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## **Enforcement of the Brady Act, 2007**

Federal and State investigations and prosecutions of  
firearm applicants denied by a NICS check in 2007

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## **Enforcement of the Brady Act, 2007**

### **Abstract**

The Brady Handgun Violence Prevention Act (Brady Act) requires criminal history background checks by the Federal Bureau of Investigation (FBI) and State agencies on persons who attempt to purchase a firearm from a licensed dealer. In 2007, the FBI and State agencies denied a firearm to over 123,000 persons due to National Instant Criminal Background Check System (NICS) records of felonies, domestic violence offenses, and other prohibiting factors. *Enforcement of the Brady Act, 2007* reports on investigations and prosecutions of persons who were denied a firearm in 2007. The report describes how the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) screens denied-person cases and retrieves firearms that were obtained illegally. Statistics presented include charges most often filed against denied persons by United States Attorneys and results of prosecutions. Investigation statistics from two States are also presented. Key statistics are compared for the years 2007 and 2006.

## Background

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

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

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

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

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

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

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

**NICS Denials in 2007.** The FBI conducted over 5.1 million NICS transfer checks in 2007 and denied nearly 67,000 applications, a denial rate of over 1%. The most common reason for denial by the FBI was a record of a felony indictment or conviction, which accounted for 35% of the denials. Domestic violence misdemeanor convictions and restraining orders made up 12% of the FBI denials. (Table 1.)

**Table 1. Background checks by the FBI in 2007**

	Number	Percent
Applications for firearm transfer	5,136,883	
Denials / denial rate	66,817	1%
Selected reasons for denial / percent of denials		
Felony indictment or conviction	23,703	35%
Domestic violence misdemeanor conviction	5,655	8%
Domestic violence restraining order	2,609	4%

The NICS was accessed for almost all of the estimated 3 million transfer and permit background checks conducted by State agencies during 2007. State agency denials were estimated to be nearly 56,500 for the year, with a denial rate of about 2%. The most common reasons for denials by State agencies in 2007 were felony indictments and convictions, State law prohibitors, and domestic violence misdemeanor convictions. (Appendix table A.)

## ATF Investigations

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

As a way to assist ATF investigations, the FBI NICS Section implemented a system enhancement that ranks a delayed denial transaction based on ATF categories applicable to the specific denial and separates the ranked delayed denials from the standard referrals. (*NICS Operations 2005*, FBI CJIS Division, January 2007, [http://www.fbi.gov/hq/cjisd/nics/ops\\_report2005/ops\\_report2005.pdf](http://www.fbi.gov/hq/cjisd/nics/ops_report2005/ops_report2005.pdf)).

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

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

Brady Operations screened 73,992 NICS denials received from the FBI during 2007 and referred 6,275 denials (8%) within the established guidelines to field divisions. The referred cases were made up of 2,566 delayed denials (3% of all denials) and 3,709 standard referrals (5%). The remaining denials (67,717 – 92%) did not meet referral guidelines or were overturned after review by Brady Operations or after the FBI received additional information. Standard denials that were not referred were available in a database if further review was deemed necessary. Denials due to domestic violence misdemeanor convictions, felony convictions, and protective orders comprised over 75% of the referrals to the field divisions. (Table 2.)

**Table 2. NICS denials by FBI referred to ATF field divisions in 2007**

	Cases	Percent
FBI denials referred to ATF Brady Operations	73,992	100%
Brady Operations referrals to ATF field divisions	6,275	8%
Delayed denials	2,566	3%
Standard referrals	3,709	5%
Not referred to field or overturned	67,717	92%
Most common reasons for referrals to field		
Domestic violence misdemeanor	1,739	28%
Convicted felon	1,605	26%
Subject to protective order	1,421	23%

Other reasons for referral included being under indictment or information or being an unlawful user of a controlled substance. The five most common reasons for referral accounted for almost 93% of the cases. (Appendix table B.)

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

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

In addition to the delayed denials, a small number of 2007 standard referrals potentially involved unlawful firearm possession. Field offices investigated a total of 2,212 unlawful possession cases that began in 2007. A retrieval of a firearm (or firearms) by ATF from a prohibited person occurred in 1,258 (57%) of the cases. The subject of the investigation was cleared in 649 cases (29%). About 94% of the cases had been resolved by October 16, 2008, with the subject missing in the remaining 6% of the cases. (Table 3.)

**Table 3. Outcomes of 2007 unlawful possession cases**

	Cases	Percent
Total	2,212	100%
Retrieval of a firearm (or firearms)	1,258	57%
Subject not prohibited	649	29%
Unable to locate subject	125	6%
Other outcomes	179	8%

The 1,258 retrieval cases from 2007 reached the following resolutions: transfers to non-prohibited third parties - 636 (29% of total cases); returns to firearms dealers - 521 (24%); abandonments by transferees - 53 (2%); and seizures by ATF - 48 (2%). These cases resulted in retrieval of 1,273 firearms. (Appendix table C.)

### **Prosecutions by U.S. Attorneys**

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

The field offices declined to refer 6,072 of the 2007 NICS denial cases for prosecution. The most common reasons for declinations were that Federal or State guidelines were not met (2,028 cases, 33%) or there was no prosecutive merit (1,576 cases, 26%). (Table 4). Other reasons for declination by a field office included no potential (951 cases, 16%), closure by a supervisor (743 cases, 12%), or the subject was found to not be prohibited (685 cases, 11%). (Appendix table D.)

**Table 4. 2007 cases declined by ATF field offices**

	Cases	Percent
Total	6,072	100%
Most common reasons for declination		
Federal or state guidelines not met	2,028	33%
No prosecutive merit	1,576	26%

A total of 196 charges from the 2007 cases were referred by field offices for consideration by prosecutors. The most common charge referred was submitting falsified information when buying firearms, which accounted for 93 charges and 47% of all charges. The second and third most common charges were possession of a firearm by a convicted felon (20 charges, 10%) and possession of a firearm after a domestic abuse charge (15 charges, 8%). (Table 5.)

**Table 5. Charges referred for prosecution, 2007**

Charge definition	Charges	Percent
Total	196	100%
Falsified information when buying firearms	93	47%
Possession of firearm by convicted felon	20	10%
Possess firearm after domestic abuse charge	15	8%
Receive/ship/transport firearm after indictment	11	6%
Possession of firearm by drug user	11	6%
Other charges	46	23%

Subsections of the Gun Control Act, 18 U.S.C. 922, were the basis for 166 charges (85% of all charges). The 2007 cases produced charges referred for prosecution against 129 persons, 59 from delayed denials and 70 from standard referrals. (Appendix table E.)

Of the 196 charges referred from the 2007 cases, 74 (38%) had been declined by a prosecutor as of October 16, 2008. A guilty plea was obtained on 46 charges (24%) and two charges (1%) resulted in guilty verdicts at trial. Eighty-six percent of the charges had been resolved, with 14% pending action by the prosecutor. (Table 6.) Twenty-two charges (11%) were dismissed after indictment and eight charges (4%) were dismissed as part of a plea agreement. (Appendix table F.) Reasons for dismissals were generally not specified in the records. However, in ten cases where a defendant pled guilty to a charge, an additional charge was dismissed.

**Table 6. Status of 2007 charges referred for prosecution**

Judicial status	Charges <sup>a</sup>	Percent
Total	196	100%
Selected outcomes		
Declined by prosecutor	74	38%
Guilty plea by defendant	46	24%

Pending action by prosecutor	28	14%
Guilty verdict at trial	2	1%

<sup>a</sup>As of October 16, 2008

Of the 48 charges that resulted in guilty pleas and verdicts, 23 (48%) were for submitting falsified information when buying firearms and five (10%) were for possession of a firearm by a convicted felon (Table 7). State offenses accounted for four of the charges and the remainder was Federal charges. Thirty-nine charges in the guilty pleas and verdicts (81%) were based on subsections of the Gun Control Act. Forty-two defendants pled or were found guilty. (Appendix table G.)

**Table 7. 2007 charges that resulted in guilty pleas and verdicts**

Charge definition	Charges	Percent
Total	48	100%
Falsified information when buying firearms	23	48%
Possession of firearm by convicted felon	5	10%
Other charges	20	42%

Two trial verdicts of guilty, each on a charge of submitting falsified information when buying firearms, were rendered in the districts of Maine and Montana. Sentencing information was only available in the Montana case, with the defendant sentenced to 15 months imprisonment and three years supervised release.

### Federal Judicial District Summary

The District of Arizona had the highest number of unlawful possession investigations from the 2007 cases (240), followed by the District of Kansas (107). The District of Arizona also had the most field office declinations (276), followed by the Eastern District of Kentucky (257). The highest number of charges referred for prosecution was in the District of Maine (26), followed by the Districts of Montana and South Dakota with 14 each. The Districts of Maine and South Dakota, with 5 each, had the most charges that resulted in a guilty plea or verdict. (Appendix table H.)

### Comparisons With Prior Year

A total of 8,935 defendants were charged in United States Courts with federal firearms offenses during fiscal year 2007, compared to 9,238 defendants in fiscal year 2006, a decrease of 3%. Federal firearms cases closed in fiscal year 2007 involved 9,160 defendants, a decrease of 5% from the 9,617 defendants in cases closed during fiscal year 2006. (*Federal Firearms Cases, FY2007*, NCJ No. 224890, November 2008, <http://www.ncjrs.gov/pdffiles1/bjs/grants/224890.pdf>).

A similar pattern occurred with the NICS denial cases, as FBI referrals to Brady Operations decreased 4%, from 77,233 in 2006 to 73,992 in 2007. Referrals to field

divisions decreased 33%, from 9,432 in 2006 to 6,275 in 2007. Unlawful possession investigations and investigations that resulted in a firearm retrieval each decreased by 15% during 2007. The number of charges referred for prosecution fell 28%, from 273 in 2006 to 196 in 2007. The number of charges that resulted in guilty pleas and verdicts fell 34%, from 73 in 2006 to 48 in 2007. (Appendix table I). For a complete summary of the prior year, see *Enforcement of the Brady Act 2006*, NCJ No. 222474, April 2008, <http://www.ncjrs.gov/pdffiles1/bjs/grants/222474.pdf>.

## State Investigations of Denied Persons

As of December 31, 2007, thirteen States maintained a full point of contact for the NICS and conducted background checks on all persons who applied to purchase a firearm from a licensed dealer. Eight States maintained a partial NICS point of contact and conducted checks on all persons who applied to purchase a handgun from a dealer (the FBI checked long gun purchasers in these States). See *Background Checks for Firearm Transfers, 2007*, <http://www.ojp.usdoj.gov/bjs/pub/html/bcft/2007/bcft07st.htm>. In addition, six States require an applicant for a purchase or a purchase permit to undergo a background check that does not access the NICS Index.

When a denied person is suspected of violating Federal law, most State point-of-contact agencies refer the case to the nearest ATF field office. States differ as to how potential State law violations are investigated. In some States, the checking agency immediately notifies the police or sheriff's department that has jurisdiction over a denied person's residence or the gun shop where the transaction occurred. The local agency is then responsible for investigation and prosecution of the case. Other States have a unit with statewide jurisdiction that screens cases before deciding whether a referral should be made to a state police troop or local law enforcement. Data on denied person investigations from two States is available for 2007 and 2006.

**Pennsylvania.** The Pennsylvania State Police (PSP) Firearms Division is a NICS point of contact and conducts background checks on prospective firearm purchasers. PSP denials that involve Federal prohibitions are referred to ATF. Cases with potential State law violations may be referred to PSP troops or local law enforcement. PSP denied 7,420 firearm transfers in 2007, a decrease of 22% from the 9,535 denials issued in 2006. Denials referred for investigation increased 54%, from 285 in 2006 to 440 in 2007. Apprehensions of wanted persons increased from 119 in 2006 to 124 in 2007 (4%) and reported arrests increased from 194 in 2006 to 252 in 2007 (30%). Convictions of denied persons increased 5%, from 173 in 2006 to 181 in 2007. (Appendix table J.)

**Virginia.** The Virginia State Police (VSP) Firearms Transaction Center is a NICS point of contact and conducts background checks on prospective firearm purchasers. VSP reports denied persons with Federal prohibitors to ATF. Potential State law violations are reviewed by VSP Troopers, who consult with Commonwealth Attorneys as part of their investigative process. VSP denied 2,222 firearm transfers in 2007, a 7% decrease from the 2,380 denials issued in 2006. Denials referred for investigation also decreased by 7%, from 1,005 in 2006 to 935 in 2007. The number of reported arrests decreased by less than 2%, from 727 in 2006 to 716 in 2007. In addition, VSP investigations led to

the apprehension of 75 wanted persons and the retrieval of five firearms from prohibited persons in 2007. (Appendix table J.)

## Methodology

The Brady Operations Branch provided the Regional Justice Information Service (REJIS) with statistics on denied person cases received from the FBI's NICS Section and referred to ATF field offices after screening. Brady Operations obtained records for REJIS on field office and U.S. Attorney processing from NForce, ATF's case management system. The records reflect activity up to October 16, 2008. Court decisions are included in the records but sentencing information was only available for a few cases.

No personal identifiers were included in the records. Cases or charges could only be distinguished by NICS numbers. NICS numbers for the 2007 cases were compared to those for the 2006 cases and a small number of duplicate entries were deleted. The effect of the duplicate entries is unknown but it may have resulted in a slight overstatement of 2006 counts and a slight understatement of 2007 counts. In calculating the number of persons referred for prosecution and the number of persons convicted, it was assumed that each separate NICS number represented one person. However, it is possible that a person could have more than one NICS number.

## Additional Contributors

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## Appendix

**Table A. Background checks on firearm applicants processed by the FBI and State agencies in 2007**

	FBI /NICS <sup>a</sup>		State agencies <sup>b</sup>	
	Number	Percent	Number	Percent
Applications	5,136,883		3,022,215	

Denials / Denial rate	66,817	1.3%	56,452	1.9%
Appeals / Appeal rate	10,997	16.5%	14,294	25.3%
Appeals reversed / Reversal rate	3,282	29.8%	6,178	43.2%
Reasons for denials:				
Felony indictment/conviction	23,703	35.5%	14,128	38.6%
Other criminal history <sup>c</sup>	19,393	29.0%	---	---
State law prohibition	---	---	3,239	8.9%
Domestic violence				
Misdemeanor conviction	5,655	8.5%	2,459	6.7%
Restraining order	2,609	3.9%	1,334	3.6%
Drug use or addiction	6,252	9.4%	439	1.2%
Fugitive	4,803	7.2%	2,213	6.0%
Illegal or non-immigrant alien	804	1.2%	90	0.2%
Mental illness or disability	520	0.8%	1,100	3.0%
Other prohibitions <sup>d</sup>	3,045	4.6%	11,562	31.7%
	<u>66,817</u>	<u>100.0%</u>	<u>56,452</u>	<u>100.0%</u>

-- Not applicable

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

<sup>b</sup>Estimates of background checks on transfer and permit applicants from the Firearm Inquiry Statistics (FIST) program. Nearly all of these checks access the NICS.

<sup>c</sup>Includes State prohibitors, multiple DUIs, non-NCIC warrants, and other disqualifiers.

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

**Table B. NICS denials by FBI referred to ATF field divisions in 2007**

	Cases	Percent
FBI denials referred to ATF Brady Operations	73,992	100.0%
Brady Operations referrals to ATF field divisions		
Total referred to field	6,275	8.5%
Delayed denials	2,566	3.5%
Standard referrals	3,709	5.0%
Not referred to field	62,188	84.0%
Not referred and overturned	5,529	7.5%
Reasons for referrals to ATF field divisions		
Domestic violence misdemeanor	1,739	27.7%
Convicted felon	1,605	25.6%
Subject to protective order	1,421	22.6%
Under indictment or information	573	9.1%
Unlawful user of controlled substance	485	7.7%
Fugitive from justice	224	3.6%
Illegal or unlawful alien	176	2.8%
Other reasons <sup>a</sup>	52	0.8%

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

**Table C. 2007 NICS denial cases involving unlawful firearm possession**

Outcome of ATF investigation	Delayed	Standard	All	
			Cases	Percent
Total	2,156	56	2,212	100%
Retrieval of a firearm <sup>a</sup> by:				
Transfer to third party	633	3	636	28.8%
Return to firearms dealer	520	1	521	23.6%
Abandonment by transferee	52	1	53	2.4%
Seizure by ATF	46	2	48	2.2%
	1,251	7	1,258	56.9%
Subject not prohibited	629	20	649	29.3%
Unable to locate subject	125	1	126	5.7%
Firearm not transferred	91	26	117	5.3%
Given to local law enforcement	35	1	36	1.6%
Referred to other agency	25	0	25	1.1%
Other outcomes	0	1	1	---

<sup>a</sup>A total of 1,273 firearms were retrieved by ATF.

**Table D. 2007 NICS denial cases declined by ATF field offices**

Reason for case declination	Delayed	Standard	All cases	Percent
Total	2,541	3,532	6,072	100.0%
Federal or State guidelines not met	568	1,460	2,028	33.4%
No prosecutive merit	741	835	1,576	26.0%
No potential or unfounded	538	413	951	15.7%
Closed by supervisor	177	566	743	12.2%
Not a prohibited person	505	180	685	11.3%
Referred to another agency	10	76	86	1.4%
Assisted prosecution	1	2	3	---

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

**Table E. Charges in 2007 NICS denial cases referred for prosecution**

18 USC 922 Subsection	Charge definition	Delayed	Standard	All charges <sup>a</sup>	Percent
	Total <sup>b</sup>	95	101	196	100.0%
(a)(6)	Falsified information when buying firearms	28	65	93	47.4%
(g)(1)	Possession of firearm by convicted felon	10	10	20	10.2%
(g)(9)	Possession of firearm after domestic abuse charge	12	3	15	7.7%
(n)	Receive/ship/transport firearm after indictment	11	0	11	5.6%
(g)(3)	Possession of firearm by drug user	10	1	11	5.6%
Other		6	10	16	8.2%
	Total 18 USC 922	77	89	166	84.7%
	Cause FFL to falsify records	6	5	11	5.6%
	Other statutes	12	7	19	9.7%

<sup>a</sup>Charges were referred against 129 persons, 59 from delayed denials and 70 from standard referrals.

<sup>b</sup>Six charges were for State offenses; the remainder were Federal charges.

**Table F. Judicial status of charges in 2007 NICS denial cases referred for prosecution**

Judicial status (as of October 16, 2008)	Delayed	Standard	All charges	Percent
Total	95	101	196	100.0%
Declined by prosecutor	42	32	74	37.8%
Guilty plea by defendant	20	26	46	23.5%
Pending action by prosecutor	11	17	28	14.3%
Dismissed after indictment	13	9	22	11.2%
Indictment, information or complaint filed	7	6	13	6.6%
Dismissed per plea agreement	2	6	8	4.1%
Guilty verdict at trial	0	2	2	1.0%
Not guilty verdict at trial	0	1	1	0.5%
Pretrial diversion	0	1	1	0.5%
Dismissed prior to indictment	0	1	1	0.5%

**Table G. Charges in guilty pleas and verdicts, 2007 NICS denial cases**

18 USC 922 Subsection	Charge definition	Delayed	Standard	All charges <sup>a</sup>	Percent
	Total <sup>b</sup>	20	28	48	100.0%
(a)(6)	Falsified information when buying firearms	4	19	23	47.9%
(g)(1)	Possession of firearm by convicted felon	2	3	5	10.4%
(n)	Receive/ship/transport firearm after indictment	3	0	3	6.3%
(g)(3)	Possession of firearm by drug user	3	0	3	6.3%
(g)(8)	Possession of firearm while under restraining order	0	2	2	4.2%
(g)(9)	Possession of firearm after domestic abuse charge	2	0	2	4.2%
Other		0	1	1	2.1%
	Total 18 USC 922	14	25	39	81.3%
	Other statutes	6	3	9	18.8%

<sup>a</sup>42 defendants plead or were found guilty, 17 from delayed denials and 25 from standard referrals.

<sup>b</sup>Four charges were for State offenses; the remainder were Federal charges.

**Table H. Federal judicial district summary, 2007 NICS denial cases**

Districts with the most unlawful possession cases

Arizona	240
Kansas	107
South Carolina	94
Louisiana Western	79
New Mexico	79

Districts with the most case declinations

Arizona	276
Kentucky Eastern	257
Georgia Northern	246
Ohio Southern	239
Montana	220

Districts with the most charges referred for prosecution

Maine	26
Montana	14
South Dakota	14
Indiana Northern	12
New York Northern	12

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

South Dakota	5
Maine	5
Indiana Northern	4
South Carolina	4
Arkansas Eastern	3
Kentucky Eastern	3
Montana	3

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**Table I. Selected statistics on NICS denial cases, 2007 and 2006**

	Number of Cases		Decrease
	2007	2006 <sup>a</sup>	
FBI denials referred to Brady Operations Branch	73,992	77,233	4.2%
Brady Operations referrals to ATF field divisions	6,275	9,432	33.5%
Unlawful possession investigations	2,212	2,600	14.9%
Investigations resulting in firearm retrieval	1,258	1,480	15.0%
Field office declinations	6,072	9,410	35.5%
	Number of Charges		Decrease
	2007	2006	
Referred for prosecution	196	273	28.2%
Declined by prosecutor	74	99	25.3%
Guilty plea or verdict	48	73	34.2%

<sup>a</sup>Source: Enforcement of the Brady Act, 2006, (NCJ No. 222474, April 2008), <http://www.ncjrs.gov/pdffiles1/bjs/grants/222474.pdf>

**Table J. Investigations of State POC Denial Cases, 2007 and 2006**

	Pennsylvania <sup>a</sup>			Virginia <sup>b</sup>		
	2007	2006	Change	2007	2006	Change
Total denials	7,420	9,535	-22.2%	2,222	2,380	-6.6%
Referred for investigation	440	285	54.4%	935	1,005	-7.0%
State police troops	300	175	71.4%	935	1,005	-7.0%
Local sheriffs or police	139	102	36.3%	---	---	---
ATF field offices	1	8	-87.5%	---	---	---
Investigation outcomes						
Firearms retrieved	---	---		5	---	---
Apprehend wanted person	124	119	4.2%	75	---	---
Arrests reported	252	194	29.9%	716	727	-1.5%
Prosecutor declinations	76	100	-24.0%	---	---	---
Convictions	181	173	4.6%	---	---	---

---Not applicable or not available

<sup>a</sup>Source: Pennsylvania State Police, Firearms Annual Reports, 2007 and 2006, <http://www.psp.state.pa.us/psp/cwp/view.asp?a=4&q=175990>.

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