Value of Criminal Record Checks

Assigning an overall value to criminal record checks of firearm purchasers is difficult since it involves the weighing of both quantitative and qualitative benefits and costs. Record checks can help implement Federal and State laws that prohibit convicted felons from purchasing or possessing firearms. States with record checks have found, on the average, that about 1 to 2 percent of purchasers from licensed dealers are convicted felons or are otherwise disqualified. Reliable data are lacking on States without record checks. (NIJ, BJS, or BATF could commission survey research on a statistically valid sample of firearm purchasers from dealers in States without record checks to fill this knowledge gap.) The limited research on how criminals obtain firearms (based on surveys of convicted and incarcerated felons) suggests that purchases from licensed gun shops are the source in about one in six cases. More often, criminals obtain firearms from friends, the black market, and less formal sales or exchange outlets such as gun shows.[117] Thousands of gun shows are held each year. Criminal record checks are rarely required at gun shows, even though gun show transactions are subject to Federal law. Nor is there any available research on the criminal backgrounds of gun show purchasers. (NIJ, BJS, or BATF could sponsor research on a sample of firearm purchasers from gun shows.[118])

The possible extension of record checks to all gun shows raises several questions. First, would gun shows or other traditionally cash-and-carry ad hoc sales outlets be possible with record checks? Some gun owner groups are concerned that record checks involving a waiting period would so discourage gun show sales that many of the shows would fold. Virginia requires POS record checks of gun show purchases from dealers (but not private party transactions). This approach seems to be working with a minimum of hassles for gun show vendors and purchasers, and could be extended to all gun show transactions. Federal law prohibits all convicted felons, fugitives from justice, and other disqualified persons from purchasing or receiving firearms, regardless of location. California, on the other hand, recently (in January 1991) extended record checks and a 15-day waiting period to long gun sales and gun shows; the effects on gun shows are not yet known. Gun owner groups believe that waiting periods threaten the viability and, indeed, the very existence of gun shows.

We cannot precisely estimate the total number of firearms reaching the criminal community either directly or indirectly (e.g., via stooge purchases) from gun dealers, gun shows, and other outlets that could reasonably be covered by mandatory record checks. The number of firearms potentially affected, however, is likely to be in the range of tens to hundreds of thousands per year. Direct criminal purchases from gun dealers alone could account for, conservatively, about 50,000 firearms per year, assuming that 2 percent of purchasers are criminals and 2.5 million dealer sales per year (out of 7.5 million total firearm sales by dealers per year).[119] Adding gun show transactions could increase the number of firearms affected.

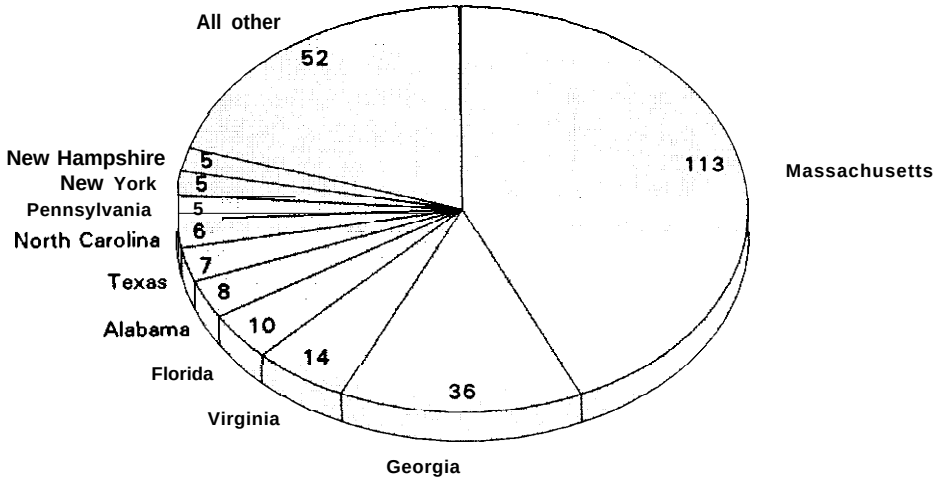
Better estimates will require new and innovative research on the flow of firearms to the criminal community. NIJ or BJS could, as a frost step, sponsor a research methodology conference to: first, discuss conceptual strategies for more comprehensively researching the sources of criminal firearms (including gun shows, flea markets, pawn shops, small dealers, and interstate transfers as well as purchases from storefront dealers and chain stores); and second, review survey, sampling, and interviewing methodologies that can produce the most statistically valid results. NIJ and BJS might fund several

[117] In fiscal year 1990, BATF did recommend 280 cases to U.S. Attorneys for criminal prosecution of persons illegally selling or receiving firearms at gun shows or flea markets. Various BATF regional and district offices report illegal gun show transactions. The nature and extent of such transactions are unknown.

[118] BATF is considering an exploratory inquiry t. better understand the extent and regional distribution of gun shows, and the nature and extent Of any illegal firearms transactions at gun shows.

[119] BATF estimates total annual U.S. gun sales b, dealers to be about 7.5 million, based on the roughly 4 million firearms manufactured domestically and 1 million firearms imported per year (as reported to BATF) and assuming that used firearm sales equal 50 percent of new firearm sales. The estimate of 50,000 additional firearms per year that could be affected by record checks assumes: 2.5 million dealer sales of firearms are not currently covered by firearm purchaser record checks; and 2 percent of firearm purchasers in those States/jurisdictions without record checks have disqualifying criminal records.

Figure 8—interstate Movement of Firearms: The Case of Boston, MA, October 1989 to June 1990



Number of firearms traced to specific States

SOURCE: Bureau of Alcohol, Tobacco, and Firearms and Boston Police Department, 1990.

alternative approaches, in order to provide a more robust basis for interpreting the research. A well-balanced research advisory panel seems especially appropriate and necessary, given the sensitivity of this line of inquiry. The panel could provide feedback on the methodology and help assure the validity, objectivity, and credibility of the results.[120]

Criminal record checks should make it tougher for criminals to get firearms from gun dealers, gun shows, and other organized, public outlets. Some criminals may be deterred from getting guns altogether; others may simply rely more on theft and the black market. This underscores the importance of measures to deter firearm theft (e.g., physical security at stores and homes) and to investigate, prosecute, and punish those who obtain or trade in firearms through illegal channels (e.g., theft, illegal interstate transportation of firearms, guns for drugs deals).

The effectiveness of criminal record checks will depend in part on their coverage. Federal law prohibits the sale, transfer, or interstate transport of any firearm (and ammunition) by or to anyone who has been formally charged or convicted of a felony offense or who is a fugitive from justice.[121] 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. About half of the States have laws that authorize or require a firearm purchaser record check of some sort.[122] The majority of these State laws extend checks to both dealer and private transactions.[123] About two-fifths of these State laws cover some or all long gun purchases as well as handguns.[124]

BATF gun traces have documented significant interstate movement of firearms used in criminal activity. A 1989 trace of firearms used by Boston, MA Criminals, for example, found that the majority of firearms (57 percent) came from out-of-State (see figure 8). The largest out-of-State source was Georgia, which accounted for 14 percent of the firearms traced and does not require a firearm purchaser record check. Altogether, about one-third of the traced firearms (60 percent of the out-of-State firearms) came from States without any record check requirements, and another 5 percent from States that

[120] OTA's use of project advisory panels and workshops could serve as a prototype.

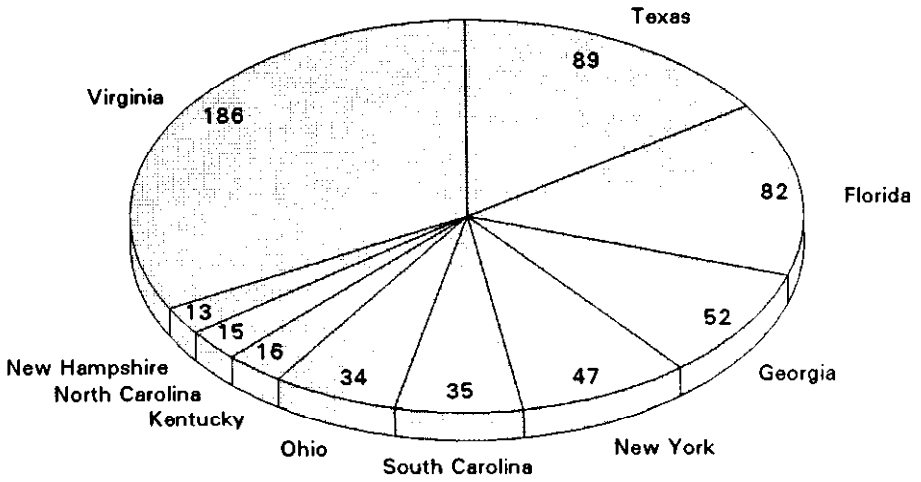
[121] 18 U.S.C. 44, Sec. 922(d), (g), and (n).

[122] Twenty-five States plus Washington, DC.

[123] Seventeen States plus Washington DC.

[124] Eleven States plus Washington, DC.

Figure 9—Interstate Movement of Firearms: The Case of New York City, 1987-90



SOURCE: Bureau of Alcohol, Tobacco, and Firearms, 1991.

checked in-State but not FBI record systems.[125] BATF gun traces suggest that the majority of out-of-State firearms used in crime come from States without criminal record checks or waiting periods prior to purchase (see figure 9).[126] The methodology and statistical significance of these gun traces has not been rigorously reviewed. The degree to which the guns traced are representative of all crime guns is unknown. (NIJ/BJS could commission a review of gun trace methodology and validity.)

About three-fifths of the States with record checks have limited checks to handgun purchases. Crime statistics indicate that handguns account for about 80 percent of firearm-related crime, long guns about 20 percent (see figure 10).[127] Handguns represent, in comparison, about 40 to 45 percent of total firearm sales, long guns the remaining 55 to 60 percent.[128] The presumption is that record checks on handgun purchasers are likely to identify a much higher percentage of ineligible persons than checks on long gun purchasers. Whether this is the case could be another subject of NIJ, BJS, or BATF sponsored research.[129] The fact remains, however, that long guns are estimated to be used in about one-fifth of firearm-related crime. To the extent criminals obtain long guns from dealers or other sources where record checks could be applied, limiting record checks to handguns allows a significant exception.

Benefits of firearm purchaser record checks must be weighed against costs. These include both the

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[125] U.S. Department of the Treasury, Bureau of Alcohol, Tobacco, and Firearms, and Boston Police Department, *Trace Study: City of Boston*, op. cit., footnote 28. A 1976 BATF trace of handguns used in Boston, MA crime found that 65 percent came from out-of-State. See U.S. Department of the Treasury, Bureau of Alcohol, Tobacco, and Firearms, *Project Identification: A Study of Handguns Used in Crime* (Washington, DC: U.S. Department of the Treasury, BATF, February 1976). BATF concluded that, in general, "[t]he percentage of crime handguns purchased interstate was directly proportional to the degree of local handgun control.' For example, 96 percent and 92 percent of crime handguns in New York City and Detroit, MI (both requiring record checks and permits prior to purchase), respectively, came from out-of-State sources. Primary source States included Ohio, Kentucky, Virginia, South Carolina, Georgia, Florida, and Mississippi (none of which at the time had criminal record checks or waiting periods prior to handgun purchase). The pattern was not entirely consistent. The majority of crime handguns in Oakland and Los Angeles, CA, 74 percent and 82 percent respectively, came from California sources, although most of the out-of-State handguns came from States without record checks or waiting periods. A 1991 BATF trace of firearms used in New York City crimes from 1987 to 1990 found that, similar to the 1976 study, 94 percent came from out-of-State sources. Six States accounted collectively for two-thirds of the fiiearms (Virginia, Texas, Florida, Georgia, South Carolina, Ohio).

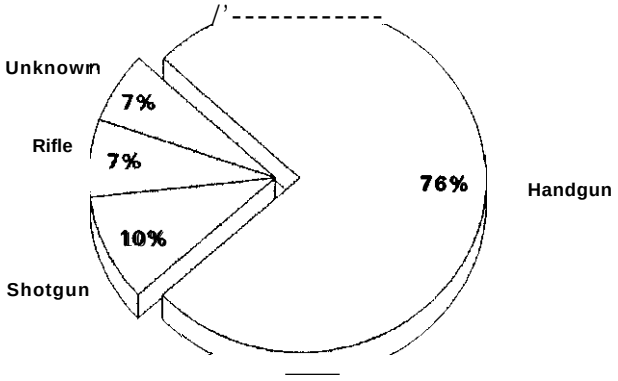
[126] BATF, *Project Identification*, ibid.; also see BATF, Detroit District Office, *Detroit District/Detroit Police Trace project*, 1990.

[127] This was almost exactly the percentage in the Boston gun trace study. See ibid.; also see U.S. Department of Justice, Federal Bureau of Investigation *Uniform Crime Reports 1989: Crime in the United States* (Washington, DC: U.S. Government Printing Office, 1990), and FBI update for 1990.

[128] BATF receives data from firearms manufacturers but not dealers. In calendar 1989, U.S. companies manufactured about 4 million firearms intended for domestic sale (total production less exports); about 45 percent were handguns (pistols and revolvers) and 55 percent long guns (rifles, shotguns, combination guns).

[129] In Oregon, the opposite was true for 1990. About 1.5 percent of long gun purchasers were disqualified, compared to 0.7 percent of handgun purchasers. See Oregon State Police, 1990 *Study of Retail Firearm Sales*, op. cit., footnote 45.

Figure 10—Homicides by Type of Firearm, 1989



SOURCE: Federal Bureau of Investigation, 1991.

financial costs of implementing record check options, and the intangible costs of the possible compromise of individual rights to the extent such record checks are not accurate and timely. The monetary costs of near-term options for actually conducting automated record checks (not for the infrastructure) are likely modest and could be recovered through user fees in the $5 to $15 range, if general government revenues are not available or insufficient. The longer term options involving smart cards and POS fingerprint (or other biometric) identification could entail substantially higher costs.

The largest costs, however, are probably not for record checks per se but for record quality improvement s needed to ensure that record checks are reasonably accurate and timely. Erroneous checks can cause additional delays for prospective firearm purchasers and waste the time and effort of criminal justice officials (and perhaps the purchasers) to correct the records. Errors can also result in authorizing purchases for persons who should be disqualified. Either way, the less complete and more inaccurate the criminal records, the greater the costs to firearm purchasers, criminal justice agencies, and, ultimately, societal goals such as reduction of crime-and especially violent crime.

From the perspective of some gun owner groups, the risk or cost of record checks goes up if such checks lead to the creation of lists or indices of gun owners, or otherwise have a "chilling' effect on the right to keep and bear arms. Some gun groups are concerned that police or other government officials could sometime use such lists to confiscate firearms or intimidate firearm owners. The Virginia POS system, for example, addresses this problem by retaining detailed information only on disqualified purchasers. The names and personal identifiers of law abiding purchasers are not retained more than *30* days by the Virginia State Police, only a log sheet that lists the time, date, gun dealer identification number, and a confirmation number assigned to each record check.[130] This information permits the State police to verify that a check was conducted, should any questions arise, and to collect any applicable fees from gun dealers, but prevents the police from maintaining a list of law-abiding gun buyers and their firearms.

The fact remains that computerized criminal record systems maintain, as standard operating procedure, transaction logs to document who is using the system, when, for what purposes. Transaction logs are needed to help assure system accountability and security. The Virginia transaction log does not include the names of firearm purchasers, but the potential exists regardless of legal prohibitions. State statutes generally do not impose penalties for failure of criminal justice personnel to comply with privacy, security, and related criminal record requirements. Penalties when prescribed are typically misdemeanors, and violations are rarely prosecuted.[131]

Audits of State police records personnel and recordkeeping practices should help ensure compliance with firearm purchaser check requirements and record quality standards. Audits could be conducted on both a periodic and random basis for maximum impact. Firearm purchasers need simple and speedy appeal procedures to resolve questionable record check results.[132] Some combination of administrative, civil, and criminal penalties also could encourage compliance and provide further assurance to

[130] Gun dealers do retain in their files copies of the Federal firearms transaction form that includes details on the purchasers and firearm purchased.

[131] See SEARCH Group, Inc., *Data Quality of Criminal History Records,* op. cit., footnote 116; and NCIC Advisory Policy Board, Planning and Evaluation Committee, NCIC staff paper, topic #7, "Federal Legislation to Criminalize Misuse of NCIC," San Diego, CA, Dec. 3-4, 1990, pp. 19-25.

[132] During the first 2 months of Florida's POS record check program, about 0.3 percent of all record checks (10 to 15 percent Of disapprovals) were appealed by purchasers. About 60 percent of the appeals resulted in a reversal from disapproval to approval of the firearm purchase. See Florida Department of Law Enforcement "Firearm Purchaser Program," op. cit., footnote 45.

firearm purchasers that automated (or other) record checks will not be abused.[133]

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 from obtaining firearms, 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 actually detected or deterred. Law enforcement officials counter with statistics on the numbers of convicted felons identified trying to purchase firearms in those States with record checks. BJA/BJS could periodically compile statistics (and issue reports) on the results of automated (or all) firearm purchaser checks, including the number of: purchases screened, initial disapprovals, confined disapprovals, appeals of disapprovals (with results of appeals), and prosecutions of illegal purchasers (and resulting convictions).

Value of Waiting Periods for Record Checks

The value of waiting periods for criminal record checks is, as a general rule, inversely related to the ability of a jurisdiction to conduct complete and timely checks of relevant criminal (and other) record systems. The value of waiting periods is also inversely related to the ability to accurately identify the firearm purchaser. The more automated and complete a State's criminal records, and the lower the incidence of false identification, the less the need and value of waiting periods to check the records of firearm purchasers. States like Virginia are able to do an initial check of State criminal history and State and Federal wanted person systems in a matter of seconds, with relatively low known false positive (or false negative) rates. About 4 out of 100 Virginia handgun purchasers are initially disapproved based on false positive record hits; these false positives are usually corrected within several hours (2 out of 100 are confined hits). If this level of false positives is judged acceptable, then the value of a waiting period for the purpose of criminal record checks is relatively low. Some support a waiting period in Virginia for cooling off purposes, to make positive fingerprint identification of firearm purchasers, or both. The number of purchasers successfully using phony identification is unknown.

In California, by comparison, the firearm purchaser record checks take 4 to 7 days on the average, not counting mail delays. This is part of the justification for California's current 15-day waiting period. California takes longer than Virginia for several reasons:

- much larger volume of firearm purchaser record checks (about 330,000 in 1990 compared to 70,000 in Virginia);
- somewhat lower level of disposition reporting for recent arrests (85 percent compared to Virginia's 95 percent); and
- the necessity to check noncriminal justice records (e.g.; mental health commitments) for other firearm purchase disqualifications.

California experiences a high initial false positive rate-so high that a POS system might be unacceptable even if technically feasible. About 28 out of every 100 California firearm purchasers are initially identified as potentially disqualified, based on the record checks. Only 1 out of 28 is actually confirmed as disqualified. Because of the waiting period, the 27 false positive hits are corrected before responses are sent back to the gun dealers. The gun dealers and purchasers know only that 1 out of 100 purchasers are disapproved and that the other 99 are approved. But in a POS system, an initial response would have to be provided to the dealers and purchasers before the hits could be checked out.

States could be ranked according to the ability to conduct automated POS criminal record checks of firearm purchasers. States with an automated name index and criminal history file, relatively high disposition reporting, and some ability to flag felony convictions-e. g., New Jersey, Oregon, and South Carolina-are in the best position to implement POS systems, should they decide or be required to do so. These States would need relatively little time and resources for POS development, and a relatively shorter waiting period to conduct record checks in the interim. States with a manual criminal history file or low disposition reporting-such as Arkansas, Mississippi, and New Mexico-are in the weakest

[133]Gun Owners of America recommends that: 1) the compilation of law-abiding firearm owner lists be legally prohibited; 2) felony penalties be established for criminal justice employees who create such lists; and 3) a right of civil action against the government be provided to any citizen who believes such lists may exist, with legal fees to be paid by the government if the allegations prove correct.

position. They would need more time and resources to implement a POS system, and would need a relatively longer waiting period to conduct criminal record checks until a POS system was operational. Most States fall somewhere between, with differing combinations of strengths and weaknesses.

The rate of criminal record quality improvement will be the major pacing factor in implementing POS systems for many States. Telecommunication and computing technologies might be acquired or upgraded relatively quickly, given the necessary (and, for some States, substantial) funding. Assuring reasonably complete and timely arrest and disposition information frequently requires procedural and legal as well as technical improvements. Several major components of the criminal justice community must cooperate to achieve high record quality, especially the police, prosecutors, and courts.[134] Forcing POS systems prematurely on States that do not have the necessary criminal record infrastructure could result in: 1) large numbers of false positive hits, frustrated criminal records officials, and unhappy gun purchasers; and 2) an unknown number of felons and fugitives who are erroneously authorized to, in effect, illegally purchase firearms (false negatives). To avoid these consequences, proposals for automated record checks must be geared to the actual and projected capabilities of State (and Federal) criminal record systems.

A complete ranking requires further BJS and SEARCH Group, Inc. examination of State-by-State capabilities starting with the results of the 1989 survey summarized in figures 11 and 12. In any given year for the next few years, each added day of waiting period would permit additional States to complete criminal record checks of firearm purchasers within the time allowed. The marginal utility of each additional day could be estimated by BJA/BJS, based on a State-by-State followup analysis of the 1989 survey results. The average time needed for record checks should decline in the future, assuming that checks are required and that Federal and State resources continue to be available for 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. Some States probably could develop POS systems within months; most will need years. The average waiting time needed to conduct criminal record checks should correspondingly shorten, assuming States did not retain waiting periods for other purposes (e.g., cooling off, checks of noncriminal justice records).

Difficult as criminal record checks may be, the challenges posed by checking other types of records are even greater. Federal law prohibits other categories of persons (in addition to felons and fugitives) from purchasing or possessing firearms, including: unlawful users of controlled substances, persons adjudicated as mental defective or committed to mental institutions, illegal aliens, persons dishonorably discharged from military service, and renunciates of U.S. citizenship. As many as **20** million persons may fall in one or more of these categories, but records do not even exist on perhaps four-fifths of these people. Half the records that do exist are not automated, and many of the records are subject to complicated, conflicting laws, rules, and traditions on disclosure of personal information.[135]

The National Institute of Drug Abuse, for example, estimates that about 14.5 million persons are unlawful users or addicted to controlled substances (e.g., cocaine, heroine). Only about 3 percent are included in some kind of record system (not counting the unknown number that are also felons or fugitives). A BJS contractor estimates the number of illegal aliens to be 2.7 million, based on Immigration and Naturalization Service and Census Bureau figures, but only about one-fourth are listed in a record system.[136]

The "mental defective" category poses other problems.[137] Federal law covers persons adjudicated as a mental defective or committed to a mental institution. The law does not specify whether commitment can be voluntary or need be involuntary. BATF has adopted the narrower definition—only persons adjudicated or committed by a court,

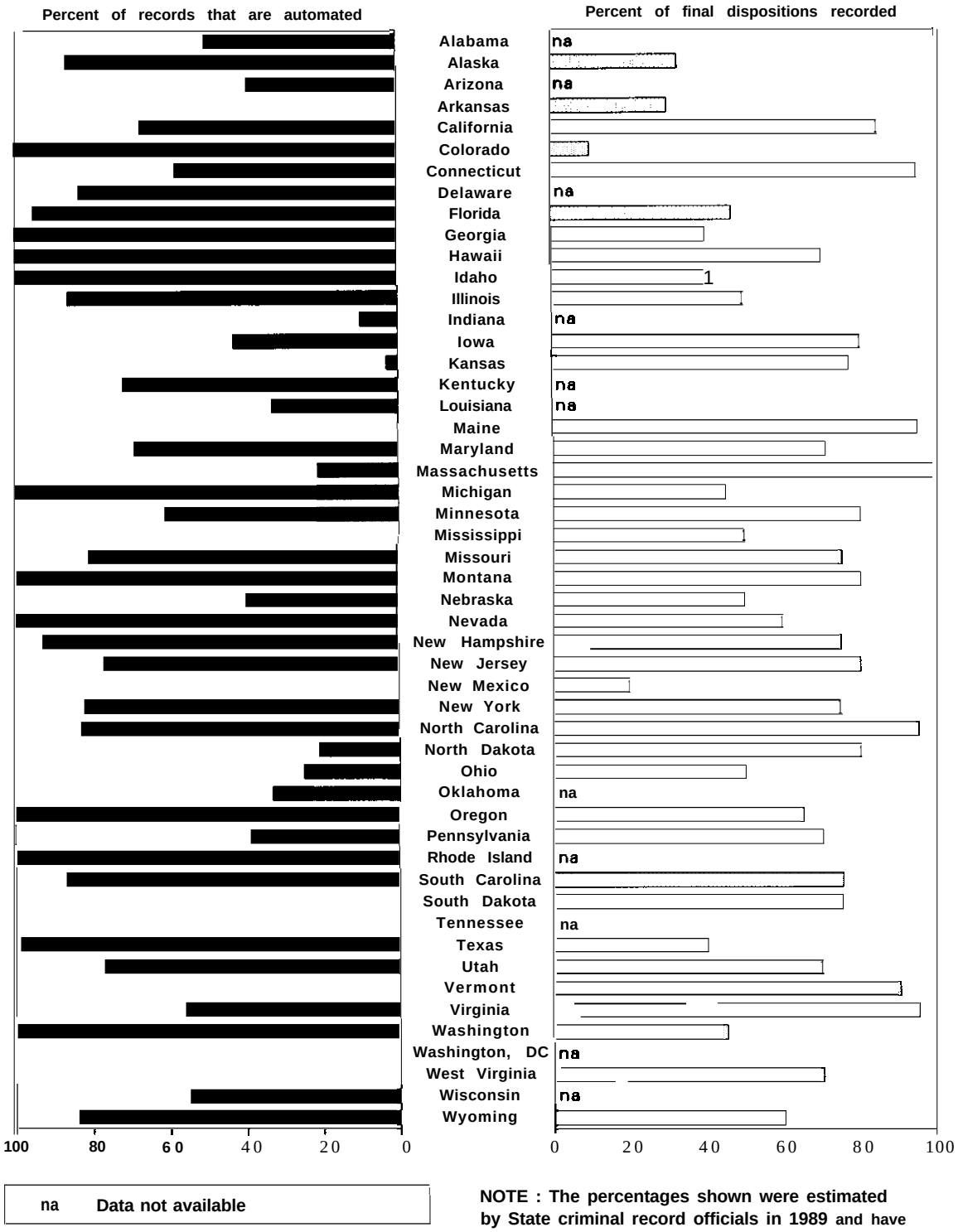
[134] See SEARCH Group, *Inc., Strategies for Improving Data Quality,* op. cit., footnote 116.

[135] See J.M. Tien, Enforth Corp., *Identifying Persons, Other Than Felons, Ineligible To Purchase Firearms: A Feasibility Study*, op. cit., footnote 50, which is the primary data source for the following discussion.

[136] Ibid.

[137] Mental health professionals object to the use of the term "mental defective' as degrading, and would prefer that this terminology not be included in statute (as in 18 U.S.C. 44) or otherwise.

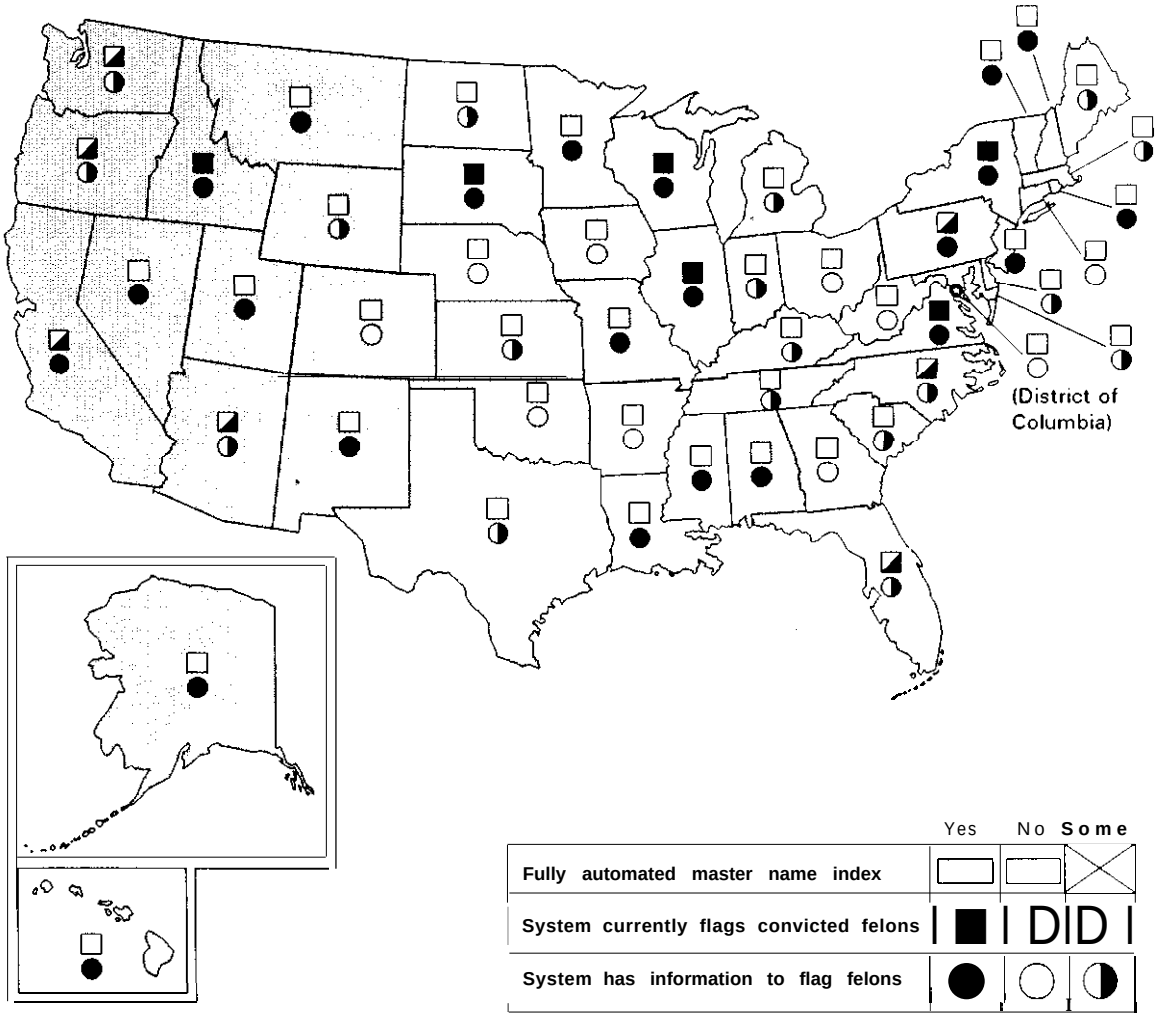
Figure 11-State-by-State Capabilities To Support Automated Firearm Purchaser Checks: Automated Records and Final Dispositions, 1989



NOTE : The percentages shown were estimated by State criminal record officials in 1989 and have not been independently verified or updated.

SOURCE: Office of Technology Assessment, based on Bureau of Justice Statistics/SEARCH Group, Inc., 1991.

Figure 12—State-by-State Capabilities To Support Automated Firearm Purchaser Checks: Automated Name Index and Felony Flags, 1989



NOTE: The data shown were provided by State criminal record officials in 1989 and have not been independently verified or updated.

SOURCE: Office of Technology Assessment, based on Bureau of Justice Statistics/SEARCH Group, Inc., 1991.

authority, commission, or board are ineligible to purchase or possess firearms. BATF has indicated that commitments by family members, friends, family doctor, and oneself (self-commits or voluntary admissions) are not covered. According to the National Institute of Mental Health, about three-fourths of all mental institution commitments are voluntary; the rest are involuntary-mostly civil and a very small percentage (about 2 percent) criminal. Criminal commitments include persons found incompetent to stand trial, not guilty by reason of insanity, and guilty but mentally ill.[138]

A BJS contractor estimated that 2.7 million persons are mentally defective, counting just involuntary commitments, and that almost all have a record somewhere because they are in some kind of mental institution. Many (perhaps two-thirds) of these persons are in databases maintained by State mental health departments. The completeness and accuracy of these records are largely unknown; most

[138]Ibid.

of these records are not automated. California is one of those States currently attempting to check mental health records as part of broader firearm purchaser checks. Expanding these checks to voluntary and private mental hospital commitments raises major procedural, legal, and privacy questions.[139]

Records for the dishonorable dischargers and denunciates are in comparatively good shape. The Defense Manpower Data Center maintains an automated database with an estimated 90 percent of all persons dishonorably discharged since 1971 (only about a third of all dishonorable discharges still living). The U.S. State Department Passport Office has an automated database of all persons who have renounced U.S. citizenship since 1941. These two categories of disqualified persons account, however, for an insignificant percentage (0.15 percent) of the total.[140]

The outlook is not good for including all disqualifying categories in routine firearm purchaser record checks. Illegal drug users and illegal aliens pose perhaps insurmountable problems, because most are not included in any record system. Involuntarily committed mental defective might eventually be checked on a systematic basis; but substantial record automation and quality improvements would be needed in most States.[141] Voluntary commitments account for the vast majority of mental cases, and would be much more difficult (and controversial) to check.

In sum, nationwide POS checks of noncriminal justice record systems are not likely to be feasible for many years, with the possible exception of dishonorably discharged, denunciates, and persons involuntarily committed to mental institutions. To the extent checks for all disqualifying categories are conducted, a lengthy waiting period may be necessary to locate and search whatever records exist. Law enforcement officials might in most cases have to simply do the best they can in whatever time is available, knowing that the desired information may not exist or be accessible.

Value of Fingerprint Identification

All currently operational POS record check systems are based on the name and personal identifiers (e.g., address, date of birth, social security number, photo) of the firearm purchaser, not on fingerprint or other positive biometric identification. The use of phony identification cards is prevalent in U.S. society. Driver's licenses, credit cards, and social security cards are all relatively easy to fake or alter. Some law enforcement officials are concerned that a significant percentage of firearm purchasers with criminal records or other disqualifications might use phony identification in order to escape detection. The risk would appear to be higher with POS record checks because: decisions to approve or disapprove a purchaser must be made quickly; and criminal records officials do not have firsthand access to the identification cards being presented (information is phoned in by the gun dealer). The Virginia State Police has experienced few known problems with phony identification during the first 20 months of firearm purchaser POS record checks. Other criminal justice officials remain skeptical, however. The FBI's analysis of criminal record checks of employment or licensing applicants (not firearm purchasers) found that, on the average, each 100 checks result in 5 record hits based on name and identifiers and one hit based on fingerprints (that would have otherwise been missed).[142] BJS could conduct or sponsor a survey of those States with any kind of firearm purchaser record checks to determine the extent of known use of phony IDs. BATF could followup gun traces that identify Virginia (and perhaps Florida) sources to attempt to determine how the firearms were initially purchased or obtained, and whether phony identification was used.

One option is to fingerprint firearm purchasers either at the POS or as part of an application for a firearm owners identification card or permit to purchase card. Indiana, New Jersey, New York, North Carolina, Oregon, Washington, and the District of Columbia require fingerprints of some or all firearm purchasers.[143] Fingerprints are obtained at

[139]Ibid.

[140]Ibid.

[141]Illinois is one of the few States that systematically checks firearm purchasers (in this State, firearm identification card applicants) against computerized records of persons committed to mental health hospitals.

[142]Data provided by Virgil Young, FBI Identification Division, Apr. *2, 1991.

[143]SEARCH Group, Inc., *Survey of Criminal History Information Systems*, op. cit., footnote *82.*

the POS in Oregon. Here, the gun dealer takes the inked thumbprints of handgun purchasers and mails the prints (and other purchaser information) to the Oregon State Police for checking against State and regional automated fingerprint files (purchaser information is also sent to the local law enforcement agency that conducts local record checks). These checks are conducted during the 15-day waiting period for handgun purchases (neither the fingerprint check or waiting period are required for long gun purchases). State police indicate that, because of mail delays, it would be difficult to complete the fingerprint checks in less than 10 days. About 1 percent of purchasers are disqualified overall (0.7 percent for handguns based on a name and fingerprint check, 1.5 percent for long guns based on a retroactive name check). The overall percentage is in the same range as California and Virginia.

Oregon is currently evaluating the fingerprint checks to determine if the benefits are worth the costs. The number of handgun purchasers using phony IDs was very small, but this may have been in part because of the deterrent effect of fingerprinting purchasers at the POS. Oregon processed 30,323 total handgun sales in 1990. About 15 percent of the handgun purchasers had a prior criminal record, and about 0.6 percent had disqualifying criminal records. But only 337 purchasers with a criminal record (about 1 percent of all purchasers) were identified through use of fingerprints. Most of these purchasers were women who had changed names due to marriage or were persons of foreign extraction who used multiple surnames with variable spelling. Only 5 purchasers (0.02 percent of all handgun purchasers, 0.1 percent of those with a criminal record) were actually disqualified based on a fingerprint check that uncovered use of a false name and identification. The Oregon State Police recommend that purchasers be required to provide all prior names or aliases and prints of all 10 fingers[144] in order to reduce the cost of name and fingerprint checks.[145] The more information provided, the better the chances of making a name "hit" without the necessity of a more expensive fingerprint check. And when needed, fingerprint checks run on 8 or 10 finger prints are less expensive than checks based on 2 fingers.

The process could be speeded up if gun dealers faxed rather than mailed fingerprints to the State police (assuming facsimile copies are suitable for automated processing), and if the State police faxed rather than mailed the results back to the local law enforcement agency. This might cut the total response time to the 4- to 7-day range of those States that have automated fingerprint systems, as does Oregon. About three-fifths of the States have or are planning automated fingerprint identification systems (known as AFIS); it is possible that all States will have access to some AFIS capability by as early as 1995 and quite likely by 2000. This does not guarantee, however, that these systems will be able to handle a large volume of firearm purchaser checks. Oregon participates in a regional AFIS (known as the Western Identification Network, Inc.), which had to be upgraded to handle Oregon's firearm purchaser fingerprint checks.

Whether or not firearm purchasers are routinely fingerprinted, fingerprint identification is central to almost all State criminal history record systems and is a primary basis on which any disputes over mistaken identity or erroneous records would be resolved. Most States, and all populous States except Massachusetts, back up virtually all of their criminal history records with fingerprints (see figure 13).[146]

The criminal justice community has long concluded that fingerprints are essential to the identification and tracking of criminal offenders. No other positive identifier is likely to be available for widespread use for many years.[147] The majority of criminals are repeat offenders, and many are highly motivated to escape detection and identification. In sharp contrast, the vast majority of firearm purchasers have no criminal record at all, and have no obvious reason to falsify their identify. This is why the benefits of fingerprinting all firearm purchasers compared with the costs and time delays are matters of continuing debate. Some gun owner groups also are concerned about the stigma and possible abuse of fingerprinting, for what they consider to be the

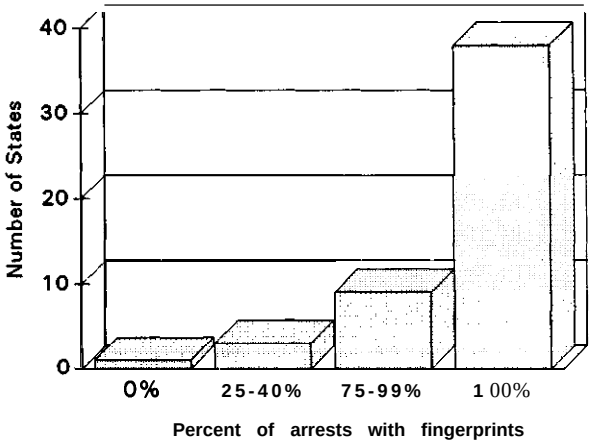
[144] Rolled thumbprints plus plain (flat) pMts of the Other 8 fingers.

[145] See Oregon State Police, *1990 Study of Retail Firearm Sales*, op. Cit., footnote 45.

[146] Thirty-eight States maintain fingerprints for 100 percent of arrests; 9 States for 75 to 99 percent of arrests; and only 1 State does not maintain fingerprints at all.

[147] See U.S. Department of Justice, Task Force on Felon Identification in Firearm Sales, ***Report to the Attorney General,*** op. cit., footnote 50; SEARCH Group, Inc., ***Biometric Identification Technologies,*** op. cit., footnote 50.

Figure 13—Arrests Supported by Fingerprints in State Criminal History Files, 1989



SOURCE: Bureau of Justice Statistics/SEARCH Group, Inc., 1991.

exercise of their constitutional right to keep and bear arms. The benefits, costs, and concerns may change sometime in the future when, and if: 1) fingerprints (or some other positive biometric data) become part of standard identification information required for issuance of driver's licenses, credit cards, or other widely used IDs; and 2) POS fingerprint scanning and checking systems become cost-effective for widespread use.

Another option would be to include fingerprint checks as part of the Federal firearm dealer licensing process. Dealers are subject to the same legal prohibitions as purchasers. BATF does run an FBI name check on all dealer applicants, but not a fingerprint check. This is because of the cost and delay associated with FBI fingerprint checks, and because BATF lacks fingerprinting capability. Applicant fees could be increased by about $20 to $40 to cover the cost. The FBI claims that fingerprint checks can be completed in about 20 days, not counting mail delays. Allowing 10 days for mailing to and from BATF, the total time for fingerprint checks should be about 30 days—still within the 45-day limit on applicant processing. If FBI checks are not timely, for whatever reasons, BATF could at least ask the applicant's State of residence to run a fingerprint check against State criminal record files. BATF could seek the cooperation of local law enforcement agencies in taking the applicant fingerprints and forwarding the prints to State or FBI criminal record repositories. BATF also could run periodic name checks on licensees, perhaps once a year or on a random basis, rather than only at the time of initial application or renewal.[148] As it stands now, BATF must depend largely on voluntary dealer reporting of felony convictions or other disqualifying activities.

The point is that firearm dealers (and manufacturers and importers) have direct and unimpeded access to firearms, to a far greater extent than most firearm purchasers. Running fingerprint checks on the perhaps 70,000 license applications and renewals per year would be much less costly and time consuming than running such checks on millions of firearm purchasers. The percentage of dealers engaged in criminal activity is unknown; BATF name checks on firearm license applicants suggest that about 2 percent have a disqualifying criminal record.[149] The percentage of dealers who are actually selling firearms is also unknown. The Oregon State Police found that, of 4,837 federally licensed firearm dealers in Oregon, only about one-third reported sales of handguns in 1990. preliminary followup suggests that significant numbers of dealers:

- were out of business;
- could not be located or contacted;
- were in business but did not sell a firearm in 1990;
- obtained a license solely to purchase firearms for their own use and collections; and
- sold firearms but did not report due to lack of awareness of State reporting requirements.[150]

During fiscal year 1990, BATF conducted 8,471 dealer inspections-directed primarily at the larger storefront dealers-for compliance with Federal law, and identified 7,477 violations.[151] The nature

[148] BATF did run name checks on a 10 percent sample of license renewals during April-September 1990. The pilot test found 110 disqualifying criminal record information on the 2,118 renewals checked.

[149] According to BATF, in fiscal year 19901,408 license application were abandoned or withdrawn, 75 denied, and 9 revoked, breed primarily on criminal record checks. This would be about 2 percent of all applicants, assuming 70,000 license applications or renewals per year.

[150] Oregon State Police, 1990 Study *on Retail Firearm Sales,* op. cit., footnote 45.

[151] During fiscal year 1989, BATF conducted 7,142 dealer compliance inspections, yielding 4,731 violations.

and severity of these violations have not been analyzed.[152] Only about one-half of Virginia's and Florida's licensed dealers are participating in the respective State POS record check programs. The status of the nonparticipating dealers is unknown.

Value of the National Fingerprint File/ Interstate Identification Index

About one in five criminals commit crimes in more than one State; about one in three Federal offenders have multi-State records. The illegal interstate transportation of firearms is a major focus of BATF investigations. Any system to check the criminal records of firearm purchasers on a national basis depends on the timely interstate exchange of criminal justice information. The National Crime Information Center (NCIC) serves this need for wanted persons and fugitives from justice; the Interstate Identification Index (III) provides a listing of persons with a criminal record and the State(s) of record. The FBI operates both NCIC and III in cooperation with State and local law enforcement and criminal justice agencies.

A few States already query III, and some NCIC, as part of firearm purchaser checks. Virginia and Oregon, for example, check both. III and NCIC could, in principle, be used by all States as part of firearm purchaser checks. The computer capacity of III may need expansion to accommodate the additional traffic (10,000 more inquiries per day would be about a 15-percent increase in III volume). The telecommunication capacity of NCIC should be adequate (10,000 more inquiries would be only a l-percent increase in total NCIC daily volume). If high record quality is required, with a minimum of false hits, then the completeness and automation of Federal and State criminal history records must be improved.

If a national fingerprint check is included as part of firearm purchaser checks, then full implementation of State and FBI automated fingerprint identification systems is essential. Current FBI fingerprint checks take far too long (20 to 30 days, including mailing time) to meet the record check requirements of most States, even States with long waiting periods. The only exceptions are States that require preapproved firearm owner identification or permit to purchase cards. The FBI is planning a major fingerprint identification automation program built around the National Fingerprint File (NFF) concept.

The NFF would greatly reduce the number of duplicate criminal fingerprint cards received and maintained by the FBI. In combination with the III and state-of-the-art AFIS technology, the NFF is expected to reduce the time for FBI fingerprint checks from weeks to hours or days. Under the NFF/III concept, the FBI would retain: 1) one fingerprint card per criminal offender per State (the NFF); 2) no criminal history information on non-Federal offenders (except for name and basic identifiers such as date of birth and race); and 3) an index (the ID) to offenders with records in one or more States (but not the records themselves).[153]

Full NFF/III implementation will take 4 to 5 more years[154] and could easily stretch to ***2000 or*** beyond if not accorded continuing high priority. Implementation will depend on:

1. funds available (several hundred million dollar range at the Federal and State levels);
2. automated Federal and State fingerprint identification and criminal history record systems;
3. improvement in Federal and State criminal record quality; and
4. an interstate agreement on rules and responsibilities for the interstate exchange of criminal justice information.

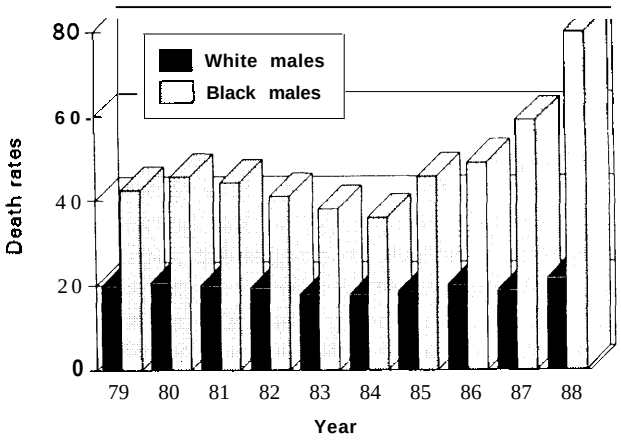
An interstate compactor Federal legislation maybe needed to reconcile the differences in Federal and

[152] In fiscal year 1990, BATF recommended 167 cases to U.S. Attorneys for prosecution of dealers suspected of criminal activity. A 1989-90 BATF gun trace in Detroit, MI identified 13 licensed dealers supplying firearms to the criminal community. See BATF, ***Detroit Trace Project,*** op. cit., footnote 126.

[153] For an overview of the NFF/III history, see, for example, OTA, Assessment *of Alternatives for a National Computerized Criminal History System,* op. cit., footnote 59; U.S. Department of Justice, Federal Bureau of Investigation, ***Interstate Identification Index Phase Three Test Findings June-July, 1987*** (Washington, DC: FBI, Nov. ***30, 1987), Interstate Identification Index Program:*** National ***Fingerprint File Operational Plan*** (Washington, DC: FBI, July 10, ***1990), Automation Program for Identification Division Revitalization*** (Washington DC: FBI, Aug. 30, 1990); National Crime Information Center Advisory Policy Board, III Ad hoc Subcommittee, Identification Services Task Group, ***Identification Division Revitalization,*** August 1989, available from the FBI.

[154] FBI estimate, assuming full funding. For further discussion of the FBI identification automation program, see OTA, ***FBI Automated Fingerprint Identification Program,*** op. cit., footnote 14 in preparation.

Figure 14-Firearm Death Rates per 100,000 Population, Males 15 to 19 Years Old, 1979-88



SOURCE: U.S. Department of Health and Human Services/National Center for Health Statistics, 1991.

State laws, especially regarding noncrimin al justice use of criminal records.[155]

Today, most firearm purchaser checks are considered criminal justice inquiries, and therefore are authorized uses of III. In principle, firearm purchaser checks are no different than checks of applicants for government employment or licenses, teachers, child care providers, and others whose criminal record is a factor in selection or approval decisions. Even if fully implemented, however, the NFF/III would not support POS fingerprint record checks of firearm purchasers in seconds or minutes. The checks probably could be conducted in several hours if given a high priority and using electronic fingerprint transmission. Several days seem more likely, since fingerprint checks of persons wanted, arrested, or prosecuted for specific crimes presumably would receive higher priority.

Value of a Firearm Safety and Security Education Program

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 firearm offenders, intensified investigation and prosecution of illegal gun trafficking, and firearm safety and security courses.

Citizens of all ages would benefit from firearm safety and security programs. Firearm dealers and owners could learn the latest security techniques for preventing firearm theft. Firearm users could review and update their knowledge of the rules of safe sports and target shooting. Even young children, all too frequently involved in gun accidents, could learn something about the hazards of firearms in the hands of untrained, inexperienced persons. Older children and adults of all ages could learn more about Federal and State firearm laws. These kinds of programs could be sponsored and funded by Federal, State, and local education departments and boards, working in cooperation both with gun owner groups and with school safety, law enforcement, and crime prevention organizations.

Such courses could be particularly helpful in addressing the problem of guns and youth. Recent surveys indicate that youths under the age of 19 are increasingly perpetrators and victims of firearm-related violence (see figure 14). In 1988, nearly 4,000 youths ages 1 to 19 died from the use of firearms; about 2,000 were homicide victims, 1,400 suicide victims, and 600 accident (unintentional shooting) victims. For white males 15 to 19 years of age, in 1988 the firearm death rate exceeded the death rate from natural causes for the first time (by about 11 percent). The comparable firearm death rate for black teenage males (15 to 19 years old) was 2.6 times the natural death rate. Firearm deaths accounted for about 20 percent of all teenage (15 to 19) deaths. The firearm homicide rate for black teenage males was about 11 times the rate for white teenage males. The firearm suicide rate for white male teenagers was double that of black male teenagers. Unintentional firearm deaths account for 40 percent of all firearm deaths of younger children (aged 1 to 14), but only 10 percent of teenager

[155]For three interstate compact proposals, see SEARCH Group, Inc., "Interstate and Federal-State Compact on the Exchange of Criminal History Records," July 20, 1989; U.S. Department of Justice, Federal Bureau of Investigating "Interstate Compact on the Exchange of Criminal History Records," working draft, Aug. 4, 1989; and NCIC Advisory Policy Board, Interstate Identification Index Subcommittee, "Interstate and Federal-State Compact on the Exchange of Criminal History Records for Noncriminal Justice Purposes," final draft, Nov. 16, 1989, and revised final draft, Dec. 4, 1990.

firearm deaths.[156] Between 1979 and 1988, the total firearm death rate for teenagers age 10 to 19 increased while the rate for persons 20 to 29 was stable or actually declined (although still 20 to 30 percent higher than for teenagers).[157]

Federal law prohibits licensed firearm dealers (and manufacturers, importers, and collectors) from selling or delivering: handguns (and handgun ammunition) to anyone under 21 years of age, and rifles and shotguns (and related ammunition) to anyone under 18 years of age.[158] Note that the Federal prohibition does not apply to transfers between individuals. Firearm purchaser record checks, even if 100 percent effective in screening out underage purchasers, are unlikely to have much direct impact on teenager access to firearms. Teenagers and children apparently obtain most firearms from their own homes, secondarily from friends, and infrequently by theft.[159] One-third to one-half of adolescent boys, and one-fifth to one-quarter of adolescent girls, believe that they could get a handgun if they wanted one.[160] (The source and use of firearms by juveniles are subjects of an ongoing NIJ-sponsored study.)

The National School Safety Center and other groups concerned with the health and safety of school-age children have concluded that a multifaceted program is needed to deal with youth and guns.[161] One priority might be to educate gun owners on how to secure their firearms from intentional or accidental use by children. Another priority might be to encourage or require firearm safety courses for all firearm owners and their families who have children under age 18. Firearm safety courses also could be offered as part of school health and safety programs. Many of these programs already cover other causes of school age injury and death, such as drugs, alcohol, and driving.[162] For schools with students bringing firearms on campus, tough rules and penalties may be needed as well as firearm education. Parental and community involvement seems essential in these areas. Some schools are resorting to the use of metal detectors, restricted entry, and gun-free zones and signs (similar to drug-free zones already set up around many schools). Another possibility is to enact or strengthen laws holding parents liable for damages or injuries resulting from firearm use by their children, if the gun belongs to a parent.[163]

These kinds of educational and awareness programs could bean important complement to firearm purchaser record checks and other, related actions collectively intended to reduce the rates of firearms related death, injury, and criminal activity in the United States.

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156 L.A. Fingerhut et al., "Firearm Mortality Among Children, Youth, and Young Adults 1-34 Years of Age, Trends and Current Status: United States, 1979 -88," ***Monthly Vital Statistics Report,*** vol. 39, No. 11, Mar. 14, 1991, available from U.S. Department of Health and Human Services, National Center for Health Care Statistics; U.S. Congress, Office of Technology Assessment, ***Adolescent Health-Volume I: Summary and Policy Options*** (Washington DC: U.S. Government Printing Office, April 1991), and ***Adolescent Health—Volume II: Background and the Effectiveness of Selected Prevention and Treatment Services*** (Washington, DC: U.S. Government Printing office, September 1991),

157 Ibid.

158 18 U.S.C. 44, sec. 922(b)(1) and (2).

159 See National School Safety Center, ***Weapons in schools,*** NSSC Resource Paper (Malibu, CA: NSSC, Pepperdine University, June 1990), sponsored by the U.S. Department of Justice, Office of Juvenile Justice and Delinquency Prevention U.S. Department of Education, and Pepperdine University; and surveys conducted by the Florida School Board Association (FSBA) and Center to Prevent Handgun Violence, The FSBA survey (for the 1986-88 school years) found that students obtained weapons (including firearms): primarily from their own home (87 percent of the time); secondarily the home of a friend or relative (6 percent); and infrequently by theft (1 percent). AU other sources totaled 6 percent. The CPHV survey of 532 child shootings (from 1986-88) found that the firearms involved were owned: primarily by the victim's or friend's parents (75 percent of the time); secondarily by another relative (13 percent) or the victim's or parent's friend (13 percent); and rarely by the victim Mm/herself (2 percent) or a relative's employer (1 percent).

160 American School Health Association, Association for the Advancement of Health Education, and Society for Public Health Education, Inc., ***The National Adolescent Student Health Survey: A Report on the Health of America's Youth (Oakland,*** CA: Third Party Publishing, 1989), based on a sample of 12,067 8th and 10th grade students and sponsored by the U.S. Department of Health and Human Services, Public Health Service, Office of Disease Prevention and Health Promotion, Centers for Disease Control, and National Institute on Drug Abuse.

161 See National School Safety Center, *Weapons in Schools*, op.cit., footnote 159; also see discussion in OTA, Adolescent ***Health,*** ibid.

162 Firearms could be included in programs like "Just Say No' and DARE (Drug Abuse Resistance Program) that emphasize partnerships between schools, students, parents, the community, and law enforcement. The intent is to strengthen each student's character, self-esteem, decisionmaking skills, and sense of personal responsibility.

163 Ibid.; also see National School Safety Center, ***School Crisis Prevention and Response,*** NSSC Resource Paper (Malibu, CA: NSSC, Pepperdine University, March 1990) and ***Student and Staff Victimization,*** NSSC Resource Paper (Malibu, CA: NSSC, Pepperdine University, June 1989); and OTA, ***Adolescent Health,*** op. cit., footnote 160.