



## **National Instant Criminal Background Check System (NICS)**



**Operations 2009**

# Our Mission

## **FBI**

The mission of the FBI is to protect and defend the United States against terrorist and foreign intelligence threats, to uphold and enforce the criminal laws of the United States, and to provide leadership and criminal justice services to federal, state, municipal, and international agencies and partners.

## **Criminal Justice Information Services Division**

The mission of the CJIS Division is to equip our law enforcement, national security, and intelligence community partners with the criminal justice information they need to protect the United States while preserving civil liberties.

## **NICS Section**

The mission of the NICS Section is to enhance national security and public safety by providing the timely and accurate determination of a person's eligibility to possess firearms and/or explosives in accordance with federal law.

## Executive Summary

The FBI Criminal Justice Information Services (CJIS) Division's National Instant Criminal Background Check System (NICS) Section has processed firearm background checks since November 30, 1998. Since that time, the experience gained enhances national security and public safety by identifying, developing, and implementing improvements in support of the NICS Section's mission. Striving to provide effective and efficient service to its users, highlights of the NICS operations in 2009 include the following:

- From the inception of the NICS on November 30, 1998, to December 31, 2009, a total of 110,017,832 transactions were processed through the NICS. Of these, 54,242,433 transactions were processed by the NICS Section and 55,775,399 transactions were processed by the Point-of-Contact (POC) states. Of the 14,033,824 background checks processed through the NICS in 2009, a total of 6,083,428 transactions were processed by the NICS Section and 7,950,396 were processed by the POC states.
- From November 30, 1998, to December 31, 2009, the NICS Section has denied a total of 748,229 transactions. Denials provided by the NICS Section in 2009 totaled 67,324.
- In 2009, the NICS Section processed 84,254 explosives transactions. Of the explosives transactions processed, a total of 1,221 resulted in deny decisions.
- In 2009, the NICS Section processed 331,441 firearms and explosives transactions via the Internet-based NICS Electronic Check (E-Check). This number is approximately a 28.4 percent increase over the number of NICS E-Check transactions processed in 2008.
- The number of records maintained in the NICS Index, as of December 31, 2009, totaled 5,687,562, which is an increase of 203,621 records over 2008.
- In 2009, the NICS Section achieved a 91.78 percent Immediate Determination Rate (IDR), surpassing the U.S. Attorney General-mandated goal of 90 percent or better and the NICS Section's average IDR of 91.76 percent for 2008.
- In 2009, the NICS Section staff obtained approximately 26,650 final dispositions that were posted to criminal history records and disseminated over 18,925 dispositions to state agencies to assist in updating state records. As of December 31, 2009, the NICS Section staff has obtained approximately 699,400 record-completing dispositions.
- The Voluntary Appeal File (VAF) permits the NICS Section to maintain information about persons to document their eligibility to receive firearms. As of December 31, 2009, the VAF maintained approximately 9,226 entries with an active Unique Personal Identification Number (UPIN). Of these, 4,072 were added to the VAF in 2009. From VAF program inception through December 31, 2009, approximately 20,500 background checks have been processed using a VAF UPIN.

- In 2009, the NICS availability averaged 99.93 percent.
- There were 3,048 firearm retrieval referrals forwarded to the Bureau of Alcohol, Tobacco, Firearms and Explosives by the NICS Section in 2009.
- On Saturday, April 4, 2009, at 8:35 p.m., the NICS Section processed the 100 millionth transaction. The transaction originated in Arizona and was delayed at the NICS Contracted Call Center where it was transferred to the NICS Section for processing. The NICS Section placed the transaction in a delay status and implemented research to determine the individual's eligibility to purchase a firearm. The delayed transaction was subsequently provided a proceed status.
- In 2009, the staff of the NICS Section, with the guidance and support of the CJIS Division's technical staff, identified, developed, and deployed various process and system changes to the NICS, such as:
  - On February 16, 2009, Build 16.0.0 was added to the NICS including the implementation of the new Appeal Record Database to assist the Appeal Services Teams' Legal Instruments Examiners in processing appeal transactions.
  - On May 12, 2009, the NICS Section welcomed the addition of the Fort Worth, Texas, Call Center site as part of the NICS Call Center Task Order of the FBI Call Center and Help Desk Services contract with CSC.
  - On June 29, 2009, a computer enhancement to the NICS, titled Build 16.1.0, was deployed. Improvements to current features of the NICS, as well as additions of technical changes, were made to impact internal and external users of the NICS. The upgrade to the system effected changes to streamline efforts to better service the customers of the NICS while improving the processing of background checks.
  - On August 13, 2009, after awarding the contract to draft the New NICS (the redesign of the existing NICS) requirements to David Hale Associates, Inc. (DHA), the NICS Section held a kick-off meeting with DHA. The New NICS initiative encompasses the redesign of the existing NICS to ensure the system can continue to meet the mandates relating to the FBI's critical national security mission by replacing the outdated design and technology, increasing automation, seamlessly consolidating disparate systems, and providing increased NICS availability.

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## Welcome to the NICS Section . . .

As a result of the passage of the Gun Control Act of 1968, certain individuals, such as convicted felons, were prohibited from possessing firearms. To strengthen federal firearms regulations, the Brady Handgun Violence Prevention Act of 1993 (Brady Act) required the U.S. Attorney General to establish the National Instant Criminal Background Check System (NICS) for Federal Firearms Licensees (FFLs) to contact by telephone, or other electronic means, for information to be supplied immediately as to whether the transfer of a firearm would violate Section 922 (g) or (n) of Title 18, United States Code (U.S.C.) or state law.

The FBI developed the NICS through a cooperative effort with the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF); the Department of Justice (DOJ); and local and state law enforcement agencies. On November 30, 1998, the NICS, designed to immediately respond to background check inquiries for prospective firearm transferees, was activated.

For an FFL to initiate a NICS check, the prospective firearms transferee must complete and sign an ATF Form 4473, Firearms Transaction Record. The ATF Form 4473, which collects the subject's name and descriptive data (e.g., date of birth, sex, race, state of residence, country of citizenship), elicits information that may immediately indicate to an FFL that the subject is a prohibited person, thereby negating the need to continue the processing of the background check. When an FFL initiates a NICS background check, a name and descriptor search is conducted to identify any matching records in three nationally held databases managed by the FBI Criminal Justice Information Services (CJIS) Division. The databases searched during the background check process are:

Interstate Identification Index (III): The III maintains subject criminal history records. As of December 31, 2009, the III records accessed and searched by the NICS during a background check numbered 56,039,417.

National Crime Information Center (NCIC): The NCIC contains data on persons who are the subjects of protection orders or active criminal warrants, immigration violators, and others. As of December 31, 2009, the NCIC records searched by the NICS during a background check numbered 4,523,572.

NICS Index: The NICS Index, a database created specifically for the NICS, collects and maintains information contributed by local, state, tribal, and federal agencies pertaining to persons federally prohibited from receiving or possessing a firearm. Typically, the records maintained in the NICS Index are not available via the III or the NCIC. As of December 31, 2009, there were 5,687,562 records in the NICS Index.



**Types of Records Searched During a NICS Background Check**

**III  
Criminal  
History  
Records of  
Individuals**

**NCIC**  
~Wanted Persons  
~Protection Orders  
~Immigration Violators  
~U.S. Secret Service Protection  
~Foreign Fugitive  
~Supervised Release  
~Sexual Offenders  
~Gang File  
~Missing Persons  
~Known or Appropriately Suspected Terrorist

**NICS Index  
Individuals  
Predetermined  
as  
Federally  
Disqualified**



Additionally, relevant databases in the Department of Homeland Security's U.S. Immigration and Customs Enforcement (ICE) are searched for non-U.S. citizens attempting to receive firearms in the United States. In 2009, the NICS Section and the Point-of-Contact (POC) states (states that have implemented a state-based NICS program) conducted 36,398 such queries of the ICE. From February 2002 to December 31, 2009, over 224,249 such queries of the ICE have been conducted.

In the majority of cases, the results of a background check yield definitive information regarding a subject's eligibility while the FFL is on the phone. However, not all inquiries can be provided a final status during the FFL's initial contact with the NICS. Many transactions are delayed because of incomplete criminal history records, e.g., a missing disposition or a missing crime classification status (felony or misdemeanor), which is needed to determine if a transaction may be proceeded or must be denied.

Where a validly matched record is potentially prohibiting but is incomplete, the NICS Section or POC state agency must search for the information needed to complete the record. This process often requires outreach to local, state, tribal, and/or federal agencies (e.g., arresting agencies, court systems). The Brady Act allows the FFL to legally transfer the firearm if the NICS transaction is not resolved within three business days. In some instances, the potentially prohibiting records are completed, and the NICS transactions are determined to be denials. The NICS Section notifies the FFL of the denial and determines if the firearm was transferred to the buyer. If it was transferred, the NICS Section transmits this information to the ATF for further handling as a firearm retrieval referral.

Individuals who believe they are wrongfully denied the transfer of a firearm can appeal the deny decision. The "denying agency" will be either the FBI or the state agency serving as a POC for the NICS. In the event the denying agency is a POC state agency, the appellant can elect to appeal to either the FBI or the POC.

The provisions for appeals are outlined in Title 28, Code of Federal Regulations (C.F.R.), Part 25.10, and subsection 103(f) and (g) and Section 104 of Public Law 103-159, Sections 103 and 104.

The Safe Explosives Act, enacted in November 2002 as part of the Homeland Security Act, requires that persons who export, ship, cause to be transported, or receive explosives material in either intrastate or interstate commerce must first obtain a federal permit or license after undergoing a NICS background check. The Safe Explosives Act became effective on May 24, 2003. Background checks for explosives permits are initiated by the ATF; however, they are processed through the NICS by the NICS Section.

Extensive measures are taken to ensure the security and the integrity of NICS information. The U.S. Attorney General's regulations regarding the privacy and security of the NICS is available on the Internet at [www.fbi.gov/hq/cjisd/nics.htm](http://www.fbi.gov/hq/cjisd/nics.htm).



## 2009 NICS Operations

### NICS Participation

As of December 31, 2009, the NICS Section provided service to 38,927 FFLs conducting business in 37 states, 5 U.S. territories, and the District of Columbia. The FFLs contact the NICS either telephonically or through the NICS Electronic Check (E-Check) via the Internet to initiate the required background checks. The majority of the calls from the FFLs are received and initially processed via one of the three NICS Section Contracted Call Centers. For eight of the above 37 states, the NICS Section processes all long gun transactions, while the states conduct their own background checks on handguns and handgun permits. Additionally, 13 states participate with the NICS in a Full-POC capacity by performing all background checks for the states' FFLs.



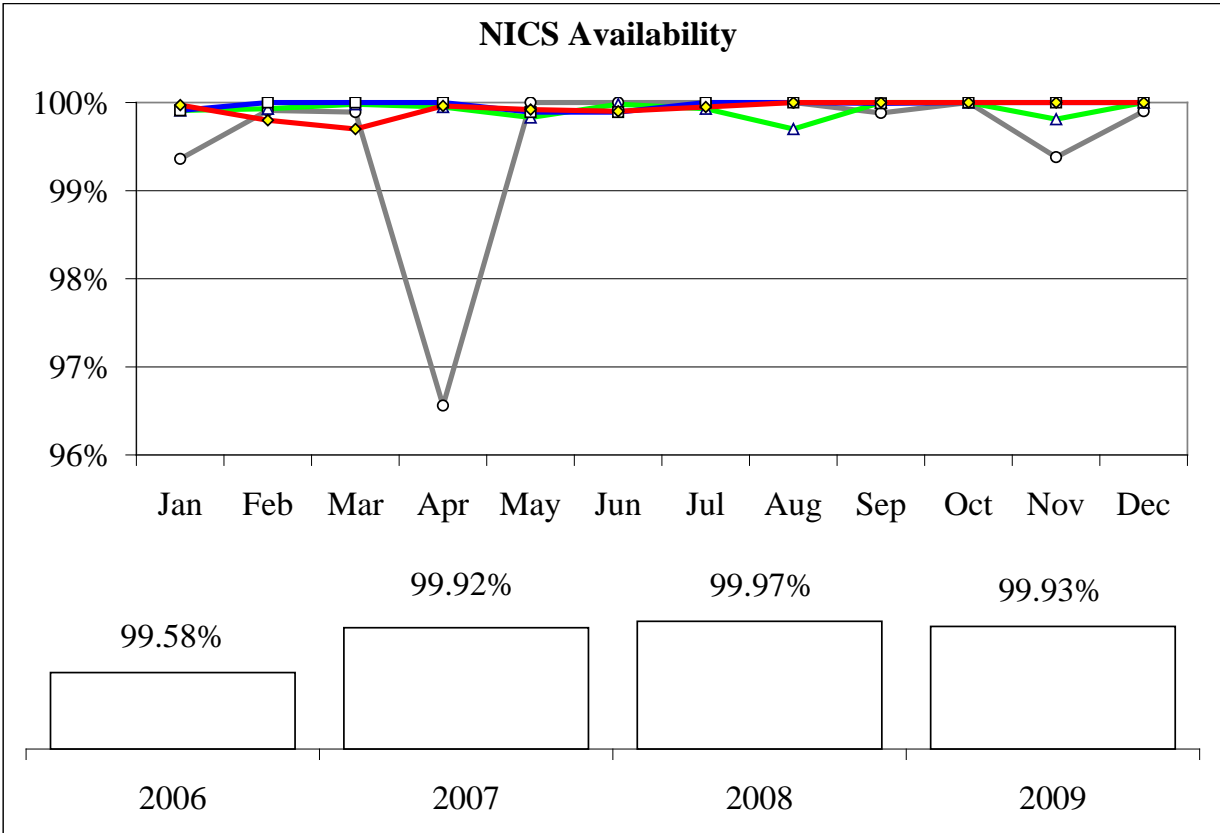
### Alternate Permits

Certain state-issued firearms permits, such as carry concealed weapon permits and permits to purchase, may be qualified by the ATF as permits that suffice in lieu of a NICS background check at the point of sale/transfer. To qualify for an alternate permit, the applicant, in addition to meeting the conditions required by state law, must undergo a NICS background check as part of the permit-issuing/renewal process. The issuing state determines if the subject is eligible to receive a firearm permit, including those given alternate permit status by the ATF. An individual's presentation of an active alternate permit to an FFL when attempting to purchase a firearm precludes the need for the FFL to initiate the otherwise required NICS background check for the permit holder during the life of the permit. However, the renewal of an alternate permit requires a background check be conducted via the NICS as part of the permit renewal process. Permits that qualify in lieu of a NICS background check are required by regulation to be active for no more than a five-year period. Additional information pertaining to state-issued, ATF-approved alternate permits is available by accessing [www.atf.gov/firearms/brady-law/permit-chart.html](http://www.atf.gov/firearms/brady-law/permit-chart.html).

## NICS Availability

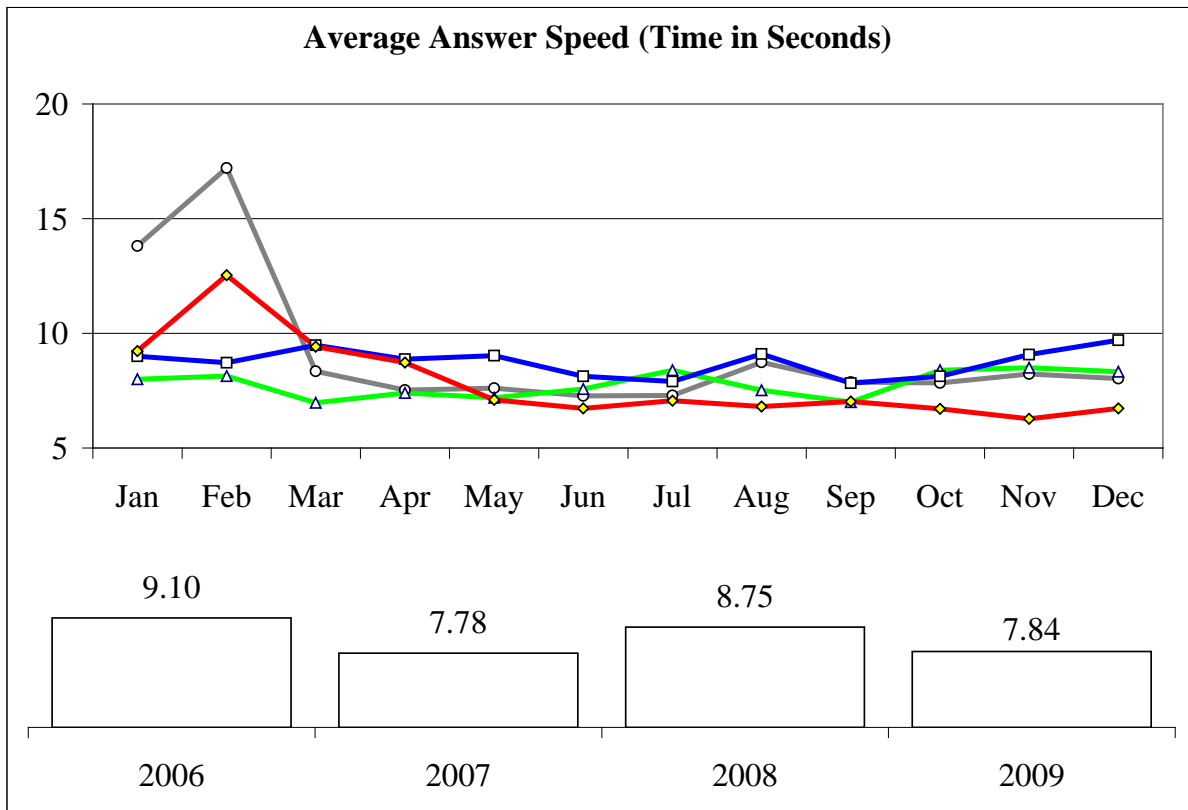
In order to operate as designed, the NICS is dependent on the availability of the NCIC and the III. The unavailability of either of these systems during the background check process can impact the performance of the NICS even though the NICS is fully operational. The NICS Section, with the ongoing assistance and technical support of the CJIS Division's Information Technology Management Section, works 24/7 to maximize the availability of the NICS in addition to the NCIC and the III.

For 7 of the 12 months in 2009, the NICS reported a 100 percent level of system availability. Factoring in the remaining 5 months of NICS service, the average system availability for the NICS in 2009 was 99.93 percent.



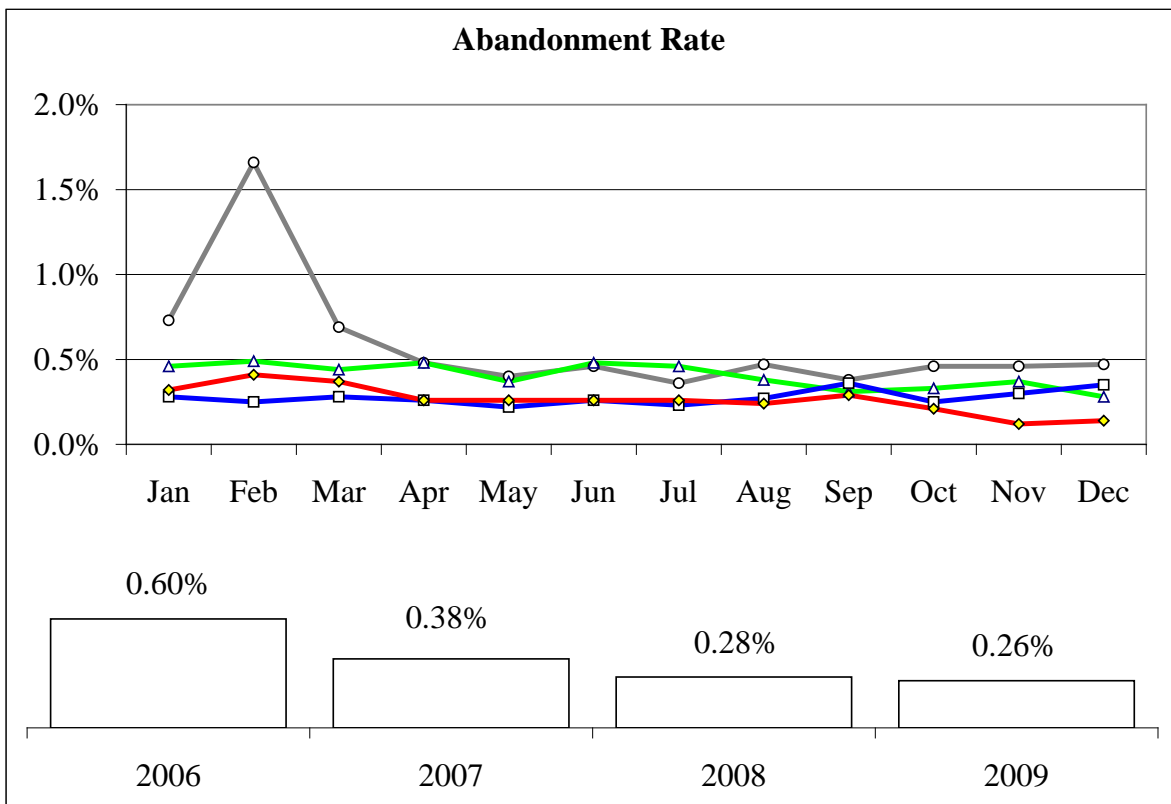
## Answer Speed

The FFLs serviced by the FBI usually connect with the NICS via one of the three NICS Contracted Call Centers. The customer service representatives at the NICS Contracted Call Centers enter the prospective firearm transferee's name and descriptive information provided by the FFL into the NICS to initiate the background check search. If no records are matched by the NICS, the NICS Contracted Call Center staff advise the FFL the transfer may proceed. If a background check search returns a match in any of the databases searched during the background check process, the FFL is placed on hold, and the call is transferred to the NICS Section at the CJIS Division for review in an attempt to determine the subject's firearms eligibility status while the FFL is still on the telephone. With a continued focus on customer service, the NICS Section strives to address all calls transferred from the NICS Contracted Call Centers in an expeditious manner. Depending on various factors, such as the time of the day, week, or year, the demand placed upon the system and the NICS Section may have a direct bearing on service levels. Many types of call center operations have a target goal of answering 80 percent of calls being answered within 20 seconds. However, the NICS Section goal is to answer Transfer Process calls within nine seconds. Based on historical data specific to transaction and call volumes, the NICS Section is able to forecast anticipated levels of staffing needed to effectively process incoming work. Accordingly, in 2009, the NICS Section's Transfer Process calls were answered on average in 7.84 seconds.



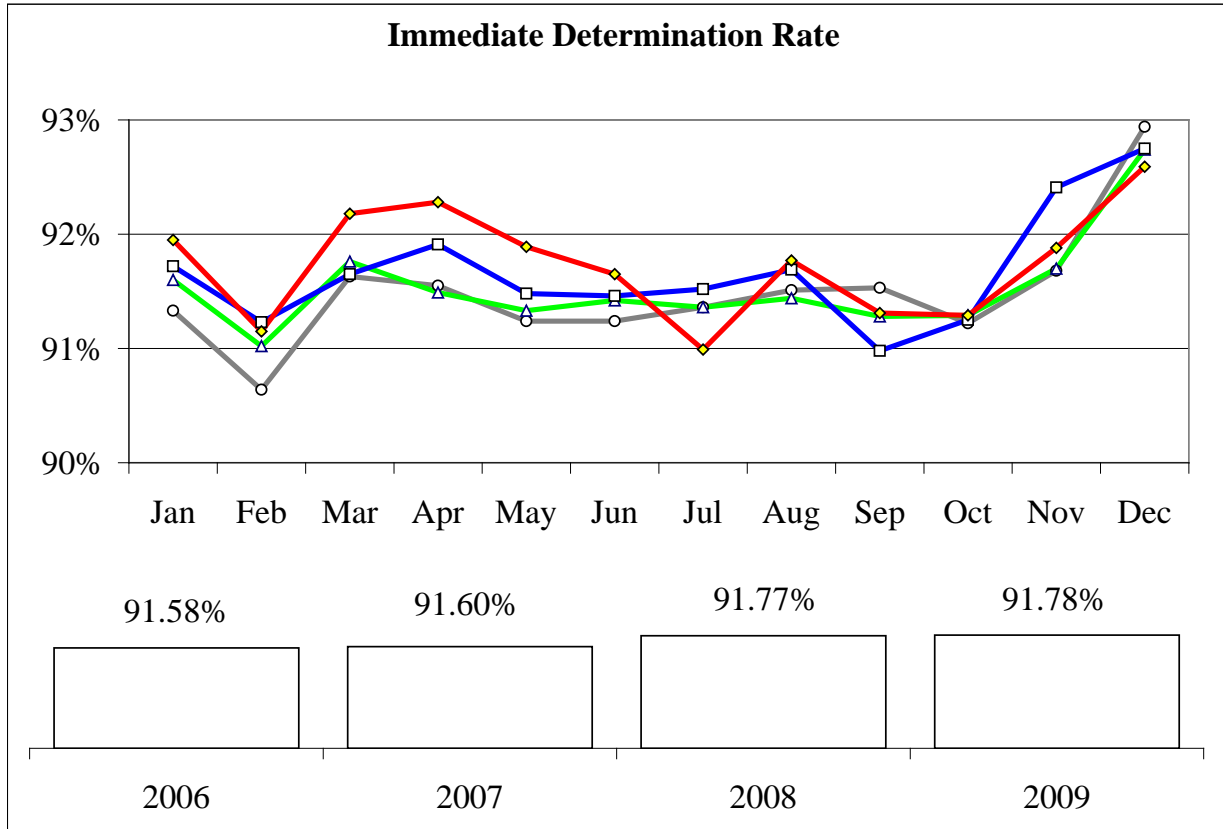
## Transfer Process Abandonment Rate

When a transaction initiated by the NICS Contracted Call Center is matched to any record during a background check search, the FFL is placed on hold, and the call is transferred directly to the NICS Section for further processing. As previously stated, the average time a caller waits for their call to be answered is 7.84 seconds. Depending on the level of incoming calls, the amount of time can fluctuate. As such, there are times when a caller will prematurely terminate, or "abandon," a call. Many of the circumstances that prompt a caller to terminate a call are not within the control of the NICS Section. The NICS Section makes every effort to address each call as quickly as possible. Because all calls are valuable, the NICS Section endeavors to limit the level of abandoned calls to less than 1 percent. The NICS Section surpassed this goal and averaged a 0.26 percent Abandonment Rate in 2009.



## Immediate Determination Rate (IDR)

The rate of calls immediately proceeded at the NICS Contracted Call Centers plus the rate of transaction determinations (proceed or deny) provided by the NICS Section's employees while the FFL is still on the telephone comprise the NICS IDR. The U.S. Attorney General requires the NICS Section to maintain a 90 percent or better rate of immediate determinations. The NICS IDR in 2009 averaged 91.78 percent.



## Transactions created in the NICS

The NICS, from November 30, 1998, through December 31, 2009, has conducted a total of 110,017,832 background checks. In 2009, a total of 14,033,824 background checks were submitted to the NICS. Of these, a total of 6,083,428 transactions were processed by the NICS Section, and the remaining 7,950,396 transactions were processed by the POC states.

Year	Federal	State	Total	Program-to-Date (PTD) Total
1998 <sup>1</sup>	506,554	386,286	892,840	892,840
1999	4,538,020	4,600,103	9,138,123	10,030,963
2000	4,260,270	4,282,767	8,543,037	18,574,000
2001	4,291,926	4,618,265	8,910,191	27,484,191
2002	4,248,893	4,205,429	8,454,322	35,938,513
2003	4,462,801	4,018,787	8,481,588	44,420,101
2004	4,685,018	4,002,653	8,687,671	53,107,772
2005	4,952,639	4,000,306	8,952,945	62,060,717
2006	5,262,752	4,774,181	10,036,933	72,097,650
2007	5,136,883	6,040,452	11,177,335	83,274,985
2008	5,813,249	6,895,774	12,709,023	95,984,008
2009	6,083,428	7,950,396	14,033,824	110,017,832
<b>Total</b>	<b>54,242,433</b>	<b>55,775,399</b>	<b>110,017,832</b>	

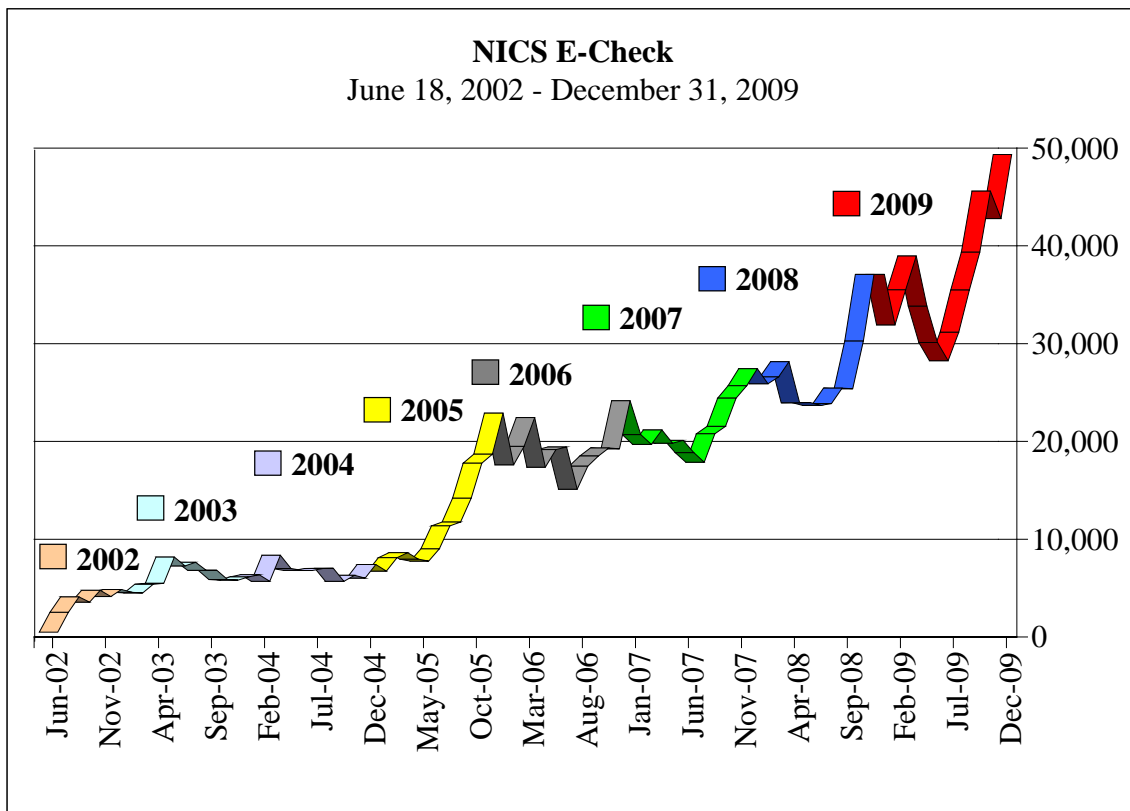
<sup>1</sup> November 30, 1998, through December 31, 1998.



## NICS E-Check

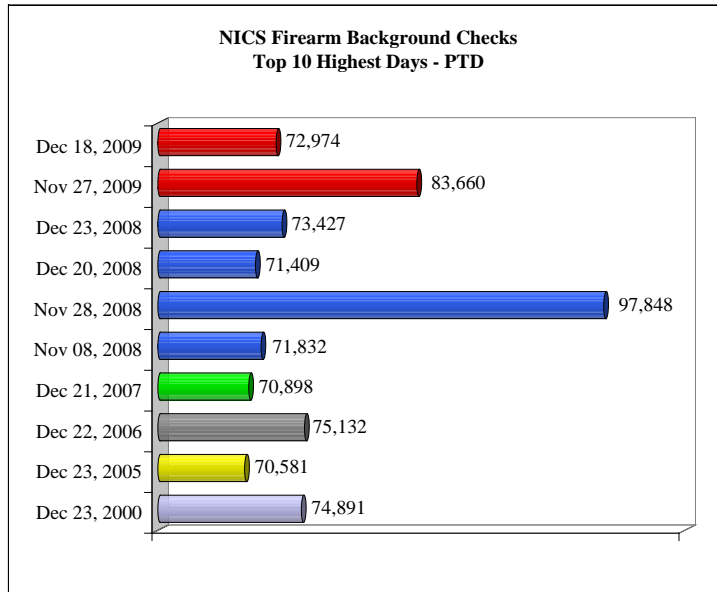
The FFLs serviced by the NICS Section contact the NICS via the NICS Section's Contracted Call Centers or through the Internet via the NICS E-Check. The NICS E-Check uses Public Key Infrastructure technology and provides FFLs the capability of conducting unassisted background checks electronically through a secure access.

As of December 31, 2009, the total number of FFLs enrolled with the NICS via the NICS E-Check was 2,269, and the number of users (FFLs and their employees) accessing the NICS E-Check was 2,726. As of December 31, 2009, a total of 1,585,484 firearms and explosives background checks were processed PTD via the NICS E-Check. A total of 442,367 NICS E-Check transactions were processed in 2009. Of the 2009 NICS E-Check transactions, 358,170 were firearms inquiries.

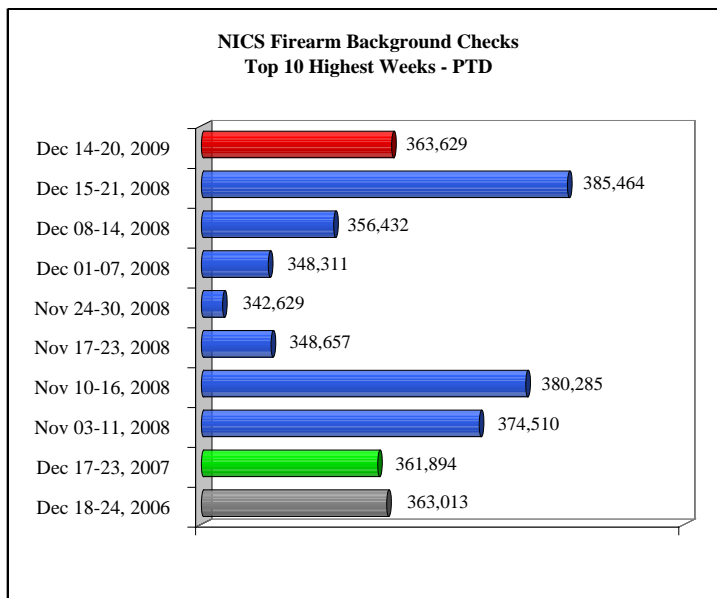


## NICS Peak Season

The NICS Section observes an increase in transaction activity associated with major hunting seasons and year-end holidays. On November 27, 2009 (the day after Thanksgiving), the NICS Section experienced its second busiest day in the history of the program by processing 83,660 firearm background checks.



On December 18, 2009, the NICS Section processed 72,974 firearm background checks, making it the sixth highest day since NICS' inception (see above). During the week of December 14-20, 2009, the NICS Section processed 363,629 firearm background checks, making it the fourth highest week since the inception of the NICS.



## NICS Denials

A deny decision from the NICS indicates the prospective firearms transferee or another individual with a similar name and/or similar descriptive features was matched with either federally prohibiting criteria or state-prohibiting criteria. Federal law prohibits from possessing or receiving a firearm any person who:

**18 U.S.C. §922 (g) (1)**

Has been convicted in any court of a crime punishable by imprisonment for a term exceeding one year;

**18 U.S.C. §922 (n)**

Is under indictment for a crime punishable by imprisonment for a term exceeding one year;

**18 U.S.C. §922 (g) (2)**

Is a fugitive from justice;

**18 U.S.C. §922 (g) (3)**

Is an unlawful user of or addicted to any controlled substance;

**18 U.S.C. §922 (g) (4)**

Has been adjudicated as a mental defective or committed to a mental institution;

**18 U.S.C. §922 (g) (5)**

Is illegally or unlawfully in the United States;

**18 U.S.C. §922 (g) (6)**

Has been discharged from the Armed Forces under dishonorable conditions;

**18 U.S.C. §922 (g) (7)**

Having been a citizen of the United States, has renounced U.S. citizenship;

**18 U.S.C. §922 (g) (8)**

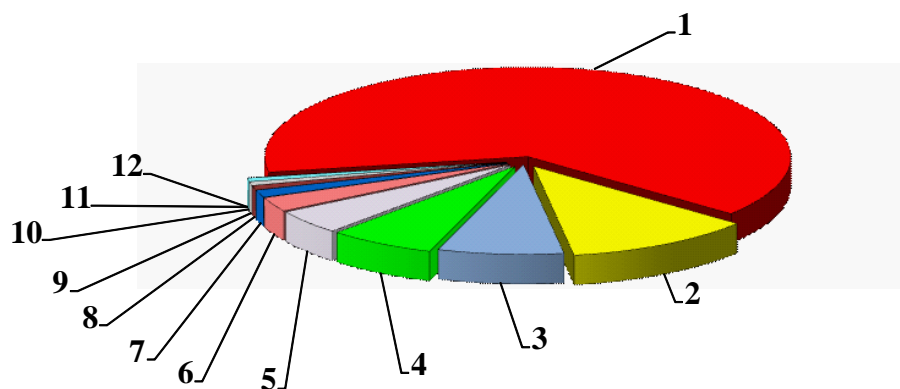
Is subject to a court order that restrains the person from harassing, stalking, or threatening an intimate partner or child of such intimate partner;

**18 U.S.C. §922 (g) (9)**

Has been convicted in any court of a misdemeanor crime of domestic violence.

**Federal Denials**  
Reasons Why the NICS Section Denies - PTD

<u>Rank</u>	<u>Prohibited Category Description</u>	<u>Total</u>	<u>Percent of Total</u>
1	Convicted of a crime punishable by more than one year or a misdemeanor punishable by more than two years	477,108	63.77%
2	Misdemeanor Crime of Domestic Violence Conviction	86,483	11.56%
3	Unlawful User/Addicted to a Controlled Substance	57,655	7.71%
4	Fugitive from Justice	49,093	6.56%
5	Protection/Restraining Order for Domestic Violence	32,865	4.39%
6	State Prohibitor	19,382	2.59%
7	Illegal/Unlawful Alien	9,676	1.29%
8	Under Indictment/Information	5,719	0.76%
9	Federally Denied Persons File	4,915	0.66%
10	Adjudicated Mental Defective	4,811	0.64%
11	Dishonorable Discharge	482	0.06%
12	Renounced U.S. Citizenship	40	0.01%
<b>Total Federal Denials</b>		<b>748,229</b>	<b>100.00%</b>



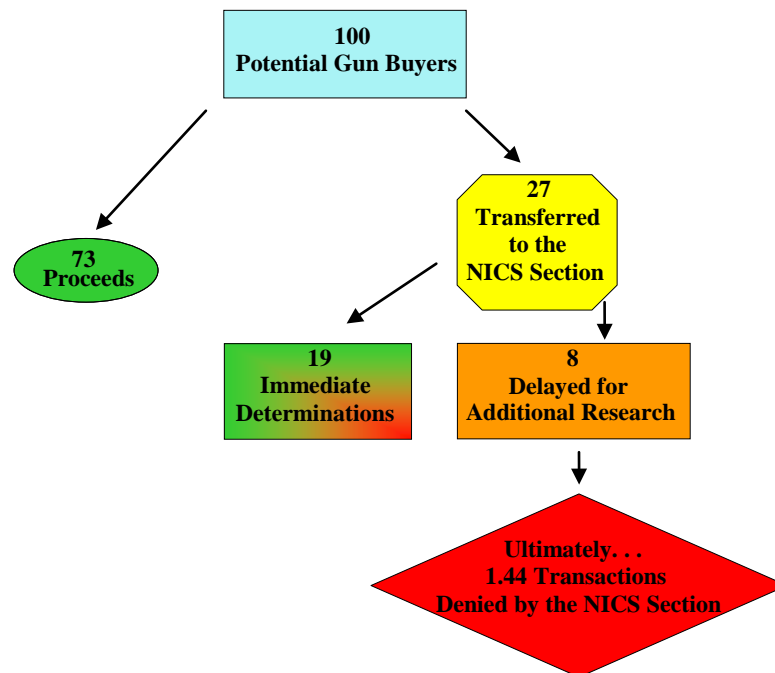
When a NICS background check matches a record holder to the prospective firearms transferee, the NICS Section determines if a federal prohibitor exists; however, if a federal prohibitor does not exist, the NICS Section employee processing the background check must further review the record match(es) to determine if any applicable state law renders the prospective firearms transferee prohibited. In perspective, state law can be less restrictive; however, in those cases the NICS Section applies federal law. From the inception of the NICS on November 30, 1998, through December 31, 2009, the NICS Section has rendered 748,229 firearms denials. Of these, 67,324 denial decisions were provided in 2009.<sup>2</sup> Historically, as well as specifically in 2009, convictions for crimes punishable by more than one year or a misdemeanor punishable by more than two years is the leading reason for NICS Section denials.

<sup>2</sup> State denial data can be accessed via the DOJ's Bureau of Justice Statistics Web site at [www.ojp.usdoj.gov/bjs/pubalp2.htm](http://www.ojp.usdoj.gov/bjs/pubalp2.htm).

## Out of a Hundred Checks

Pursuant to 28 C.F.R., §25.6, based on the information returned in response to a NICS background check, the NICS Section provides either a proceed, a deny, or a delay transaction determination to the FFL. If the NICS Section cannot determine a proceed or a deny response during the FFL's initial contact, the transaction is delayed. In 2009, approximately 8 percent of all transactions processed by the NICS Section were given an initial delay status.

When a NICS transaction is delayed, the Brady Act allows the FFL to legally transfer the firearm if the NICS transaction is not resolved within three business days. However, the NICS Section continues to search for the information necessary to make a final determination.



## NICS Milestone

On Saturday, April 4, 2009, at 8:35 p.m., the NICS Section processed its 100 millionth transaction. The transaction originated in Arizona and was delayed at the NICS Contracted Call Center where it was transferred to the NICS Section for processing. The NICS Section placed the transaction in a delay status and implemented research to determine the individual's eligibility to purchase a firearm. The delayed transaction was subsequently provided a proceed status.

## **Firearm Retrieval Referrals**

Because of the NICS Section's commitment to public safety and national security, the search for the needed disposition information continues beyond the three business days allowed by the Brady Act. In many instances, the information is subsequently obtained and a final status determined; however, if the final status (determined after the lapse of three business days) results in a deny decision and the NICS Section is advised by the FFL that the firearm was transferred, then the ATF is notified a prohibited person is in possession of a firearm. In 2009, the NICS Section referred 3,048 firearm retrieval actions to the ATF.

## **NICS Appeals**

In 2009, approximately 1.44 percent of the firearm background checks processed by the NICS Section received a final transaction status of deny. Pursuant to the Brady Act, any person who believes they were wrongfully denied the transfer of a firearm based on a record returned in response to a NICS background check can request an appeal of the decision. An appeal is defined as "a formal procedure to challenge the denial of a firearm transfer." Pursuant to 28 C.F.R., §25.2 --"an individual may request the reason for the denial from the agency that conducted the check of the NICS (the 'denying agency,' which will be either the FBI or the state or local law enforcement agency serving as a POC)." Therefore, per 28 C.F.R., §25.2, in the alternative, an individual denied by a POC state can elect to submit an appeal to the NICS Section.

The NICS Section processes appeal requests in the order they are received. In 2009, the NICS Section received a total of 16,073 appeal requests. Of those, a total of 1,315 received were submitted by persons denied by POC state agencies.

In numerous instances, an appellant is required to submit fingerprints to establish proof of identity. Additionally, appellants can and are encouraged to submit any documentation they may have to support their challenge of the accuracy of the predicate record for their deny decision. In 2009, the NICS Section received 8,916 fingerprint submissions plus 4,938 disposition and/or record-clarifying documents from appellants to assist the NICS Section with appeals resolutions. In 2009, the NICS Section's research of fingerprint and/or documentation submissions by appellants resulted in the overturn of 3,332 deny transactions.

The primary reason for the overturned deny decisions in 2009 was the appellant's fingerprints not matching the fingerprints of the subject of the firearms-disqualifying record. Another chief reason deny decisions are overturned on appeal pertain to criminal history records that do not contain current and accurate information.



## **Voluntary Appeal File (VAF)**

Many criminal history and related records are not complete or up-to-date. As a result, eligible firearm transferees may be subject to lengthy delays or receive erroneous denials subsequently overturned on appeal. Often, the record-completing information located by the NICS Section employees cannot be used to update a criminal history record or an appellant's fingerprints confirm they are not the subject of the prohibiting record initially matched to the received name and descriptors.

In cases where the matches are refuted by fingerprints, the subject's deny decision may be overturned and the transaction proceeded. However, because the NICS is required to purge all identifying information regarding proceed transactions within 24 hours of notification to the FFL, in many instances the process must be repeated when the same transferee attempts subsequent firearm purchases and is again matched to the same prohibiting record.

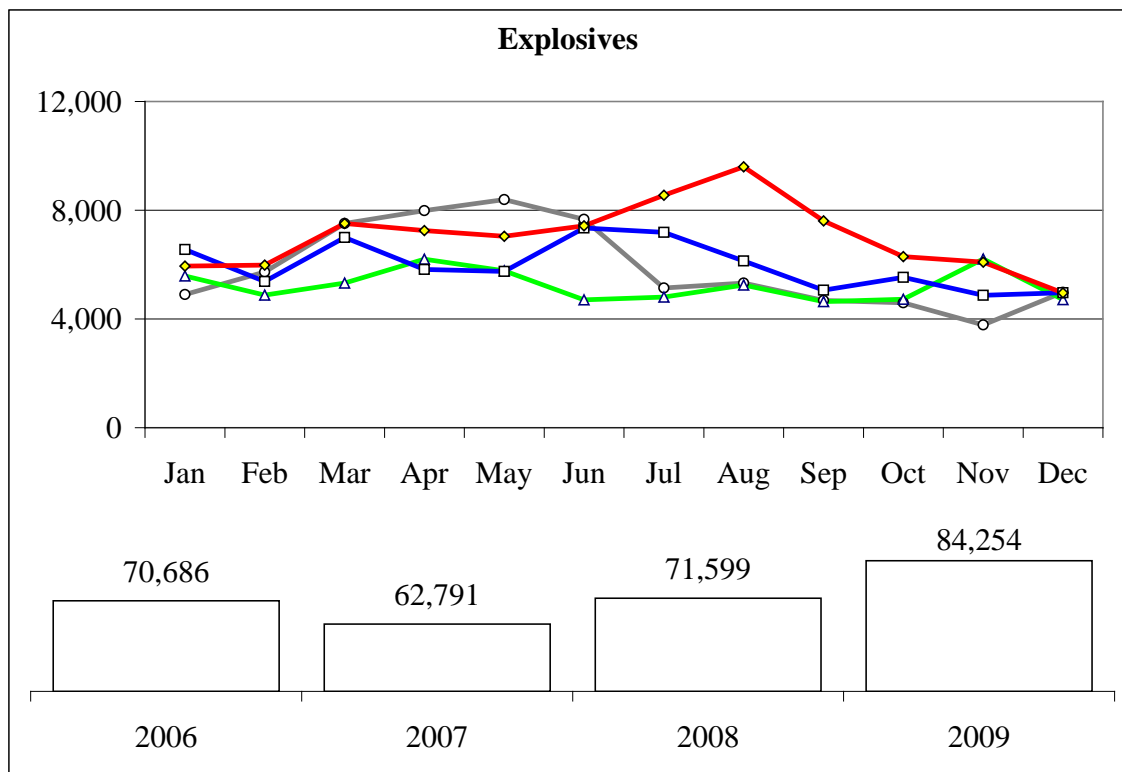
The VAF was implemented in July 2004 to prevent subsequent lengthy delays and erroneous denials. Lawful purchasers who have been delayed or denied a firearm transfer may ask the NICS Section to maintain information about them to facilitate future firearms transactions. All applicants approved for entry into the VAF receive a Unique Personal Identification Number (UPIN) which must be provided to the FFL during subsequent firearm background checks. The VAF is checked by the NICS during the background check process only when a UPIN is provided by the FFL. In 2009, a total of 4,072 lawful firearm transferees received a UPIN and were entered into the VAF.

Because of the availability of the VAF, over 20,500 transactions have received a more immediate background check determination and expedited the mission of the NICS Section.

## Explosives Background Checks

The Safe Explosives Act requires a NICS background check as part of the licensing process for any person who transports, ships, causes to be transported, or receives explosives materials in either intrastate or interstate commerce. There are three categories of explosives licenses: one for responsible persons, one for employee possessors and the other for a limited permit.

All ATF explosives permit applicants are required to undergo a NICS background check. The Responsible Persons background checks are processed by the NICS Section after the results of fingerprint identification processing have been completed and forwarded by the CJIS Division's Biometric Services Section. All explosives background check results are forwarded to the ATF. The ATF makes the determination as to a subject's eligibility to receive an explosives permit. The Employee Possessor background checks are submitted by the ATF directly via the NICS E-Check for processing by the NICS Section.



Since the first explosives background check in 2003 and through December 31, 2009, the NICS Section has processed a total of 405,340 explosives background checks. Of these, the NICS Section processed 84,254 explosives background checks in 2009. Of the explosives background checks processed by the NICS Section in 2009, a total of 1,221 were denied.

## NICS Index

When a NICS background check is conducted, the name and descriptive information of a prospective firearms transferee is searched against the name and descriptive information of subjects of records maintained in the databases searched by the NICS. In addition to the NCIC and the III, a search of the NICS Index is conducted. The NICS Index is a system of records developed by the FBI exclusively for the NICS that collects and maintains records voluntarily submitted by local, state, tribal, and federal agencies of persons who exhibit a federal firearms prohibition. Typically, the records submitted to the NICS Index are not available from the NCIC or the III, or may be available but cannot be updated in a manner to readily indicate to a user the existence of a federal firearms prohibition. Making such records available via the NICS Index provides the user with an immediate indication the record, when validly matched to the prospective firearm transferee, has already been validated to be federally disqualifying. This "pre-validation," in turn, often eliminates an otherwise lengthy review process where research and evaluation are performed to determine if the record is prohibiting and, ultimately, if the subject is eligible to receive or possess firearms.

Since its implementation, the NICS Section has dedicated numerous resources toward populating the NICS Index, specifically by:

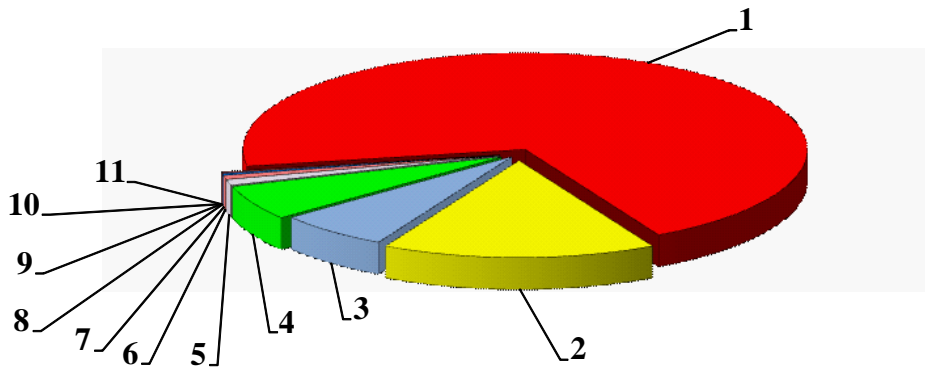
- training and educating users of the NICS;
- participating and interacting at various conferences and seminars;
- establishing liaison specialists within the NICS Section who, being knowledgeable regarding the NICS processes, are available to provide real-time assistance;
- offering legal services and guidance, for states in pursuance of making mental health information available to the NICS; and
- offering technical guidance and support.

Advocating the value of making federally prohibiting records available at the national level has been a continuing goal of the NICS Section. The NICS Section employees and local, state, tribal, and federal agencies submitted, on average, approximately 17,000 records per month in 2009 to the NICS Index. As of December 21, 2009, a total of 5,687,562 records were maintained in the NICS Index, an increase of 203,621 records since December 31, 2008.

### Active Records in the NICS Index

As of December 31, 2009

<u>Rank</u>	<u>Prohibited Category Description</u>	<u>Total</u>	<u>Percent of Total</u>
1	Illegal/Unlawful Alien	3,978,988	69.96%
2	Adjudicated Mental Defective	888,807	15.63%
3	Fugitive from Justice	364,550	6.41%
4	Convicted of a crime punishable by more than one year or a misdemeanor punishable by more than two years	331,537	5.83%
5	Misdemeanor Crime of Domestic Violence Conviction	53,609	0.94%
6	Federally Denied Persons File	37,005	0.65%
7	Dishonorable Discharge	16,149	0.28%
8	Renounced U.S. Citizenship	14,337	0.25%
9	Unlawful User/Addicted to a Controlled Substance	1,361	0.02%
10	Protection/Restraining Order for Domestic Violence	976	0.02%
11	Under Indictment/Information	243	0.01%
<b>Total Active Records in the NICS Index</b>		<b>5,687,562</b>	<b>100.00%</b>



## **NICS Section's Other Successes**

To assure the long-term growth and viability of the NICS, the staff and management of the NICS Section believe strategic planning is key to success. The NICS Section places great emphasis not only on current goals but also on planning for the future. Each year, the NICS Section selects objectives in support of identified goals and frames forward-looking strategies aimed to move the program closer toward better servicing the NICS Section's customers. The following information describes some of the successes resulting from the NICS Section tactical planning efforts in 2009:

- On May 12, 2009, the NICS Section conducted the Operational Readiness Review for the addition of the Fort Worth, Texas, Call Center site as part of the NICS Call Center Task Order of the FBI Call Center and Help Desk Services contract with CSC. The Fort Worth, Texas, Call Center took their first call at 11:27 a.m., the same day, which resulted in an immediate proceed.
- On February 16, 2009, Build 16.0.0 was added to the NICS implementing the new Appeal Record Database (ARD). The ARD is an electronic appeal data collection tool which assists the Appeal Services Teams' Legal Instruments Examiners in processing appeal transactions.
- On June 29, 2009, a computer enhancement to the NICS, titled Build 16.1.0, was deployed. Improvements to current features of the NICS, as well as additions of technical changes, were made to impact internal and external users of the NICS. The upgrade to the system effected changes to streamline efforts to better service the customers of the NICS while improving the processing of background check
- On August 13, 2009, after awarding the contract to draft the New NICS (the redesign of the existing NICS) requirements to David Hale Associates, Inc. (DHA), the NICS Section held a kick-off meeting with DHA. The New NICS initiative encompasses the redesign of the existing NICS to ensure the system can continue to meet the mandates relating to the FBI's critical national security mission by replacing the outdated design and technology, increasing automation, seamlessly consolidating disparate systems, and providing increased NICS availability.

## **NICS Section Outreach**

The NICS Section offers an outreach initiative to connect with local, state, tribal, and federal agencies regarding the public safety value of sharing criminal history and related records with the NICS. The NICS Section enhances public safety and national security through information sharing and continues to foster a proactive role regarding the submission of record information to the CJIS systems searched during a NICS background check. The NICS Section emphasizes the importance of making record information, such as complete criminal history records and prohibiting mental health adjudications, available on a national level, as well as spotlighting the NICS Improvement Amendments Act (NIAA) of 2007.

To accomplish the aforementioned, the NICS Section supports a multi-faceted outreach program. The NICS Section fosters working relationships with various agencies to eliminate the barriers impeding the availability of information at a national level. The following information outlines some of the highlights of the NICS Section's commitment in this endeavor:

- As an ongoing initiative to implement the NIAA, the NICS Section presented information to various agencies throughout 2009. Numerous meetings were coordinated as liaison efforts to fulfill NIAA requirements.
- From June 9-11, 2009, the NICS Section hosted its annual NICS User Conference in Sacramento, California. With 137 persons from local, state, tribal, and federal agencies in attendance, the NICS User Conference provided educational, informational, and interactive sessions covering a multitude of topics, such as an immigration overview, how to submit to the NICS Index, and how to interpret military charges and dispositions. Also, information was provided on upcoming NICS enhancements and changes. Additionally, a panel consisting of personnel from the Bureau of Justice Statistics, ATF, and the NICS Section answered questions and addressed concerns from the attendees.
- The fourth annual Report, Educate, and Associate Criminal History (R.E.A.C.H.) Conference was held at the CJIS Division on September 22-23, 2009. Representatives from the Department of Defense; U.S. Immigration and Customs Enforcement; Bureau of Customs and Border Protection; Office of U.S. Visitor and Immigrations Status Indication Technology; U.S. Marshals Service; and the Bureau of Indian Affairs were in attendance. Information was shared with attendees on the Integrated Automated Fingerprint Identification System, the Joint Automated Booking System, the NICS, the Law Enforcement National Data Exchange, Next Generation Identification, Biometric Interoperability, Law Enforcement On-line, and CJIS training services. The R.E.A.C.H. Conference is the opportunity provided to CJIS representatives to meet one-on-one with agency representatives to discuss specifics about an agency's interaction and/or participation in their program, service, or system.
- From October 31 to November 4, 2009, a representative from the NICS Section attended the 19th Annual National Multi-disciplinary Conference on Domestic Violence in San Antonio, Texas. The conference topics included: Ethical Issues & Professional Responsibility; Investigation, Preparation, and Prosecution of Domestic Violence (DV) Cases; Just the Facts--Bringing Judges to the Table; Effectively Training Law Enforcement; DV Courts; Best Practices for Weapons Confiscation and Return; Electronic Research for Attorneys; and Federal Prosecution of DV and Sexual Assault in Indian Country. Conference attendees included: judges, law enforcement personnel, therapists, crisis advocates, health care and mental health professionals, parole and probation officers, physicians, prosecutors, court administrators, and other professionals who work on behalf of the survivors of DV and their families.



Approximately 1,000 attendees from around the country participated in the 2009 conference. The NICS Section shared information and educated the conference attendees on the prohibitive criteria involved with a NICS firearm background check and how they can assist the NICS Section by providing this information through court documents.

The NICS Section also provided guidance and support to the NICS users and partners, in addition to various agencies through other means such as:

- offering its operational expertise to local, state, tribal, and federal agencies;
- offering technological guidance regarding system and connectivity matters; and
- providing information to support the sharing of information in a variety of ways, for example:
  - the Internet;
  - training Webcasts via the Internet;
  - annual forums, such as the Annual NICS User Conference and the R.E.A.C.H. Conference;
  - attending various conferences and meetings; and
  - publishing various brochures and reports.

Outreach efforts also provided the NICS Section with opportunities to enhance and strengthen relationships with external agencies broadening the furtherance of public safety, such as with the Department of Justice's Project Safe Neighborhoods, the National Rifle Association, and the National Shooting Sports Foundation.

As outreach usually includes an educational element, the NICS Section offers continual support to local, state, tribal, and federal agencies, by offering a myriad of training opportunities. The NICS Section identifies, develops, and provides various training and information-sharing regimens to the NICS users and numerous law enforcement, judicial, and criminal justice agencies when requested.

The NICS Section offers a catalogue of comprehensive training services specific to topics such as the firearm background check and related processes, the Brady Act, the interpretation and application of federal prohibiting criteria, the challenges of effectively and efficiently determining if state laws are firearms prohibiting, the NICS appeal process, and others. In 2009, the NICS Section traveled to 16 states and provided 60 training sessions to over 1,250 professionals, such as probate judges, court clerks, law enforcement officers, state terminal agency controllers, program technicians, special agents, training instructors, auditing personnel, sheriffs, and others.

As a result of the information sharing commitment of the NICS Section and the cooperation of numerous local, state, tribal, and federal agencies, over 699,402 dispositions obtained by the NICS Section employees have been posted to criminal history records since NICS began. Of these, approximately 28,500 dispositions were obtained in 2009.

Additionally, a program total of 94,389 dispositions obtained by the NICS Section employees were shared with the states to assist with records maintenance at the state level. Of these, over 18,750 dispositions were obtained in 2009.