

Reasons Why You May Receive a Delayed Response

If you have ever been arrested, (juvenile offenses, old arrest/conviction, misdemeanor arrest/conviction, non-convictions, investigation arrest, and/or current cases), charged, and/or fingerprinted for a criminal investigation.

❖ **A Criminal History with an offense or conviction that could possibly fall under one of nine federal or various state prohibiting standards.**

- Often the National Instant Criminal Background Check System (NICS) receives criminal history records that are incomplete. This requires extensive research by a NICS Legal Instrument Examiner (NICS Examiner) to obtain information that updates any criminal charges listed on the record.
- Any arrest/conviction that you have could cause a delayed response from the NICS. There is no limit on age of arrest/conviction. If you feel the arrest/conviction is not disqualifying, it may have been reported to the FBI differently, and would require additional research by the NICS.
- The NICS does not always receive complete disposition information from the courts and may need to research your criminal history record to determine if a specific offense and/or conviction is no longer disqualifying or has been cleared from your record.

❖ **Stolen, Misplaced or Similar Identity:**

- If you have a common name, you may experience a short delay every time you have a background check initiated.
- Someone with a criminal history may have a similar or altered name that causes an incorrect match on your descriptive data. The NICS checks are based on name and descriptive data provided on the Alcohol, Tobacco, Firearm, and

Explosives (ATF) Form 4473 (firearm application) form.

- Stolen or misplaced identity occurs when someone has used your key descriptive data (e.g.) full name, social security number, date of birth, and place of birth). An individual may have used this data to identify themselves at the time of arrest for the commission of a crime.

A Delayed Response

When a delayed response is received from the NICS, this indicates that information you have supplied on the ATF Form 4473 has been matched with information contained in one or more of the three National Criminal Computer Databases. Complete arrest and/or judicial information are not always provided on the criminal history record. When complete information is not provided, the NICS Examiners attempt to obtain complete record information by contacting law enforcement agencies, i.e., local, state, federal courts, arresting and judicial agencies to obtain dispositions, court records and police reports. The NICS updates criminal history records with information received, resolving many delayed transactions.

- ❖ Often the various judicial and law enforcement agencies are unable to meet the demand the NICS places on their resources. These agencies are often small and do not have the manpower to support the NICS requests or their court records are not maintained for extended periods of time. The information these agencies maintain is generally public record and can be easily obtained by you, the subject of the record.
- ❖ If you are able to obtain a certified copy of your court records, you may send this information along with your fingerprints to the FBI Special Correspondence Unit to be updated on criminal history files. Updating this information may resolve your repeated delayed response to an immediate proceed.

Action You Can Take to Resolve Delayed Responses

- If you have any criminal history arrests/convictions, you should obtain the court certified documentation of the **final** outcome of your offense and forward the information to the FBI Special Correspondence Unit to update your FBI criminal history record.
 - The FBI Special Correspondence Unit will then send the information you provided to the state that holds your record.
 - Updating your FBI criminal history record can include having cases expunged, pardoned, conviction level changed or rights restored depending upon the legal process in the state of conviction and/or state of residence.
 - State policy on restoration of rights varies from state to state. Contact your state Office of the Attorney General for clarification.
 - If you are unsure of what may be on your criminal record, you may request a copy of your FBI record by contacting the FBI Special Correspondence Unit.
 - The FBI does not maintain all criminal history records. You may need to contact the state repository for criminal history information.
- ① A state repository is responsible for maintaining criminal history records that are reported to the FBI. This repository, not the FBI NICS Section, is responsible for maintaining and updating the information accessed on a criminal background check.
 - ② If you are unsure how to contact the state repository, please contact the state Office of the Attorney General for additional information.

FEDERAL PROHIBITORS

1. Currently under formal charges for a felony or convicted of a felony that can receive more than a one-year sentence or convicted of a misdemeanor that could receive more than a two-year sentence.
2. A fugitive from justice or subject of an active criminal warrant. This includes misdemeanor warrants.
3. Illegal drug possession, current use, or a conviction of controlled substance within the past year.
4. In a court proceeding, formally determined to be a mental defective, involuntarily committed to a mental institution or deemed incompetent to handle your own affairs. This includes final dispositions to criminal charges of "found not guilty by reason of insanity" or "found incompetent to stand trial."
5. 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, Section 922(y) (i.e., not having a valid hunting license).
6. Dishonorable discharge from United States Armed Forces.
7. Renounced citizenship of the United States.
8. The subject of a protection order issued after a hearing of which the accused had the opportunity to participate. The protection order restrains the subject from harassing, stalking, or threatening an intimate partner or child of such partner.
9. Persons convicted of a misdemeanor crime of domestic violence including offenses that contain the element of use or attempted use of physical force or threatened use of a deadly weapon in which the victim was a spouse, former spouse, parent, guardian, a person with whom the victim shares a child in common, a person who is cohabitating with or has cohabitated with the victim.

How to contact the FBI

To obtain a copy of your FBI Record, you must send a written request to:

**Federal Bureau of Investigation
Special Correspondence Unit
1000 Custer Hollow Road
Clarksburg, WV 26302**

You are required to provide the following with your written request:

- ❖ An \$18 money order payable to the U.S. Treasury;
- ❖ A ten-print fingerprint card bearing your fingerprints from a local law enforcement office;
- ❖ A return mailing address for your response; and
- ❖ A court-certified copy of a final disposition regarding your criminal offense in order to update your FBI Criminal History Record.

Updating this information may resolve your repeated delayed response into an immediate proceed.

The FBI Special Correspondence Unit can only provide information on criminal history records. They have no access to NICS background check records.

Locate information on the FBI Special Correspondence Unit at:

www.fbi.gov/hq/cjisd/fprequest.html

NICS Customer Service
1 (877) 444-NICS (6427)

Due to the Privacy Act of 1974 the FBI NICS Section cannot provide criminal history information over the telephone.

U.S. Department of Justice

Federal Bureau of Investigation

Criminal Justice Information Services Division



Gun Buyer's Resolution Guide



Explanation and Information
on a Delayed
NICS Response