



Crime Prevention Research Center

For a Safer America

November 17, 2023

Commissioner Gail Heriot
US Commission on Civil Rights
1331 Pennsylvania Avenue NW #1150 Washington, DC 20425

Dear Gail:

I am writing you to follow up on the questioning I received today.

Commissioner Nourse cited the Department of Justice IG report titled "Audit of the Handling of Firearms Purchase Denials Through the National Instant Criminal Background Check System." The IG report makes two statements:

- "We judgmentally selected 447 denied transactions and found that only 1 transaction was incorrectly denied, resulting in a 99.8 percent accuracy rate."
- "Using the judgmentally selected 447 of the 373,900 FBI denied firearm applications (standard and delayed denials) for FY 2008 through FY 2012."

Please note these cases aren't "randomly selected." The IG's report never defines how they "judgmentally" select this sample. Repeated requests to the DOJ for further clarification have gone unanswered.

They reported a tiny percentage of the sample — just 0.12%. That is especially puzzling given that the entire sample is readily available. Indeed, the DOJ notes the high rate of mistakes in just the first of their five stages in reviewing these denials, where they drop around 94% of the denials after only double-checking the paperwork. No lawyers are involved in that process. So you have a choice. Either believe the full sample or a very tiny sample of 447 "judgmentally selected cases" out of 373,900 cases.

These errors are well known to those enforcing these laws. "This incredibly high rate of false positives imposes a real burden on the most vulnerable people," said Reagan Dunn, the first national coordinator for Project Safe Neighborhoods, a Justice Department program started in 2001 to ensure gun laws are enforced (<https://tinyurl.com/35w4fv6p>).

As for Commissioner Jones' and Professor Patrick Sharkey's comments, dozens of peer-reviewed studies confirm my academic research are available here (<https://tinyurl.com/5xuurzrj>). At the beginning of the link is also a review of the literature (see <https://ssrn.com/abstract=3850436> and <https://ssrn.com/abstract=4557210>).

Regards,

A handwritten signature in black ink, appearing to read "R. H. Hertzberg".

President