



# National Instant Criminal Background Check System (NICS)

WHY AM I DELAYED?

## Delayed Firearm Transaction A delay response does not mean you are denied.

DOES THIS MEAN I AM DENIED?

The following is an explanation of a delay response and the answers to some of the most frequently asked questions. A delay response from the NICS Section indicates that *either you or another individual with a similar name and/or similar descriptive features (name, sex, race, date of birth, state of residence, social security number, height, weight, or place of birth)* has been matched with either state prohibitive criteria or one or more of the following federally prohibitive criteria:

- A. Convicted of/under indictment for a crime punishable by imprisonment for a term exceeding one year, whether or not sentence was imposed. This includes misdemeanor offenses with a potential term of imprisonment in excess of two years, whether or not sentence was imposed.
- B. Persons who are fugitives from justice; for example, the subject of an active felony misdemeanor warrant.
- C. An unlawful user and/or an addict of any controlled substance. For example: a person convicted for the use or possession of a controlled substance within the past year; or, a person with multiple arrests for the use or possession of a controlled substance within the past five years with the most recent arrest occurring within the past year; or, a person found through a drug test to use a controlled substance unlawfully, provided the test was administered within the past year.
- D. Judged as mental defective or involuntarily committed to a mental institution or incompetent to handle own affairs, including final dispositions to criminal charges "found not guilty by reason of insanity" or found incompetent to stand trial".
- E. An alien illegally/unlawfully in the United States or a non-immigrant who does not qualify for the exceptions under Title 18, United States Code(U.S.C.), Section 922(y). For example: not having possession of a valid hunting license.
- F. Dishonorable Discharge from the United States Armed Forces.
- G. Renounce citizenship of the United States.

H. The subject of a protective order issued after a hearing of which the accused had notice that restrains them from harassing, stalking, or threatening an intimate partner or child of such partner. This does not include Ex Parte orders. (This is to say no hearing has been held yet - only the allegations made).

I. Persons convicted of the misdemeanor crime of domestic violence or persons convicted in any court of a misdemeanor crime which has an element for the use or attempted use of physical force or threatening use of a deadly weapon and the defendant was the spouse, former spouse, parent, guardian of the victim, by a person with whom the victim shares a child in common, by a person who is cohabiting or has cohabited in the past with the victim as a spouse, parent, guardian or similar situation to a spouse, parent or guardian of the victim.

When a delay response is received, this indicates that information you supplied on the Bureau of Alcohol, Tobacco, Firearms and Explosives Form 4473, has been matched with information contained in the National Crime Information Center, the Interstate Identification Index, and/or the NICS Index. Complete information is not always available and a further review of these records is necessary. The NICS exhausts all efforts to retrieve current record information by contacting law enforcement agencies, i.e., local, state, federal, courts, etc. The Brady Handgun Violence Prevention Act of 1993 allows three business days to obtain this information prior to the transfer of the firearm. The Federal Firearms Licensee (FFL) is not prohibited from transferring the firearm after three business days have passed; however, the FFL is not required to transfer the firearm.

The Privacy Act of 1974 restricts the dissemination of specific information to you via the telephone. Under the provisions of Title 28, U.S.C., Sections 16.30 through 16.34, you can obtain a copy (for a fee) of any identification record the FBI may maintain on you by contacting the following unit at the address and telephone number provided:

Federal Bureau of Investigation  
Criminal Justice Information Services Division  
Attention: Special Correspondence Unit, Module D-2  
1000 Custer Hollow Road  
Clarksburg, WV 26306  
Telephone Number: (304)625-3878

Additional information is available on the Internet at the following address:

<http://www.fbi.gov/programs/nics/index.htm>

HOW LONG DO I HAVE TO WAIT?

WHAT IS THE DELAY?