

Overview, Summary, and Introduction

Overview

Record checks of firearm purchasers are intended to make it tougher for criminals and certain other individuals to obtain guns from licensed firearm dealers. Federal law prohibits the sale of firearms to persons convicted of a felony offense (see box A for other prohibitions), but does not require a criminal records check.

Proposals for criminal record checks—manual or automated—must be considered in light of the realities of firearms ownership: 1) the vast majority of persons purchasing firearms from gun dealers are law-abiding citizens who use firearms for sport, collection, or protection; 2) the estimated 200 million firearms already in circulation would not be affected by record checks unless resold through licensed dealers; and 3) criminals also get guns from other sources, e.g., thefts, sales by individuals, and the black market. Thus criminal record checks—by themselves—will not prevent criminals from getting firearms. Checks can, however, reduce dealer sales to disqualified persons and complement other crime controls (e.g., stiffer, mandatory sentences for firearms offenses; clampdown on illegal gun trafficking; tighter security by gun dealers and owners).

Automated checks of up-to-date criminal records, if available, can quickly and accurately determine if purchasers have a disqualifying criminal record. Automated checks could be made at the point-of-sale, during waiting periods, or while processing applications for permit-to-purchase cards. Automated checks could reduce the purchase delay caused by the need to conduct manual record checks of purchasers. Record checks, automated or manual, are quicker when record quality is high and when prospective firearms purchasers can be accurately identified.

The capability to conduct automated checks of criminal records varies widely among States. State or national point-of-sale “instant” checks would require substantially automated, complete, and up-to-date files of persons convicted of felony offenses. But State and FBI criminal history files have major gaps in automation and record completeness.

A felony arrest is not, of itself, disqualifying under Federal firearms law. The prospective firearm purchaser must be convicted of the offense, or

Box A—Federal Firearms Purchaser Prohibitions

The following are prohibited from purchasing or receiving firearms (or ammunition):

1. persons under indictment for a crime punishable by imprisonment for a term exceeding 1 year (defined as a felony in most States; under Federal law, a misdemeanor punishable by more than 2 years imprisonment also is disqualifying);
2. persons convicted of such a crime;
3. fugitives from justice (persons who have fled from any State to avoid prosecution for any crime);
4. unlawful users of any controlled substance;
5. persons adjudicated as mentally defective or committed to any mental institution;
6. illegal aliens;
7. persons dishonorably discharged from military service; and
8. denunciates of U.S. citizenship.

SOURCE: 18 U.S.C. 44, secs. 921 and 922.

formally charged (i.e., by a prosecutor or grand jury), to be disqualified. A felony arrest is not disqualifying if: 1) the police subsequently drop charges; 2) the prosecutor declines to bring charges; or 3) the court dismisses the charges or finds the defendant not guilty.

Nationwide, one-third of the final outcomes (“dispositions”) of arrest cases are estimated to be missing from criminal history records. Some States do much better than average; others much worse. Given time, missing dispositions usually can be located by checking with police, prosecutors, or courts. But firearm purchaser decisions made at the point-of-sale do not allow time to locate missing information.

Because of these missing dispositions, firearm purchasers with felony arrest records alone (i.e., not convicted or formally charged) could be initially disapproved, but would eventually be found qualified after verification. This would inconvenience those whose purchases were thus delayed. If, on the other hand, disapprovals were based on listed felony convictions only, many purchasers who should be disqualified would be approved. This poses a

particular dilemma for States with low levels of disposition reporting.

The FBI's computerized Interstate Identification Index (III) could be used as a national felon file by "flagging" (with a special indicator) the index entries of all persons with disqualifying convictions. State or local law enforcement agencies could then run national criminal history record checks on firearms purchasers by querying the III. But the quality of III information is only as good as the quality of State criminal history records. States would first need to ensure that their own criminal history records are complete and up-to-date. This is not generally the case today. And neither the III or most State files distinguish between persons arrested and those formally charged.

Point-of-sale checks are presently based on the purchaser's name and personal identifiers (e.g., date of birth, sex, height) but not on fingerprint identification—considered by many criminal justice officials to be the only reliable positive identification. But the few States with instant checks have not reported problems with phony identification.

The time and resources that would be needed to perform automated checks depends on the level of record quality desired and whether and how fingerprint checks are included. Building the systems to support reasonably complete and accurate 'instant' name checks of State and Federal criminal history records probably would take several years and \$200 to \$300 million. Other options would take longer and cost more—up to several billion dollars over a decade for point-of-sale electronic fingerprint checks.

The time needed for thorough criminal record checks should decline in the future, if Federal and State resources continue to be applied. In a few States, "instant" checks seem practical today; in many, waiting periods of several days (and sometimes weeks) are needed to check a combination of manual and automated records. Over time, more States can be expected to develop the capabilities needed for instant checks. The average waiting time could correspondingly shorten, assuming States did not retain gun purchase waiting periods for other reasons (e.g., cooling off, checks of noncriminal justice records).

Several related automated record check issues warrant congressional consideration:

- All record check systems need to ensure privacy, security, and protect constitutional rights. Many gun owners consider the right to keep and bear arms a fundamental freedom. Record check systems can be designed to prevent the listing of law-abiding gun owners and guns and to prohibit or severely limit access by gun dealers to the actual criminal record information of would-be purchasers. Good record quality, quick response, and fast verification of initial disapprovals can be required to protect the rights of firearm purchasers. Periodic audits, simple and speedy appeal procedures, and appropriate sanctions may be needed to help ensure compliance and public confidence.
- Knowledge of how and where criminals obtain firearms is limited. The National Institute of Justice (NIJ), Bureau of Justice Statistics (BJS), FBI, and Bureau of Alcohol, Tobacco, and Firearms (BATF) could sponsor research on firearms purchases in States and at gun shows (or other outlets) that do not use record checks, and on the use of phony identification in firearm purchases. BATF could conduct more frequent criminal record checks of licensed firearms dealers, possibly including fingerprint checks.
- Difficult as criminal record checks may be, the challenges posed by checking other types of records are even greater. NIJ and BJS could sponsor research on how to check for other types of persons disqualified from purchasing firearms (e.g., illegal drug users, illegal aliens, persons committed to mental hospitals).
- The U.S. Department of Justice does not have a detailed, coordinated plan for implementing automated firearm purchaser record checks. The Bureau of Justice Assistance (BJA) and BJS could conduct a State-by-State examination of: needed improvements in criminal record systems; the cost of needed improvements; how quickly (and by how much) these improvements might reduce record check response time, and improve completeness and accuracy; and State actions necessary to fully implement the FBI's III and related National Fingerprint File (NFF). The results could form the basis for a phased implementation of automated record checks.



Photo credits: Virginia State Police

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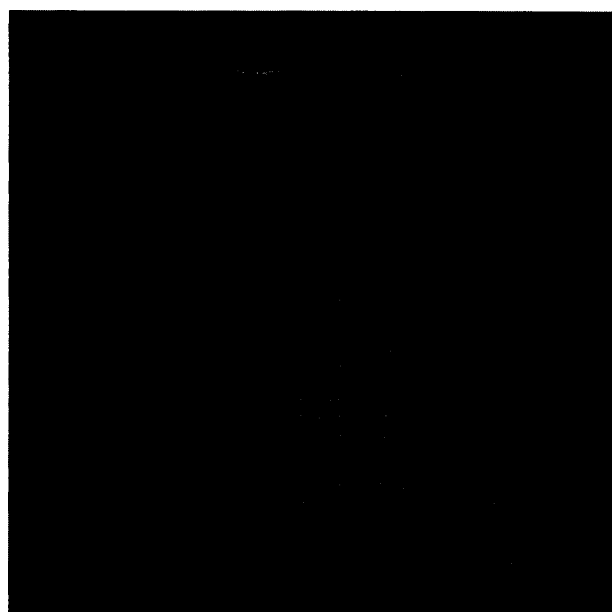
A licensed firearms dealer calls the Virginia State Police toll-free 800 number to obtain a criminal records check on a prospective firearms purchaser. Dealers typically receive an initial approval or disapproval from the State Police in less than 2 minutes.

Top right

A Virginia State Police operator conducts an immediate check of State and Federal computerized criminal records while the firearms dealer waits on the phone line. Operators are on duty 8 a.m. to 10 p.m., 7 days a week.

Bottom left

Computerized criminal history records checked by the Virginia State Police include information on the arresting agency, date, charge, and, when available, disposition for each arrest.



Summary

Every day at least 20,000 new or used firearms are sold by federally licensed firearm dealers in the United States.¹ The vast majority are sold to law-abiding citizens.² Federal law prohibits persons convicted of a felony offense from purchasing firearms.³ Despite this prohibition, a small percentage of purchasers—in the range of 1 to 2 percent—may be convicted felons. This could add up to tens of thousands of firearms per year going from dealers unknowingly to criminals. Anyone purchasing firearms from federally licensed gun dealers must complete a Federal form⁴ and state whether he or she has been convicted of a felony. But Federal law does not require a criminal records check to verify if the information provided is true and accurate. Checks of criminal records are intended to help prevent illegal firearm purchases. Some States require record checks; others do not.

Record checks using manual, labor-intensive systems take days to weeks.⁵ Automated systems can cut the time to hours, minutes, or even seconds. The State of Virginia has an operational point-of-sale (POS) system that checks computerized State criminal history (and State and Federal wanted person)⁶ records for every firearm purchase called in on an 800 telephone number by licensed dealers. The Virginia State Police conducts the record checks and provides a response to dealers within about 90

seconds that the sale is either approved or disapproved (subject to verification).

Can what appears to work for Virginia work for other States and the entire Nation? Virginia is one of only a few States that have all the necessary components of an automated POS record check system: a fully computerized name index of criminal offenders; a substantially computerized criminal history (CCH) file; a high level of disposition reporting (in Virginia, 95 percent for recent arrests); and flagging (in the computer file) of offenders with felony convictions. Many States lack one or more of these components and will need significant time and resources to build the infrastructure to support POS record checks. The challenge will be greatest for roughly half the States that still have a very incomplete CCH file or a very low percentage of final dispositions (e.g., less than 50 percent automated records [21 States], less than 50 percent disposition reporting [13 States]).⁸

Record Quality

High criminal record quality is the key to success of POS systems. Even the Virginia system is not perfect. For every 100 firearm purchasers in Virginia, 94 are approved within seconds, based on record checks that show no criminal activity. The other 6 are initially disapproved. Only one or two of the six initial disapprovals are confirmed, on the average. The other four or five are “false positives,” meaning the initial disapproval was based

¹Assumes 7.5 million annual sales of new and used firearms, as estimated by the Bureau of Alcohol, Tobacco, and Firearms (BATF). Some gun owner groups believe the BATF estimate is low; the uncertainty lies in estimating used gun sales.

²Most use firearms for hunting, sports shooting, gun collecting, gunsmithing, or personal protection. For an overview, see W.S. Jarrett (ed.), *Shooter's Bible 1991*, No. 82 (South Hackensack, NJ: Stoeger Publishing CO., 1990); K. Warner (ed.), *Gun Digest 1991*, 45th annual ed. (Northbrook, IL: DBI Books, Inc., 1990); and the numerous books, periodicals, associations, and directories cited therein.

³18 U.S.C. 44, sec. 922(a) and sec. 921(a)(20) state that a disqualifying conviction shall be for a crime punishable by imprisonment for a term exceeding 1 year, or a misdemeanor punishable by imprisonment for a term exceeding 2 years. 18 U.S.C. 44, sec. 922(d) and (g) prohibit firearm purchases by: persons formally charged (under indictment or information) as well as convicted of a felony offense (as defined above), fugitives from justice, users of illegal drugs, persons adjudicated as mental defective or committed to mental institutions, illegal aliens, dishonorably discharged military service personnel, and those who have renounced U.S. citizenship.

⁴Known as BATF Form 4473.

⁵“Record checks” refer to checks of criminal records based on the purchaser's name and identifiers (e.g., sex, date of birth) but not on the purchaser's fingerprints. The time required for manual name checks typically ranges from hours to days but can take up to 2 weeks or longer in States with limited staff, high volume, or both.

⁶The Virginia State Police plan to check the Federal Bureau of Investigation's (FBI's) Interstate Identification Index (III) (for out-of-State criminal history records) at the immediate point-of-sale, beginning about July 1, 1991. The State police expect to continue providing an initial response to dealers within about 90 seconds.

⁷The disposition of an arrest is the final outcome, e.g., the arrest charges may be dropped by the police or prosecutor before going to trial, or they may result in a court conviction or acquittal.

⁸About 65 percent of State criminal history records are automated and include final dispositions, as a national average.

⁹A “false positive” is a record check that indicates a person has a criminal record and therefore is initially disapproved to purchase a firearm, but where subsequent verification determines that the criminal record is not disqualifying (and the purchase is therefore approved or that the criminal record is on another person perhaps with a similar but different name).

on a record “hit” on the wrong person (similar but different name), a felony arrest that did not result in conviction, or a misdemeanor conviction that is not disqualifying.¹⁰ The Virginia State Police verifies all initial disapprovals and corrects any false positives within hours or by the close of the next business day.

Premature use of POS systems would, in States with much lower disposition reporting levels than Virginia, predictably result in the following:

1. higher false positive rates than Virginia;
2. frustrated criminal justice officials;
3. unhappy law-abiding firearm purchasers;
4. substantial time and effort spent verifying records after an initial disapproval; and,
5. in States with incomplete arrest as well as disposition reporting, an unknown number of felons and fugitives who are unintentionally authorized to, in effect, illegally purchase firearms (“false negatives”).¹¹

This points up the dilemma for POS systems in States with low record quality. If every firearm purchaser with any kind of criminal history record is initially disapproved, most of these record “hits” will turn out not to be disqualifying after verification (false positives). If only firearm purchasers with listed felony convictions are disapproved, purchasers with disqualifying convictions may also be inadvertently approved (false negatives) because disposition (and perhaps arrest) information is missing from the criminal records. A key concern is: what levels of false positives and false negatives are acceptable for States to participate in POS systems, until such time that all States have substantially complete and up-to-date criminal history records? This involves a balancing of: the effort and time, ranging from minutes to hours to days, required to verify initial disapprovals; the inconveniencing of lawful firearm purchasers whose purchases are delayed due to “false positive” record checks; and the effort, time, and risk associated with retrieving

firearms from ineligible purchasers who had been inadvertently approved because of faulty records. (The same considerations apply to any type of record check—manual or automated, whether at the POS or during a waiting or proapproval period.)

National Felon File

One possible shortcut to POS systems is the creation of a national felon file—an option identified by a U.S. Department of Justice task force.¹² This new computerized file would contain the names and personal identifiers of all convicted felons. It would, in theory, solve State and Federal record quality problems and be more cost effective than checking firearm purchasers against all criminal records. A national felon file would be difficult to implement in the short-term because it would first require the following:

1. the screening of each State’s criminal history records against each State’s firearm laws, since the definition of disqualifying felony offenses varies from State to State;
2. the flagging of disqualifying in-State felony convictions in every individual State criminal history file; and
3. the resolution of privacy and security issues, especially regarding the possibility of non-criminal justice direct access (e.g., by gun dealers) to such a file.

A national convicted felon file would not, by definition, include other persons who are prohibited from purchasing or receiving firearms under Federal law (those who are formally charged¹³ with a felony offense or who are fugitives from justice); nor would it necessarily include persons with misdemeanor convictions that are disqualifying under State or Federal laws. Virginia has interpreted Federal law as justifying the checking of State and National wanted person files as well as State and National criminal

¹⁰**Criminal** record managers consider initial false positives to be a routine occurrence when record checks are based on name and personal descriptors rather than **fingerprints**. Name checks frequently identify several persons with **similar** names and descriptors. Criminal records **personnel** review these initial record “bits” to **determine** if any of the records actually match the person being **checked**, conduct **further verification** if needed, and request relevant **criminal** history information. In this view, an initial name check is simply the **first** step in a process leading to a determination as to whether the person does or does not have a **criminal** history record. A true “false positive” would occur only if a **misidentification** is made and not corrected by the end of the records checking process, including cases of mistaken identity (the purchaser is erroneously linked to a criminal record).

¹¹A “false negative” is a record check that indicates a person does not have a **criminal** record and therefore is approved to purchase a **firearm**, when the person in fact has a disqualifying criminal record but escapes detection due to incomplete records (or use of phony **identification**).

¹²**Attorney General’s Task Force on Felon Identification in Firearm Sales.**

¹³**Under indictment or information.** An **indictment** is a formal accusation of a crime presented by a grand jury; an **information** is a formal accusation made by a prosecuting attorney.

history files. If one accepts the Virginia approach, a national felons file may never be needed—only the further improvement and automation of the basic State and Federal criminal record systems, which is needed anyway.

National Crime Information Center (NCIC)

Another POS shortcut is to use—like Virginia does today—existing systems for the interstate exchange of criminal justice information. The backbone of this interstate network consists of the FBI's NCIC (for locating wanted persons and fugitives from justice) and Interstate Identification Index (III) (for locating persons with out-of-State criminal history records). The III can be used in conjunction with firearm purchaser checks, but the quality of the criminal history records exchanged via III will be no better than the quality of the records in the source States. The NCIC and III can be important supplements or complements to, but not substitutes for, State wanted person and criminal history files, since many wanted persons, fugitives, and criminal offenders are not (and may never be) included in the FBI files. The III could serve as a de facto national felons file, but only after State criminal history records are screened and flagged.¹⁴

Fingerprint Identification

The lack of positive identification of the prospective firearm purchaser is a potential weakness with the Virginia-style POS system. Firearm purchasers are required to present one government-issued photo-identification card, such as a Virginia driver's license (which has name, address, sex, date of birth, height, and social security number as well as a photo). Virginia officials have not detected a problem with phony identification; but other criminal justice officials remain skeptical.¹⁵ Many in the criminal justice community consider fingerprints to be the only reliable form of positive identification.

Possible POS technical solutions include live scanning of fingerprints (with video or laser beams, rather than using inked prints), and smart cards (with fingerprint and criminal record information stored on magnetic or laser-readable strips or computer chips).¹⁶ Both of these technologies exist today; but their further development and deployment to support POS firearm purchaser checks is likely to take years. Realistically, this will probably not happen until: States adopt smart cards for other, broader governmental purposes, such as driver's licenses; and fingerprint (or other biometric)¹⁷ identification becomes a standard adjunct to, for example, credit card transactions for purposes of reducing retail fraud.

Waiting Periods

Waiting periods help provide the time needed for criminal record checks in many States using whatever combination of manual and automated capabilities exists. The amount of time required for checks is, all other things being equal,¹⁸ inversely related to automation, record quality, and the ability to accurately identify firearm purchasers. The more automated and complete a State's criminal records, and the lower the incidence of false identification, the less the need for waiting periods for purposes of criminal record checks.

Even in the more automated States, time is needed to confirm initial record hits. States like Virginia with high levels of automation and disposition reporting can usually do this in a matter of minutes to hours (although Virginia can take, and sometimes needs, up to 2 working days—the close of the next business day—to verify initial POS disapprovals). States with intermediate levels of automation and dispositions are likely to need up to several days. Florida, which also has a Virginia-style POS system, allows and frequently needs up to 3 working days to verify initial disapprovals. Some intermediate States

¹⁴Optimal use of the III for automated firearm purchaser checks would require full implementation of the III/NFF (National Fingerprint File) concept, including enactment of an interstate compact or Federal legislation on the interstate exchange of criminal history and identification information. For discussion, see U.S. Congress, Office of Technology Assessment, *The FBI Automated Fingerprint Identification Program: Issues and Options*, in preparation.

¹⁵The FBI believes that about one in six criminal record hits involves persons using alias names and identification that could only be detected using fingerprints. Whether this percentage applies to firearm purchasers is unknown. The Oregon State Police found that about 1 in 14 handgun purchasers with criminal records used phony names and identification but that very few purchasers using phony identification (1 out of 70) actually had disqualifying criminal records.

¹⁶Credit or debit type cards with magnetic strips have limited capability, but can store personal identification information that can be read by inexpensive card scanners. The true "smart" card can process and transmit as well as store information.

¹⁷Unique human descriptors or measurements.

¹⁸Like the State's population, volume of firearm sales, and resources available to conduct checks.



Photo credits: Oregon State Police

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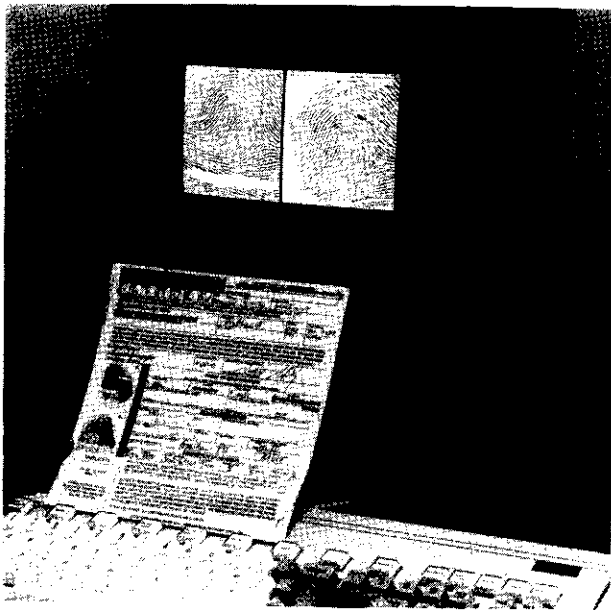
A prospective handgun purchaser in Oregon is thumbprinted by the licensed firearm dealer. The prints along with name and personal identifiers are forwarded to local and State police for checking during the mandatory 15-day waiting period.

Top right

local law enforcement agencies check the criminal history records of handgun purchasers in Oregon.

Bottom left

The Oregon State Police check the thumbprints of handgun purchasers in Oregon. The thumbprints are processed by an automated fingerprint identification system; possible matches with prints on file are displayed on a computer screen.



require 3 to 15 days to conduct and verify record checks. States with little automation and few dispositions may need up to several weeks.

Over the next few years, each additional day of waiting period would permit additional States to be able to complete criminal record checks of firearm purchasers within the time allowed.¹⁹ The average time needed for record checks should decline in the future, if Federal and State resources continue to be applied to improving the automation and completeness of criminal record systems. Over time, more States can be expected to develop the capabilities needed to expedite criminal record checks and ultimately to conduct POS checks. The average waiting time should correspondingly shorten, assuming States do not retain waiting periods for other purposes (e.g., cooling off, checks of noncriminal justice records).

Overall Effectiveness

The effectiveness of criminal record checks—whether manual or automated, at the POS or during waiting periods—depends in part on their coverage as well as their accuracy. About half of the States authorize or require a record check of some sort. The majority of these apply to both dealer and private transactions, and about two-fifths cover some or all long guns²⁰. The absence of a Federal record check requirement combined with the patchwork quilt of State record checks means that criminals intent on obtaining firearms may be able to avoid a record check altogether by going to a State with no record check requirement. For maximum coverage, record checks could be authorized or required of all States, and could be extended to all firearm purchases (handguns and long guns) from all firearm dealers and at gun shows or other organized, public outlets.

The effectiveness of criminal record checks is tempered by the large number of firearms already in circulation in the United States (an estimated 200 million²¹), and the many ways criminals obtain firearms that are outside the direct reach of record

checks—including black market and individual transactions.

Some gun owner groups remain skeptical that the benefits of record checks—automated or not—are worth the costs and risks. They question whether such checks will effectively deter a significant number of criminals, or are more likely to delay law-abiding citizens from purchasing firearms (and compromise their right to keep and bear arms), with very few active criminals detected or deterred from obtaining firearms. Criminals might, it is argued, simply resort even more to the black market or use of ‘stooge’ purchases²². Law enforcement officials counter with statistics on the numbers of convicted felons disqualified and wanted persons identified trying to purchase firearms in those States with record checks. The Department of Justice (DOJ) could help clarify the factual uncertainties by periodically compiling statistics (and issuing reports) on firearm purchaser checks, including the number of: purchasers screened, initial disapprovals, confirmed disapprovals, appeals of disapprovals (with results of these appeals), and prosecutions of illegal purchasers (and resulting convictions).

Other Record Check Realities

Building the infrastructure necessary for automated POS firearm purchaser record checks will require a continued, strong Federal and State resource commitment. The additional funding is likely to be in the \$200 to \$300 million dollar range over the next 3 to 5 years for the State computerized criminal history record systems (including timely, substantially complete arrest and disposition reporting) needed to support automated POS name checks.²³ If fingerprint checks of firearm purchasers are desired, an additional roughly \$200 million for State and Federal automated fingerprint identification systems would be needed over the next 5 years. Most of these funds would be needed anyway for criminal record and identification system improvements supporting a wide range of criminal justice purposes. If POS fingerprint checks are desired, an

¹⁹The marginal utility of each additional day of waiting period could be estimated, but would require a detailed State-by-State examination—perhaps best conducted by the Bureau of Justice Statistics.

²⁰Includes rifles and shotguns.

²¹BATF estimate.

²²Purchases made by persons without criminal records who are acting on behalf of criminals.

²³This is to be distinguished from the cost of setting up individual State telephone “hot lines” at a cost of about \$25 million. The “hot line” cost excludes the cost of needed State criminal record system improvements.

additional half a billion to several billion dollars would be needed over the next 5 to 10 years. Firearm purchaser “smart” cards would cost another several hundred million dollars.

Possible revenue sources for the State and local portion of record system improvements include additional State and local general revenues, Federal block or discretionary grants, licensing fees (from gun dealers), and user fees (from firearm purchasers). Most State and local government budgets are strained, and many of the States with the most serious record system deficiencies are strapped for funds. This makes Federal funding even more important.

The Bureau of Justice Assistance (BJA) and Bureau of Justice Statistics (BJS) could conduct a State-by-State examination of the following:

1. needed criminal record system improvements;
2. the cost of needed improvements;
3. how quickly (and by how much) these improvements might reduce record check response time, and upgrade completeness and accuracy; and
4. how police, prosecutors, judges, and criminal record managers might best cooperate in making these improvements.

Such an examination could be included in the program evaluation BJA/BJS are planning for fiscal year 1992, and could cover both State/local criminal record system improvements and full implementation of the FBI's separate but related III and National Fingerprint File (NFF).²⁴ The results could form the basis for a phased implementation of automated record checks.

The National Institute of Justice (NIJ), BJS, Federal Bureau of Investigation (FBI), and Bureau of Alcohol, Tobacco, and Firearms (BATF) could collaborate to improve understanding of how and where criminals obtain firearms; research on firearm purchasers in States and at gun shows (or other outlets) without record checks would be useful, as would studies on the use of phony identification and stooge purchases.

BATF has fallen behind in issuing the annual compilation of State firearm laws required to be provided to licensed gun dealers. BATF could issue

periodic updates on a more timely and cost-effective basis consistent with legislative intent.

All record check systems—automated or not—need to be sensitive to privacy, security, and constitutional concerns. Many gun owners attach great importance to the right to keep and bear arms. Record check systems can be designed, as in Virginia, to prevent the compiling of lists of law-abiding gun owners and guns, and to prohibit or severely limit noncriminal justice access to criminal record information. High record quality, quick response, and expeditious verification of initial disapprovals can be mandated for automated POS systems, to protect the rights of firearm purchasers. Periodic audits, simple and speedy appeal procedures, and meaningful sanctions may be needed to help ensure compliance and public confidence.

Difficult as criminal record checks may be, the challenges posed by checking other types of records are even greater. Federal law also prohibits firearm purchase or possession by: unlawful users of controlled substances; persons adjudicated as mental defective or committed to mental institutions; illegal aliens; persons dishonorably discharged (from military service); and denunciates (of U.S. citizenship). The outlook is not good for including these other disqualifying categories in automated firearm purchaser checks. Records do not exist on perhaps four-fifths of the people in these categories; half the records that do exist are not automated and many are of unknown quality. Nationwide POS checks of these categories of persons are not likely to be feasible for many years—if ever—with the possible exception of the dishonorably discharged and renunciates and perhaps persons involuntarily committed to mental institutions.

Further improvements in State and FBI automated fingerprint identification systems (AFIS) would be needed if automated firearm purchaser checks are to include fingerprints. There should be no illusion, however, that even these systems will permit instantaneous POS fingerprint identification; several hours or, more likely, days is the best that can be expected to the year 2000.

Improvements in FBI and State automated fingerprint identification capability will make it more feasible for BATF to conduct fingerprint as well as name checks on gun dealer license applicants and

²⁴See OTA, *FBI Automated Fingerprint Identification Program*, op. cit., footnote 14, in preparation.

renewals. BATF could, in the interim, seek FBI and State and local law enforcement assistance in running fingerprint checks where feasible with existing systems. BATF also could run periodic name checks on licensees, rather than only at the time of initial application.

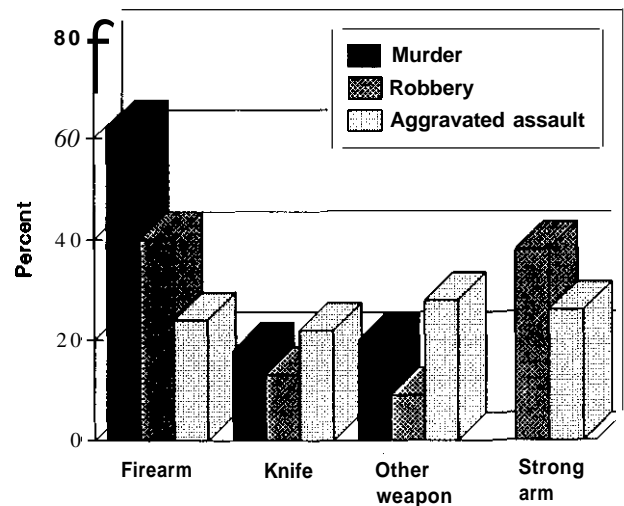
Firearm purchaser record checks should be viewed as only one of many actions needed to help reduce firearm-related crime. Other actions might include stiffer, mandatory sentences for repeat or violent firearm offenders, intensified investigation and prosecution of illegal gun trafficking, and firearm safety and security courses.

Introduction

Interest in automated criminal record checks has increased for several reasons. First, about one-fourth to one-third of the most violent crimes involve the use of firearms (see figure 1),²⁵ and three-fifths or more of these crimes are committed by repeat offenders who are prohibited from legally purchasing or possessing firearms.^{*} The proportion of firearms illegally purchased from licensed dealers by felons is uncertain; most apparently are obtained through the black market or by theft.²⁷ In the absence of Criminal record checks, the current system maybe lea@ and open to abuse. Gun traces conducted by BATF show significant movement of firearms from States without record checks to States with record checks.²⁸

Second, proposals for waiting periods before a purchaser can take possession of firearms are based in part on the time required to conduct record checks. These checks can take days to weeks with manual record systems. Automated record checks can reduce the time down to hours, minutes, or even seconds, if records are complete and up-to-date.

Figure 1—Violent Crime by Type of Weapon, 1989



SOURCE: Federal Bureau of Investigation, 1991.

Third, automated record checks depend on improvements to the criminal record systems in Federal, State, and local jurisdictions. Current technology permits almost instantaneous exchange of criminal record information among the States and Federal Government. However, its potential cannot be realized as long as some States or the Federal Bureau of Investigation (FBI) still have manual files, incomplete files, or both. Response time is slowed considerably in these situations, because information must be retrieved and processed manually before it can be transmitted electronically.

Fourth, the information being checked must be complete and accurate to minimize wrong decisions. If a felony acquittal is missing from a record, a purchase could be denied or delayed until the criminal history information is updated. If a felony

²⁵Uniform Crime Reports data provided by the FBI indicate that, in 1989, firearms were used in 62 percent of murders, 33 percent of robberies, and 22 percent of aggravated assaults. Comparable figures in 1980 were 62 percent of murders, 40 percent of robberies, and 24 percent of aggravated assaults. Comparable figures for California in 1989 were 66 percent of murders, 33 percent of robberies, and 19 percent of aggravated assaults. See California Department of Justice, Bureau of Criminal Statistics, *Crime and Delinquency in California, 1980-1989* (Sacramento, CA: California DOJ, July 1990). Roughly 650,000 violent crimes of all types are committed in the United States with handguns each year, and perhaps another 150,000 with long guns. For handguns, see M.R. Rand, *Handgun Crime Victims*, special report (Washington DC: U.S. Department of Justice, Bureau of Justice Statistics, 1990). For long guns, the FBI's Uniform Crime Reports data indicate that long guns (rifles and shotguns) are used in about 20 percent of firearms-related murders, handguns 80 percent.

²⁶The overall recidivism rate for violent offenders is about 60 percent, based on surveys of released prisoners, ranging from 66 percent for robbers to 42 percent for murderers. See A.J. Beck and B.E. Shipley, *Recidivism of Prisoners Released in 1983* (Washington, DC: U.S. Department of Justice, Bureau of Justice Statistics, April 1989). Recidivism is defined as a rearrest within 3 years after release from prison.

²⁷See J.D. Wright and P.H. Rossi, *The Armed Criminal in America: A Survey of Incarcerated Felons* (Washington, DC: U.S. Department of Justice, National Institute of Justice, July 1985).

²⁸See Bureau of Alcohol, Tobacco, and Firearms, Boston District Office, and Boston Police Department, *Trace Study: City of Boston, October 1989-June 1990* (Boston, MA: U.S. Department of the Treasury, BATF, 1990).

conviction is missing, an illegal purchase could be approved.

This report focuses on automated checks of criminal records to identify persons disqualified from purchasing firearms under Federal law:

- . if formally charged with a felony offense (under indictment or information),
- . if convicted of a felony offense, or
- . if determined to be a fugitive from justice.²⁹

It briefly considers automated checks of record systems that cover other disqualifying conditions—users of illegal drugs; persons adjudicated as mental defective or committed to mental institutions; illegal aliens; dishonorably discharged military service personnel; or those who have renounced U.S. citizenship.³⁰ The analysis and discussion of firearm purchaser checks are relevant to pending legislation³¹ and various U.S. Department of Justice programs and initiatives.³²

²⁹18 U.S.C. 44, sec. 922(d)(1) and (2), sec. 922(g)(1) and (2).

³⁰18 U.S.C. 44, sec. 922(d)(3)-(7), and sec. 922(g)(3)-(7).

³¹H.R. 7 and S. 257, the “Brady Handgun Violence Prevention Act,” 102d Cong., 1st sess., Jan. 3, 1991; H.R. 1412, the “Felon Handgun Purchase Prevention Act of 1991,” 102d Cong., 1st sess., Mar. 13, 1991.

³²See U.S. Department of Justice, Office of Justice Programs, Attorney General’s Program for Improving the Nation’s Criminal History Records and Identifying Felons Who Attempt To Purchase Firearms, NCJ-128131 (Washington DC: U.S. Department of Justice, Bureau of Justice Statistics, March 1991).