



U.S. Department of Justice
Federal Bureau of Investigation
Criminal Justice Information Services Division (CJIS)

NATIONAL INSTANT CRIMINAL BACKGROUND CHECK SYSTEM 2022 OPERATIONAL REPORT





NICS Mission Statement

**Seeking to Enhance National
Security and Public Safety by
Conducting Background
Checks to Determine a
Person's Eligibility to Possess
Firearms or Explosives in
Accordance with Federal and
State Laws**



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A Message from the NICS Section Chief

Since the implementation of the National Instant Criminal Background Check System, more commonly referred to as NICS, on November 30, 1998, the NICS Section has identified and implemented numerous system and process improvements with a goal of top program integrity and reliability. The focus of the NICS Section remains on servicing federal firearm licensees (FFLs) by conducting firearm background checks. In 2022, we outlined the following foundational statement, which has strengthened us as a section and made customer service a priority: Daily decisions made, at all levels of the section, will focus on the mission of keeping the country safe and supporting those who are exercising their Second Amendment rights with a culture of good judgement, high energy, demonstrated competence, and customer service.



Calendar year 2022 saw new legislation regarding gun safety. Part of the Consolidated Appropriations Act 2022 outlined the requirements of the NICS Denial Notification Act (NDNA). This requires a denial notification be sent to the appropriate state, local, or tribal law enforcement authorities in the state where the firearm purchase was sought and, if different, the state in which the attempted purchaser resides.

The Bipartisan Safer Communities Act (BSCA) aimed to enhance background checks for persons under 21 years of age by requiring juvenile criminal and mental health records checks of designated state and local entities. BSCA requires the Attorney General to issue regulations to (I) allow FFLs to perform employment background checks for current or prospective employees and (II) allow FFLs limited access to information in the NCIC Gun file regarding stolen firearms. Also, BSCA adds “dating relationship” as a prohibiting relationship under Title 18 United States Code (U.S.C.) 922 (g)(9).

The NICS Section had a tremendous year with implementing much of the new legislation and processing over 10 million firearm transactions. The NICS Section has been extremely busy in 2022, and there is no doubt 2023 will bring the continued challenges and success while continuing to provide NICS users and citizens of the United States with the highest level of quality service.

Trudy Lou Ford

Brady Act



Figure b: March 26, 1981, New York Times



Figure a: James Brady with President Bill Clinton

The Gun Control Act of 1968 mandated, among other requirements related to firearms, individual and

corporate firearms dealers to become a FFL and create a system for keeping prohibited persons from buying firearms at FFLs by requiring potential buyers to answer questions pertaining to their eligibility.

However, until NICS was established, there was no computerized process to check national records to determine if the potential buyer was answering those questions correctly. Coordinated efforts to create a national background check system began after the 1981 attempted assassination of former President Ronald Reagan. White House Press Secretary, James Brady, was seriously wounded in the attack and later led the efforts to create the Brady Handgun Violence Prevention

Act (Brady Act) of 1993. When signed into law in November of that year, the Brady Act included a Gun Control Act amendment creating NICS, and 5 years later, through a cooperative effort with the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), the Department of Justice (DOJ) and state and local law enforcement agencies, NICS became operational on November 30, 1998.

NICS Participation

U.S. states and territories can contact the NICS Section to process their firearm background checks or they can elect to process their own checks. The FBI has 37 states and territories where FFL’s contact the NICS Section to conduct all NICS background checks. They include:

Alabama	Kansas	New Mexico	Washington DC
Alaska	Kentucky	New York	West Virginia
Arizona	Louisiana	North Dakota	Wyoming
Arkansas	Maine	Ohio	Guam
Delaware	Massachusetts	Oklahoma	N. Mariana Island
Georgia	Michigan	Rhode Island	Puerto Rico
Hawaii	Minnesota	South Carolina	Virgin Islands
Idaho	Mississippi	South Dakota	
Indiana	Missouri	Texas	
Iowa	Montana	Vermont	

There is a total of 13 full Point of Contact (POC) states where FFL’s contact the state/territory for all firearm NICS background checks including permits. They include:

California	Illinois	Tennessee
Colorado	Nevada	Utah
Connecticut	New Jersey	Virginia
Florida	Oregon	
Hawaii	Pennsylvania	

Four partial POC states contact their respective state for handgun checks and contacts the NICS Section for long gun NICS background checks. They include:

Maryland	Washington
New Hampshire	Wisconsin

Two partial POC states process state-issued handgun permits used for handguns, and FFL’s contact the NICS Section for long gun NICS background checks. They include:

Nebraska	North Carolina
----------	----------------

A full POC state has an agency(ies) serving as an intermediary between an FFL and NICS prior to the proposed transfer of a firearm to a non-licensed person for all mandated types of firearms. Full POCs are responsible for ensuring NICS background checks for prospective firearm transfers occurring at FFLs are conducted, making firearm eligibility determinations, advising FFLs and NICS of transactions statuses, and processing corresponding deny challenges/appeals. Full POCs will identify one primary individual to serve as the POC designee. The NICS Section will collaborate with the POC designee and the state CSO regarding all NICS-related items.

A state acting as partial POC has a state or local agency(ies) serving as an intermediary between an FFL and NICS prior to the proposed firearm transfer to a non-licensed person for some firearm background checks. Currently, all partial POC states conduct their own mandated handgun-related background checks, and the FBI processes long gun checks for those states. Depending on the state, a partial POC may assist with prospective handgun transfers occurring at FFLs or with issuing permits for handgun purchases. Partial POCs are responsible for ensuring the NICS background check is conducted for prospective handgun transfer (or handgun permits), making eligibility determinations, advising FFLs (or permit applicants) and NICS of transaction statuses, and processing corresponding deny challenges/appeals. The NICS Section is responsible for processing NICS background checks for prospective long gun transactions occurring at FFLs in partial POC states. The FBI will process corresponding deny challenges/appeals for denials decisions made by the NICS Section.

There are six states for which the NICS Section processes the NICS background checks for all long gun transactions for FFLs, but those POCs conduct their own NICS background checks for handguns, or handgun permits. In addition, 13 states participate with NICS in a full-POC capacity by performing all NICS background checks for their states' FFLs.

Certain state-issued firearm permits may be qualified by ATF as permits FFLs may accept in lieu of a NICS background check. The transferee must still complete the ATF Form 4473. To qualify for one of these alternate permits, the applicant, in addition to meeting the conditions required by state law, must pass a NICS background check as part of the permit-issuing/renewal process. The state agency responsible for issuing the ATF-qualified alternate permit conducts the NICS background check and determines if the subject is eligible based on federal and state firearm laws. When attempting to obtain a firearm through an FFL, an individual's presentation of a valid alternate permit, issued within the past 5 years, precludes the need for the FFL to initiate the otherwise required NICS background check for the permit holder. However, presenting an in-lieu of permit does not mandate that the FFL cannot opt to perform the NICS check ordinarily required. Re-checks are referred to as "revocation" checks and are conducted by issuing agencies to determine if the permit holder remains eligible to possess the firearm permit. Twenty-five states have at least one ATF-qualified alternate permit. Refer to the latest Permanent Brady Permit Chart for specific permit details at www.atf.gov/rules-and-regulations/permanent-brady-permit-chart.



The NICS Section supports over 50,306 FFLs conducting business in 31 states, 5 U.S. territories, and the District of Columbia. This is a decrease from the *NICS 2020/2021 Biennial report* total of 50,588 FFLs. These FFLs contact the NICS Section to initiate the required NICS background checks using NICS electronic check (E-Check) via the internet or the NICS Contracted Call Center (NCCC) via telephone. In 2022, FFLs initiated 88.94 percent of their transactions via NICS E-Check service.

ATF Form 4473

For an FFL to initiate a NICS background check, the prospective firearms transferee must complete and sign an ATF Form 4473, Firearms Transaction Record. The ATF Form 4473, which collects the transferee's name and descriptive data (e.g., date of birth, sex, race, state of residence, country of citizenship), also elicits information that may immediately identify a transferee as a prohibited person. An FFL is prohibited from conducting a NICS background check if answers to specific questions on the ATF Form 4473 reveal a prohibition. When an FFL initiates a NICS background check, a name and descriptor search is conducted to identify matching records in three nationally held databases managed by the FBI's CJIS Division. When the prospective transferee is not a U.S. citizen, a search of relevant ICE systems is conducted by the NICS Section. In non-POC states (refer to figure 4), the FFL will contact the NICS Section via NICS E-Check or the NCCC and provide the descriptive data of its their potential firearm transferee. Additional information regarding ATF can be found at www.atf.gov.

OMB No. 1140-0020

U.S. Department of Justice
Bureau of Alcohol, Tobacco, Firearms and Explosives

Firearms Transaction Record

WARNING: The information you provide will be used to determine whether you are prohibited by Federal or State law from receiving a firearm. Certain violations of the Gun Control Act, 18 U.S.C. 921 et. seq., are punishable by up to 10 years imprisonment and/or up to a \$250,000 fine. Any person who exports a firearm without a proper authorization from either the Department of Commerce or the Department of State, as applicable, is subject to a fine of not more than \$1,000,000 and up to 20 years imprisonment.

Read the Notices, Instructions, and Definitions on this form. Prepare in original only at the licensed premises (including business temporarily conducted from a qualifying gun show or event in the same State in which the premises is located) unless the transaction qualifies under 18 U.S.C. 922(c). All entries must be handwritten in ink unless completed under ATF Rule 2016-2. PLEASE PRINT.

Transferor's/Seller's Transaction Serial Number (if any)

Section A - Must Be Completed By Transferor/Seller Before Transferee/Buyer Completes Section B

1. Manufacturer and Importer (if any) (If the manufacturer and importer are different, include both.)	2. Model (if designated)	3. Serial Number	4. Type	5. Caliber or Gauge
1.				
2.				
3.				

6. Total Number of Firearms to be Transferred (Please spell total number e.g., one, two, etc. Do not use numerals.)

7. Check if any part of this transaction is a pawn redemption.
Record Line Number(s) From Question 1: _____

8. Check if this transaction is to facilitate a private party transfer.

Section B - Must Be Completed Personally By Transferee/Buyer

9. Transferee's/Buyer's Full Name (If legal name contains an initial only, record the initial followed by "IO" in quotes. If no middle initial or name, record "NMI")

Last Name (including suffix, e.g., Jr, Sr, II, III) _____ First Name _____ Middle Name _____

10. Current State of Residence and Address (U.S. postal abbreviations are acceptable. Cannot be a post office box.)

Number and Street Address _____ City _____ State _____ ZIP Code _____ Country/Parish/Borough _____

11. Place of Birth

U.S. City and State	-OR-	Foreign Country	12. Height	13. Weight	14. Sex	15. Birth Date
			Ft. _____ In. _____	(lbs.) _____	<input type="checkbox"/> Male <input type="checkbox"/> Female <input type="checkbox"/> Non-Binary	Month _____ Day _____ Year _____

16. Social Security Number (optional, but will help prevent misidentification)

17. Unique Personal Identification Number (UPIN) or Appeals Management Database Identification (AMD ID) (if applicable)

18. a. Ethnicity Hispanic or Latino Not Hispanic or Latino

18. b. Race (Select one or more race in 18. b. Both 18. a. and 18. b. must be answered.)

American Indian or Alaska Native Black or African American White

Asian Native Hawaiian or Other Pacific Islander

19. Country of Citizenship: (Check/List more than one, if applicable. Nationals of the United States may check U.S.A.)

United States of America (U.S.A.) Other Country/Countries (Specify): _____

20. If you are an alien, record your U.S.-issued alien or admission number (A#, USCIS#, or I#): _____

21. Answer the following questions by checking or marking either the "yes" or "no" box to the right of the questions:

	Yes	No
a. Are you the actual transferee/buyer of the firearm(s) listed on this form and any continuation sheet(s) (ATF Form 5300.9A)? Warning: You are not the actual transferee/buyer if you are acquiring the firearm(s) on behalf of another person. If you are not the actual transferee/buyer, the licensee cannot transfer the firearm(s) to you. Exception: If you are only picking up a repaired firearm(s) for another person, you are not required to answer 21. a. and may proceed to question 21. b.	<input type="checkbox"/>	<input type="checkbox"/>
b. Are you under indictment or information in any court for a felony, or any other crime for which the judge could imprison you for more than one year, or are you a current member of the military who has been charged with violation(s) of the Uniform Code of Military Justice and whose charge(s) have been referred to a general court-martial?	<input type="checkbox"/>	<input type="checkbox"/>
c. Have you ever been convicted in any court, including a military court, of a felony, or any other crime for which the judge could have imprisoned you for more than one year, even if you received a shorter sentence including probation?	<input type="checkbox"/>	<input type="checkbox"/>
d. Are you a fugitive from justice?	<input type="checkbox"/>	<input type="checkbox"/>
e. Are you an unlawful user of, or addicted to, marijuana or any depressant, stimulant, narcotic drug, or any other controlled substance? Warning: The use or possession of marijuana remains unlawful under Federal law regardless of whether it has been legalized or decriminalized for medicinal or recreational purposes in the state where you reside.	<input type="checkbox"/>	<input type="checkbox"/>

Previous Editions Are Obsolete

Page 1 of 6 STAPLE IF PAGES BECOME SEPARATED ATF Form 4473 (5300.9)
Revised May 2020

Figure d: ATF Form 4473

Databases Searched by NICS

Interstate Identification Index

**Interstate
Identification
Index (III)
85,306,044
as of
12/31/2022**

The Interstate Identification Index (III) provides a means of conducting a search for criminal justice and other purposes as specified by federal, state, local, and/or federal laws. Each record is supported by a fingerprint submission and is assigned a unique FBI Universal Control Number (UCN). The III records searched during NICS background checks increased by 2,463,193 from the *NICS 2020/2021 Biennial report*. This is an increase of 1 percent.

National Criminal Information Center

**National
Crime
Information
Center
(NCIC)
7,312,875**

National Criminal Information Center (NCIC) contains records of wanted persons, subjects of protection orders, and other persons who may pose a threat to officer and public safety. The NCIC records searched during a NICS background check decreased by 49,706 from the *NICS 2020/2021 Biennial report*. This is a decrease of 1 percent.

In 2022, NCIC created a new file currently accessed by the NICS Section for research. The Extreme Risk Protection Order (ERPO) File contains orders issued by a criminal or civil court for temporarily restricting an individual from purchasing or possessing a firearm, ammunition, or other related items, based on a finding they may pose a significant danger of injury to themselves or others. The types of ERPOs and the information contained in them vary from state to state. An ERPO is granted by the court when petitioned by law enforcement, family members, household members, health professionals, etc. (dependent on the state’s ERPO law). Sometimes the ERPO is classified as “Red Flag Law” or “Gun Violence Order.” The ERPO temporarily restricts an individual from receiving/possessing a firearm; however, may evolve into full protection orders. The following map outlines the states containing ERPO laws.

Twenty states/territories currently possess ERPO/Red Flag laws and will honor ERPOs issued in other states. They include:

California	Hawaii	Massachusetts	Oregon
Colorado	Illinois	Nevada	Rhode Island
Delaware	Indiana	New Jersey	Vermont
District of Columbia	Maine	New Mexico	Virginia
Florida	Maryland	New York	Washington

Twenty-eight states currently do not have ERPO/Red Flag laws but will honor an ERPO under full faith and credit. They include:

Alabama	Iowa	Mississippi	North Dakota	Texas
Alaska	Kansas	Missouri	Ohio	Utah
Arizona	Kentucky	Montana	Pennsylvania	Wisconsin
Arkansas	Louisiana	Nebraska	South Carolina	Wyoming
Georgia	Michigan	New Hampshire	South Dakota	
Idaho	Minnesota	North Carolina	Tennessee	

Two states contain anti-ERPO/Red Flag laws and will not issue or honor ERPO’s from other states. They are:

Oklahoma West Virginia

**NICS
Indices
28,407,758
as of
12/31/2022**

NICS Indices

The NICS Indices, a database created specifically for NICS, contains information contributed by federal, state, local, and tribal agencies pertaining to persons prohibited from shipping, transporting, possessing, and/or receiving a firearm pursuant to federal and/or state law. Typically, the records maintained in the NICS Indices are not available via III or NCIC. The NICS

Indices records searched during a NICS background check increased 2,976,799 from the *NICS 2020/2021 Biennial report*. This is an increase of 11.70 percent.

Immigration and Customs Enforcement

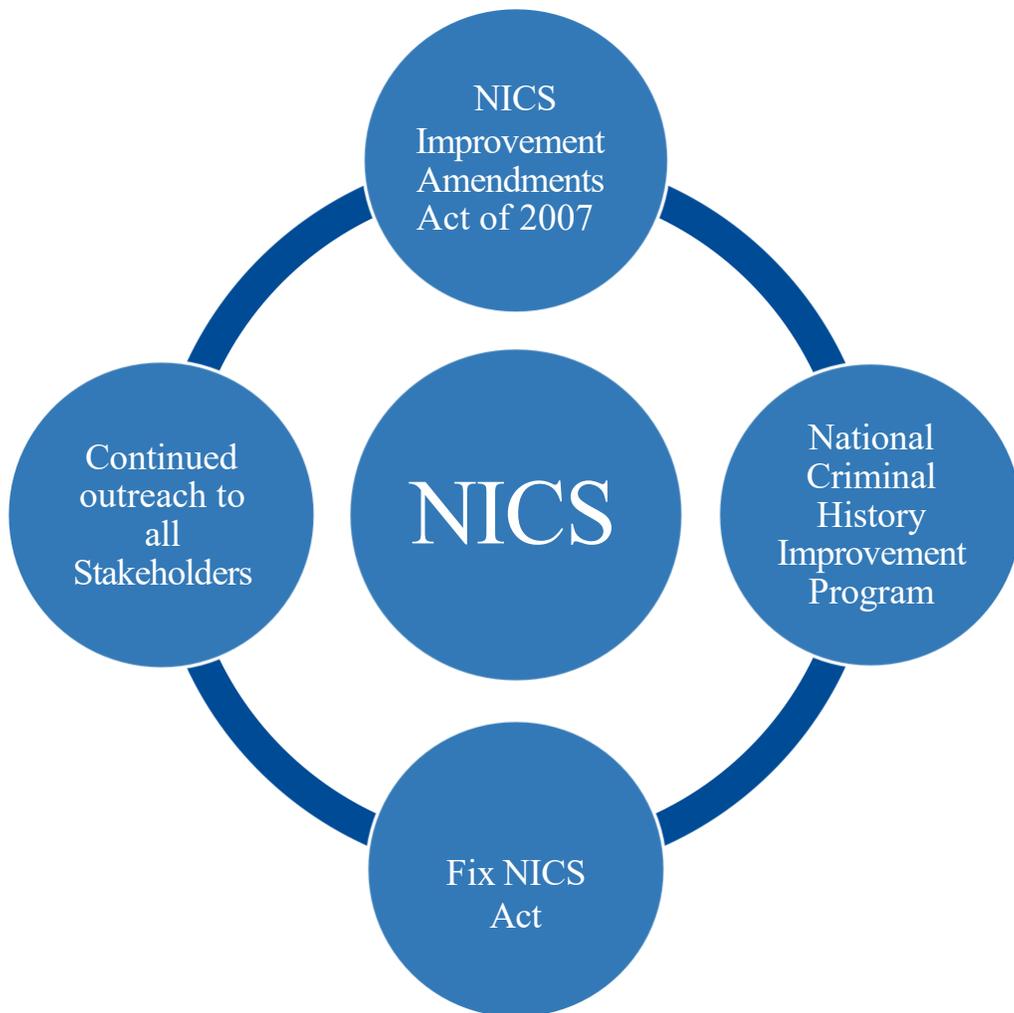
The relevant databases of Immigration and Customs Enforcement (ICE) are searched for non-U.S. citizens attempting to receive firearms from FFLs. In 2022, the NICS Section, along with POC states sent 297,494 queries to ICE. The ICE has conducted more than 2,560,737 queries in support of NICS transactions since November 1998.

Improving NICS Information

In most cases, the results of a NICS background check will yield definitive information regarding an individual’s firearm eligibility. However, not all inquiries can be provided a final status. A relatively small percentage of transactions are delayed primarily due to incomplete criminal history records (e.g., a missing disposition or a missing crime classification status of felony or misdemeanor).

NICS relies on accurate, complete, and timely information to be effective. The main hurdle identified to lack of record completeness has consistently been the lack of funding to make needed system changes or to increase employee resources. There have been numerous initiatives to improve information NICS needs to complete its mission.

When a valid match record contains potentially prohibiting information but is incomplete, the NICS Section must search for the information needed to complete the record. This process often requires outreach to federal, state, local, and/or tribal agencies (e.g., arresting agencies, court systems). The NICS Section continues to work with federal, state, local, and tribal agencies to



enhance criminal history information. The following federal programs are available to assist federal, state, local, and tribal agencies.

NICS Improvement Amendments Act of 2007

The NICS Act Record Improvement Program (NARIP) was originally authorized under the NICS Improvement Amendments Act of 2007 (NIAA). The NIAA was endorsed after the April 2007 shooting tragedy at Virginia Tech. The Virginia Tech shooter was able to purchase a firearm from an FFL because information pertaining to his prohibiting mental health history was not made available to NICS. The NIAA seeks to address this gap of information available to NICS regarding prohibiting mental health adjudications, commitments, and other types of vital information within purchasers' backgrounds. On January 8, 2008, Congress passed the NIAA, amending the Brady Act to authorize the Attorney General to obtain electronic versions of information from federal agencies on persons disqualified from receiving firearms and created a grant program to assist state and tribal agencies. Additional information regarding the NIAA including program goals and objectives and grant-related publications and products can be found at www.NIAA.gov.

National Criminal History Improvement Program

The Bureau of Justice Statistics (BJS) provides awards and technical assistance to states and localities to improve the quality, timeliness, and immediate accessibility of criminal history records and related information. To achieve complete criminal history records requires data from all components of the criminal justice systems be integrated and linked, including law enforcement, prosecutors, courts, and correction facilities. The purpose of the National Criminal History Improvement Program (NCHIP) is to aid states in establishing an integrated infrastructure to meet the needs of all components of the criminal justice systems. Through NCHIP, the BJS furthers the DOJ's mission to reduce violent crime and address gun violence by improving the accuracy and interstate accessibility of criminal history and related records in support of national record systems for use during name- and fingerprint-based criminal history background checks. NCHIP was initiated in 1995 and grants awards annually on a competitive basis to states, territories, and federally recognized tribes. BJS issues an annual program announcement describing the program goals, priorities, application procedures, and allowable costs. Based on the BJS website, approximately \$893 million has been awarded since the inception of the program in 1995. All states and eligible territories have received funds under NCHIP.

In 2022, BJS added improving access to information (including juvenile record information [under 18 U.S.C. 922 (g) or (n)], unless prohibited under state or tribal law) concerning persons prohibited from possessing or receiving a firearm for mental health reasons and transmitting relevant records to NICS to the grant proposals based on regulations of the BSCA. Additional information regarding NCHIP including program goals and objectives, program impacts and accomplishments, and special projects and initiatives can be found at www.NCHIP.gov.



Fix NICS Act

In March 2018, Congress passed the Fix NICS Act which aims to improve NICS by imposing two primary requirements. First, the Act requires federal departments and agencies to submit semiannual certifications to the U.S. Attorney General indicating whether the agency is following NICS record submission requirements. Federal departments and agencies must submit certifications by January 31 and July 31 of each calendar year and must describe all relevant records in the possession of the agency during the previous 6-month reporting period. The reporting period is listed as January 1 through June 30 for the July certification and July 1 through December 31 for the January certification. Second, federal departments and agencies are required, and state governments were requested, to establish a 4-year implementation plan which is intended “*to ensure maximum coordination and automated reporting or making available records to the Attorney General, and the verification of the accuracy of those records.*” The plans must include annual benchmarks for several metrics. The basics of the implementation plans include reporting and verifying the accuracy of relevant records over the four-year period. The first deadline for submission of these plans was within 1 year of the Act’s passage, which was March 25, 2019.

By the end of each fiscal year, the U.S. Attorney General must determine whether federal departments and agencies and state governments achieve “*substantial compliance*” with the established benchmarks listed in their respective plans. The DOJ must also publish and submit to Congress a semiannual report describing the compliance of federal departments and agencies and state governments. In addition, the Act requires all firearm-related challenges of a denied NICS background check be completed within 60 days of receiving information from the appellee.

In collaboration with the DOJ, the NICS Section, along with other CJIS Division service lines, has engaged with both federal departments and agencies and state governments to provide guidance on submitting relevant records to NICS and to support their efforts to achieve the established benchmarks outlined in their implementation plans. The CJIS Division also receives and reviews state updates to the implementation plans, compiles the information stated within the plan, and provides a comprehensive report to the DOJ.

The DOJ’s most recently published semiannual report in July 2021 indicated that 46 federal agencies, all 50 states, and the District of Columbia submitted progress reports. DOJ staff carefully review the certifications and updates to assess the agency’s progress in meeting the established benchmarks and when necessary, whether the agency had provided a reasonable explanation for any unexpected delays (e.g., resource constraints resulting from the COVID-19 pandemic). The DOJ concluded all agencies are in substantial compliance with the established benchmarks set forth in the respective implementation plans.

The NICS Section, and the entire CJIS Division, remains committed to supporting DOJ with efforts to facilitate the Act and will continue to provide support as they move forward. Additional information regarding the Fix NICS Act can be found at www.FIXNICS.gov.



Figure f: President Joseph R. Biden and Dr. Jill Biden signing the bipartisan gun control legislation.

Legislation

In 2022, President Joseph R. Biden signed two pieces of gun control legislation into law. On March 15, 2022, the Consolidated Appropriations Act 2022 (CAA, Public Law 117-103), and on June 25, 2022, the Bipartisan Safer Communities Act (BSCA, Public Law 117-159) were signed into law. Aspects of those legislations that have impacted NICS background checks are listed below.

NICS Denial Notification Act

On September 26, 2022, the NICS Section implemented the requirements set forth by the NICS NDNA which was passed as part of the CAA. The NDNA has been codified at Title 18, U.S.C. Section 925B. The NDNA requires the Attorney General to issue a report of a NICS denial notification to the appropriate state, local, or tribal law enforcement authorities in the state where the firearm purchase was sought and, if different, the state in which the attempted purchaser resides. A denial notification report is to be submitted by the NICS Section within 24 hours but can be delayed avoiding compromising an ongoing investigation.

The notification must include the date and time of the denial, the reason for the denial, the location of the FFL, and the identity of the person. If at any time, the original denial obtains a change in status, an updated notification is required to be sent to all authorities who received the original notification.

One of the largest changes necessary to implement this new requirement was the ingestion by NICS, of residential address information received during some NICS transactions. The prospective transferee's address has historically been collected by FFLs via the ATF Form 4473 but has not historically been provided as part of the NICS transaction process. The address of the attempted purchaser is requested from FFLs by NICS in cases where a transaction is denied or delayed. The request on the delayed transactions is to avoid the need for follow up contact with the FFL should the transactions result in a deny. If the NICS transaction is proceeded or purged, according to federal regulations, the address and all relevant information regarding the purchaser is purged from the NICS System.

The denial notification is delivered via an unsolicited message through the FBI's NCIC System. Each state and territory successfully tested the receipt and delivery of the new denial notification

prior to the deployment on September 26, 2022. The NICS Section is currently transitioning these messages to email addresses.

The NICS Section shares denial information with state and local law enforcement in various other ways. Generally, the sharing of NICS transaction data is restricted to authorities responsible for investigating, prosecuting, and/or enforcing the violation of law or regulation. NICS shares denial data to the NCIC's NICS Denied Transaction File (NDF) via automated International Justice and Public Safety Information Sharing Network (Nlets) administrative messages, and on a nightly basis with the ATF Denial Enforcement and NICS Intelligence (DENI) Branch. The ATF DENI Branch also shares NICS denial data with state fusion centers.

Bipartisan Safer Communities Act

On June 25, 2022, President Joseph R. Biden signed the BSCA into law. BSCA further includes, among other provisions, amendments to 18 and Title 34 U.S.C. BSCA provides an enhanced background check for juvenile records on persons 18 to 20 years old, allows FFLs to perform employment background checks for their employees, allows access to records of the NCIC stolen firearms file, and adds "dating relationship" as a prohibiting relationship under 18 U. S. C. § 922(g)(9). Key provisions relevant to the NICS Section include:

- ❑ Per amendments to 34 U.S.C. § 40901, NICS must make three additional record checks for potential transferees ages 18 to 20 to determine whether the potential transferee has a possible disqualifying juvenile record. The new contacts are all made to those entities in the state and local jurisdictions where the person resides:
 - Contact state criminal history repository or juvenile justice system information,
 - Contact state custodian of mental health adjudications; and
 - Contact the local law enforcement agency.
- ❑ The Attorney General was required to promulgate regulations allowing FFLs to conduct voluntary NICS background checks upon their current and prospective employees. See 34 U.S.C § 40901(b).
- ❑ FFLs will "receive access" to records of stolen firearms in the NCIC Gun File to voluntarily verify whether firearms offered for sale to the FFLs have been stolen. See 28 U.S.C. 534.
- ❑ Defines the term "dating relationship" to address the "boyfriend loophole." See 18 U.S.C. § 921(a)(33)(37).

The NICS Section started the implementation of the BSCA on August 8, 2022, with the new dating relationship prohibition. The NICS Section then began work on creating regulations, as required by BSCA, for current or prospective employees of licensees and the needed system changes to support the remaining BSCA requirements. The NICS Section deployed the Under the age of 21 (U21) requirements of BSCA in a phased approach. The first state was deployed on October 14, 2022 with full implementation of FBI serviced states in early January 2023.

2022 Operational Year in Review

The NICS Section of the FBI's CJIS Division has processed firearm background checks since November 30, 1998. Over time, the FBI has identified, developed, and implemented improvements supporting the NICS Section mission. More than 31.5 million (31,596,646) background checks were processed through NICS. Of those, 10,256,995 were processed by the NICS Section, and 21,339,651 were processed by state users.

- ❑ Proceeded 9,143,388 transactions.
- ❑ Denied 131,865 transactions.
- ❑ Attained an immediate determination rate (IDR) of 91.36 percent. The NICS Section strives to reach an IDR of 90 percent or better.
- ❑ Processed 121,947 background checks for the issuance of explosives-related permits resulting in 3,777 recommendations to "deny" transactions and 121,947 proceeds.
- ❑ As of December 31, 2022, there were 28,407,758 records in the NICS Indices. This was an increase of 8.95 percent from the 2021 total of 25,430,959.
- ❑ Any person who believes they were wrongfully denied the transfer of a firearm may challenge or appeal the denial. In 2022, there were 25,043 firearm-related appeals resulting in 17,572 sustained denied transactions.
- ❑ 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 NICS, III, and NCIC. In 2022, the availability of NICS averaged 99.95 percent.
- ❑ Forwarded 3,993 denials to the ATF that potentially involved a firearm retrieval.
- ❑ Processed 257 U.S. Nuclear Regulatory Commission (NRC) background checks in 2022.
- ❑ Processed 126,014 background checks for the disposition of firearms (DOF). Approximately 5,782 DOF denials were issued by the NICS Section during this period, equating to a 4.5 percent denial rate.
- ❑ In 2022, there were 206,499 transactions related to private sales involving an FFL-initiated transaction through NICS.

NICS Operational Program to Date in Review

- ❑ From its first check (November 30, 1998), through December 31, 2022, a total of 443,172,700 background checks have been conducted through NICS. Of those, 170,964,473 were processed by the NICS Section, and 272,208,227 were processed by state users.
- ❑ Since NICS E-Check began in 2002, the NICS Section has processed a total of 66,051,556 firearm and explosives transactions.

- ❑ Since its inception, the NICS Section has denied a total of 2,172,372 transactions and proceeded a total of 149,384,835 transactions.
- ❑ A total of 4,327 NRC background checks have been conducted since 2013.
- ❑ A total of 603,010 background checks related to private sales have been conducted since 2015.

NICS Availability

To operate as designed, NICS depends on the availability of III and NCIC. If either III or NCIC is not available, it impacts NICS, even though the NICS itself may be fully operational. Decreases in availability are typically due to scheduled maintenance for system upgrades and unscheduled maintenance to resolve any reported system issues. In 2022, the average availability of NICS was 99.95 percent, which is consistent with the availability for previous years.

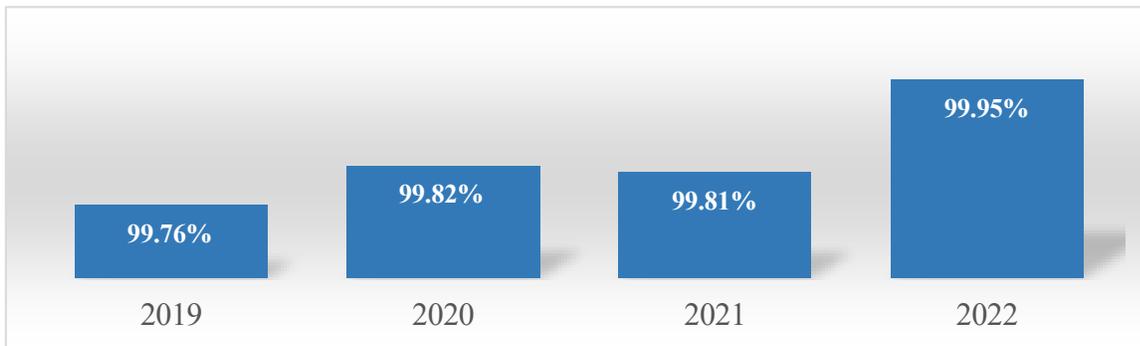


Table 1: NICS Availability



Figure g: NICS E-Check

NICS E-Check

NICS E-Check provides the capability to conduct NICS background checks electronically through a secure internet connection and has many benefits not available through the use of telephones via the NCCC. Upon receipt of a NICS E-Check request, the NICS Section staff performs a cursory review to determine if the individual is a valid match to any of the responding records and whether any of the records are prohibiting.

As of December 31, 2022, an estimated 37,714 FFLs were enrolled to use NICS E-Check. This represents just over 75 percent of all FFLs located in non-POC states. NICS E-Check access for some major corporations is through an extensible markup language (XML) process, which does not involve registering through the NICS E-Check website. Therefore, the number of FFLs submitting NICS background checks electronically is higher than the number of FFLs enrolled. In 2022, a total of 9,266,656 firearms and explosives NICS background checks were processed via NICS E-Check.

To increase the usage of NICS E-Check, the NICS Section continued to undertake the following initiatives in 2022:

- ❑ On-site visits to assist FFLs with registration.
- ❑ Promotion of NICS E-Check at ATF-sponsored FFL seminars and other conferences.

Through these initiatives, and others since the inception of NICS E-Check in 2002, usage has steadily increased. By the end of 2022, the percentage of transactions initiated via NICS E-Check was 90 percent.

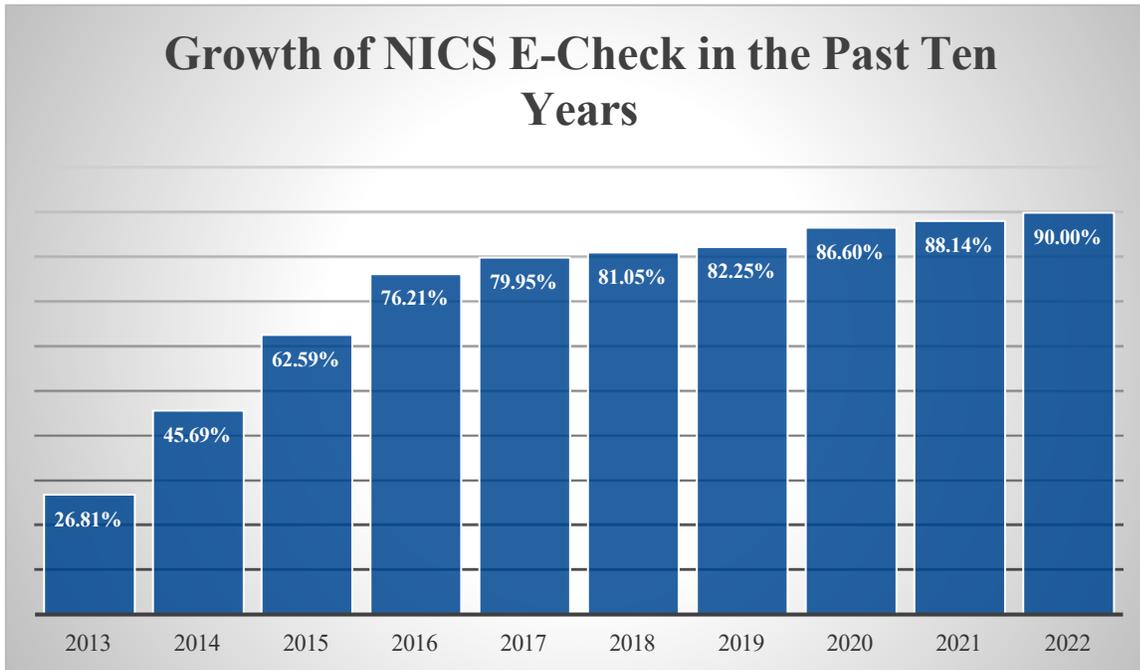


Table 2: Growth of NICS E-Check in the Past Ten Years

NICS Contracted Call Center

FFLs in non-POC states have the option of initiating a NICS background check by calling the NCCC. The customer service representative (CSR) at the NCCC enters the prospective firearm transferee’s name and descriptive information, provided by the FFL from the ATF Form 4473, into NICS to initiate the search. If no records are matched in any of the databases searched, the CSR will advise the FFL the transfer may proceed. If NICS determines a valid match to a prohibiting record, the system provides the CSR with a denied status and the CSR advises the FFL the transfer is denied. Transactions with records requiring further review are no longer transferred by the CSR to the NICS Section while the FFL is still on the telephone. Instead, the CSR provides the FFL with the NICS-generated Brady Transfer Date (BTD) and the NICS transaction number (NTN) is routed electronically to a NICS Section staff member to process. After a review and a final determination, the NICS Section staff member will submit the NTN back to the NCCC for a return call to the FFL. This process helps to eliminate lengthy telephone hold times for the FFLs, yet still supports the FBI’s IDR.

Immediate Determination Rate

IDR is comprised of the rate of calls immediately proceeded at the NCCC, the rate of transaction

determinations provided by the NICS Section, and the determinations from NICS E-Check. All three functions require available staff to process the requests being submitted to the NICS Section. The U.S. Attorney General requested the NICS Section strive to maintain a 90 percent IDR. In 2022, the IDR was 91.36 percent, showing an increase of 1 percent.

NICS Transactions

From November 30, 1998, through December 31, 2022, NICS processed 170,964,473 background checks. State users of NICS processed the remaining 108,052,389 firearm transactions and 164,337,839 permit transactions totaling 272,390,228 state transactions. (See Appendix A, table 6.)

Three Business Days Defined

The NICS Section requires accurate, complete, and timely information to make a final determination on a NICS background check. To make a final determination, the NICS Section may need to contact outside entities to obtain information (dispositions, incident reports, or other relevant information) not available in III, NCIC, or NICS Indices. This information is not always available, the agency may not respond, or the agency's response may be received after the third business day. The NICS Section generally has 3 business days to provide a response to the FFL per legislative requirements for individuals over the age of 21. The BTM is the expiration of 3 business days (exclusive of the day on which the query is made). A business day is a 24-hour day (beginning at 12:01 a.m.) on which state offices are open. A business day does not include Saturday, Sunday, or holidays (state and federal). If there is a state or federal holiday during the time period, the lawful transfer date may be delayed for additional days.

An FFL is generally not prohibited from transferring a firearm after the third business day, even if the NICS Section has been unable to provide a final determination. If information is received after the transfer of a firearm indicating the transferee is a prohibited person, a firearm retrieval referral is sent to ATF. The NICS Section, however, continues working the transaction until it can apply a final determination, or the transaction is purged from the NICS. Pursuant 28 C.F.R. § 25.9, if a NICS federal background check remains in a delay state (i.e., it is not approved or denied, thus allowing the FFL to proceed with the transfer after three business days from the date of inquiry), all information relating to the check, except for the NTN and date of inquiry, is destroyed after not more than 90 days from the date inquiry. In 2022, there were 372,308 transactions handled by the NICS Section that could not be resolved within 3 business days. Of these, 290,004 remained unresolved and were purged from the NICS audit log 90 days after the date of inquiry. It is important to note transactions not subject to the 3-business day rule are not included in determining these statistics. (See Appendix A, table 9.)

With the passage of the BSCA, the general rules noted above about the BTM have been modified for individuals under 21 years of age seeking to receive a firearm from an FFL. BSCA requires, when the prospective transferee is less than 21 years of age, NICS to immediately contact the following entities in the state where the prospective transferee resides: 1) the criminal history repository or juvenile justice information system, 2) the state custodian of mental health adjudication records, and 3) the local law enforcement agency based on the applicants address.

The outreach is to determine if the person has a possibly disqualifying juvenile record under subsection (d) to 18. U.S.C. § 922. When possible, prohibitions are determined, the NICS Section will notify the FFL of the need for an additional delay of that transaction and NICS will continue its research up through the tenth business day as necessary to determine if the receipt of a firearm would violate 18. U.S.C. § 922 (d), (g), or (n), as applicable, or state, local, or tribal law.

NICS Indices Defined

The NICS Section encourages and promotes agencies to make federal and state prohibiting records available at the national level. Typically, information submitted to the NICS Indices is not available in III or NCIC. Information made available via the NICS Indices provides NICS users with an immediate indication the information, when matched to a prospective firearm transferee, has already been validated to be federally and/or state prohibiting for possessing or receiving firearm(s). A valid match of a NICS Indices hit allows NICS users to render an immediate denial determination. The prevalidation, in turn, provides greater efficiency to the NICS user by eliminating the need to conduct additional research to determine if the information is prohibiting. The prevalidation also allows the NICS Section to use the instant denial function for those potential firearms transferees who are an exact descriptive match to a NICS Indices hit. This eliminates the NICS Section from manually reviewing those transactions.

The NICS Section has dedicated numerous resources in support of the entries made to the NICS Indices, specifically by:

- Training and educating users of NICS in making NICS Indices entries.
- Participating and interacting at various conferences and seminars.
- Making available liaison specialists to provide real-time assistance.
- Offering services and guidance to NICS Indices contributors to assist in determining if a valid prohibition exists to create a NICS Indices entry.
- Offering technical guidance and support.

Federal, state, local, and tribal agencies contribute the entries contained within the NICS Indices. There are two main methods for making an entry into the NICS Indices. The first method is a telecommunications network between the FBI and the CJIS systems agency using the NCIC interface. The second method is via batch data transfer or single entry through the Law Enforcement Enterprise Portal (LEEP) internet-based connection using NICS E-Check. Entry via NICS E-Check within LEEP is made available to agencies not having NCIC access but that are still authorized to make entries into the NICS Indices. Agencies can submit an application to utilize LEEP for approval. The agency must have a valid Originating Agency Identifier (ORI) which, once activated in NICS E-Check, is used to complete the batch upload or single entry into the NICS Indices. Agencies not possessing a qualified ORI may ask the NICS Section for further assistance.

Whether the NICS Indices entry is made via the NCIC connection or via LEEP, agencies can enter, modify, supplement, and cancel their entries in real-time. The contributing agency is

responsible for the accuracy and validity of the NICS Indices information and is obligated to remove any entry found to be invalid. The entering agency is also required to have on hand copies of documentation which supports the entry of that entry. Once an agency begins to contribute to the NICS Indices, the agency becomes subject to the CJIS Division's audit process. A LEEP application may be obtained at www.cjis.gov/CJISEAI/EAIController.

The NICS Section continues to publish a calendar year report of the submissions into the NICS Indices on the FBI's website at www.fbi.gov. This report shows data on NICS Indices submissions made by federal, state, local, and tribal agencies as of December 31, 2022. As of December 31, 2022, the NICS Indices contained 28,407,758 entries. This includes an increase of 8.95 percent or 2,995,800 records since the end of 2021. (See Appendix A, table 12.)

Firearm Retrieval Referrals

In some instances, the necessary background information is obtained by the NICS Section, and a final status is rendered after three business days have elapsed. If the final determination results in a denial, the NICS Section will contact the FFL and inquire if the firearm was transferred. If the NICS Section is advised the firearm was transferred, ATF is notified a prohibited person is in possession of a firearm. These instances are referred to as firearm retrieval referrals. In 2022, the NICS Section provided 4,112 referrals to ATF.



Figure h: ATF

Federal Prohibitions

Federal law prohibits any person from possessing or receiving a firearm who:

- Has been convicted in any court of a crime punishable by imprisonment for a term exceeding one year—**18 U.S.C. § 922(g)(1)**
- Is a fugitive from justice—**18 U.S.C. § 922(g)(2)**
- Is an unlawful user of or addicted to any controlled substance—**18 U.S.C. § 922 (g)(3)**
- Has been adjudicated as a mental defective or committed to a mental institution—**18 U.S.C. § 922 (g)(4)**
- Is illegally or unlawfully in the United States—**18 U.S.C. § 922 (g)(5)**
- Has been discharged from the Armed Forces under dishonorable conditions—**18 U.S.C. § 922 (g)(6)**
- Having been a citizen of the United States, has renounced U.S. citizenship— **18 U.S.C. § 922 (g)(7)**
- 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)(8)**
- Has been convicted in any court of a misdemeanor crime of domestic violence (MCDV)—**18 U.S.C. § 922 (g)(9)**
- Is under indictment/information for a crime punishable by imprisonment for a term exceeding one year—**18 U.S.C. § 922 (n)**

Out of 100 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, deny, or a delay transaction determination to the FFL. If the NICS Section cannot determine a proceed or deny response during the FFL's initial contact, the transaction is delayed. When a NICS transaction is delayed, the NICS Section conducts research attempting to acquire all relevant documentation that will allow a determination to be made regarding the prospective purchaser's eligibility to ship, transport, possess, and/or receive a firearm. In accordance with 18 U.S.C. § 922(t), where no proceed or deny determination has been provided, an FFL is, generally, not prohibited by federal law from transferring a firearm after the third business day. That general rule is subject to new parameters for persons less than 21 years of age. If cause is established to further investigate (up through the tenth business day) whether that person has a disqualifying juvenile prohibition and any relevant state laws for state of purchase and state of residence that extend the transfer date beyond the third business day. However, the NICS Section is committed to its mission and the research of all relevant documentation continues beyond the third business day. The NICS Section staff conduct further research until the transaction is proceeded, denied, or purged prior to 90 days. As of December 31, 2022, approximately 70 percent of all transactions processed by the NICS Section were given an initial delay status. Ultimately, out of 100 checks, 1.29 transactions processed by the NICS Section were denied, and 90 were proceeded.

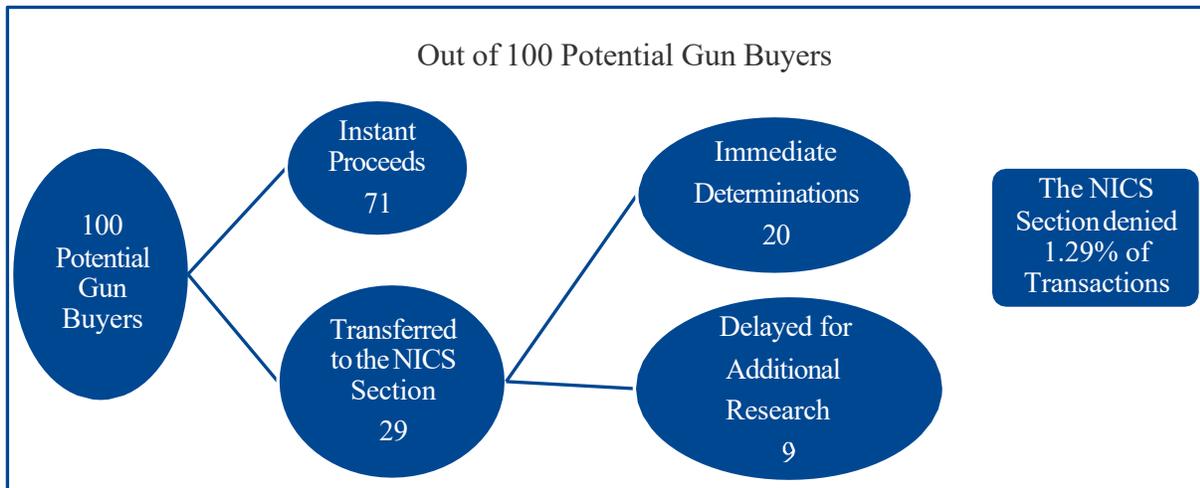


Table 4: Out of 100 Potential Gun Buyers

This chart does not include transactions not subject to the three-business day rule. Changes to processing as a result of BSCA are also not accounted for in this chart.

Federal Denials

When a NICS background check matches a record to the prospective firearms transferee, the NICS Section first conducts research to determine if a federal prohibition exists. If no federal prohibition exists, the NICS Section must further review the record match(es) to determine if any applicable state law prohibits the transfer to the prospective firearms transferee. From the inception of NICS on November 30, 1998, through December 31, 2022, the NICS Section has denied 2,171,472 transactions. Historically, and again in 2022, the leading reason for a NICS Section denial was 18 U.S.C. § 922 (g)(1), being convicted of a crime punishable by imprisonment for a term of more than 1 year.

Information pertaining to the denial data by state is included in Appendix A, table 8. The NICS Section cannot verify state-issued denial information, and this information is not included within the data on this chart. The number of checks going past the 3 business days and the subset of these checks being purged after 90 days are also included in Appendix A, table 7.



Firearm-Related Challenges (Appeals)

In 2022, approximately 1.29 percent of the NICS background checks processed by the NICS Section received a final transaction status of deny. Pursuant to 28 C.F.R. § 25.10, “an individual may request the reason for the denial from the agency that conducted the check of the NICS or the FBI (the “denying agency” will be the FBI or the state or local law

enforcement agency serving as the POC).” Individuals denied directly by a POC state are encouraged to contact the POC state that determined the denial prior to contacting the FBI. When individuals wish to challenge the reason for a denied status, a subsequent request must be submitted. The firearm related challenge process offers individuals the opportunity to submit

requests and receive results electronically or via U.S. Postal Service- First Class Mail®.

Individuals wishing to inquire about the reason for their firearm related denial or to challenge the reason for their firearm related denial may be directed to www.edo.cjis.gov. Faxed and e-mailed requests are not preferred; however, are accepted if received. In addition, individuals who wish to submit a challenge request via mail may send the request to: FBI CJIS Division, Attention: Criminal History Analysis Team 1, BTC 3, 1000 Custer Hollow Road, Clarksburg, WV 26306

If a POC state does not submit notifications to NICS (i.e., NICS Denial Notification, NICS Delay Notification), the individual's challenge request will not be processed. In these instances, the individuals will be directed to contact the POC state conducting the NICS background check.

In 2022, the FBI received 25,043 firearm related challenges, resulting in 7,471 denied transactions being overturned. The primary reason for overturning denied transactions in 2022 was the appellant's fingerprints did not match the fingerprints linked to the disqualifying record. Table 9 in Appendix A outlines the external challenges received by state.

Voluntary Appeal File

NICS is required to purge all identifying information regarding proceeded transactions within 24 hours of notification to the FFL. In many instances, specifically with overturned denials, an individual will be denied again. The process must be repeated because the transferee is again biographically matched to the same prohibiting record. The Voluntary Appeal File (VAF) was implemented in July 2004 to prevent subsequent delays and erroneous denials of a firearm transfer. It is not a prerequisite to have been through a NICS check to apply for entry into the VAF. For example, individuals having been subject to identify theft may wish to apply. All approved applicants for entry into the VAF receive a Unique Personal Identification Number (UPIN), which they must provide to an FFL, through entry on the ATF Form 4473, during subsequent NICS background checks.

The VAF is accessed by the NICS Section during the NICS background checks process only when the prospective transferee UPIN is provided to NICS via the FFL. Since the availability of the VAF, more than 246,726 transactions have been processed using a UPIN: thus, expediting the NICS background check for the applicant in most cases. In 2022, the NICS Section received 11,355 VAF applications and 5,356 UPINs activated from the VAF applications processed. If an individual is determined to no longer be eligible to possess or receive firearms, the UPIN is deactivated by the NICS Section. As of December 31, 2022, the VAF contained approximately 46,668 entries with an active UPIN. Individuals wishing to request entry into VAF may access www.fbi.gov/nics-appeals for further information.

Other Firearm Checks Conducted by NICS

Disposition of Firearms

NICS is accessible to criminal justice agencies prior to disposing or returning firearms currently under the agency's control to a prospective transferee. A search of NICS assists the agencies in

determining an individual's eligibility to ship, transport, possess, and/or receive firearms in accordance with federal and state law. As of December 31, 2022, state law enforcement/criminal justice agencies within 44 states and the District of Columbia access NICS for DOF purposes. DOF checks are also conducted by 79 federal agencies such as the military, the FBI, and ATF offices, as well as 153 tribal agencies. From January 1, 2022, through December 31, 2022, there were 126,014 NICS background checks conducted for DOF purposes. Approximately 5,782 DOF denials were reported to the NICS Section during this period, equating to a 4 percent denial rate. As of December 31, 2022, a total of 546,692 DOF NICS background checks have been conducted by the NICS Section since 2015.

Nuclear Regulatory Commission

On September 11, 2009, the Nuclear Regulatory Commission (NRC) issued guidelines for the use of firearms by licensees' and certificate holder's security personnel, as authorized by Section 161A of the Atomic Energy Act of 1954, as amended (42 U.S.C. § 2201a). On June 5, 2013, NRC issued an order (EA-13-0092) designating a class of licensed facilities eligible to apply to use the authority granted by section 161A to require a NICS background check for armed security officers at designated NRC licensees. A NICS background check is conducted on both current and prospective security officers, whose official duties require access to firearms. The NICS Section processed 257 NRC NICS background checks in 2022. A total of 4,327 NRC NICS background checks have been conducted since 2013.

Private Sales

Access to NICS is not authorized for private citizens. However, while not federally mandated, some states have passed state laws that prohibit the transfer of firearms between individuals unless a NICS background check is completed through an FFL. An FFL can voluntarily choose to facilitate the transfer of a firearm between private citizens and is encouraged to do so by the ATF. On September 16, 2015, the NICS Section created a new purpose ID allowing us to track and identify transactions for this purpose. The capability always existed within NICS for FFLs to facilitate private sales. An FFL is allowed to charge a fee if it is consistent with the FFL's state law. In 2022, there were 206,499 transactions related to private sales initiated through NICS. A total of 661,773 NICS background checks related to private sales have been conducted since 2015.

Explosives Transactions

The Safe Explosives Act became effective May of 2003, as part of the larger Homeland Security Act of 2002 (Public Law 107-296). The Safe Explosives Act requires that persons who export, ship, cause to be transported, or receive explosives material in either intrastate or interstate commerce must first obtain federal explosives permit or license. A NICS background check is conducted as part of the licensing process to determine the eligibility of a subject to operate as a responsible person (RP) (sole proprietors, explosives facility site managers) in the explosives industry and for all persons designated as employee possessors (an employee of a license or permit holder). The RP and employee possessors' requests for NICS background checks are submitted by ATF, via batch submission. The results of explosives NICS background checks are forwarded to ATF along with a recommended status. ATF makes the final determination as to a

subject’s eligibility to receive explosives permit. Since 2003 through December 31, 2022, the NICS Section has processed a total of 1,858,624 NICS background checks for explosives.

Responsible person	Employee possessor	Limited Permit
A responsible person has the power to direct the management and policies pertaining to explosives (e.g., sole proprietors, explosives facility site managers, corporate directors, and officers) as well as corporate stockholders who have the authority to direct management and policies.	An employee possessor, authorized by a responsible person to possess explosives, has actual physical possession or constructive possession (direct control) over the explosives. This category includes employees who handle explosives as part of the production process (e.g., shipping, transporting, selling of explosives) and employees who use the explosives.	A limited permit is designed for the intrastate purchaser who buys explosives infrequently and does not intend to transport the explosives, (e.g., farmers, construction companies) within their own state of residence.

Table 5: Explosives

Additional Services Provided



JusticeConnect is a criminal justice network that facilitates the real-time collaboration, information sharing, partnership development, and project management for federal, state, local, tribal, and territorial partners in a secure environment. The portal is accessed through LEEP which acts as a gateway to

JusticeConnect. Once an individual is a member of LEEP, they can access the NICS community and sub-communities. The JusticeConnect community provides an excellent platform for information sharing and discussion.

The NICS community is the largest source of information for federal, state, local, and tribal users of NICS. A recent addition to the NICS resources contains information sharing documents in relation to the two key pieces of legislation passed in 2022.

The NICS Training resources provides virtual training registration, training modules, and training calendars. This community is a valuable resource for law enforcement partners to conduct staff training or refresher training for their staff.

The NICS Section continues to explore avenues to connect the FBI with NICS users as well as a way for NICS users to connect with one another.

Agency Outreach

Interaction with the NICS Section’s federal, state, local, and tribal partners is key to a successful NICS program. The NICS Section strives to make NICS staff available to support conferences, meetings, and training forums where NICS is a topic of discussion.

NICS User Conference

The NICS Section hosted the NICS User Conference in August 2022. This was the first in-person conference since 2018. Invitees included representatives from federal, state, local, and tribal agency counterparts and related special interest groups. The NICS User Conference provides the only forum to share information and operational expertise, discuss lessons learned for the mutual benefit of all, and to bring problematic issues to the forefront for resolution. Over 100 representatives of various federal, state, local, and tribal, agencies attended in 2022. Topics discussed included legislative changes related to the NDNA, BSCA, and a Fix NICS peer-to-peer discussion.



Figure i: NICS User Conference

FFL Interaction



Figure j: FFL selling a firearm

The NICS Section works closely along with ATF to ensure FFLs receive education, guidance, and support in processing NICS background checks. The NICS Section travels throughout the year to meet with FFLs. NICS staff conducted the following outreach in 2022:

- ❑ Attended the annual Shooting, Hunting, and Outdoor Trade (SHOT) show in Las Vegas, Nevada, in January 2022. NICS Section personnel met with individuals from 35 different states and 4 countries. Attendees asked about conducting NICS background checks and other processes relative to NICS. NICS staff answered questions and assisted FFLs in signing up for NICS E-Check access, resetting existing access, and providing demonstrations on how NICS E-Check works. A SHOT Show University seminar was presented by NICS staff to attending FFLs.

- ❑ Jointly hosted 5 weeks of retailer day seminars. Each week had three locations with two sessions per location. These events were coordinated with the National Shooting Sports Foundation and the ATF. More than 900 FFLs attended the combined sessions.
- ❑ Attended the Firearm Industry Conference in Atlanta, Georgia, in April 2022. NICS staff presented, along with ATF, upcoming changes directly affecting FFLs.
- ❑ Attended the Midwest Pawn Convention in Louisville, Kentucky, in May 2022. NICS Section staff held an informational booth to answer questions about conducting NICS background checks and other processes relative to NICS. NICS staff assisted FFLs in signing up for NICS E-Check access and resetting access for others. The NICS Section also provided an educational session for the attending FFLs.
- ❑ Presented at 11 FFL seminars in 2022. This included seminars in Alabama, Georgia, Louisiana, Michigan, Montana, North Carolina, South Carolina, and Texas. In some states, the NICS staff visited multiple FFL establishments to guide FFLs through the process of setting up and conducting NICS E-Check background checks.

NICS Training

The NICS Section training instructors provide training, tools, and resources needed by NICS users to assist with the accurate and timely determination of firearm eligibility. Training throughout 2022 included a combination of in-person and virtual sessions to accommodate the needs and schedules of NICS federal, state, local, and tribal partners. Incorporating the various training methods and options allowed the NICS training instructors to provide 41 training sessions to approximately 1,700 attendees in over 550 agencies across the United States.

In October 2022, the NICS external training instructors initiated multistate regional virtual sessions. These sessions target multiple states with common state processes (e.g., working in a decentralized capacity, DOF checks by local agencies, full POC states) to provide training on the federal prohibitions, guidelines for accessing NICS, reading NICS responses, LEEP, and NICS Indices.

Tribal Agency Outreach

The NICS Section traveled to tribal reservations in coordination with the CJIS Division's Law Enforcement Support Section's Law Enforcement Engagement Unit in 2022. The intent of these visits was to provide tribal agencies with an overview of six primary CJIS Division services, including access to NICS, and offer assistance regarding connectivity and use of the services available. NICS staff conducted the following outreach in 2022:

- ❑ Visited the Metlakatla Indian Community and Chickaloon Native Village of Alaska. The NICS Section used the platform to emphasize the importance of making relevant records available on a national level. As a result of the NICS Section's overall tribal outreach, several tribal agencies are now entering records into the NICS Indices. The NICS Section continues to support the DOJ's Tribal Access Program (TAP) and efforts in addressing connectivity issues and providing support to tribal agencies.
- ❑ Participated in the National Congress of American Indians Mid-Year Conference and Marketplace held in Anchorage, Alaska, by assisting the FBI Anchorage Field Office at

an informational booth. NICS staff openly communicated with attendees to discuss CJIS Division services available for criminal justice and non-criminal justice purposes.

- ❑ Traveled to the Sycuan 2022 International Association of Chiefs of Police Indian Country Law Enforcement Section Midyear meeting held on the Sycuan Band of the Kumeyaay Nation and provided a NICS Overview focusing on relevant record sharing and education regarding the NDNA.

Federal and State Partners

During 2022, the NICS Section continued to work with federal and state partners to promote the importance of sharing record information to the NICS Indices, as well as III and NCIC. This became particularly relevant with the addition of the ERPO File to NCIC. NICS Section staff communicated with states on the importance of making ERPO information available and educated on the option of entering the information into the NICS Indices if the criteria for entry into NCIC was not met by the state agencies. Further outreach was also conducted by the NICS Section regarding the potential of allowing local law enforcement to enter records into the NICS Indices for the controlled substance prohibitor. This outreach will continue into 2023 along with continued outreach regarding the mental health prohibitor and the importance of entering complete information into the NICS Indices.

Further outreach was conducted with FBI field offices regarding the services NICS offers such as the DOF and the NICS Indices. This outreach will continue with other federal agencies and FBI field offices in 2023 along with outreach regarding the mental health and controlled substance prohibitors and the importance of entering complete information into the NICS Indices.

Information Sharing

The NICS Section continually strives to provide timely and accurate determinations of any firearm and/or explosives eligibility in accordance with applicable laws. Information technology enhancements to NICS are ongoing to further advance system functionality.

In July 2021, the NICS Section implemented a state sharing initiative which the NICS Section returns disposition information missing from state held records. The NICS Section obtains this information through research conducted on firearm background checks and returns this information to the respective State Identification Bureaus (SIBs) for updating. The state agencies are not required to update their records with this information. By doing so, this could reduce the requests an agency may receive during a NICS background check. Updated information enhances the customer service NICS provides by making the background check complete and timelier for future firearm transactions related to that individual. From July 6, 2022, through December 31, 2022, the NICS Section has returned 16,328 documents to SIBs.



Future of NICS

The NICS Section continually strives to provide timely and accurate determinations of an individual's firearms and/or explosives eligibility in accordance with federal and state law. Information technology enhancements to NICS are ongoing to further advance system functionality.

Historically, NICS has requested information from external agencies via fax, email, and mail. This method inherently carries a risk of Personal Identifiable Information (PII) being released from a secure location to an untrusted environment. The NICS Section has created a digital disposition report (R-84) as a secure means of requesting information from external agencies. This new feature sends an email to agencies with a direct link to a request from the NICS Section. The agency accesses NICS using the email address and pin number provided. The information is retrieved by NICS users to complete NICS background checks. This new method will allow for several new efficiencies to the NICS Section, as well as federal, state, local, and tribal agency contacts for information. Future enhancements are continually being explored. The digital R-84 has been successfully tested with several external agencies and NICS is preparing for a national roll out in 2023 with the intent of making the digital R-84 the main method of contact for information.

Success Stories



~An individual entered a store in North Dakota attempting to purchase a firearm. During the NICS user’s research, it was determined by the NICS Section the subject had an extensive and violent North Dakota criminal history. The individual had previously been arrested for terrorizing, giving false information to police, had multiple arrests for simple assault—adult abuse, aggravated assault, attempted murder, and a slew of theft and bad check charges, as well as a drug arrest. The NICS user denied the transaction, thus preventing a convicted felon with a violent history from gaining legal access to a firearm.

~An 18-year-old was denied the purchase of a long gun in New Hampshire. In this instance, the NICS user contacted the police department and the sheriff’s office via an automated message highlighting the BSCA. In response, the NICS Section learned that the subject had a June 5, 2022, offense of suspected synthetic marijuana use. The NICS Section determined the June 5, 2022, incident report referencing the synthetic marijuana use established cause for further research under 922(d) and additional delay of the transaction in accordance with BSCA. NICS staff performed additional outreach and obtained documentation that stated upon the subject’s release, he demanded his father take him home so he could smoke marijuana. The NICS Section determined this information met the drug prohibitor and the transaction was denied based on federal prohibitor 922(g)(3)—Persons Who are Unlawful Users of or Addicted to Any Controlled Substance.

~A 20-year-old was denied the purchase of a long gun in Arizona. The police department provided an incident report from March 22, 2018, where the subject was observed weighing marijuana and placing it in plastic bags. The subject was 15 years old at the time and admitted to recently smoking marijuana. He was charged with Possession of Drug Paraphernalia, Possession of Marijuana, and Possession of Marijuana for Sale. As a result, the subject received a juvenile felony adjudication for Marijuana Possession for Sale on June 8, 2018. The transaction was denied based on an Arizona state prohibitor.

~An 18-year-old was denied the purchase of a long gun in Nebraska. The sheriff’s office responded with records on the subject and stated, “I know over several years that [the subject] has been treated for mental illness and violent outbursts, and in my opinion, his request to purchase should be denied.” The list of records included terroristic threats, multiple juvenile problems (uncontrollable juvenile), minor in possession of alcohol, and minor in possession. For the September 12, 2019, arrest of terroristic threatening, the sheriff’s office provided a copy of a motion “for pick up order and placement in secure facility.” The subject was placed in a staff secure facility because he was found to be a danger to himself or others. The transaction was denied based on meeting criteria relevant to 18 U.S.C. 922(g)(4)—Persons Who Have Been Adjudicated as Mental Defectives or Have Been Committed to a Mental Institution

Appendix A Tables

PROGRAM TO DATE NICS TOTAL TRANSACTIONS

Year	State		Federal	Total	PTD Total
	Transactions	Permits			
1998-1999	3,870,520	1,115,869	5,044,574	10,030,963	10,030,963
2000	3,054,954	1,227,814	4,260,270	8,543,038	18,574,001
2001	3,209,955	1,408,310	4,291,926	8,910,191	27,484,192
2002	2,842,269	1,363,160	4,248,893	8,454,322	35,938,514
2003	2,615,291	1,403,496	4,462,801	8,481,588	44,420,102
2004	2,656,981	1,345,672	4,685,018	8,687,671	53,107,773
2005	2,650,113	1,350,193	4,952,639	8,952,945	62,060,718
2006	2,736,728	2,037,453	5,262,752	10,036,933	72,097,651
2007	2,961,650	3,078,802	5,136,883	11,177,335	83,274,986
2008	3,196,754	3,699,020	5,813,249	12,709,023	95,854,009
2009	3,499,575	4,450,821	6,083,428	14,033,824	110,017,833
2010	3,487,915	4,884,307	6,037,394	14,409,616	124,427,449
2011	4,033,869	5,545,457	6,875,625	16,454,951	140,882,400
2012	5,183,331	5,683,547	8,725,425	19,592,303	160,474,703
2013	5,607,478	6,169,832	9,315,963	21,093,273	181,567,976
2014	4,942,001	7,769,858	8,256,688	20,968,547	202,536,523
2015	5,386,384	8,782,048	8,973,538	23,141,970	225,678,493
2016	6,523,925	11,653,915	9,360,833	27,538,673	253,217,166
2017	5,608,875	10,988,094	8,638,246	25,235,215	278,452,381
2018	5,293,391	12,653,203	8,235,342	26,181,936	304,634,317
2019	5,384,067	14,807,951	8,177,732	28,369,750	333,004,067
2020	8,691,130	18,424,857	12,761,328	39,877,315	372,881,382
2021	7,711,803	20,057,939	11,106,931	38,876,673	411,758,055
2022	6,903,430	14,436,221	10,256,995	31,596,646	443,172,700

Table 6: NICS Total Transactions

FEDERAL DENIALS

Prohibition	2021 Totals	2022 Totals
Convicted of a crime punishable by more than one year or a misdemeanor punishable by more than two years	75,723	60,470
Unlawful User/Addict to a Controlled Substance	15,599	8,326
Under Indictment/Information	15,528	12,867
Fugitive from Justice	7,299	8,851
Misdemeanor Crime of Domestic Violence Conviction	10,500	10,756
State Prohibitor	11,766	15,070
Adjudicated Mental Health	8,484	3,673
Protection/Restraining Order for Domestic Violence	3,863	7,364
Illegal/Unlawful Alien	4,687	4,376
Dishonorable Discharge	105	14
Federally Denied Persons File	9	95
Renounced U.S. Citizenship	2	3
Totals	153,565	131,865

Table 7: Federal Denials

FEDERAL DENIALS BY STATE

State	2022 Federal Denials	Total Number of Firearm Background Checks
Alabama	5,377	739,113
Alaska	881	84,802
Arizona	6,850	533,699
Arkansas	3,194	239,350
California	POC	
Colorado	POC	
Connecticut	POC	
Delaware	832	58,323
District of Columbia	161	16,102
Florida	6	
Georgia	12,427	601,407
Guam	7	3,673
Hawaii	POC	
Idaho	1,613	235,465
Illinois	POC	
Indiana	7,040	1,105,040
Iowa	1,522	218,703
Kansas	2,277	191,895
Kentucky	3,897	4,016,510
Louisiana	8,633	344,808
Maine	705	114,090
Maryland	1,315	326,114
Massachusetts	396	227,928
Michigan	5,633	789,160
Minnesota	1,796	891,044
Mississippi	3,731	284,864
Missouri	5,122	530,932

State	2022 Federal Denials	Total Number of Firearm Background Checks
Montana	1,028	141,803
Nebraska	251	75,084
Nevada	POC	
New Hampshire	239	133,507
New Jersey	POC	
New Mexico	2,498	173,793
New York	3,361	447,567
North Carolina	3,839	612,695
North Dakota	847	72,458
Ohio	6,131	656,936
Oklahoma	3,226	370,275
Oregon	POC	
Pennsylvania	POC	
Puerto Rico	575	76,841
Rhode Island	178	27,900
South Carolina	6,736	423,098
South Dakota	609	87,589
Tennessee	POC	
Texas	23,376	1,732,651
Utah	POC	
Vermont	300	44,722
Virgin Islands	7	2,098
Virginia	POC	
Washington	1,726	706,260
West Virginia	2,289	192,868
Wisconsin	981	635,528
Wyoming	541	70,276

Table 8: NICS Section Denials by State

NOTE: State POC/Partial POC denial information cannot be verified by the NICS Section and is not included within the data on this chart.

FEDERAL TRANSACTIONS PROCESSED PAST 90 DAYS

State	90 Day Purge	State	90 Day Purge
Alabama	20,097	Montana	3,773
Alaska	1,686	Nebraska	489
Arizona	14,974	New Hampshire	744
Arkansas	8,093	New Mexico	5,852
Delaware	978	New York	3,991
District of Columbia	718	North Carolina	6,054
Georgia	22,834	North Dakota	1,217
Idaho	4,347	Ohio	17,761
Indiana	9,714	Oklahoma	8,732
Iowa	2,149	Puerto Rico	2,206
Kansas	6,048	Rhode Island	574
Kentucky	5,542	South Carolina	10,281
Louisiana	18,787	South Dakota	1,501
Maine	2,661	Texas	37,362
Maryland	1,547	Vermont	756
Massachusetts	1,676	Virgin Islands	21
Michigan	10,196	Washington	4,534
Minnesota	7,013	West Virginia	13,334
Mississippi	13,234	Wisconsin	3,856
Missouri	13,219	Wyoming	1,532

Table 9: Federal Denies past 90 days

EXTERNAL CHALLENGES (APPEALS) PER STATE

State	Total	State	Total
Alabama	778	Montana	126
Alaska	111	Nebraska	31
Arizona	1,248	Nevada	153
Arkansas	268	New Hampshire	96
California	319	New Jersey	35
Colorado	117	New Mexico	432
Connecticut	3	New York	888
Delaware	225	North Carolina	389
District of Columbia	100	North Dakota	125
Florida	240	Ohio	985
Georgia	896	Oklahoma	359
Guam	1	Oregon	77
Hawaii	2	Pennsylvania	52
Idaho	292	Puerto Rico	526
Illinois	45	Rhode Island	49
Indiana	1,715	South Carolina	595
Iowa	74	South Dakota	45
Kansas	338	Tennessee	72
Kentucky	303	Texas	2,940
Louisiana	1,034	Utah	22
Maine	111	Vermont	63
Maryland	400	Virgin Islands	13
Massachusetts	331	Virginia	58
Michigan	1,251	Washington	1,048
Minnesota	625	West Virginia	176
Mississippi	314	Wisconsin	236
Missouri	687	Wyoming	56

Table 10: External Challenges (Appeals) per State

EXTERNAL CHALLENGES (APPEALS) OVERTURNED REASONS

Overtured Reason	2019	2020	2021	2022
Immigration and Customs Enforcement (ICE) review	128	592	332	347
III (FBI) Record – Inaccurate Disposition Information	46	59	69	78
III (FBI) Record – Incomplete Disposition Information	93	155	194	155
III (State) Record – Inaccurate Disposition Information	222	397	410	454
III (State) Record – Incomplete Disposition Information	541	914	1,099	1,223
Decision review – FBI Check	156	360	447	558
Decision review – State Check	18	48	38	36
NCIC Record – Inactive-was not removed	6	20	13	21
NICS Record – Not prohibiting	15	19	30	19
NICS Indices	467	960	1,072	1,292
Not Ident	1,115	2,263	2,429	2,451
Other	474	929	974	837

Table 11 External Challenges (Appeals) Overtured Reasons

RECORDS CONTAINED IN THE NICS INDICES

Category	As of December 31, 2021	As of December 31, 2022	Increase/ Decrease Percentage
Convicted of a crime punishable by more than one year or a misdemeanor punishable by more than two years	4,862,239	5,157,203	6.06%
Unlawful User/Addicted to a Controlled substance	59,908	59,460	-1%
Under Indictment/Information	214,517	238,499	11.18%
Fugitive from Justice	248	330	33.01%
Misdemeanor Crime of Domestic Violence Conviction	238,000	261,373	9.82%
State Prohibitor	2,238,581	2,858,476	27.69%
Adjudicated Mental Health	6,766,082	7,150,138	5.68%
Protection/Restraining Order for Domestic Violence	73,419	71,914	-2.05%
Illegal/Unlawful Alien	10,892,227	12,529,823	15.13%
Dishonorable Discharge	19,251	19,493	1.25%
Federally Denied Persons File	0	0	0
Renounced U.S. Citizenship	56,487	61,049	8.08%
TOTAL	25,420,958	28,416,758	11.78%

Table 12: Records Contained in the NICS Indices

NICS TOP MONTHS AND FISCAL YEARS

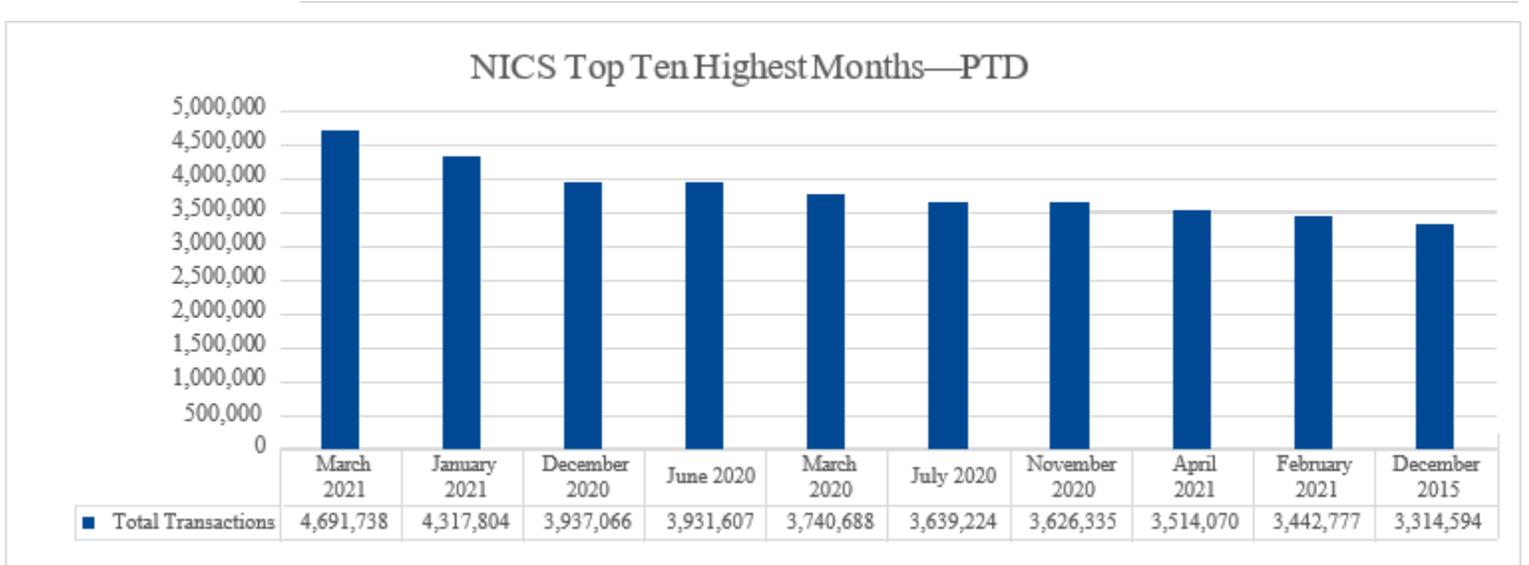


Table 13 NICS Top Ten Highest Month

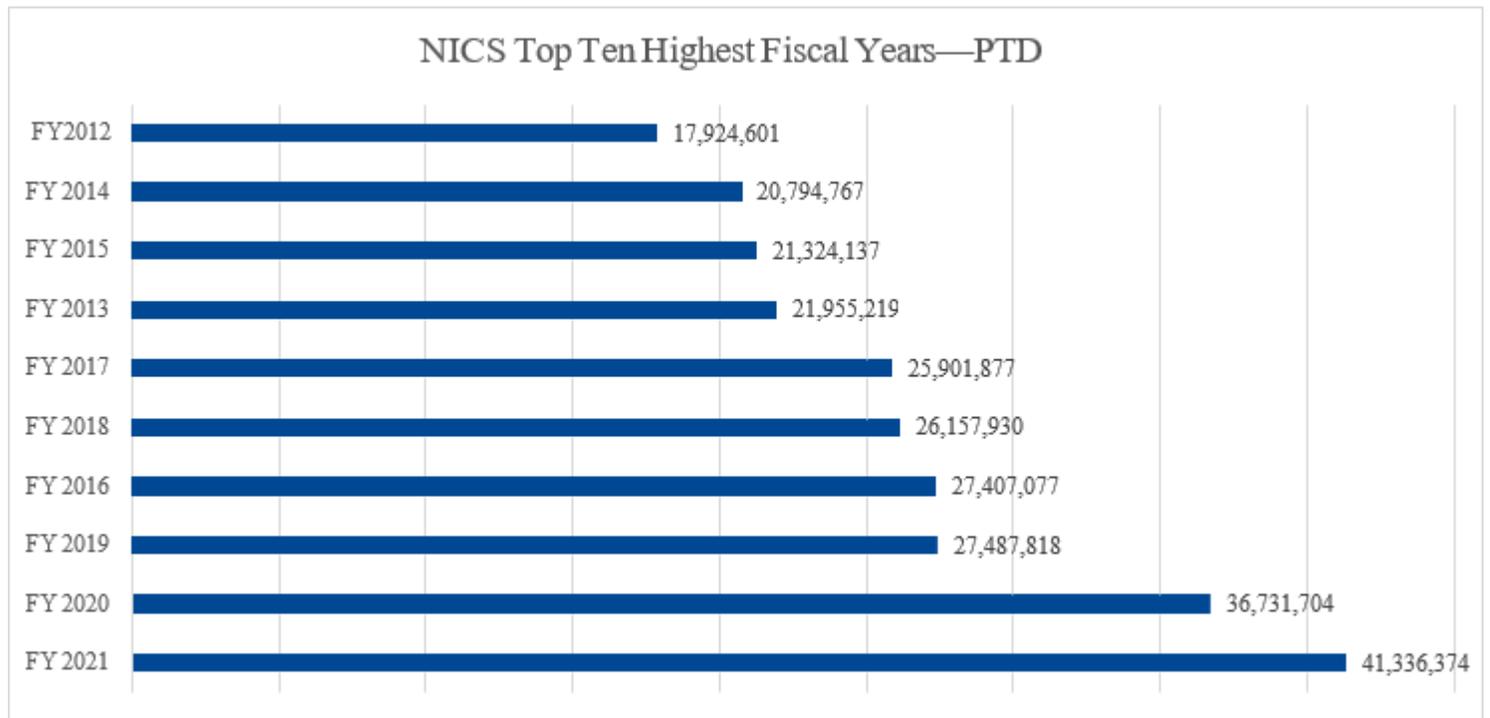


Table 14 NICS Top Ten Highest's Fiscal Years

NICS TOP TEN HIGHEST DAYS

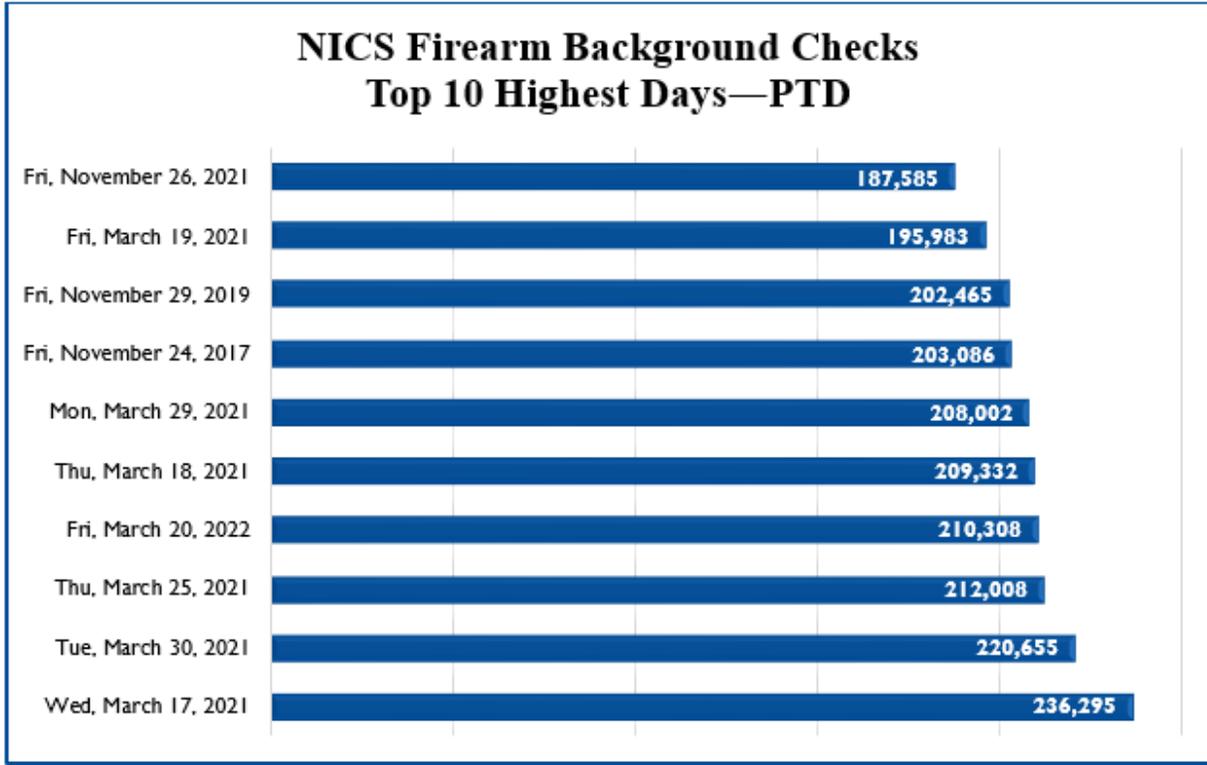


Table 15: NICS Top 10 Highest Days

NICS TOP TEN HIGHEST WEEKS

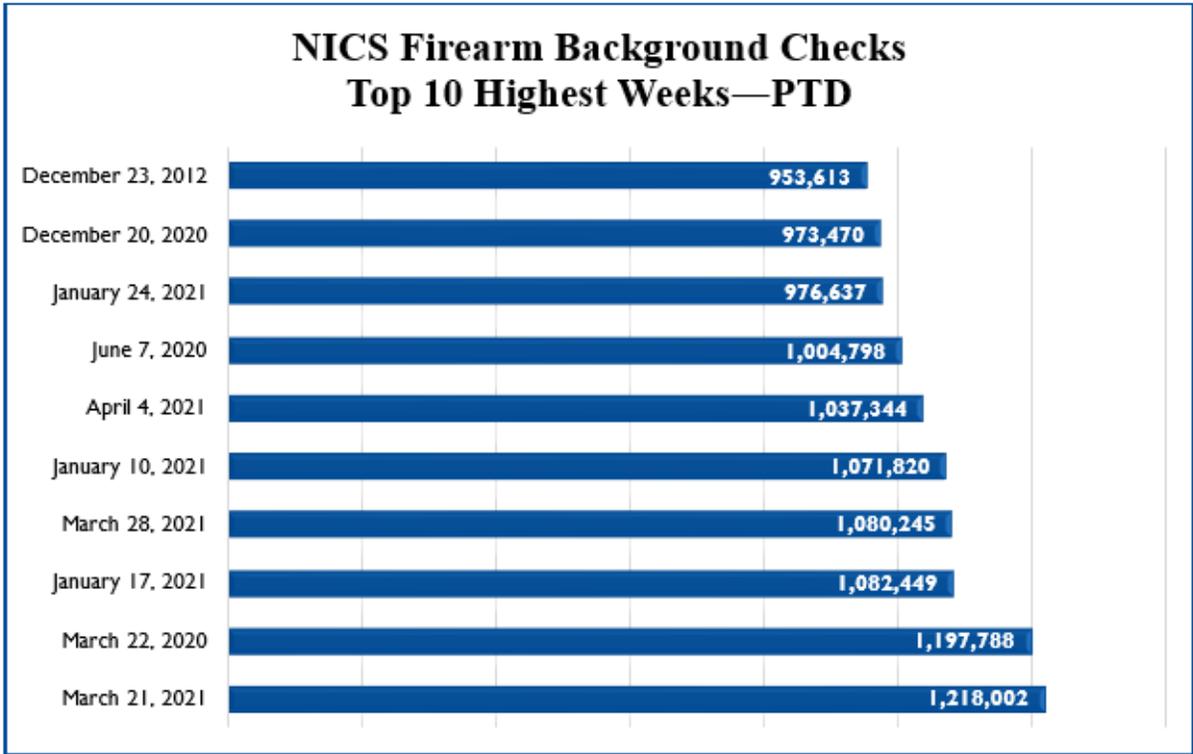


Table 16: NICS Top 10 Highest Weeks

ATF FIREARM REFERRAL BY MONTH AND STATE

STATE	JAN	FEB	MAR	APR	MAY	JUNE	JULY	AUG	SEPT	OCT	NOV	DEC
Alabama	21	29	33	29	20	23	11	24	12	14	16	23
Alaska	2	2	6	4	1	1	1	3	4	6	1	0
Arizona		33	36	32	34	49	22	22	16	25	22	18
Arkansas	7	10	6	4		8	7	8	9	8	9	6
California										1		
Colorado		1										
Delaware					1		2	1	3			2
District of Columbia			1		1							
Florida	1						1	1				1
Georgia	48	50	65	45	34	46	26	30	36	29	33	24
Idaho	2	3	6	8	2	4	7	6	5	5	5	5
Illinois	1				2				1			
Indiana	9	12	27	17	10	19	15	15	10	16	11	21
Iowa	1	4	4	5	2	1	2	4	1	3	1	1
Kansas	20	17	15	25	8	27	13	9	10	10	12	10
Kentucky	13	24	21	11	4	6	3	3	5	7	2	6
Louisiana	23	14	22	25	12	12	12	9	11	10	18	10
Maine	4	2	5	3	1	5	2	5	2	5	3	3
Maryland	2	5	5	5	1	5	1	1		1	2	
Massachusetts	1	2	4	4	1	2	4	3	1	3	2	1
Michigan	12	12	19	11	6	9	8	5	7	9	6	6
Minnesota	2	4	5	6	5	9	4	4	2	10	6	3
Mississippi	23	28	23	16	10	14	7	16	19	23	12	17
Missouri	15	26	28	20	15	16	11	19	9	21	18	14
Montana		2	7	6	2	3	5		4	4	6	3
Nevada			1	2								
New Hampshire				1						2	1	
New Mexico	6	8	6	7	7	8	5	3	4	5	2	4
New York	1	1	3	2	2	1			1	3		
North Carolina	2	11	7	6	1	8	9	10	6	6	3	6
North Dakota		2	2	2		2	1	3	4	2		1
Ohio	13	18	22	21	18	21	20	11	8	11	12	13
Oklahoma	9	19	16	9	10	10	9	10	4	15	8	9
Oregon				1				1				
Pennsylvania	1			1	1						1	
Puerto Rico		1	1		2	2		1	2	3	1	2
Rhode Island		1	1		3					1	1	1
South Carolina	5	9	13	11	3	4	9	7	10	5	6	9
South Dakota	2	4	4	4	1		3	3	1	4		1
Tennessee		2	1						1			
Texas	64	78	82	76	44	52	50	52	39	49	34	66
Utah	1											
Vermont	2	1	1	1				1	1	1		
Virginia			1							1		1
Washington	2	1	8	5	4	3	3	4	3	1		2
West Virginia	4	5	2	2	1	2	2	1	1	2	7	
Wisconsin	1	4	2	3	5	2	3	2	2	2	3	4
Wyoming	2	5	3	3	2	3	1	1		1		

Table 17 ATF Firearm Referral by Month and State

Appendix B Acronyms

A

ATF Bureau of Alcohol, Tobacco, Firearms and Explosive

B

BJS Bureau of Justice Statistics

Brady Act Brady Handgun Violence Prevention Act

BSS Biometric Services Section

BTD Brady Transfer Date

C

CJIS Criminal Justice Information Services Division

CSR Customer Service Representative

C.F.R. Code of Federal Regulations

D

DENI Denial Enforcement and NICS Intelligence Branch

DHS Department of Homeland Security

DOD Department of Defense

DOF Disposition of Firearms

DOJ Department of Justice

DTF Denied Transaction File

E

ERPO Extreme Risk Protection Order

F

FBI Federal Bureau of Investigation

FELC Federal Explosives Licensing Center

FFL Federal Firearm Licensee

I

ICE U.S. Immigration and Customs Enforcement

IDR Immediate Determination Rate

III Interstate Identification Index

ITMS Information Technology Management Section

L

LEEP Law Enforcement Enterprise Portal

LEEU Law Enforcement Engagement Unit

M

MCDV Misdemeanor Crime of Domestic Violence

N

NARIP NICS Act Record Improvement Program

NCCC NICS Contracted Call Center

NCIC National Crime Information Center

NCHIP National Criminal History Improvement Program

NDNA NICS Denial Notification Act

NIAA NICS Improvement Amendments Act of 2007

NICS National Instant Criminal Background Check System

NLETS International Justice and Public Safety Information Sharing Network

NRC Nuclear Regulatory Commission

NTN NICS Transaction Number

O

ORI Originating Agency Identifier

P

PII Personal Identifiable Information

PLAN Predictable Learning Automation of the NICS

POC Point of Contact

PTD Program to Date

R

R-84 Disposition Report

S

SEARCH National Consortium for Justice Information and Statistics

SIB State Identification Bureau

SHOT Shooting, Hunting, and Outdoor Trade Show

T

TAP Tribal Access Program

U

U21 Under the age of 21

UPIN Unique Personal Identification Number

U.S.C. United States Code

V

VAF Voluntary Appeal File

X
XML Extensible Markup Language
