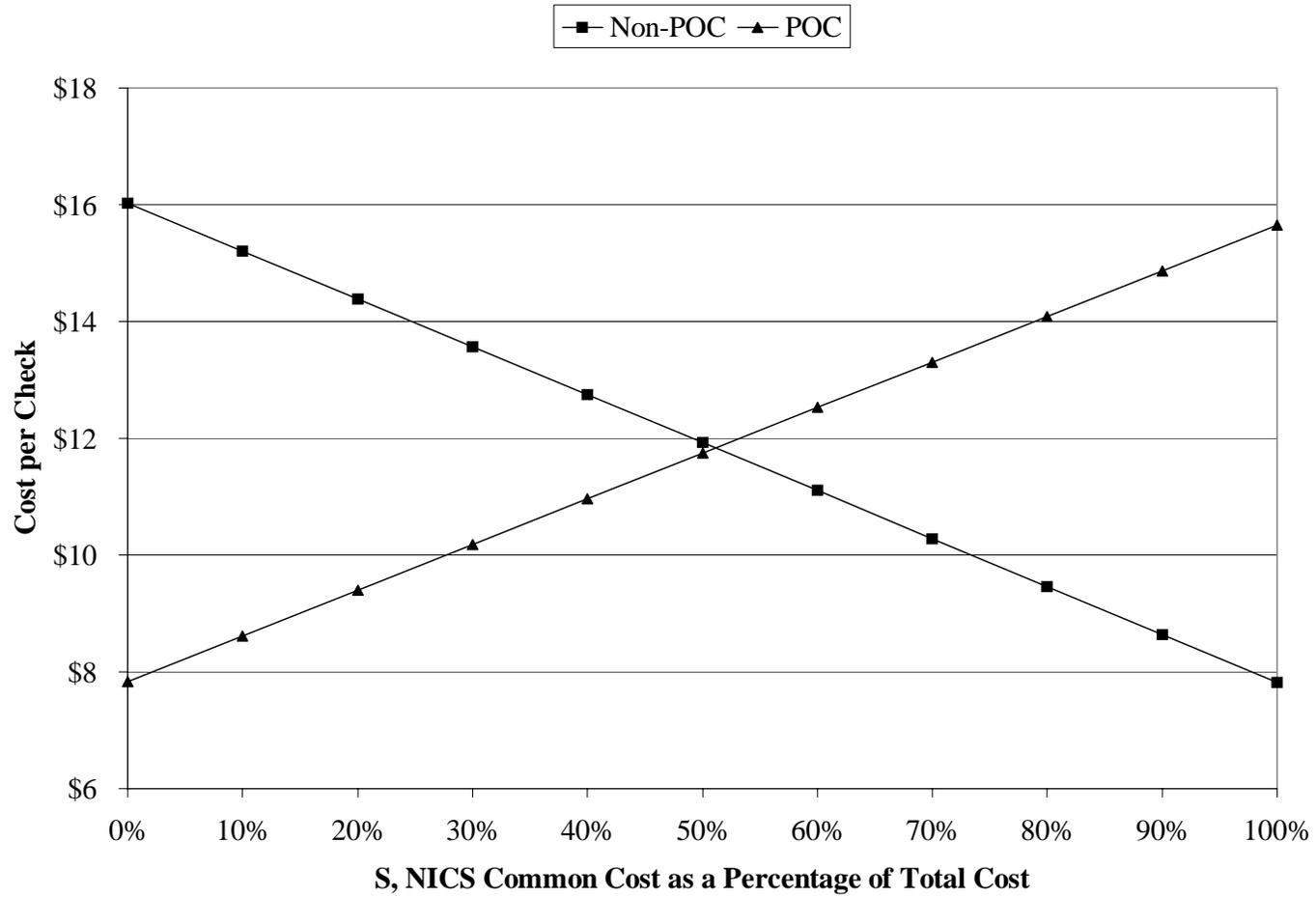
**Exhibit 3-14 Identifying Total Cost per POC Check**

	Average of FY 2000 and FY 2001	
	Georgia	Oregon
<b>A. Personnel Costs</b>		
Regular Salaries	\$463,933.87	\$325,150.13
Benefits	\$164,472.77	\$141,146.70
Overtime	\$2,266.57	\$1,479.66
Other Personnel	\$0.00	\$0.00
<b>Total Personnel</b>	<b>\$630,673.21</b>	<b>\$467,776.48</b>
Percent of Total	41.0%	77.4%
<b>B. Non-Personnel Costs</b>		
Travel	\$1,625.00	\$742.67
Hardware/Software/Networking/ Telecommunications Acquisition	\$0.00	\$13,201.57
Hardware/Software/Networking/ Telecommunications Maintenance	\$72,912.00	\$53,226.90
Materials/Supplies/Non-ADP Equipment	\$27,000.00	\$0.00
Contractual/Consulting	\$804,901.00	\$707.95
Utilities	\$0.00	\$17,666.91
Training	\$500.00	\$330.50
Other Non-Personnel	\$0.00	\$50,514.73
<b>Total Non-Personnel</b>	<b>\$906,938.00</b>	<b>\$136,391.21</b>
Percent of Total	59.0%	22.6%
<b>C. Total State POC Costs</b>	<b>\$1,537,611.21</b>	<b>\$604,167.69</b>
<b>D. Number of Firearm Transactions (unreplicated)</b>	<b>222,360</b>	<b>69,205</b>
<b>E. State POC Cost per Check</b>	<b>\$6.94</b>	<b>\$8.73</b>
<b>F. NICS Common Cost per POC Check (see Exhibit 3-13)</b>	<b>S*\$59.6M/7.6M</b>	<b>S*\$59.6M/7.6M</b>
<b>G. Total Cost per POC Check</b>	<b>\$6.94 + S*\$59.6M/7.6M</b>	<b>\$8.73 + S*\$59.6M/7.6M</b>
<b>H. Billed FFL Fee per Check<sup>1</sup></b>	<b>\$5.00</b>	<b>\$9.58</b>
<b>I. Effective "Over" ("Under") Billing</b>	<b>H - G</b>	<b>H - G</b>

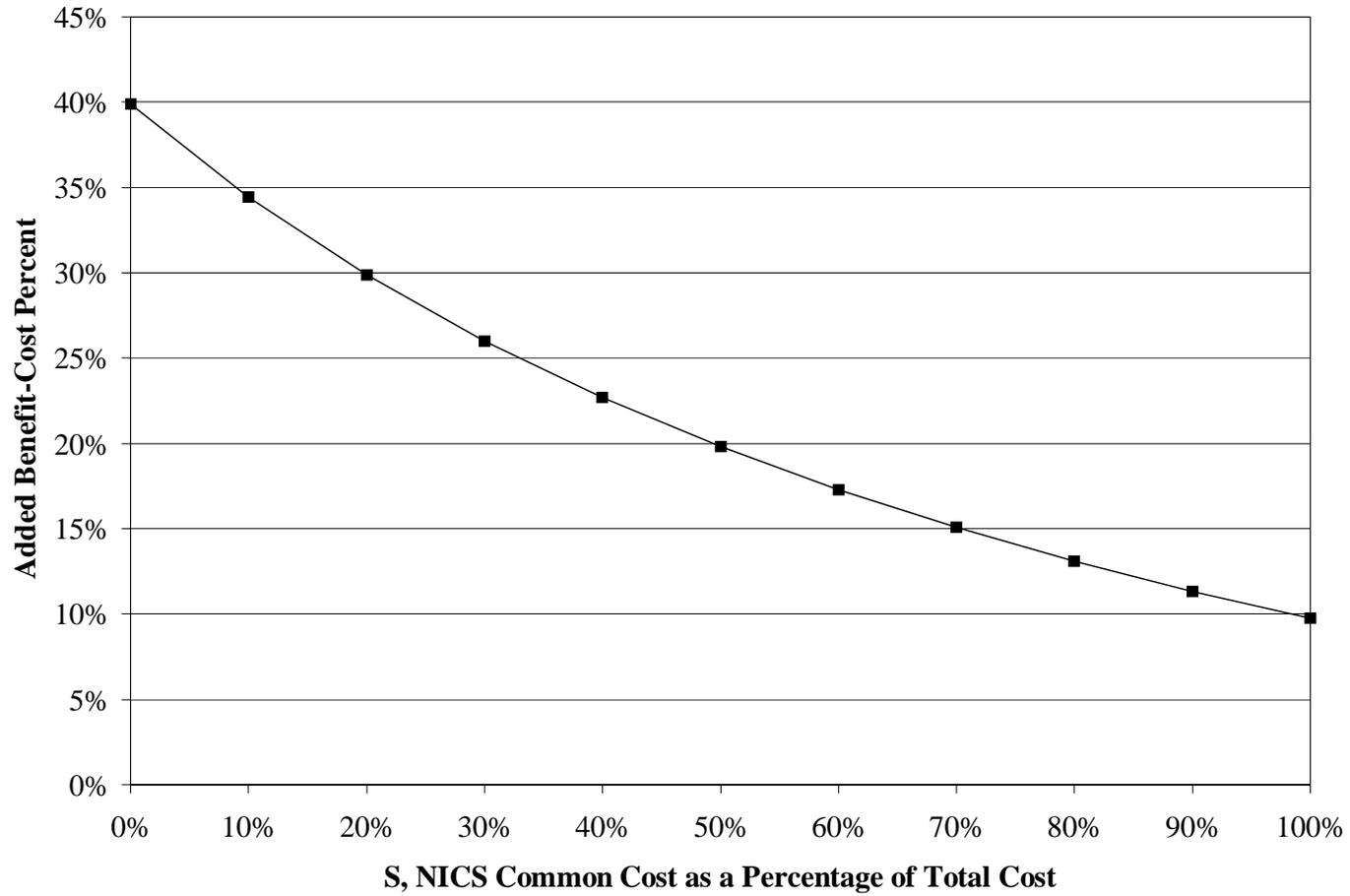
Notes:

1. Georgia reimburses FFL's using POS terminals approximately \$1.95 per transaction--the reimbursements are reflected in their Contractual/Consulting cost line; Oregon's FY 2000 rate is \$10.00--their FY 2001 rate of \$9.16 is a weighted average of three different rates in effect during the year.

*Exhibit 3-15 Cost Per POC and Non-POC Check*



*Exhibit 3-16 POC Versus Non-POC Added Benefit-Cost Percent*



## 4. RECOMMENDATIONS

Conducting this cost-benefit research study has given SDC the opportunity to look closely at the operations of NICS and of two of the POC states. In the course of selecting the two participating states – Georgia and Oregon – several other POCs (i.e., Florida, Nevada and Vermont) were visited. Drawing upon SDC’s extensive experience in this and other related studies, the following five recommendations for improving the effectiveness of firearm eligibility background checks are suggested.

1. Bring federal non-POC and state POC eligibility interpretations into closer alignment.

It is recognized that some POC states have stricter eligibility criteria “on the books” than does the federal government. For example, as noted in this report, Oregon has five statutorily prohibiting categories of misdemeanor convictions in addition to domestic violence. However, in the case of domestic violence misdemeanors, for consistency both NICS and the POC states should be making the same interpretation. More specifically for this example,

- POC states should deny the purchase when the prospective purchaser was arrested for a domestic violence misdemeanor, convicted of a lesser offense, and the relationship is a prohibitor; and
- POC states should proceed the purchase when the prospective purchaser was arrested for a domestic violence misdemeanor and the relationship is not a prohibitor.

In other words, they should meet the requirements of the Lautenberg Amendment.

Another example of differing interpretations occurs when a POC state denies a prospective purchaser who was arrested for military desertion without knowing whether he/she was dishonorably discharged. It should, however, be stated that, through its extensive audit program, NICS has been working with the state POCs to achieve better compliance with the law and therefore greater alignment.

2. Make available to NICS and other states potentially disqualifying information in state files that are currently inaccessible to them, and assure that the files are appropriately maintained.

The state POCs often have access to local files of firearm purchase eligibility-related information that are unavailable to NICS, as suggested by the 19.5% of additional denials due to POC checks of their state or local files. Prominent among these are mental health and drug abuse records, although in some cases privacy and confidentiality statutes or regulations may preclude even the state POCs from accessing or, once accessed, sharing them. While there are

repositories for mental health and drug abuse information in the NICS Index, state contributions to these files have, in general, been quite limited. Other examples include:

- Probation records – the prospective purchaser, as a condition of probation, may not be allowed to possess a firearm, unless that condition has been explicitly deleted by the court; and
- State-held protection orders – a state POC may have access to files of disqualifying restraining orders that have not been submitted to the National Protection Order File.

With respect to the sharing of a disqualifying state-level criminal record, in states with fingerprint-based records, if an FBI record had not previously been established, one could be established and a III pointer set to the state's record. For those states without fingerprint-based records, disqualifying criminal records could be entered in the NICS Index.

Moreover, once this information is furnished to NICS, it is the responsibility of the provider to see that it is maintained. Of particular importance is the updating of records which are subject to change (e.g., a temporary restraining order lapses or a warrant is revoked), setting Identification For Firearms Sales (IFFS) flags correctly, and modifying the flags when required. Thus, even after sharable information is made available to NICS and to other states, the POCs must still be required to maintain that information and to gain access to that which cannot be shared. In sum, while in theory the 19.5% of additional POC denials could be identified by NICS if the appropriate records are shared, it is critical that each state continuously updates and maintains its portion of the NICS records.

### 3. Remedy deficiencies and repair bugs in state POC instant check systems.

In the course of the study, SDC identified a number of deficiencies and bugs in several state POC instant check systems that adversely impact the background check process. Some examples include:

- Failure to retain NICS file check results after the initial query, thus resulting in a repetition of the original query each time a transaction is subjected to further research;
- Failure to track informal requests for assistance and their outcomes (e.g., reversals) subsequent to denials – it may be the case that formally appealing a denial is a laborious and legalistic procedure (e.g., in Georgia), in which case the POC may offer informal assistance to the denied purchaser;
- Recording of the results of a NICS or state file check as a hit only if it results in the transaction not being an immediate proceed (i.e., requiring follow-up); and
- Failure to retain the NTN generated by NICS.

It should be stated that the latter two issues may be less of an operational concern than one of administration relating to, say, documentation or research.

4. Conduct further research into the transaction replications issue at both state and federal levels.

Simply stated, the problem is that a fraction – possibly a substantial fraction – of the firearm eligibility checks submitted by the state POCs to NICS replicate previously submitted checks regarding the same transaction. There are at least two motivations for undertaking an appropriate research effort to address this critical problem. First, ascertain why and with what frequency the replications occur in the state POCs (and possibly NICS); and second, assist NICS and POC – and possibly non-POC – states in adapting their procedures and software to address the replications problem with the objective of increasing the overall effectiveness of the firearm eligibility checks.

5. Consistent with the practice of NICS, encourage POC states that do not deny on open arrests or have an “unresolved” decision category to implement an unresolved check status.

As noted earlier, the Georgia POC no longer denies on open arrests. At present, Colorado and Tennessee are the only state POCs denying on open arrests on a statutory basis. In the absence of open arrest denials, where insufficient information exists to ascertain the eligibility of the prospective purchaser, one way to help avert improper firearm transfers is through an “unresolved” type of finding. This is not equivalent to a denial but it is also not a proceed and it leaves it up to the FFL to decide whether or not to make the sale. NICS has found that a number of FFLs, including some of the nation’s largest firearms dealers, have adopted a policy of restraint (i.e., when NICS responds to a check with a determination of unresolved, the FFL refuses to transfer the firearm).

## GLOSSARY

<i>BATF</i>	Bureau of Alcohol, Tobacco, Firearms and Explosives, an agency of the U.S. Department of Justice charged with administering federal firearm regulations.
<i>Brady Act</i>	Federal law passed in November 1993 establishing a “waiting” or response period before anyone can buy a handgun, and calling for establishment of a national instant background check system (NICS) for firearms dealers to check prior to the sale of a firearm.
<i>Brady State</i>	Prior to November 1998, a state which had to comply with the federal five-day “waiting” period before a prospective purchaser could buy a handgun.
<i>Brady Alternate</i>	Prior to November 1998, a state which met one of the alternatives (e.g., permit, other approval-type system, or instant check) to the federal five-day “waiting” period before anyone could buy a handgun.
<i>BJA</i>	Bureau of Justice Assistance, an agency of the Office for Justice Programs (OJP), U.S. Department of Justice.
<i>BJS</i>	Bureau of Justice Statistics, an agency of the Office for Justice Programs (OJP), U.S. Department of Justice.
<i>CCH</i>	Computerized Criminal History, an automated system used to maintain records on criminal activities of an offender.
<i>CLEO</i>	Chief Law Enforcement Officer, possibly chief of police, sheriff, or an equivalent official, or the designee of any such individual; one agency usually serves as the CLEO in a given jurisdiction.
<i>D.O.B.</i>	Date of Birth
<i>FBI</i>	Federal Bureau of Investigation, an agency of the U.S. Department of Justice.
<i>FFL</i>	Federal Firearms Licensee, a federally licensed firearms dealer.
<i>FICS</i>	Firearm Instant Check System, the Oregon Point of Contact (POC), a unit of the Oregon State Police.

<i>FIST</i>	Firearm Inquiry STatistical Program, a BJS-supported program to develop national data on implementation of the Brady Act and, more specifically, on how firearm check procedures work in the various states.
<i>GBI</i>	Georgia Bureau of Investigation
<i>GFP</i>	Georgia Firearms Program, the Georgia Point of Contact (POC), a unit of the Georgia Bureau of Investigation.
<i>IAFIS</i>	Integrated Automated Fingerprint Identification System, an FBI-supported system, which became operational in 1999. IAFIS processes criminal fingerprints that have been electronically transmitted from the state to the FBI through the Criminal Justice Information Services (CJIS) network. Results are returned electronically to the originator. The FBI scans ten-print cards received by mail and converts them into an electronic format to be used in the IAFIS environment. Civil ten-print cards are submitted electronically, by mail or as machine-readable data on tape. The IAFIS environment supports electronic and hard copy submission of latent fingerprints. IAFIS maintains the III files, supports the NFF program, and stores complete criminal histories of federal offenders. IAFIS also offers document and image services and direct remote search capabilities to authorized users.
<i>IFFS</i>	Identification For Firearms Sales, an FBI program requiring participants to identify (i.e., flag) individuals disqualified from taking possession of a firearm when submitting criminal records to III.
<i>III</i>	Interstate Identification Index (Triple "I"), a database system maintained by the FBI that contains personal identifiers of offenders and "pointers" to states which maintain criminal history records on these offenders.
<i>III Record Responsibility</i>	A state is responsible for, or "supports", a particular record if the record has been "synchronized" with its FBI record. Synchronization is a process whereby either the FBI sends a magnetic tape of records to a state, or vice versa, and each field of every record is matched between the state record and the FBI record. If the record cannot be reconciled completely, it is not synchronized and the FBI continues to support it. Some states synchronize periodically, especially when new arrests occur for a prior record and that record is updated.

- INS* Immigration and Naturalization Service, formerly an agency of the U.S. Department of Justice; its functions are now the responsibility of the U.S. Department of Homeland Security.
- LEA* Law Enforcement Agency.
- NCIC 2000* National Crime Information Center 2000, an FBI-developed system designed to provide law enforcement with enhanced and expanded NCIC information (e.g., wanted, convicted but on supervised release, missing and unidentified persons files). To improve identification of individuals who offer no identification or who are suspected of fraudulent identification, the NCIC 2000 system provides a single fingerprint-matching capability; it also provides enhanced name search and mug shot storage capability.
- NCJ* Non Criminal Justice.
- NCHIP* National Criminal History Improvement Program, a BJS-administered program initiated in 1994 and focused primarily on improving the quality of the nation's criminal history records.
- NFF* National Fingerprint File, an FBI-supported system. Designed as a component of the III system, the NFF system is intended to decentralize the interstate dissemination of criminal history records. Under NFF, states submit to the FBI only the first set of offender fingerprints resulting from an arrest, together with basic identifying information. The fingerprints are entered in the NFF; the name and identifying information, in the III system. The FBI maintains records on all federal offenders and will continue to maintain FBI and SID numbers for all states in which the offender has a record. No dispositions will be submitted to the FBI; rather, states are required to respond to all authorized criminal and non-criminal inquiries regarding an offender whether or not the release of such data within the state would be permitted for the same purpose.
- NICS* National Instant Criminal Background Check System, a national system developed by the FBI in cooperation with BATF and state and local law enforcement agencies. Operational on November 30, 1998, it checks available records for individuals disqualified from purchasing a firearm. Both federal agencies and states contribute information to the following three databases that comprise the NICS and that are to be accessed either by an FFL or state Point of Contact (POC) to determine, virtually instantly in most cases, firearm purchase eligibility:

1. NCIC; e.g., Wanted Persons File, Protection Order File
2. III; i.e., criminal history records
3. NICS Index; e.g., Denied Persons File, Controlled Substance Abusers.

<i>NSOR-AP</i>	National Sex Offender Registry Assistance Program, a \$25 million effort initiated in 1998 as part of the BJS-administered NCHIP. Promotes establishment of a national sex offender registry by helping state registries improve quality of information and by creating appropriate interfaces with the FBI's national system.
<i>NTN</i>	NICS Transaction Number, the unique identification number assigned by NICS to every firearm purchase eligibility background check.
<i>POC</i>	Point of Contact, a state-designated liaison that initiates background checks on individuals to determine firearm purchase eligibility, using both the FBI NICS and local (i.e., state) data. Since NICS became operational in November 1998, FFLs either contact the FBI directly or contact a designated POC. The FBI or the POC then initiates a NICS inquiry.
<i>Protection Order</i>	As defined in 42 USC Sec. 14040, the term "includes any injunction or any other order issued for the purpose of preventing violent or threatening acts or harassment against, or contact or communication with or physical proximity to, another person, including temporary and final orders issued by civil or criminal courts (other than support or child custody orders) whether obtained by filing an independent action or as a pendente lite order in another proceeding so long as any civil order was issued in response to a complaint, petition, or motion filed by or on behalf of a person seeking protection".
<i>RAP Sheet</i>	Record of Arrest and Prosecution: A criminal history record.
<i>REJIS</i>	Regional Justice Information Service, an organization funded by BJS under NCHIP, which conducts the Firearm Inquiry STatistics (FIST) program. FIST is designed to collect annual data describing the number of inquiries in connection with presale handgun and long gun checks, and the number and basis for rejection of such inquiries.
<i>SID</i>	State Identification, a number assigned to uniquely identify an offender within a particular state.
<i>SSN</i>	Social Security Number

*STN* State Transaction Number, the number assigned by a state POC to uniquely identify each firearm purchase eligibility background check.

*UCR* Uniform Crime Reporting, an FBI-supported records system, established in 1930, which compiles and reports crime statistics.

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