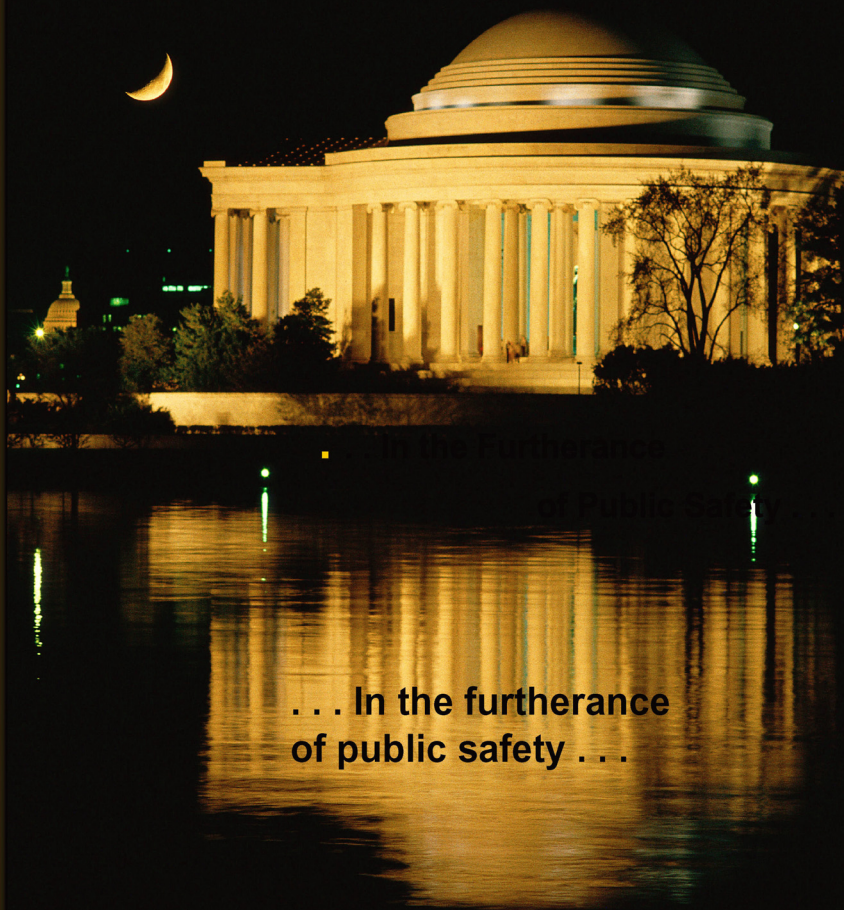


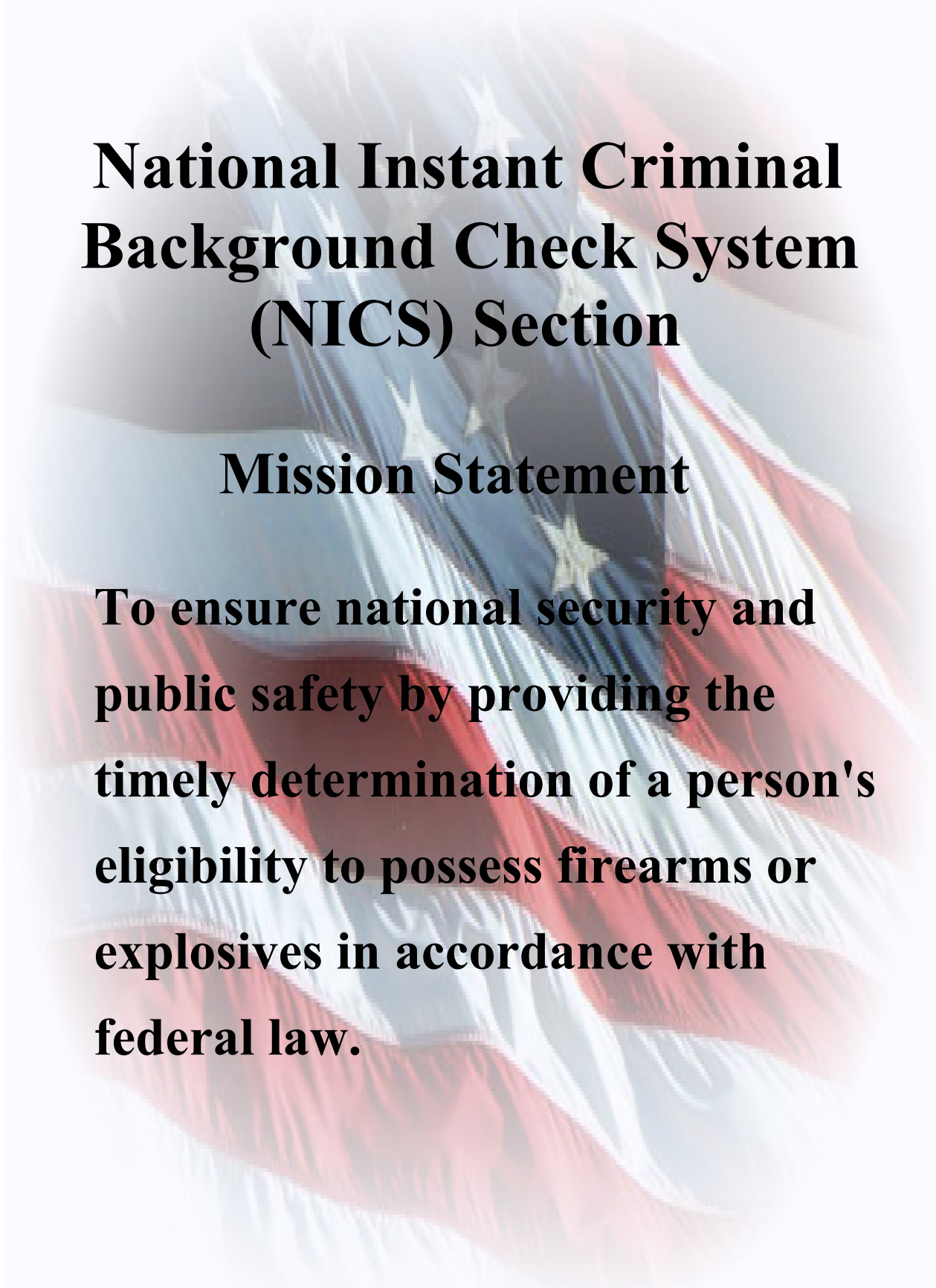


National Instant Criminal Background Check System (NICS)



... In the furtherance
of public safety ...

Operations 2006

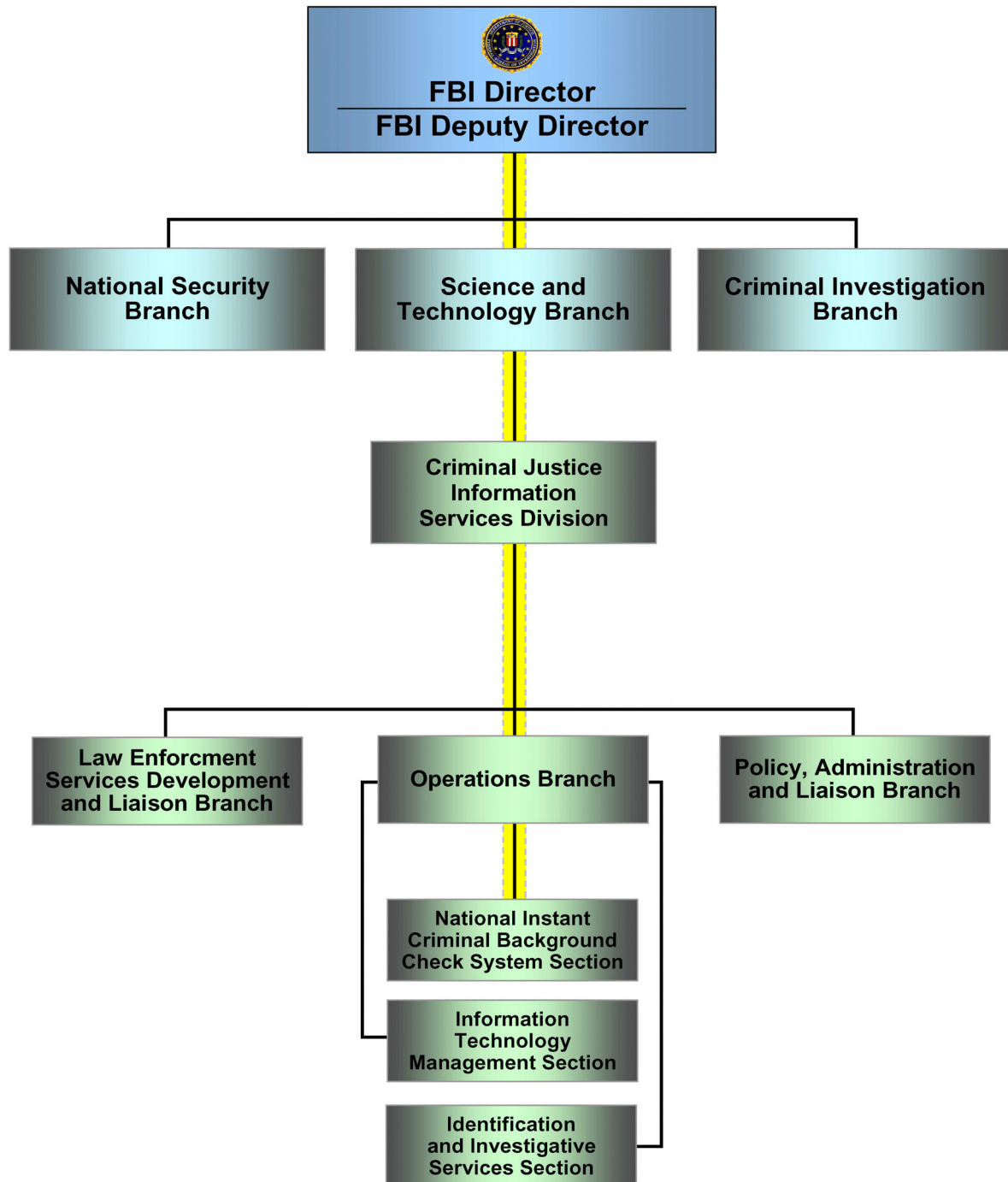
The background of the slide is a faded, wavy American flag. The stars and stripes are visible but semi-transparent, allowing the text to be the primary focus.

National Instant Criminal Background Check System (NICS) Section

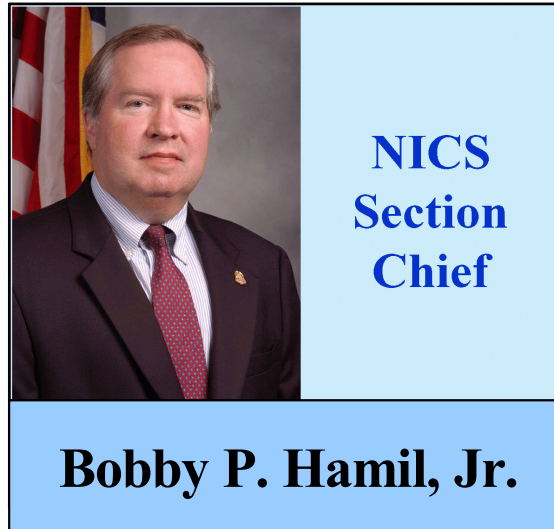
Mission Statement

To ensure national security and public safety by providing the timely determination of a person's eligibility to possess firearms or explosives in accordance with federal law.

Federal Bureau of Investigation



NICS Section Organizational Chart



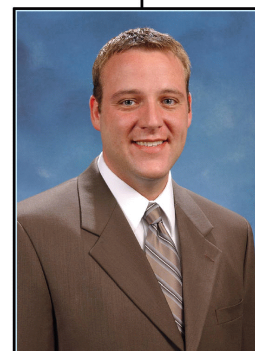
Monica D. Snider
Unit Chief
NICS Program
Support Unit



Gary A. Wick
Unit Chief
NICS Operations
Unit



Lisa A. Vincent
Unit Chief
Appeal and Liaison
Services Unit



Joey L. Hixenbaugh
Unit Chief
NICS Assessment
Unit



A Message from the NICS Section Chief

Bobby P. Hamil, Jr.

Since the implementation of the National Instant Criminal Background Check System, more commonly known as the NICS, on November 30, 1998, the NICS Section has identified, and implemented numerous system and process improvements to ensure optimal program integrity and reliability. The NICS has ensured the timely transfer of firearms to individuals who are not prohibited under federal or state law, while denying transactions in more than 540,000 instances for convicted felons, fugitives from justice (the subjects of active warrants), and various others.

During the past eight years in operation, the NICS has evolved from its origins as the nation's firearm background check program and has assumed many other roles of national importance. For instance, in 2002, the NICS Section implemented measures to fulfill the U.S. Attorney General's directive to check, via the Department of Homeland Security, records expounding the immigration status of non-U.S. citizens seeking to receive firearms in the United States and, pursuant to the Safe Explosives Act, the NICS Section developed and implemented a processing initiative to provide the eligibility status of persons seeking to transport, ship or receive explosives materials in either interstate or intrastate commerce. Additionally, in 2003, the NICS Section implemented another processing initiative to determine subject firearms eligibility for individuals matched to records of persons maintained in the National Crime Information Center's Violent Gang and Terrorist Organization File.

The NICS Section is constantly seeking new ways to improve the quality and availability of criminal history records and is a staunch proponent of information sharing at all levels. With the future development of NICS initiatives such as the processing of background checks for security personnel of Nuclear Regulatory Commission licensees and an initiative associated with the return of firearms in the control of criminal justice agencies, the NICS Section is committed to consistently providing its users and the citizens of the United States with a highly effective and efficient level of quality service in the furtherance of public safety and national security.

Executive Summary

Since the implementation of the National Instant Criminal Background Check System (NICS) in November 1998, the FBI has continuously worked to identify, develop, and implement improvements to the nation's background check system. Mindful of its mission to effectively and efficiently determine subject eligibility to receive firearms or firearms and explosives permits in accordance with federal law, the FBI Criminal Justice Information Services (CJIS) Division's NICS Section recognizes that optimal and quality service cannot be compromised and, equally important, that service for the good of the public cannot be overemphasized. The staff and management of the NICS Section take great pride in the many accomplishments achieved since November 1998 in the furtherance of public safety and national security in America. Highlights of the NICS 2006 operations include the following:

- From the inception of the NICS on November 30, 1998, to December 31, 2006, a total of 72,097,650 transactions have been processed through the NICS. Of these, 37,208,873 transactions were processed by the NICS Section at the FBI and 34,888,777 were processed by the Point-of-Contact (POC) states.
- From November 30, 1998, through year-end 2006, the NICS Section denied a total of 543,363 firearm transactions. Of these, the NICS Section rendered 69,930 denial determinations in 2006. The NICS Section's 1.33 percent denial rate for 2006 remains consistent with the 2005 denial rate of 1.35 percent.
- In February 2006, the NICS Index exceeded four million records. As of December 31, 2006, the NICS Index maintained 4,310,442 immediately prohibiting records.
- In 2006, the NICS Section processed 70,686 explosives transactions. Of these, a total of 1,624 (or 2.3 percent) resulted in denied explosives transactions.
- In 2006, the NICS Section processed 169,673 transactions via its Internet-based E-Check function, representing a 68 percent increase over the number processed in 2005.
- In 2006, a total of 49 of the 279 valid National Crime Information Center (NCIC) Violent Gang and Terrorist Organization File matches (based on descriptive information) resulted in denials that were based on federal or state-prohibitive criteria.
- In 2006, the NICS Section achieved a 91.58 percent Immediate Determination Rate (IDR), not only surpassing its goal of maintaining a 90 percent or better IDR, but surpassing the 91.48 percent IDR achieved in 2005.
- In 2006, the NICS Section obtained over 45,450 final dispositions for posting to criminal history records, scanned over 37,000 documents provided by the CJIS Division's Identification and Investigative Services Section for use when processing background checks,

and disseminated approximately 12,337 dispositions to state agencies for maintenance at the state level. Program-to-date, the NICS Section has obtained and shared a total of 592,979 dispositions for posting/updating to criminal history records.

- As of December 31, 2006, the NICS Section provided services to 41,121 Federal Firearms Licensees (FFLs) conducting business in 29 states, 5 territories, and 1 district.
- The Voluntary Appeal File (VAF) permits the NICS Section to maintain specific information about non-prohibited persons to assist in defining their eligibility to receive firearms during subsequent transactions. As of December 31, 2006, there were 2,883 successful entries in the VAF. In 2006, a total of 1,611 VAF participants, representing an increase of approximately 542 percent from 2005, were able to receive firearms without experiencing a lengthy delay or denial.
- On January 8, 2006, the NICS Section deployed a system enhancement that, via a series of data-specific indicators, alerts the NICS Section employees of the status regarding the time in queue for the NICS E-Check transactions awaiting processing.
- On May 7, 2006, the outbound facsimile services feature was enhanced to permit the NICS Section employees to simultaneously disseminate multiple requests for disposition and/or record information.
- Phase II of the NICS Efficiency Upgrade Project, termed Personal Computer (PC) Client, was deployed on July 9, 2006. PC Client provides the NICS Section's employees with additional tools to effectively and efficiently perform their duties and responsibilities.
- In a collaborative effort with numerous CJIS Division representatives to increase the number of accurate and available final dispositions relative to criminal history records, the CJIS Disposition Task Force was implemented. On July 11 and July 12, 2006, the NICS Section sponsored and directed the first CJIS Report, Educate and Associate Criminal History Conference, in which seven states participated in addition to the Bureau of Justice Statistics' National Criminal History Improvement Program Office.
- On August 3, 2006, the NICS Section deployed the NICS E-Check processing functionality to the POC states. To further assist the NICS Section's POC state counterparts and provide the states' FFLs with the same Internet-based processing capability previously made available to the FFLs serviced by the FBI, an automated on-line FFL Enrollment Form which eliminates the manual process associated with seeking approval for FFLs to access and utilize the NICS E-Check was also implemented.
- On August 6, 2006, the NICS Section made available the Corporate Digital Certificate which allows an FFL to obtain one "blanket" license for access to the NICS E-Check for all of the FFL's employees rather than one access per each employee.

- With the expansion of the NCIC to permit the entry of non-serious warrant information, the NICS Section made technological and procedural preparations for the corresponding expansion of records searched during the background check process. As of September 3, 2006, when a background check is conducted via the NICS, all criminal warrants (felony or misdemeanor, serious or non-serious) are searched.
- To assist the U.S. Immigration and Customs Enforcement (ICE) with information management, the NICS Section, on September 10, 2006, implemented an output file that collects data corresponding to all deny transactions for non-U.S. citizens or persons who have indicated a foreign place of birth and have been denied based on an illegal status. The data are accessible to the ICE upon request.
- To assist the NICS Section with workload management and to ensure that any transaction approaching the end of the three-business-day time period has been reviewed, the NICS Delay Queue Monitor was redesigned. The redesign, providing a visual overview of the pending delayed transactions waiting to be processed, was deployed on October 15, 2006.
- In 2006, the NICS Section, with the assistance of the CJIS Division's Information Technology Management Section (ITMS), completed the development of: (1) the NICS Document Server, which enables the NICS Section employees to efficiently access documents such as the NICS Standard Operating Procedures; and (2) the NICS Training Server, which provides real-time training opportunities for the NICS Section employees.
- In the interest of planning for the future, in 2006, the NICS Process Study was implemented with participation by the NICS Section, the ITMS and the CJIS Division's Contract Administration Office, and an independent contractor, pinpointing opportunities for improvement.
- In 2006, the FBI's Major Case Contact Center (MC3) implemented six campaigns to collect information from the public regarding investigations in progress. Approximately 1,298 MC3 calls were received from the public, with one instance resulting in the successful recovery of a stolen laptop computer containing protected information.

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Background of the NICS



Brady Act Requirements

The Brady Handgun Violence Prevention Act (Brady Act) of 1993, Public Law 103-159, required the U.S. Attorney General to establish a National Instant Criminal Background Check System (NICS) for Federal Firearms Licensees (FFLs) to contact by telephone, or other electronic means, for information to be supplied immediately on whether the transfer of a firearm would violate Section 922 (g) or (n) of Title 18, United States Code (U.S.C.), or state law. The Brady Act requires the system to:



(1) assign a unique identification number (NICS transaction number [NTN]) to each transaction; (2) provide the FFL with the NTN; and (3) destroy all records in the system that result in an allowed transfer (other than the NTN and the date the NTN was created).

Background Check Process

Through a cooperative effort with the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), the Department of Justice (DOJ), and local and state law enforcement agencies, the FBI developed the system which became

operational on November 30, 1998. The NICS was designed to respond immediately to background check inquiries for prospective firearm transferees. For an FFL to initiate a NICS background check, the prospective firearm transferee must complete and sign an ATF Form 4473 (reference Figure 1). The ATF Form 4473 asks questions intended to capture information that may immediately indicate to an FFL that the subject may be disqualified from receiving firearms, thereby negating the need to continue with the transfer and the background check process.

Figure 1
ATF Form 4473

When an FFL initiates a NICS background check, a name and descriptor search is conducted to identify any matching records in three nationally-held databases. These databases are:

(1) Interstate Identification Index (III): The III contains an expansive number of criminal history records. As of December 31, 2006, the records maintained in the III and accessed by the NICS during the background check process numbered 48,551,841.

(2) National Crime Information Center (NCIC): The NCIC contains information on protection orders, wanted persons, deported felons, and others. As of December 31, 2006, the NCIC records searched by the NICS during the background check process numbered 3,493,547.

(3) NICS Index: The NICS Index is a database built specifically for the NICS and contains records contributed by local, state, and federal agencies pertaining to individuals *federally* prohibited from receiving a firearm that are not located in the III or the NCIC databases. As of December 31, 2006, the NICS Index records maintained numbered 4,310,442.

A fourth search, via the applicable databases of the Department of Homeland Security's United States Immigration and Customs Enforcement (ICE), may be conducted pursuant to federal



**U.S. Immigration
and Customs
Enforcement**

law. In response to a mandate issued by the U.S.

Attorney General in February 2002, a search of the ICE databases is conducted on *all non-U.S. citizens* attempting to receive firearms in the United States. In 2006, the NICS Section and

its Point-of-Contact (POC) state counterparts (those states that have chosen to implement and maintain a state-operated Brady Program) requested over 32,386 such queries of the ICE (an increase of approximately 6 percent from the number requested in 2005).

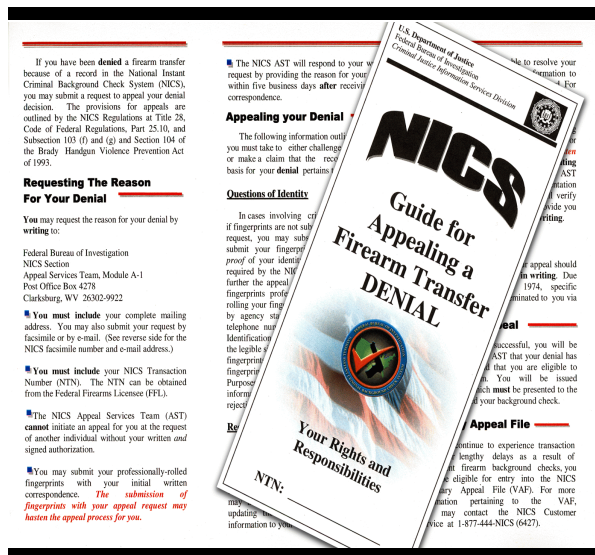
In the majority of cases, the results of background check inquiries provide definitive information explicating subject eligibility within seconds to minutes of the data entry of a prospective firearm transferee's descriptive information into the NICS. Some inquiries are delayed due to missing or incomplete information (e.g., final dispositions) necessary to make a final determination as to whether a firearm transfer may proceed or must be denied. Currently under federal law, the NICS cannot preclude the transfer of a firearm based on arrest information alone unless independent state law otherwise specifies; however, only a few states fall into this category. Therefore, in instances in which a valid matching record discloses potentially disqualifying record information (e.g., a felony offense arrest or a possible misdemeanor crime of domestic violence) that reflects missing or incomplete information, the transaction facilitator will search for the information needed to complete the record.

The NICS is afforded three business days to locate the information needed to make a decision.

The aforementioned process often requires outreach to local, state, and federal agencies, e.g., court systems and sheriff's agencies. If the necessary information is not obtained within the three-business-day time frame and a final transaction status cannot be rendered, the FFL has the option to legally transfer the firearm; however, the FFL is not required to do so.

NICS Appeals

Additionally, those individuals who believe they were wrongfully denied the transfer of a firearm based on a record returned in response to a NICS background check may submit a request to appeal their denial decision to the agency that conducted the check. The "denying agency" will be either the FBI Criminal Justice Information Services (CJIS) Division's NICS Section or the local or state law enforcement agency serving as a POC for the NICS. However, in the event the "denying agency" is a POC state, the individual may elect, in the alternative, to direct their appeal request, in writing, to the NICS Section. The provisions for appeals are outlined by the



NICS Regulation at Title 28, Code of Federal Regulations (C.F.R.), Part 25.10 and Subsection 103(f) and (g) and Section 104 of the Brady Act.

Safe Explosives Act Requirements

Background checks for explosives permits, pursuant to the Safe Explosives Act, are processed through the NICS by the NICS

Section. 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 a federal permit or license after undergoing a background check. Enacted in November 2002, as part of the Homeland Security Act, the Safe Explosives Act became effective on May 24, 2003.

Privacy and Security of NICS Information

Extensive measures are taken to ensure the security and the integrity of NICS information. Access to the data in the NICS is restricted to agencies authorized by the FBI under DOJ regulations. The U.S. Attorney General's regulations regarding the privacy and security of the NICS are available on the Internet at www.fbi.gov/hq/cjisd/nics/index.htm.

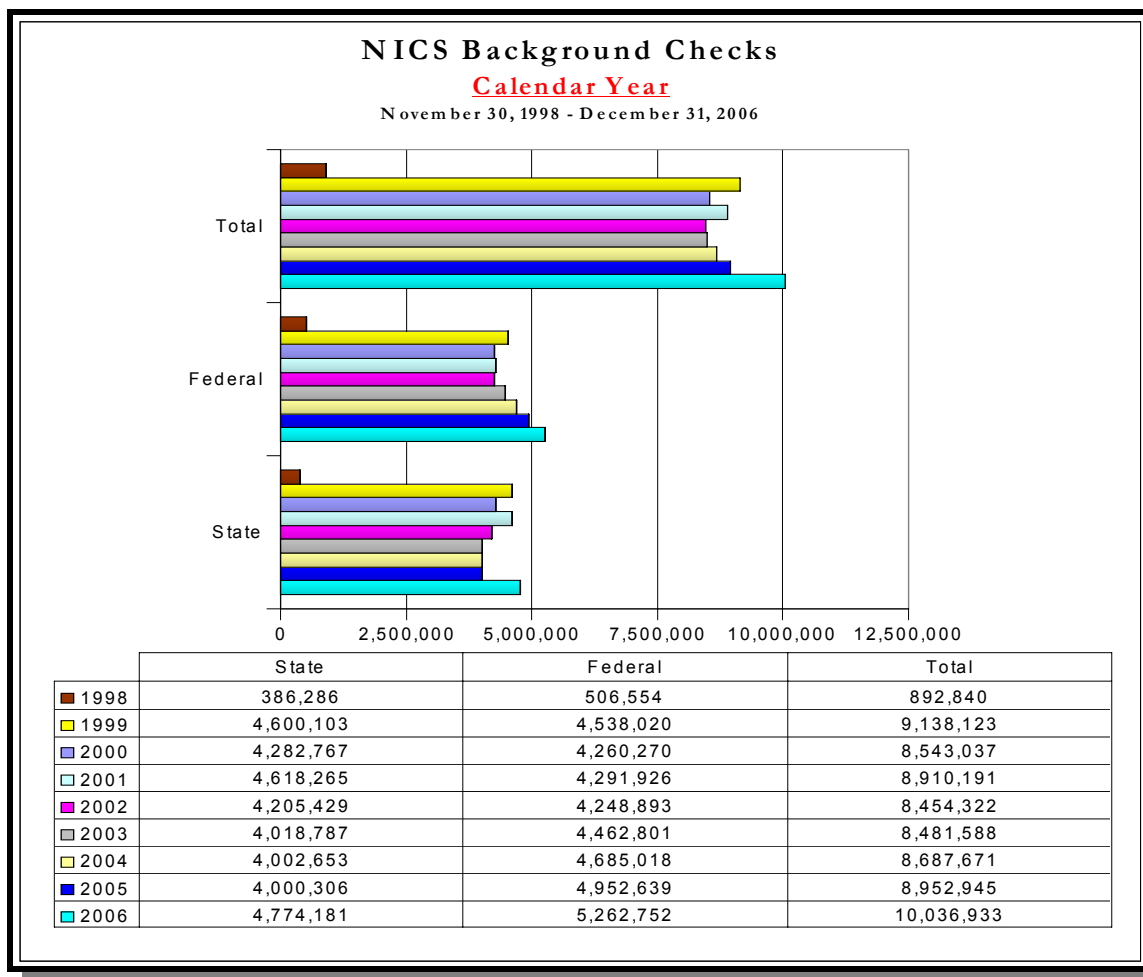
The first appeal request was received by the NICS Section on December 4, 1998.

NICS Operations – 2006

With the passage of the Gun Control Act in 1968, specific individuals, such as those convicted of felony offenses, have been prohibited by federal law from the possession of firearms. The signing of the Brady Act in 1993 strengthened the federal prohibition by creating the means through which the identification of such persons would become known prior to the transfer of a firearm.

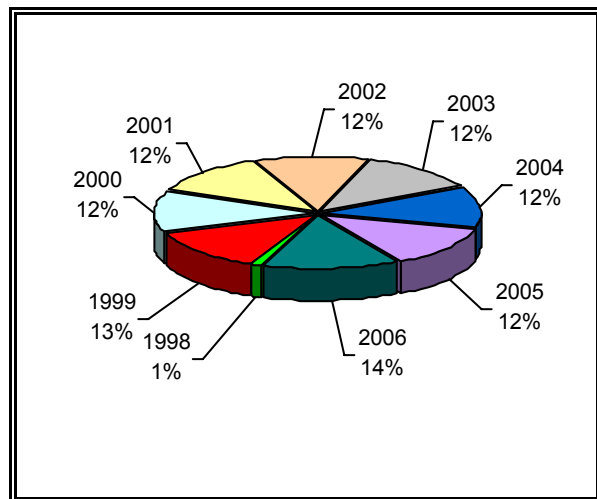
Since the implementation of the NICS in November 1998, and through December 31, 2006, a total of 72,097,650 background check inquiries have been submitted to the NICS. Of these, a total of 10,036,933 transactions were processed in 2006; 4,774,181 were processed by state-designated POC agencies while 5,262,752 were processed through the FBI (reference Figure 2).

Figure 2
NICS Annual Activity, 1998 through 2006



In comparison to prior years, the highest volume year for the NICS was 2006 (reference Figure 3). Whatever the reason for the approximate 12.11 percent increase from 2005, it is clear that the transactional influx of background check inquiries to the NICS continues to be on the rise.

Figure 3
Yearly Percentage of NICS Activity



A Closer Look

A review of the transactional activity since the implementation of the NICS indicates that after the first few "foundation" years of operations, and in particular since 2002, the NICS has experienced an annual increase in transactional activity (reference Figure 2 on previous page). Based on data generated by the NICS, the number of background checks initiated via the POC states has trended downward while the number of background checks conducted through the FBI has increased. The downward trend in the POC state transaction level could well be attributed to the many historical changes in NICS participation that have occurred since the implementation of the NICS in November 1998 (discussed further on

page 7); however, NICS-generated data reveals an increase in the 2006 transactional activity for both the POC states and the NICS Section. While no one can predict with certainty how each year's transaction levels will fare, it is possible to identify some of the factors contributing to past and current trending patterns such as those mentioned above relative to NICS participation levels.

When a NICS background check is initiated, the system records the originator of each transaction, which is either a POC state-designated agency or the FBI. A specific purpose code (e.g., handgun, long gun, permit) must be denoted per each transaction for reasons related to compliancy and/or access requirements, audit purposes, and statistical data. In 2006, the number of transactions processed by the states via the NICS increased by approximately 19 percent. Upon examination of the breakdown of the state-initiated transactions by purpose code, the increase in the states' transaction level for 2006 was due primarily to an increase in the number of transactions associated with processing state permits.

The majority of background checks processed via the NICS Section are initiated by an FFL's contact with the NICS Contracted Call Centers.



The remainder are either initiated via the NICS E-Check (at the preference of an FFL) or via the NICS Section's staff directly (e.g., a re-check after a successful appeal).

A closer look at the transaction levels associated with the processing of background checks via the NICS Section (reference Figure 4) indicates an approximate 6.4 percent

increase from 2005 to 2006 in the number of transactions initiated via the NICS Contracted Call Centers and an approximate 68 percent increase from 2005 to 2006 in the number of transactions submitted to the NICS E-Check. Given the NICS Section's promotion of the NICS E-Check and the fact that the NICS Section typically experiences an annual increase in NICS Contracted Call Center transactions, these increases were anticipated.

Since the implementation of the NICS, the NICS Section has been amenable to assisting the states with the processing of background

checks associated with firearms-related permit applications, e.g., reviewing the records available through the NICS for federal prohibitive criteria. These transactions were submitted to the FBI for identification processing and subsequent processing by the NICS Section's staff. However, with the passage of time and mounting resource limitations, the NICS Section is no longer in a position to continue this courtesy service and subsequently completed the phase-out of this service in 2006. As such, the number of transactions initiated via the staff of the NICS Section decreased in 2006 by 52 percent.

Figure 4
State versus FBI-Initiated Background Checks, 2005 - 2006

	2005	2006
<i>State-Initiated Background Checks</i>	4,000,306	4,774,181
At the FBI:		
Call Center-Initiated Background Checks	4,735,516	5,037,675
NICS Section-Initiated Background Checks	115,907	55,404
NICS E-Check-Initiated Background Checks	101,216	169,673
<i>Total Federal - NICS Section-Initiated Background Checks</i>	4,952,639	5,262,752

NICS Participation

To implement federal law establishing the NICS via the Brady Act, the U.S. DOJ published a final rule, effective November 30, 1998, which provided notice of the establishment of the NICS and the policies and procedures for ensuring the privacy and security of the system. With reference to 28 C.F.R., Part 25, Subsection 25.3, the FFLs may initiate a NICS background check only in connection with a proposed firearm transfer as required by the Brady Act.



The process for accessing the NICS for the purpose of conducting a NICS background check is initiated by an FFL contacting the NICS Section or the designated state agency in those states that have chosen to implement and maintain their own Brady NICS Program. During the development of the NICS and prior to its implementation, it was envisioned that all states would participate as POCs for the NICS. The FBI viewed the state searches as critical to the background check process for many reasons, such as:

- A state's identification bureau has access to their state agencies' records.
- Criminal history records maintained by the state often are more complete.
- States may be better able to disqualify persons based on the interpretation of their state's own statutes.

- States can better interpret their own criminal history data.

However, for various reasons, including background check system funding and resource limitations, many states chose not to implement a state-facilitated program.

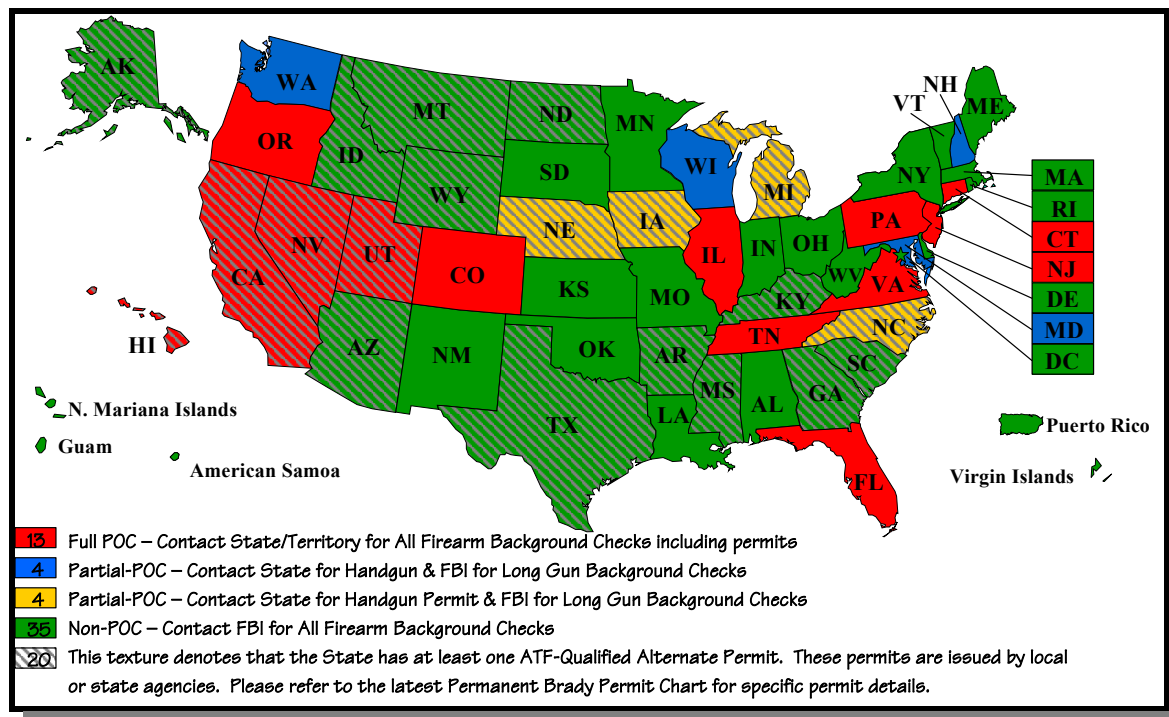
A state can choose, at any time, to implement operations as a POC for the NICS. Likewise, a POC state can also cease operations as a POC.

As of December 31, 2006, the NICS Section provides full service to the FFLs conducting business in 29 states, 5 territories and 1 district, while 13 states have agencies acting on behalf of the NICS in a full-POC capacity for the state. Eight states share the responsibility with the NICS Section by acting as a partial POC. Partial-POC states have agencies designated to conduct checks for handguns and/or handgun permits, while the NICS Section processes all of their long gun transactions. The NICS Participation Map (reference Figure 5) depicts each state's participation level with the NICS as of December 31, 2006.

In 2006:

- **4,789,591 NICS transactions were conducted for Long guns.**
- **2,441,325 NICS transactions were conducted for Handguns.**
- **2,037,453 NICS transactions were conducted for Permits.**
- **The remainder were either for "Both" (handgun *and* long gun) or for other purposes, e.g., pre-pawn, pawn redemption.**

Figure 5
NICS Participation Map as of December 31, 2006



Alternate Permits

With the implementation of the NICS in 1998, specific state-issued permits (e.g., permits to carry a concealed weapon) were approved by the ATF as those permits that would qualify under federal law as an alternative to the background check requirements established via the Brady Act. These "in lieu of" permits must be valid according to state and federal law in order to qualify as a Brady alternative. In order to be eligible for an alternate permit, if availed via state operation, an individual must submit to a NICS background check as part of the approval and renewal process. State officials then make the final determination regarding applicant status.

The alternate permit concept is simple. If an individual qualifies to receive the permit (after

submitting to a NICS check during the permit issuance process) identified by the state and qualified by the ATF as a permit that can be used in lieu of a NICS background check, then the individual may receive firearms (e.g., subsequent purchases, pawn redemptions) from an FFL at any time during the life of the permit without having to submit to a NICS check with each firearm transfer. Alternate permits are valid for a specific period of time, typically five years, in accordance with state law. Depending on various factors (e.g., changes in state or federal law), a state may seek and be granted alternate permit status by the ATF or alternate permit status may be discontinued. The information referenced below provides a snapshot of the changes in state alternate permit status that occurred in 2006.

State	Alternate Permit Status		2006 Date
	Ceased	Gained	
Nevada		X	January 5
New York	X		May 2
Georgia		X	July 1
Kentucky		X	July 12

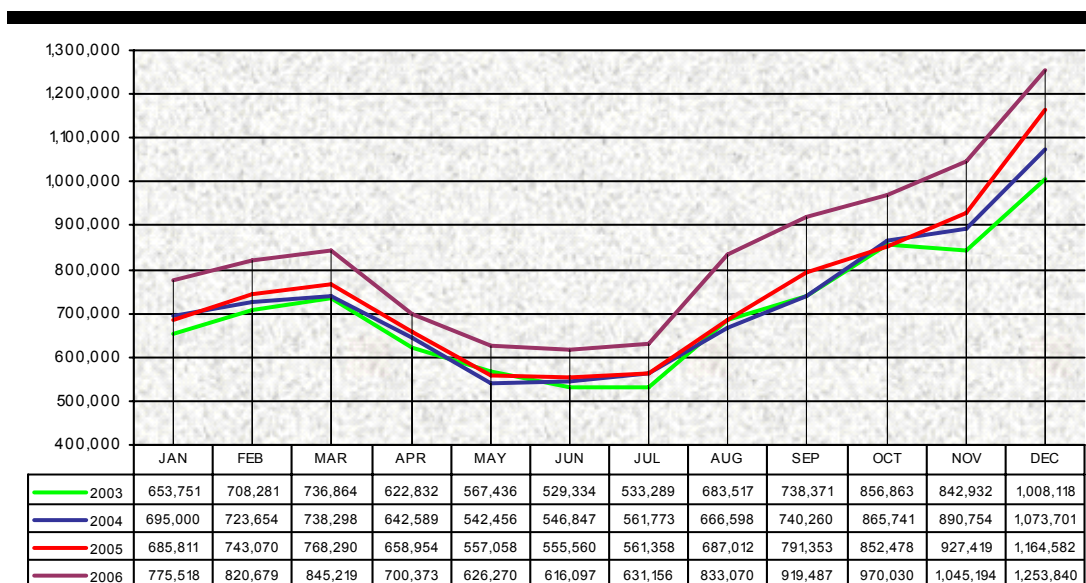
As of December 31, 2006, there were 20 states (reference the NICS Participation Map, Figure 5) maintaining an ATF-approved alternate permit status. The Permanent Brady Permit Chart, which lists the specific types of permits by state that qualify as ATF-approved alternate permits, is provided via the ATF publication entitled, "State Laws and Published Ordinances-Firearms 2005--26th Edition" or

can be accessed via the ATF Web Site at: http://www.atf.gov/firearms/bradylaw/permit_chart.htm.

NICS Activity

The use or "demand" placed upon the NICS generally tracks retail market trends (as firearms are part of the retail industry) and depends, in large part, upon such events as state hunting seasons and the end-of-year holidays. Through the collection and evaluation of historical data relating to background check transactional increases associated with the onset of many of the states' hunting seasons and thereafter the approaching holidays, the NICS Section is able to forecast when its highest "demand" or "Busy Season" will occur. Referencing Figure 6, it is evident that the NICS "Busy Season" typically begins in late Summer and increases progressively through the year-end.

Figure 6
Annual Comparison of NICS Activity 2003 - 2006

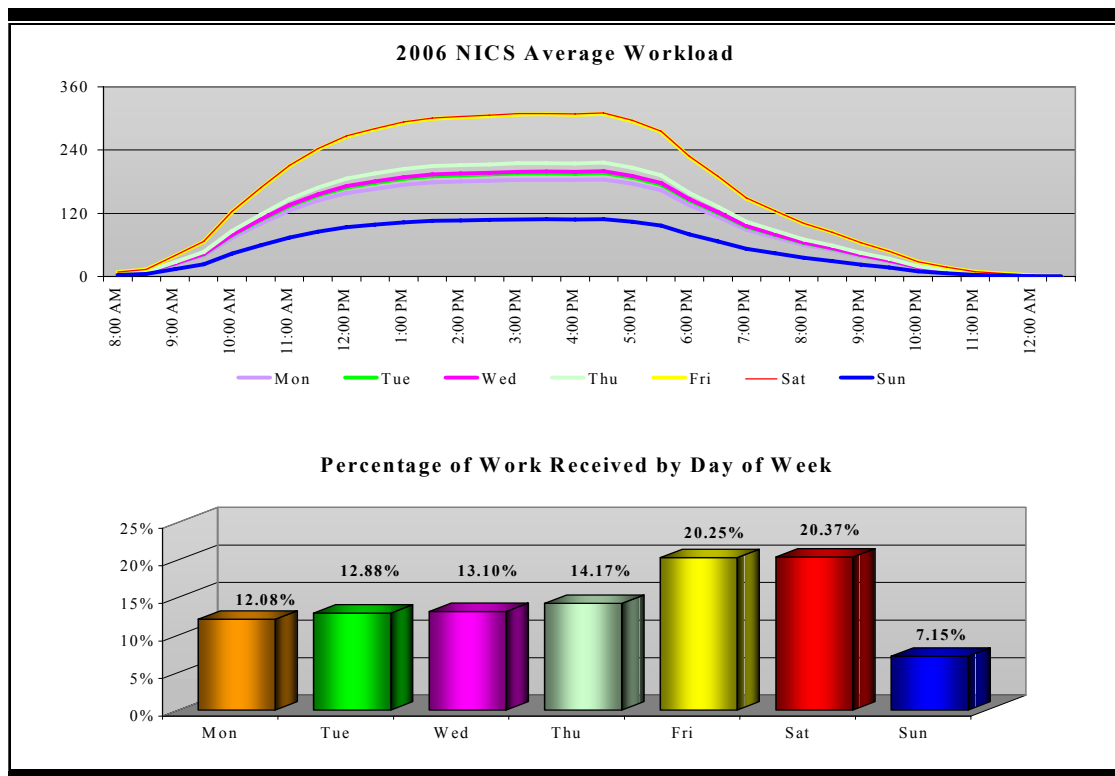


The NICS standard hours of operation are from 8 a.m. to 1 a.m. Eastern Standard Time, 7 days a week, 364 days a year (the NICS is not open on Christmas Day). In the interest of providing customer service, the NICS available hours of operation are typically extended during Busy Season in order to assist the POC states and to prevent operational bottlenecks that can occur with escalating levels of transactions.

In order to effectively and efficiently discharge the duties and responsibilities associated with processing background checks, the NICS Section developed a workload forecast model. Workload is generally defined as the projected

volume of contacts multiplied by the average handling time. The result is then converted into staff hours needed. By applying historical call volume and transaction volume data generated by the NICS (reference Figure 7), the NICS Section is able to effectively predict when heavier transaction volumes will occur, e.g., approximately 41 percent of all contacts are received on Friday and Saturday, with the majority of calls occurring between the hours of 11 a.m. and 7 p.m. With this information, the NICS Section can more effectively allocate the necessary resources needed to process background checks in a timely manner.

Figure 7
NICS Average Workload Forecast - 2006



NICS Section Denials

From program inception in November 1998, through year-end 2006, the NICS Section has issued 543,363 background check denials. Of these, 69,930 were issued in 2006. During the background check process, when a search of the NICS returns any records matched by the system to the descriptive information of the prospective firearms transferee (or firearms/explosives permit applicant), the transaction is delayed for further review and/or research. If, after further review and research, the NICS Section's staff determines that the subject of the NICS check is validly matched to the subject of a disqualifying record, the individual is denied. Bearing in mind that the NICS is a name-based check only, a "deny" message from the NICS indicates that either the prospective transferee or another individual with a similar name and/or similar descriptive features has been matched with either federally prohibitive criteria pursuant to 18 U.S.C., Section 922 (g) or (n) as outlined below, or state law.

The federally prohibitive criteria pursuant to 18 U.S.C., Section 922 (g) and (n), are as follows:

- *Persons who have been convicted in any court of a crime punishable by imprisonment for a term exceeding one year;*
- *Persons who are fugitives from justice¹;*
- *Persons who are unlawful users of or addicted to any controlled substance;*

¹ The subject of an active criminal warrant.

- *Persons who have been adjudicated as mental defectives or have been committed to any mental institution;*
- *Persons who are aliens and are illegally or unlawfully in the United States;*
- *Persons who have been discharged from the Armed Forces under dishonorable conditions;*
- *Persons who, having been citizens of the United States, have renounced their U.S. citizenship;*
- *Persons subject to a court order that restrains them from harassing, stalking, or threatening an intimate partner or child of such intimate partner, or from engaging in other conduct that would place the partner or child in reasonable fear of bodily injury;*
- *Persons convicted in any court of a misdemeanor crime of domestic violence; and*
- *Persons who are under indictment or information for a crime punishable by imprisonment for a term exceeding one year.*

Prior to the approval of the NICS Final Rule on July 20, 2004², the POC states were not required to disclose to the NICS final transaction determinations (proceed or deny) regarding state-initiated background checks. The NICS Final Rule mandates that the POC states must transmit electronic transaction

² Reference the *Federal Register*, Vol. 69, Friday, July 23, 2004.

determination messages to the NICS. At the current time, the NICS cannot provide complete data regarding state-initiated denials; however, referencing Figure 8, comparable data are available via the Bureau of Justice Statistics (BJS) through 2006

(reference the BJS publication entitled "Background Checks for Firearm Transfers, 2006," at www.ojp.usdoj.gov/bjs/pubalp2.htm for data regarding POC state transaction levels).

Figure 8
The NICS Denial Rate

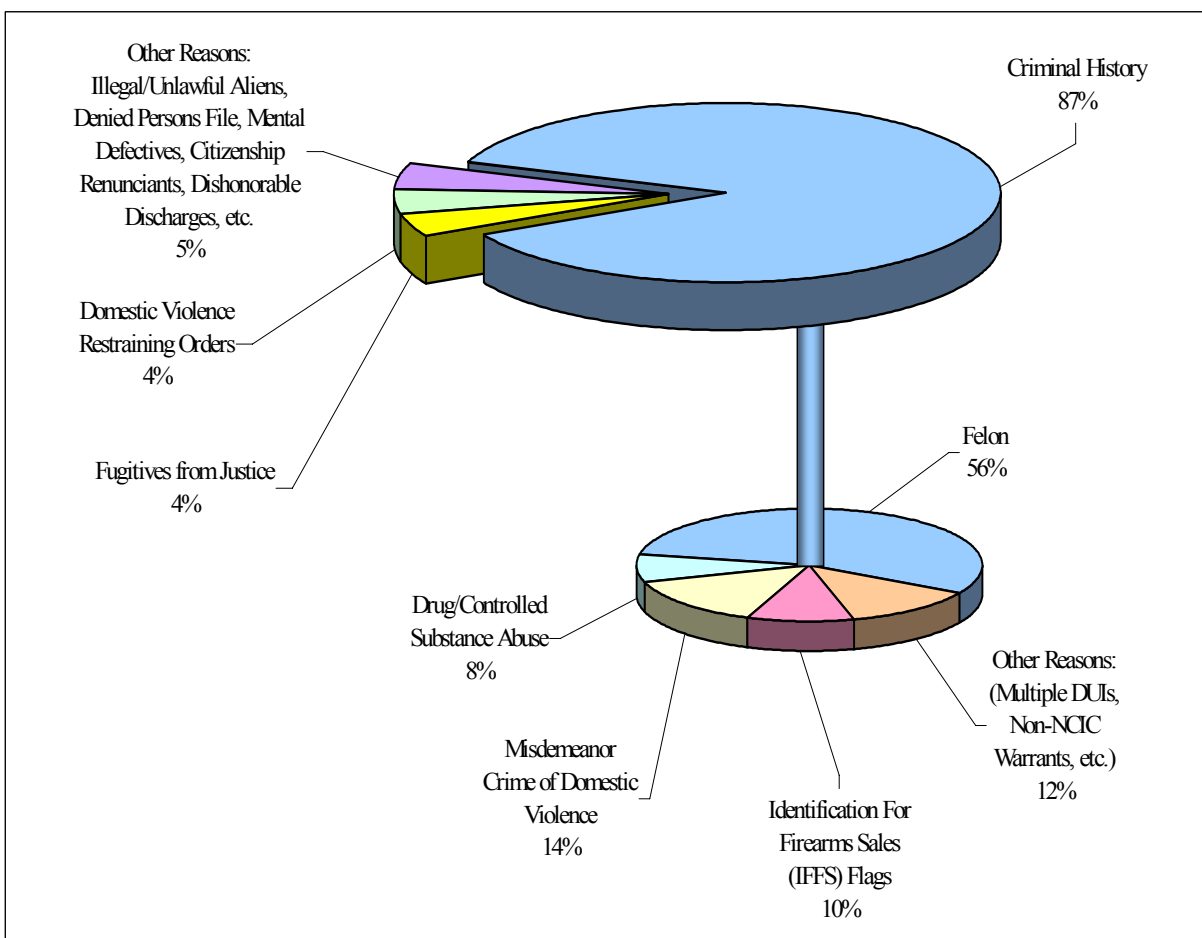
Year	Number of Transactions Conducted		Number of Denials Rendered		Denial Rate Percentage	
	NICS Section	POC States	NICS Section	POC States ³	NICS Section	POC States ³
1998 - 1999	5,044,574	4,986,389	89,836	133,000	1.78	3.0
2000	4,260,270	4,282,767	66,808	86,000	1.57	2.5
2001	4,291,926	4,618,265	64,500	86,000	1.50	2.3
2002	4,248,893	4,205,429	60,739	75,000	1.43	2.1
2003	4,462,801	4,018,787	61,170	65,000	1.37	1.9
2004	4,685,018	4,002,653	63,675	62,167	1.36	1.8
2005	4,952,639	4,000,306	66,705	65,211	1.35	2.0
2006	5,262,752	4,774,181	69,930	64,512	1.33	1.9
Program to Date as of December 31, 2005	37,208,873	34,888,777	543,363	636,890	1.46	2.20

When a NICS Legal Instruments Examiner (NICS Examiner) renders a transaction denial determination, a code indicating the specific reason or basis for the denial is data-entered into the system. This tracking mechanism allows the NICS Section to maintain and

generate statistics regarding the specific reasons for the denials. The leading category prompting transaction denials corresponds to an individual's criminal history (reference Figure 9).

³ Reference the BJS web site at www.ojp.usdoj.gov/bjs/pubalp2.htm.

Figure 9
The NICS Denial Distribution



The criminal history category comprises data related to transaction denials based on various federally-prohibiting criteria such as felony convictions, persons under indictment for a crime punishable by imprisonment for a term exceeding one year, persons who are unlawful users of or are addicted to controlled substances, and other reasons (as revealed in Figure 9).

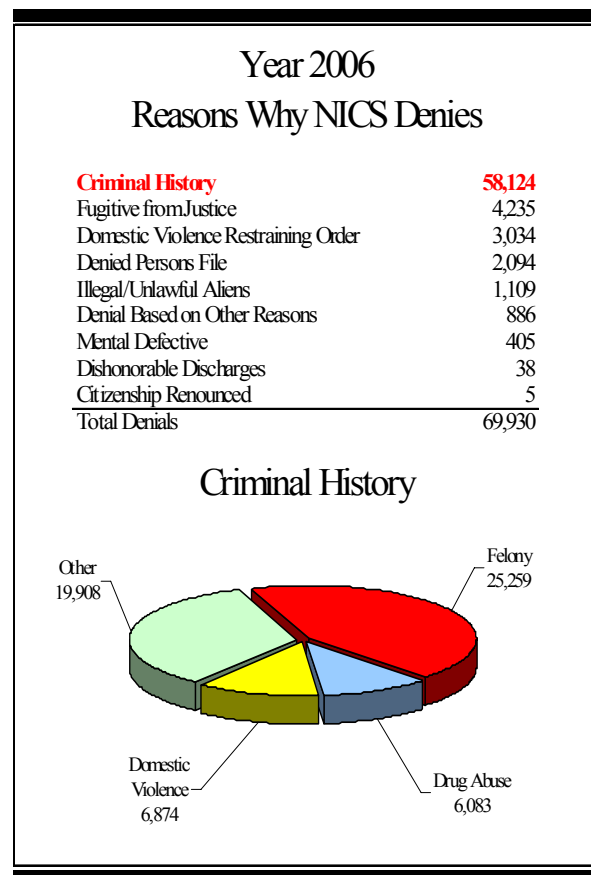
Also included in the criminal history category is denial data specific to the Identification for Firearms Sales (IFFS) Program. The IFFS Program was designed specifically to work in

association with the NICS and is based upon the existence of "flags" connected to III records that exhibit a federal prohibition (e.g., felony convictions, convictions for misdemeanor crimes of domestic violence) pursuant to the Brady Act. These status flags are primarily set by state agencies whose staff have determined that such record information, based on a record review at the state level, is prohibited under the Brady Act. A state must request to become a participant in the program before IFFS flags can be set by a state's personnel.

As of December 31, 2006, there were 20 states actively participating in the IFFS Program. The NICS Section supports state participation in the IFFS Program as the presence of an IFFS flag serves as an immediate notification to all users of the NICS, state and federal alike, that a prohibition exists regarding a prospective firearms transferee.

In 2006, (reference Figure 10) and historically since program inception in 1998 (reference Figure 11), the leading reason prompting NICS Section denials is the existence of a felony record.

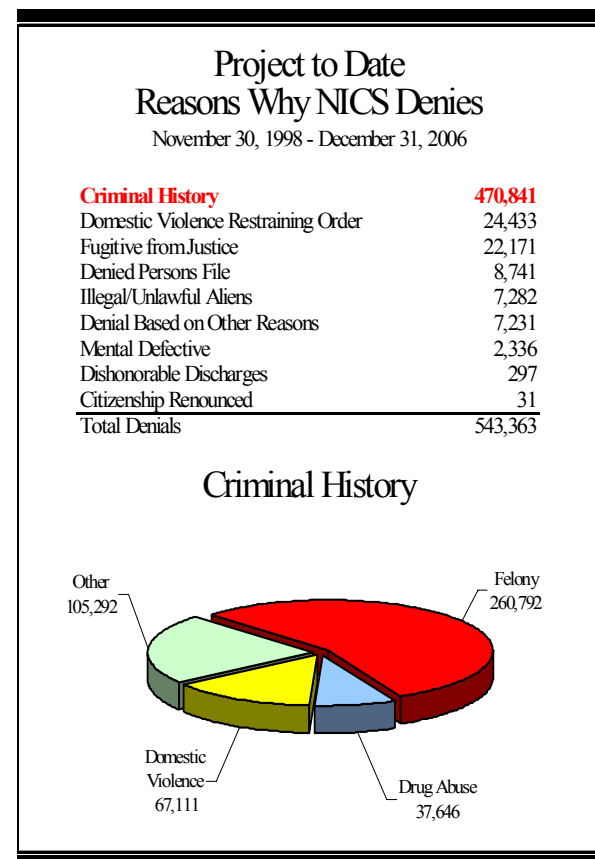
Figure 10
Reasons Why the NICS Section Denies - 2006⁸



⁸ Based on NICS Section statistics only.

The BJS also reports that from 1999 through 2006, the majority of state-determined denials occurred due to an applicant either having a felony conviction or a felony indictment.

Figure 11
NICS Section Denials - Historical⁹



⁹ Based on NICS Section statistics only.

NICS Section - Firearm Retrieval Referrals

Pursuant to the NICS Regulation, 28 C.F.R., Part 25, Subsection 25.6, based on information provided by the NICS in response to a background check search, the NICS will provide either a proceed, a deny, or a delay response to the FFL.

A delay response indicates that one or more "incomplete" and/or potentially prohibitive records, validly matched to the subject of a background check, has been returned in response to a NICS search. A delay response requires that further research be conducted in order to locate the information needed to render a final status.

In many instances, the NICS Section is unable to obtain the final disposition information needed to determine a final transaction status within the three-business-day time period provided by the Brady Act. In such cases, the transaction will remain open, and the FFL can legally transfer the firearm. However, in the interest of public safety, the NICS Section will continue to locate the missing information and complete the transaction.

If record-completing information, received after the lapse of three business days, allows the NICS Section to complete the transaction, the FFL will be contacted. If determined to be a deny transaction, and the FFL advises that the firearm has been transferred, the NICS Section will obtain the subject's address and communicate the deny decision. In these instances, the NICS Section refers the case to the ATF as a prohibited person may be in possession of a firearm.

The ATF, with available information provided by the NICS Section, will then conduct further review and make a determination if the firearm must be retrieved and/or if further investigative

or prosecutorial action will be pursued (e.g., falsification of the ATF Form 4473 completed and signed by the prospective firearm transferee).



Despite a 6.3 percent increase in the number of transactions incoming to the NICS Section in 2006 from 2005, the number of firearm retrieval scenarios referred to the ATF in 2006 (versus those submitted to the ATF in 2005) decreased by approximately 7 percent. Based on the tremendous strides the FBI and the states have made towards information and record sharing, these numbers are expected to continue to decline.

Performance of the NICS - 2006

After the implementation of the NICS, maintaining a high level of system performance has been a driving force of the NICS Section. The following information outlines several key facets of business performance that measure the NICS Section's ability to continually meet or exceed customer and user needs and expectations.

NICS Availability

Since the deployment of the NICS in November 1998, the NICS Section has continuously sought to identify and implement measures to advance the nation's background check system closer to its goal of 100 percent availability. The NICS Section recognizes that achieving optimal levels of service and system availability requires supporting architecture. Throughout the past eight plus years in operation, the NICS processing capabilities have been continually enhanced as a result of changes associated with the updating of not just the NICS itself but also the architecture that supports the CJIS Division's System of Services (SoS) consisting of the NICS, the NCIC, and the Integrated Automated Fingerprint Identification System (IAFIS¹⁰). The latest architectural enhancement, the "rehost" of the CJIS SoS to a newer "superdome" operating platform in 2005, has resulted in greater operational efficiencies for the NICS.

A NICS background check search is contingent on the combined results of all of the databases searched via the CJIS SoS during the process. If one of the databases searched is not responding or is slow to respond, the NICS may be affected and/or rendered out of service, thus, periods of NICS unavailability could occur as a result.

To illustrate, necessary maintenance specific to the III segment of the IAFIS was scheduled by the CJIS Division for the early morning hours of April 2, 2006. As the period of III unavailability would also render the NICS unavailable, the NICS Section devised a plan of notification to users such as the POC state agencies. The III maintenance was scheduled to last from 12:01 a.m. to 10:00 a.m., with



NICS startup (typically beginning at 8:00 a.m. during non-Busy Season) to begin at 10:00 a.m.; however, unanticipated technical issues specific to the III developed which

required additional maintenance. With all necessary staff available, the CJIS Division worked diligently to return the III to service. Even so, the April 2nd technical issues specific to the III maintenance rendered the NICS out of service for approximately 16 hours.

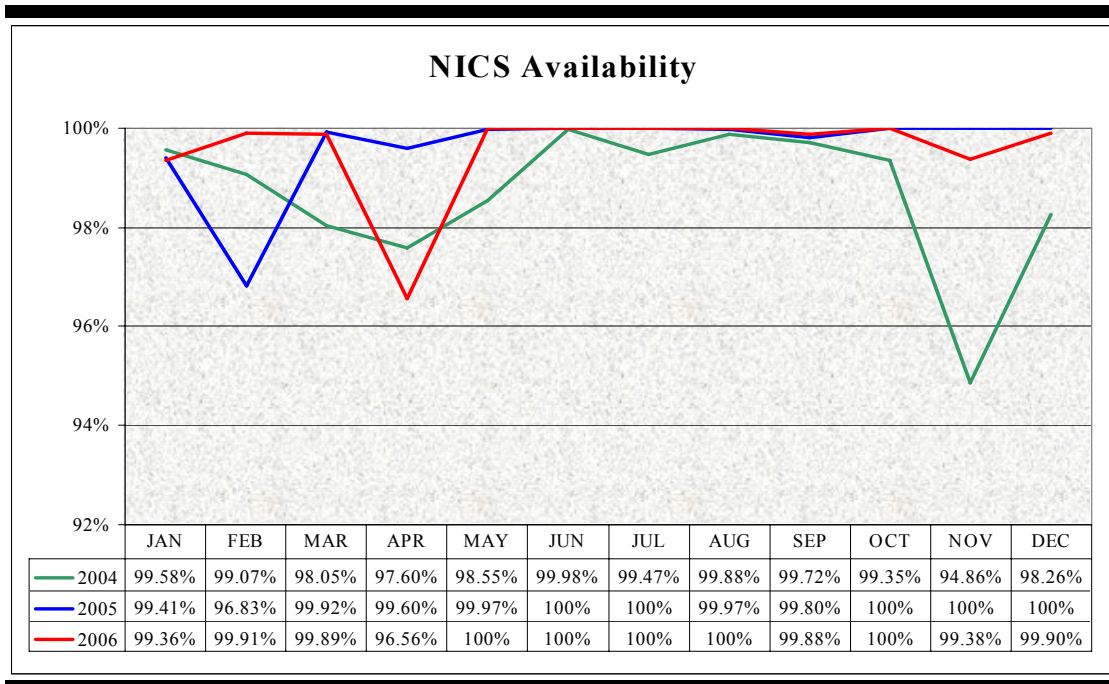
Apart from service issues related to the III in April 2006, the NICS witnessed five months

¹⁰ The IAFIS is comprised of the III, the Automated Fingerprint Identification System and the Identification Tasking and Network.

of 100 percent system availability (reference Figure 12), while the remaining six months of system availability averaged 99.72 percent. Combined, the NICS, remaining consistent with the availability level generated in 2005,

returned an average system availability level at 99.58 percent in 2006. With results such as these, the quality of service provided to the NICS' users and customers remains outstanding.

Figure 12
NICS Availability 2004 - 2006



NICS Section Immediate Determination Rate (IDR)

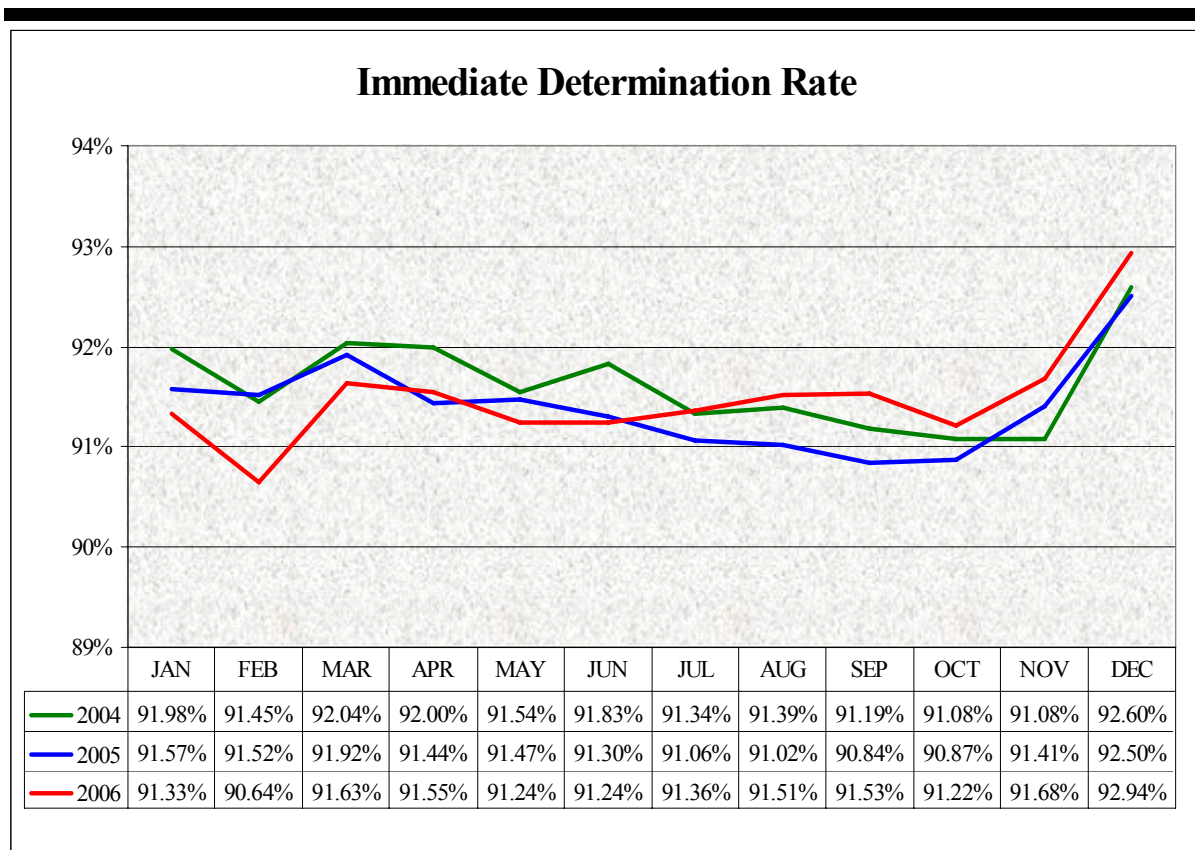
The NICS was established so that any FFL could contact the system, via the NICS Section or a state-designated POC, for information to be supplied *immediately* as to whether the transfer of a firearm would be in violation of federal or state law. Consistent with its mission, the NICS Section continually strives, via enhanced methods and system upgrades, to improve the rate by which the subjects of background check transactions can receive an immediate response.

In 2002, the Attorney General directed the NICS Section to maintain a 90 percent or better rate of immediate transaction determinations. In response to this directive, the NICS Section implemented the Transfer Process as a means to increase the IDR. When a background check returns one or more record matches in any of the databases comprising the NICS, the transaction is temporarily delayed at the Call Center level, and the call is immediately transferred to the NICS Section at the FBI's CJIS Division facility for review. The NICS Section's staff

will attempt to make a final determination while the FFL is still on the telephone. This process, in lieu of concluding the call at the Call Center level and making a return call to the FFL, has had a tremendous impact on the speed with which transactions are completed.

In 2005, the NICS Section's IDR was 91.47 percent. Notwithstanding a 6.3 percent increase in NICS Section-initiated transactions, the NICS Section's IDR increased to 91.58 percent in 2006 (reference Figure 13).

Figure 13
NICS Section Immediate Determination Rate 2004 - 2006



NICS Section Average Talk Time

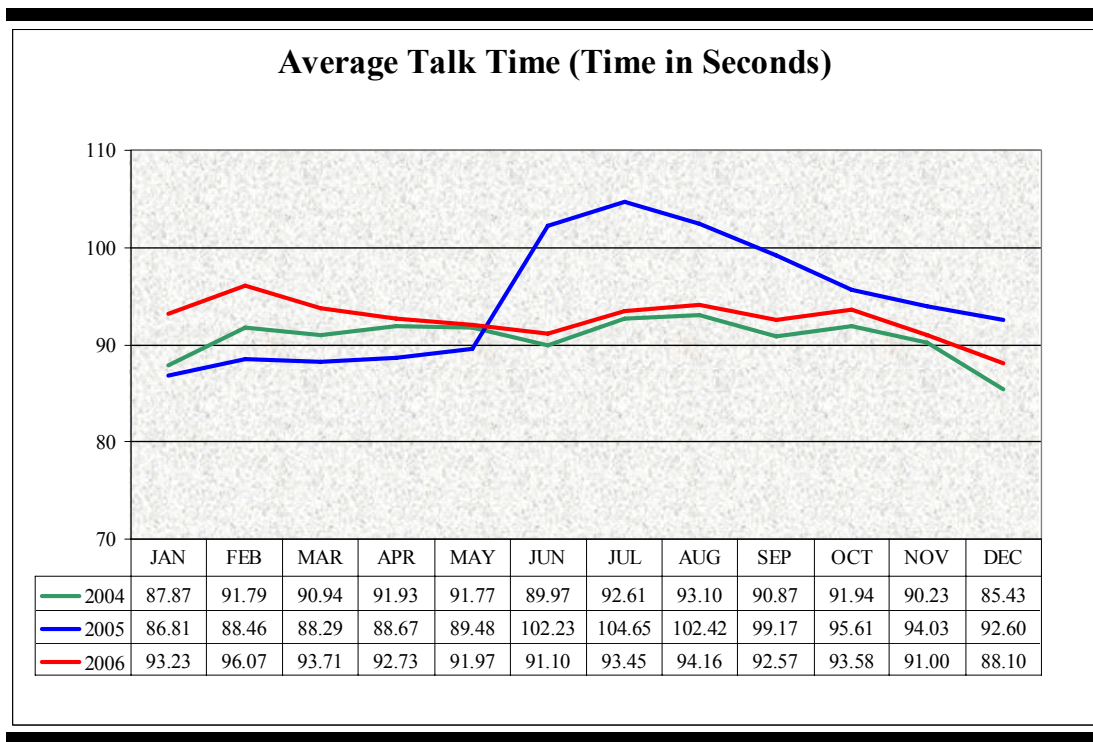
The NICS Section's average talk time during the Transfer Process is the total amount of time that a NICS Examiner spends with a caller during a transaction, divided by the total number of calls processed by the Transfer Process staff. As the mission of the NICS

Section is to provide the timely determination of subject eligibility, it is imperative that the NICS Section employees make maximum use of the minimum amount of time spent with an FFL during the FFL's initial call to initiate a NICS background check.

Based on factors such as historical call volumes and call averages, the NICS Section established a target average talk time of *less than 95 seconds* per call. In 2006, the NICS Section achieved an average talk time of

93 seconds, thereby surpassing the average talk time of 94 seconds experienced in 2005 and its long-standing and internally-established goal (reference Figure 14).

Figure 14
NICS Section Average Talk Time 2004 - 2006



NICS Section Average Answer Speed

The NICS Section's answer speed during the Transfer Process refers to the average amount of time (calculated in seconds) that a caller waits before the call is answered by a NICS Section employee. Many factors, e.g., time of the day, week, month or year; processing changes; technological modifications; staffing levels; and/or increases in transaction volume during the NICS Busy Season, can affect the rate at which calls are answered by the NICS Section.

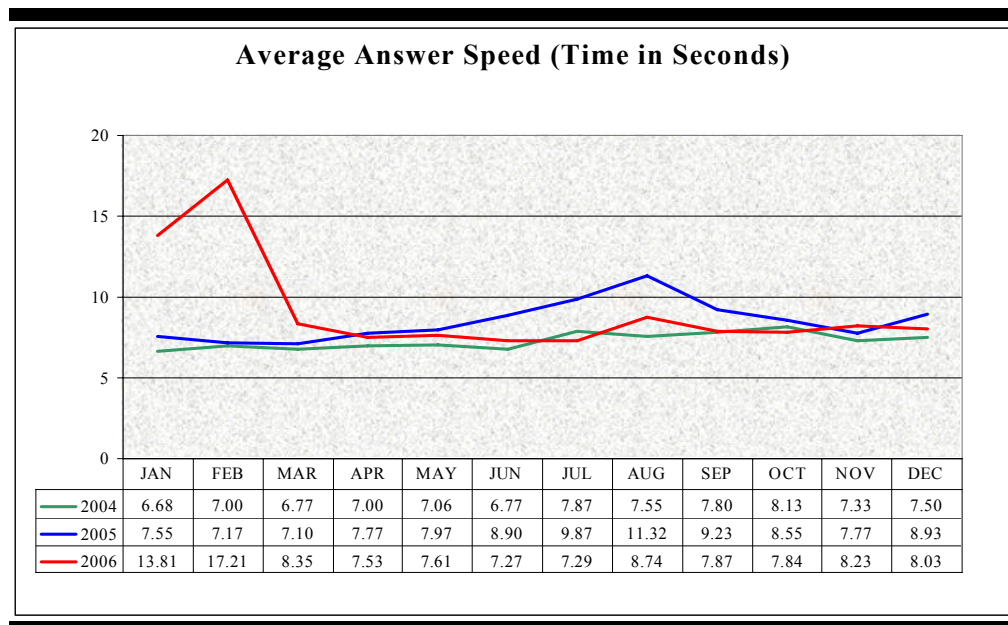
Industry standards similar to those of call center operations place emphasis on a target of approximately 80 percent of all calls being answered within 20 seconds; however, the NICS Section, since program implementation, has continually aspired to achieve better and thus established an internal target of *all calls being answered within seven seconds*.

In 2005, as a result of the deployment of Whisper technology (an audible telephonic introduction of the type of call, e.g., Transfer

Process or Customer Service, a NICS Section employee is about to receive), the NICS Section's average answer speed was adjusted to nine seconds to compensate for the additional time expended during the process. Despite some issues that occurred early on

in 2006, related to staffing and procedural modifications which were immediately detected and adjusted, the NICS answer speed averaged approximately 9.1 seconds for the year (reference Figure 15).

Figure 15
NICS Section Average Answer Speed 2004 - 2006



NICS Section Abandonment Rate

Public demand for ease of accessibility when attempting to establish contact with an organization is at the core of all effective contact operations. When a call is transferred to the NICS Section's staff from the NICS Contracted Call Centers, the caller is placed in a transfer queue. The average amount of time that a caller waits in queue for service by the NICS Section, based on 2006 data, is approximately nine seconds. During this brief period of time, every effort is made by the NICS Section to render the wait time as tolerable as possible (e.g., providing NICS program announcements and/or music) and to

connect the caller with the next available NICS Examiner as expeditiously as possible.

Because conditions that drive measurements such as abandonment rates are constantly changing (e.g., caller tolerance levels or current events prompting atypical spikes in business), establishing an abandonment rate can prove to be a challenge. Utilizing historical data, e.g., call volumes, and in the absence of an industry standard comparable to the NICS Section's Transfer Process operation, the NICS Section established an abandonment rate ceiling of *less than 1 percent* of all calls. In 2006, the NICS Section's abandonment rate averaged approximately .60 percent.

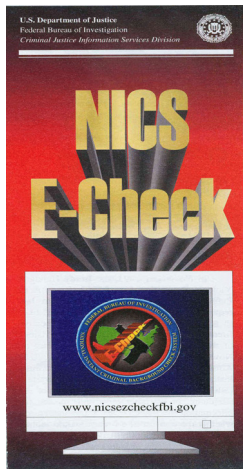
Enhancing the NICS - 2006

In 2006, the NICS Section implemented several system enhancements that serve to fulfill its goals and objectives. It also concentrated on installing numerous modifications and updates to raise the NICS' quality of service. In 2006, the NICS Section, via the CJIS Division's Information Technology Management Section (ITMS) facilitated several planned system "builds."

As the number of system and process modifications effected in 2006 through multiple system and process builds are too numerous and detail-oriented to list, a synopsis, highlighting the year's system improvement accomplishments, follows.

The NICS E-Check

The Brady Act required the Attorney General to establish the NICS for FFLs to contact by telephone, *or other electronic means*, for information to be supplied immediately as to whether the transfer of a firearm would violate federal or state law. In order to provide the *electronic means*, on August 19, 2002, the NICS Section deployed its E-Check program. The NICS E-Check enables the FFLs to initiate unassisted background checks via the Internet, providing an alternative to initiating background checks via the telephone. Use of the NICS E-Check has made possible process efficiencies such as an FFL's direct data entry of subject search information



into the system to ensure accuracy of data; ability for an FFL to retrieve 24 hours a day, 7 days a week; reduction in NICS Contracted Call Center traffic; and increased usability for hearing and speech impaired. In 2006, the NICS E-Check received many service-oriented updates and enhancements.

Queue Time Indicators: In January 2006, in the interest of effective and efficient service, and to better manage NICS E-Check workloads, the NICS Section developed and implemented a series of data-specific indicators that alert a NICS Section employee of the status regarding time in queue for the NICS E-Check transactions awaiting processing. This enhancement permits the NICS Section employees to more effectively prioritize work waiting to be processed.

E-Check Application Updates: On February 5, 2006, the NICS Section implemented multiple features enhancing an FFL's capability to manipulate and navigate transaction-specific data more expeditiously. With updates to the search, mail, retrieval, and transaction number screens, the FFLs can more efficiently utilize the NICS E-Check functionality.

NICS E-Check Video: In order to educate FFLs about the many features of the NICS E-Check functionality in addition to the various changes in processing a NICS E-Check transaction, the NICS Section produced a promotional video. In May 2006, the NICS Section disseminated the video to the NICS Section-enrolled FFLs. The same video will be provided to all new FFLs upon enrollment. The video supplements other resources, such as the FFL User Manual and NICS brochures and

corresponding literature, that the NICS Section provides to its customers.

FFL On-line Enrollment Form: On August 3, 2006, the NICS Section introduced an automated on-line FFL Enrollment Form. The FFL Enrollment Form can be completed on-line per each request submitted and approved, thus hastening the process by which an FFL can utilize the NICS E-Check functionality.

Access for FFLs Operating in the POC States: Many of the background check processes for the FFLs conducting business in the POC states are not automated (e.g., the use of point-of-sale devices) and thus, the FFLs continue to initiate background checks via the telephone. Depending on certain times of the day, week, month or year, a propensity for huge volumes of transactional activity traveling over public telephone networks can create bottlenecks which, in turn, can affect service availability. In order to further assist the NICS Section's POC state counterparts and provide their FFLs with the same Internet-based processing capability availed to the NICS Section-enrolled FFLs, the NICS E-Check was deployed for use by the POC states on August 3, 2006. As many states are operating with funding and resource limitations, NICS E-Check capability provides the POC states with an alternative that could assist with the conservation of resources.

Single Store Certificate: Access to the NICS E-Check is restricted through computer software and certification authority established via an Internet-based registration process. Each person employed by an FFL who requires access to the NICS for the purpose of initiating firearm background checks must possess an active individual certificate; however, to enhance the processes involved with tracking certificate holders, the NICS Section cultivated the concept of single store certification.

Utilization of a single store certificate allows an FFL to obtain a single electronic certificate to be issued for all employees located at each business location instead of requiring each individual employee to be registered for a certificate. Operating under this certificate, the FFL is responsible for monitoring the use of their certification by their employees. On August 6, 2006, the NICS Section made the single store certificate available to the FFLs utilizing the NICS E-Check.

E-Check Service Indicators and the E-Check Help Page: On October 15, 2006, the NICS E-Check was updated to automatically prompt and display messages to indicate the current service level of the system. Previously, such indicators were manually entered and removed by a NICS system administrator. The NICS E-Check help page was also updated to avail effective contact information to the FFLs in addition to various other administrative changes.

Enhanced FFL Reporting: Enhanced FFL reporting provides an FFL with the capability to capture and maintain background check transaction data pertaining to their customers within their own computer systems. The NICS Section worked diligently throughout 2006 to complete the development of this reporting mechanism to assist the FFLs with data storage and management.

Transmission of Deny Transactions to the ICE

When a NICS background check is conducted, an individual's descriptive data is searched via the III, the NCIC, and the NICS Index. If the subject of a background check is a non-U.S.



**U.S. Immigration
and Customs
Enforcement**

citizen, a fourth search is conducted via the applicable databases of

the ICE to determine if the individual is legally/illegally in the United States. To assist the ICE with matters relating to non-U.S. citizens and/or investigations, the NICS Section, via the ITMS, deployed an output file that gathers data corresponding to all deny transactions for non-U.S. citizens or persons who have indicated a foreign place of birth on the ATF Form 4473 and have been denied based on an illegal/unlawful alien status. With the completion of the output file, the collected data are available to the ICE upon request.

Redesign of the NICS Delay Queue Monitor

When a transaction, initiated at the NICS Contracted Call Centers, is matched to a record returned in response to a background check search, the transaction is forwarded to the NICS Section staff for further review and/or research. If a final status cannot be determined while the FFL is still on the telephone, the transaction is placed in the NICS Delay Queue to await further research and the initial call is concluded.

To assist the NICS Section with workload management and to ensure that any transaction approaching the end of the three-business-day time period has been reviewed by a NICS Section employee, the NICS Delay Queue

Monitor was redesigned. The redesign provides a visual overview of the delayed transactions waiting to be processed. As all NICS transactions are processed on a first-in, first-out basis, the redesign provides the NICS Section's staff with a pronounced tracking mechanism to more effectively indicate the age of the delayed transactions waiting to be processed by day, e.g., third business day, second business day, etc. As such, any transactions approaching the three-business-day deadline that have not been reviewed are more easily identified. The redesign of the NICS Delay Queue was deployed on October 15, 2006.

Personal Computer (PC) Client-Phase II

Implemented in staged phases, PC Client provides the NICS Section employees with a single point of access to the databases necessary to process NICS background check transactions at their workstation. Phase I-A, deployed by the NICS Section in June 2005, provided access to the NICS, a Windows-based application, NCIC query capability, time translation functionality, and III subject search capability. In November 2005, the NICS Section implemented Phase I-B by adding two features to its work environment, the outbound facsimile server and internal e-mail capability. The completion of Phase II of PC Client was facilitated on July 9, 2006, with the implementation of the following:

Incoming Facsimile Server: The connection to the incoming facsimile server allows the NICS Section employees to receive facsimile transmissions directly at their desktops. This provides increased processing efficiencies as the NICS Section employees no longer have to leave their workstations to retrieve incoming facsimile transmissions from other areas.

Report Server: The Report Server allows authorized NICS Section personnel to request specific reports directly from the NICS, thereby eliminating the need to contact the ITMS to have specific reports generated. As such, needed information is available to the NICS Section staff in a more expeditious manner.

Identification Record Report Request: With this enhancement, the NICS Section employees are provided with the capability to request Identification Record Reports (criminal history records) via their desktop. Previously the NICS Section employees had to physically leave their workstation to accomplish this task.

File Attachment: This enhancement provides the NICS Section employees with the capability to attach documents, e.g., information provided by external agencies via returned facsimiles, to transactions. As such, information regarding action taken on transactions will become a part of the record and thus be available for review.

In 2006, the NICS Section's technical staff, with the assistance of the ITMS, completed the development of two additionally planned enhancements to the NICS:

NICS Document Server: Placing all resource documents needed for processing NICS transactions (e.g., the NICS Section's Standard Operating Procedures) within the accessibility of the PC Client environment, the newly developed document management system provides for greater work processing efficiencies. Through features such as centralized storage with a single point of access; the ability to target specific information to particular audiences; the ability to customize document layout and format by type, content, etc.; and the application of a Windows-based

search engine, even greater efficiencies are gained by providing the NICS Section employees with:

- the capability to categorize and search documents by name;
- a means to more expeditiously produce documents, e.g., on-line participation in the development of documents;
- a means to more expeditiously facilitate and manage meetings; and
- a mechanism that will allow for the sharing of files or documents by multiple employees.

NICS Training Server: The NICS Training Server was designed to provide real-time training services to the NICS Section employees. Previously, various facets of training for the NICS Section employees were facilitated through surveys to determine how many employees required the training, the availability of the training staff, logistics regarding training facility or resource availability, etc. As a result of this enhancement of the NICS, many facets of training can be automated via the PC Client environment, thus eliminating many of the administrative preparations that often create a lag from the time the training need is identified until the time it can be administered. As a result, training needs can be accommodated on a more expeditious basis. Originally developed and scheduled for implementation in 2006, deployment of the NICS Document Management System and the NICS Training Server was effected shortly after year-end 2006.

External Facsimile Services

In November 2005, the outbound facsimile services feature of the PC Client work environment was deployed. The outbound facsimile feature provides the NICS Section employees with the capability of disseminating facsimile requests to external agencies from their desktop at their workstation. On May 7, 2006, the outbound facsimile services feature was enhanced to permit the NICS Section employees to disseminate facsimiles to multiple external agencies.

NICS Connection to the Enterprise Storage Area Network (ESAN)

The CJIS Division established a Technical Architecture Office to guide and help shape the future of the CJIS SoS. Accordingly, the CJIS Division established a framework for more effective CJIS services, with better maintainability, while also supporting future services. Included in the technical architecture is the ESAN, a common storage resource that will, over time, house all the SoS storage. Like

the NICS, each system of the SoS maintains its own storage area network; however, in order to increase operational efficiencies and services provided by the CJIS Division systems, each of the components supporting the SoS is being migrated to the ESAN. The movement of CJIS systems to a common infrastructure will allow the FBI to: (1) simplify existing systems; (2) optimize the efficiency of existing systems; and (3) advance technology to improve service delivery.

On June 19, 2006, the CJIS Division's ITMS began the staged migration of the NICS to the ESAN. On June 27, 2006, the migration of the NICS to the ESAN was successfully completed without incident. As a result of the progressive migration of all of the identified components of the CJIS SoS to the ESAN, the NICS was provided with the capability to store more data and access it more efficiently.

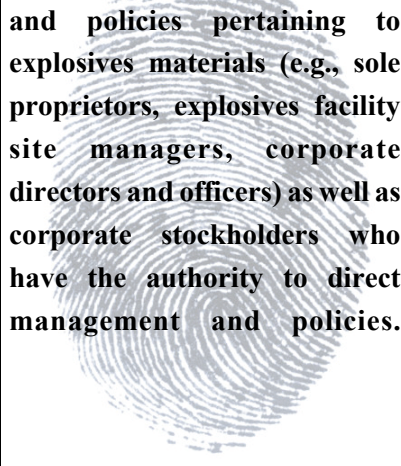
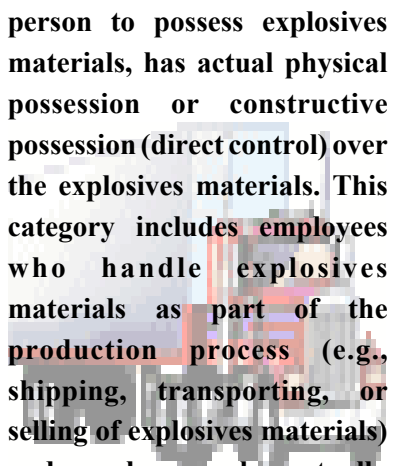
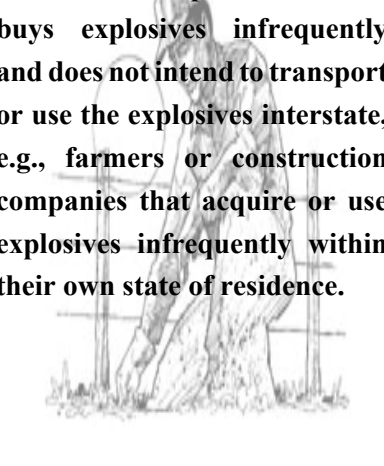
NICS Updates - 2006

Explosives Transaction Processing

The Safe Explosives Act requires that a NICS background check be conducted as part of the licensing process for any person who transports, ships, causes to be transported, or receives explosives materials in either interstate or intrastate commerce. There are two separate categories of explosives licenses (reference Figure 16), one for responsible persons and employee possessors, and the other for a "limited permit." An applicant for a responsible persons license must provide

identifying descriptive information and fingerprints to the ATF's Federal Explosives Licensing Center (FELC). The applicant's identifying descriptive information and fingerprints are forwarded to the CJIS Division's Identification and Investigative Services Section (IIS) for identification processing. The results of the IIS identification processing are provided to the ATF's FELC and electronically forwarded to the NICS Section, where a background check is conducted.

Figure 16
Categories of Explosives Licenses

Responsible Persons	Employee Possessor	Limited Permit
<p>A responsible person has the power to direct the management and policies pertaining to explosives materials (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.</p> 	<p>An employee possessor, authorized by a responsible person to possess explosives materials, has actual physical possession or constructive possession (direct control) over the explosives materials. This category includes employees who handle explosives materials as part of the production process (e.g., shipping, transporting, or selling of explosives materials) and employees who actually use the explosives materials.</p> 	<p>A limited permit is designed for the intrastate purchaser who buys explosives infrequently and does not intend to transport or use the explosives interstate, e.g., farmers or construction companies that acquire or use explosives infrequently within their own state of residence.</p> 

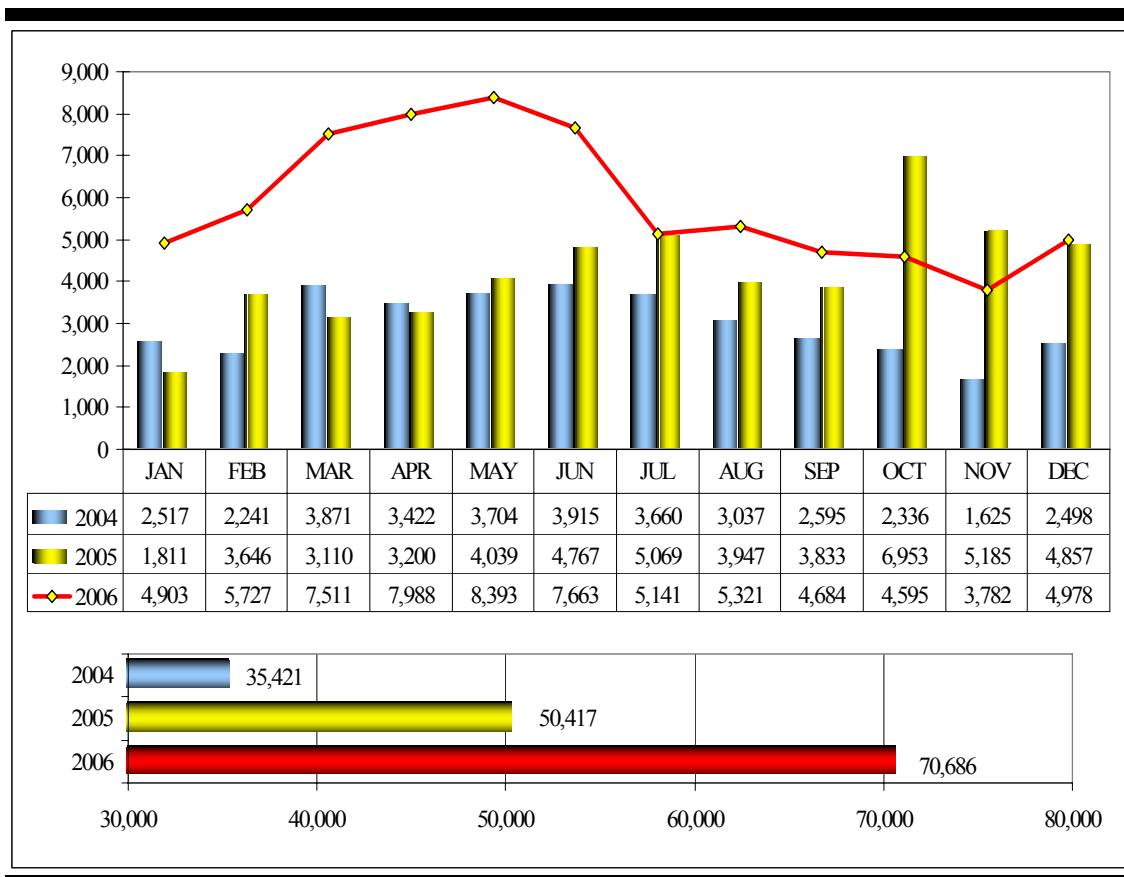
The results of the NICS background check are returned to the ATF via the NICS E-Check. With the results of processing provided by the IISS and the NICS Section, the ATF ultimately renders their decision as to subject eligibility. The processing of information for an individual attempting to obtain an employee possessor license is the same, except that fingerprints are not required, only a NICS background check.

The background checks for explosives are processed via the NICS utilizing federally-established prohibiting criteria; however, not all of the federally-prohibiting criteria used to

evaluate firearm transactions are applicable to explosives transactions. Specifically, misdemeanor crimes of domestic violence and domestic violence restraining orders are not prohibitive categories for explosives background checks.

In 2005, the NICS Section processed a total of 50,417 explosives background checks (reference Figure 17). Of these, 6,755 transactions were processed for responsible persons and 43,662 background checks were submitted for employee possessors.

Figure 17
NICS Explosives Background Checks 2004 - 2006



By comparison, in 2006, the NICS processed 70,686 explosives background checks, an increase of approximately 40 percent over those conducted in 2005. Of the 70,686 explosives checks conducted in 2006, a total of 11,040 were processed for responsible persons and 59,646 were processed for employee possessors.

To hasten the responsible person license renewal/recheck process, the NICS Section created an additional NICS purpose code to allow the ATF to implement responsible person background check requests via the NICSE-check. This additional purpose code, although created in 2006, was deployed shortly after the close of year-end 2006.

Year	Checks	Denials	Denial %
2004	35,421	1,004	2.8%
2005	50,417	1,375	2.7%
2006	70,686	1,624	2.3%

Violent Gang and Terrorist Organization File (VGTOF) Processing

When a NICS background check is conducted, an individual's descriptive information is searched via the databases comprising the CJIS SoS. With a search of the III and the NICS Index, the NICS also searches several of the "person" files availed via the NCIC. The NCIC files searched during a NICS background check are:

- *Foreign Fugitive File;*
- *Immigration Violator File;*

- *Protection Order File;*
- *Wanted Person File;*
- *U.S. Secret Service Protection File;*
- *SENTRY File;*
- *Convicted Person on Supervised Release File;*
- *Convicted Sexual Offender Registry; and*
- *Violent Gang and Terrorist Organization File.*

Persons whose record information is maintained in the VGTOF are not specifically prohibited from possessing or receiving firearms unless one or more of the federal firearm prohibitors exist.

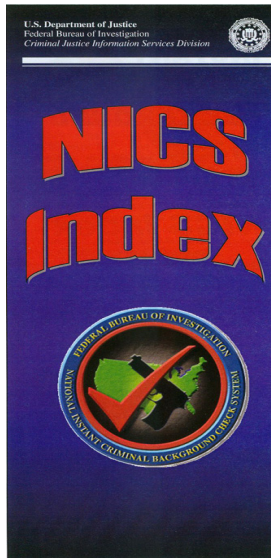
As a result of a 2004 audit conducted by the Government Accountability Office, the DOJ determined that all NICS-generated responses that include a match of the subject's descriptive information to the descriptive information of the subject of a record maintained in the VGTOF must be reviewed and evaluated by the staff of the NICS Section, including those matches generated via POC state operations. As such, effective July 17, 2005, the NICS Section began processing all transactions returning a match to a VGTOF record.

In 2005, the NICS Section processed 239 valid VGTOF matches based on descriptive information. A total of 19 of the valid VGTOF matches processed by the NICS Section resulted in denials. These denials were based on information maintained in the databases searched by the NICS or obtained through routine research typically associated

with processing background checks. In 2006, 49 of the 279 valid VGTOF matches (based on descriptive information) resulted in denials based on federal or state-prohibitive criteria.

NICS Index

Pursuant to 28 C.F.R., Part 25, the NICS Index, created specifically for use by the NICS, contains record information contributed by



local, state, and federal agencies pertaining to persons federally prohibited from receiving firearms that is not maintained in the III or the NCIC. Such records include (but are not limited to) protection orders, active warrants not located in the NCIC, persons who are under a court order not to possess a firearm, a felony conviction posted to a state record

not reflected in the III, and/or individuals meeting the federally established criteria pertaining to mental health/illness.

Contributing states can submit mental health records to the Denied Persons File if they do not or cannot, e.g., by virtue of state law, identify the information as specific to a mental health record
--

The records entered into the NICS Index are maintained via one of six specific and distinctly categorized files. Those files, as

identified via the *Federal Register* (Volume 62, No. 124), are outlined as follows:

- *Denied Persons:* Persons who are federally disqualified when a record is not already included in the NCIC or the III.
- *Illegal/Unlawful Aliens:* Persons who are aliens and are illegally or unlawfully in the United States.
- *Controlled Substance Abusers:* Persons who are unlawful users of or addicted to any controlled substance.
- *Dishonorable Discharges:* Persons who have been discharged from the armed forces under dishonorable conditions.
- *Citizenship Renunciants:* Persons who have renounced their U.S. citizenship.
- *Mental Defectives/Commitments:* Persons who have been adjudicated as a mental defective or have been involuntarily committed to a mental institution or have been deemed incompetent to handle their own affairs.

Ever mindful of its mission, the NICS Section continuously strives to enhance program effectiveness and efficiency in order to provide the NICS user community with the most comprehensive and capable system for processing background checks pursuant to the Brady Act. Since the databases searched during the background check process comprise records submitted voluntarily by local, state, and federal agencies, the continual improvement in the quality and quantity of records contained therein greatly benefits

the NICS users and, ultimately, law enforcement efforts in the furtherance of public safety. In February 2006, the NICS Index exceeded four million records and, as of December 31, 2006, maintained 4,310,442 immediately prohibiting records. Many state and federal agencies maintain various types of information, e.g., mental health records, that

available at the national level during a NICS background check.

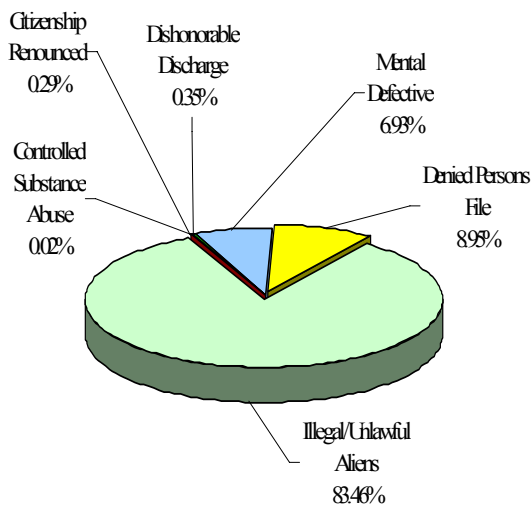
Accordingly, the NICS Index was created to provide the means for such agencies to voluntarily contribute the data they hold pertaining to federally-prohibited persons. Without this information being readily available at a national level, prohibited persons may be successful in their attempts to receive firearms merely by crossing state lines.

Active Records in the NICS Index

PTD - As of December 31, 2006

Illegal/Unlawful Aliens	3,597,385
Denied Persons File	385,793
Mental Defective	298,571
Dishonorable Discharge	15,087
Citizenship Renounced	12,651
Controlled Substance Abuse	955
Total Active Records in the NICS Index	4,310,442

**The NICS
is only as
effective
as the
information
availed to it.**

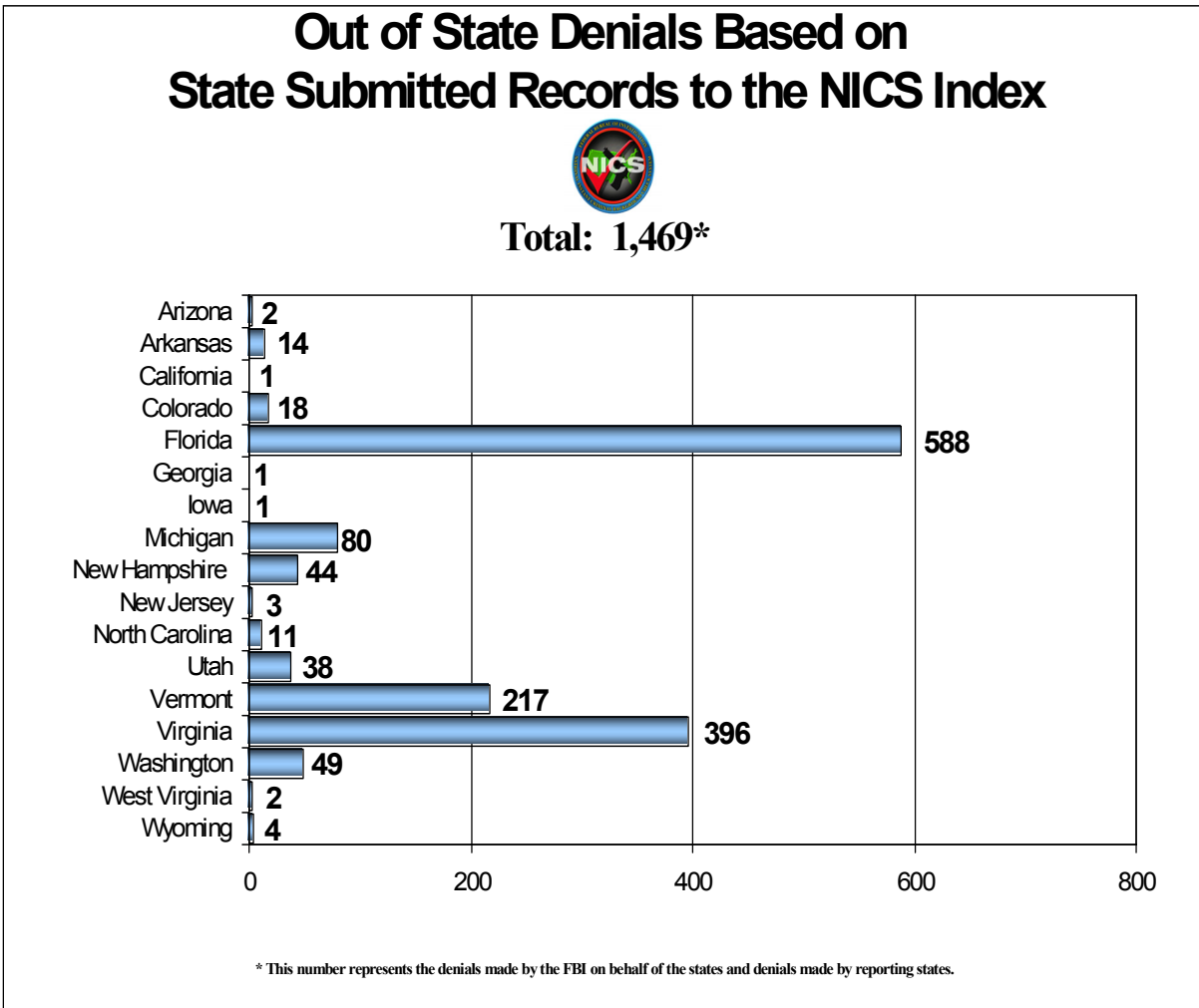


Based on state record contributions to the NICS Index, over 1,400 such transactions (reference Figure 18) have been denied due to the availability of record information that might not have otherwise been known to the NICS for use in determining subject eligibility during a background check search. This statistic indicates that the availability of state-held information on a national level has a profound impact on public safety.

demonstrate certain individuals to be federally prohibited from the transfer of a firearm; however, much of this data is not readily

Figure 18

Denials Based on State-submitted NICS Index Records as of December 31, 2006



Note: The aforementioned data is provided to the NICS Section by the states. As not all states, as of December 31, 2006, were transmitting final transaction determinations to the NICS, these numbers may be understated.

The NICS Section strives to educate and share information with states and the public regarding the benefits of contributing records to the NICS Index, such as via participation with various nationwide initiatives, law enforcement and judicial conferences, the dissemination of comprehensive information about the NICS, etc. As a result of ongoing efforts by the NICS Section, in addition to the

numerous contributions by local and state agencies, the number of records contained in the NICS Index has continually grown since program implementation. In 2006, an additional 349,762 records were submitted to the NICS Index, an increase of approximately 9 percent over the number of available records in 2005. From program inception in November 1998 through

establishing and maintaining liaison with local, state and federal officials in an attempt to promote record dissemination to the NICS Index. As a result of NICS Section and state-initiated efforts, several states are contributing federally-prohibiting records to the NICS Index (reference Figure 19).

By obtaining and making decision-making information available to the NICS Index, all agencies will have access to valuable prohibiting records when performing a NICS background check.

NICS Appeal Services

If denied a firearm transfer because of a record returned in response to a NICS background check, the prospective firearm transferee can request further review and reconsideration of the deny decision rendered. The provisions for appeals, outlined in subsection 103 (f) and (g) and Section 104 of the Brady Act and also in the NICS Regulations, 28 C.F.R., Part 25.10, advise that individuals who believe they were wrongfully denied the transfer of a firearm may submit a written request for an appeal of that decision.

To specifically address appeals and provide the same quality of service to appellants as the NICS Section provides to all customers and users, the NICS Section established the Appeal Services Team (AST). With a focus on the appeal evaluation process, the AST receives and conducts further research and analysis of record information and/or materials (e.g., fingerprints, relief of disabilities documents, adjudication records, etc.), in an attempt to determine if additional information, not known to the NICS at the time of an individual's background check and resulting denial, impacts the subject's eligibility to receive a firearm.

A closer look at the number of denial decisions overturned on appeal (reference Figure 20) in 2006 indicates that the leading reason for overturns is based on the submission of fingerprints confirming the prospective firearm transferee's non-identity with the subject of the prohibiting record. Bearing in mind that the NICS is a name-based check only, an individual can be validly matched to the subject of a prohibitive record based on a *similar name* and/or *similar descriptors*. Another reason includes the attainment of supplemental documentation from judicial agencies to update/clarify the status level of a felony versus a misdemeanor conviction. The aforementioned data are consistent with the

leading reasons for overturns generated in 2005.

The leading reason for overturning a deny on appeal is non-identity based on fingerprint comparison.

In the pursuit of the resolution of an appeal, in 2006, the NICS Section received:

- 11,957 appeal requests from individuals who received deny decisions¹¹;
- 6,535 fingerprint card submissions; and
- 1,887 final disposition and/or record-clarifying documents.

In the interest of providing timely determinations of eligibility for lawful purchasers and to enhance the appeal process by minimizing the number of appeals and reappeals, the Voluntary Appeal File (VAF), discussed later in this report, was established. The VAF provides an alternative (for qualified persons) to the submission of a subsequent appeal or reappeal.

¹¹ Although the NICS Section processes all explosives transactions, appeals related to denied explosives transactions are facilitated by the ATF and thus are not included in the NICS Section's appeal transactions data.

Figure 20
Historical NICS Section Appeal Statistics 2002 - 2006

Year	Number of NICS Section Transactions	Number of Denials Issued	Number of Appeals Received	% of Denials Resulting in an Appeal	% of Denials Overturned on Appeal
2002	4,248,893	60,739	10,398	17%	31%
2003	4,462,801	61,170	10,881	18%	37%
2004	4,685,018	63,675	11,349	18%	27%
2005	4,952,639	66,705	10,208	15%	17%
2006	5,262,752	69,930	11,957	17%	27%

(Based on NICS Section Statistics only)

In 2006, the NICS Section's AST also identified many measures to enhance and hasten the appeal process. Some of the efforts expended by the AST include a restructuring of the standard operating procedures associated with appeal processing; the implementation of an access log to track productivity, compliancy percentages, etc.; discontinuing the processing of non-qualified ATF permit appeal requests; and expanding the fingerprint card acceptance guidelines. In 2006, the AST collaborated with the CJIS Division regarding the submission of electronic fingerprints in lieu of manually-rolled fingerprint processing.

NICS Process Improvement

In August 2004, as part of a streamlining initiative, the management of the NICS Section challenged its employees to identify potential changes to the NICS processes that could improve the current NICS operations. The response to this challenge was tremendous. Although the initiative was originally designed to elicit ideas for streamlining, the many suggestions and recommendations proffered by the NICS Section employees resulted in

numerous improvements in the way the NICS conducts business, such as:

- realigning certain duties with specialty teams, thereby providing the NICS Section employees with more time to devote to core duties, e.g., processing transactions;
- automating certain forms so that the staff does not have to expend valuable time manually completing them;
- minimizing the amount of time and research required to complete a background check transaction via measures such as the elimination of redundancy in processing or the restructuring of existing processes to make background check and associated processing more efficient, etc.

As a result, in 2006, the NICS Streamlining Initiative was moved from a non-Busy Season-based project to that of a full-time program for the NICS Section and was renamed the NICS Process Improvement Enterprise. The newly

implemented Process Improvement Enterprise, comprising a diverse team of NICS Section employees representing various levels of job knowledge and expertise, supports goals and objectives pivotal to making maximum use of all available resources. Operating within limited budgetary constraints, the NICS Process Improvement Team identifies, researches, and evaluates recommendations for the improvement and enhancement of the NICS for:

- feasibility;
- added value to the program;
- potential resource savings; and
- overall improvement to program effectiveness and efficiency.

With a year-round program to facilitate program and process improvement, the NICS Section envisions a coordinated process to continually improve the NICS in the future.

Criminal History Dispositions and the NICS Document Review and Scanning Team (DRST)

In 2006, approximately 8 percent of all transactions were delayed pending additional research in order to determine a final transaction status. Final disposition information is vital to the NICS as it is required to determine subject eligibility. When the descriptive information of a prospective firearm prohibited person is not approved for a firearm transfer or if a non-prohibited transferee is matched to a potentially prohibiting record, the NICS Section must delay the transaction and conduct further research in an attempt to determine a final status of either proceed or deny. Federal law provides the NICS with a three-business-day period to accomplish this. During this period,

the NICS Section employees must reach out to law enforcement and judicial agencies to solicit the information needed to either ensure that a prohibited person is not approved for a firearm transfer or that a non-prohibited person is not prevented from the lawful transfer of a firearm.



In 2006, the NICS Section effected the posting of over 45,450 dispositions to criminal history records. Program to date, the NICS Section has facilitated the posting of close to 600,000 dispositions to criminal history records.

Up-to-date criminal history information benefits all law enforcement initiatives and therefore benefits the general public. In 2006, the DRST scanned over 37,000 documents provided by the IISS for future use when conducting background checks and disseminated approximately 12,337 dispositions and/or related documents to state officials for record maintenance at the state level.

Year	Criminal History Updates
1999	73,240
2000	68,928
2001	79,965
2002	87,838
2003	96,591
2004	74,404
2005	66,561
2006	45,452
Total	592,979

393,660 transactions initiated through the Internet-based electronic access to the NICS (reference Figure 21). Of the program-to-date NICS E-Check transactions, 169,673 were processed in 2006, representing a 68 percent increase in the number of transactions reported in 2005. As of December 31, 2006, there were approximately 2,379 active users (FFLs and their employees) utilizing the NICS E-Check.

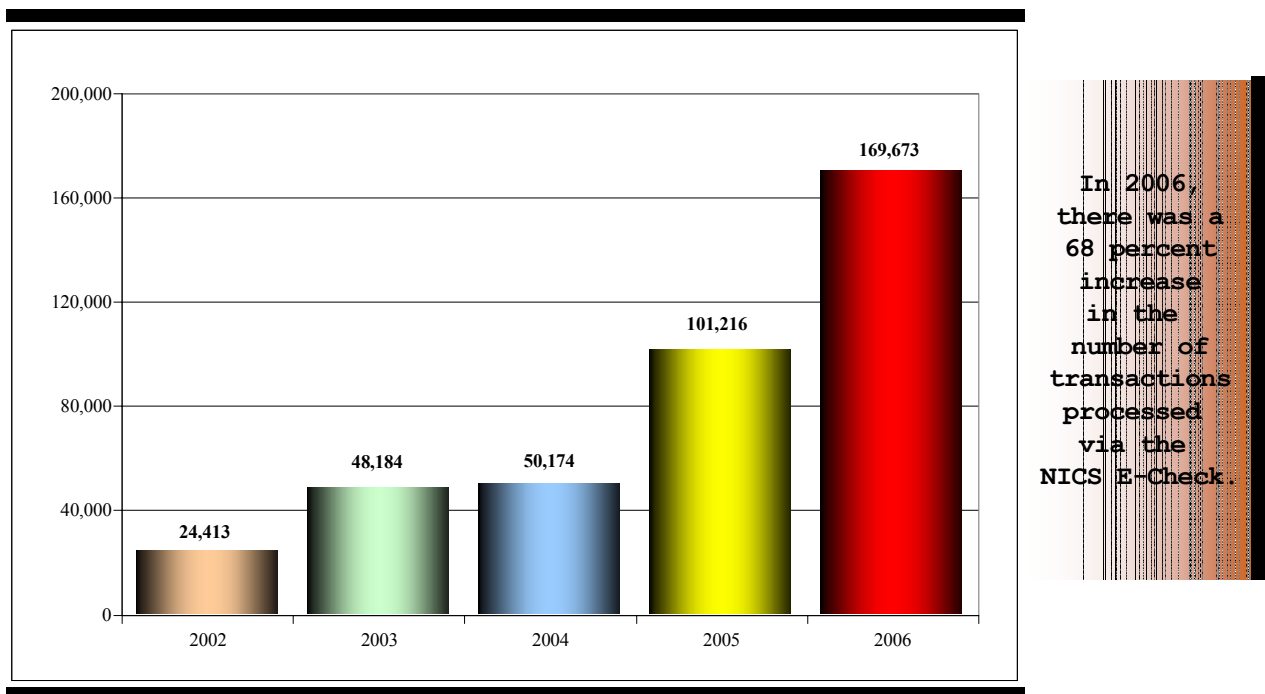
During the NICS Busy Season, the workload for the NICS Section progressively increases, leading to an increase in the number of dispositions needed to complete transactions. The DRST's work grows during the Busy Season on a corresponding basis.

On January 19, 2006, at the end of the NICS 2005 Busy Season, the DRST had a backlog of approximately 52,000 documents for processing in addition to their daily incoming work. It was anticipated that the backlog would be eliminated by September 2006; however, with the assistance of available employees, the DRST succeeded in eliminating the backlog by July 1, 2006.

Growth of NICS E-Check Transactions

The NICS E-Check provides FFLs with the ability to initiate an unassisted NICS background check for firearm transfers via the Internet. The FFLs utilizing the NICS E-Check also maintain the capability to initiate background checks by telephone via the NICS Section's Contracted Call Centers. From the implementation of the NICS E-Check in 2002, through December 31, 2006, there have been

Figure 21
Growth of NICS E-Check Transactions



Availability of All Warrant Records Via the NCIC

In April 1998, with approval by the CJIS Advisory Policy Board and the Director of the FBI, a change in NCIC policy to allow the entry of non-extraditable felony (and serious misdemeanor) warrants that meet established NCIC eligibility requirements into the NCIC was implemented. Previously, the entry of warrants into the NCIC was based on the following categories of subject eligibility: (1) an individual (including a juvenile who will be tried as an adult) for whom a federal warrant is outstanding; (2) an individual (including a juvenile who will be tried as an adult) for whom a felony or serious misdemeanor warrant is outstanding; or (3) probation and parole violators meeting the criteria in either of the above. Any entry corresponding to a record meeting any of the aforementioned

criteria could only be placed in the NCIC if the originating agency determined that extradition would be pursued. However, it was eventually detected by the CJIS Division that some of the states misinterpreted the April 1998 NCIC warrant eligibility policy change and had entered their state-held data specific to non-serious misdemeanor warrants into the NCIC, thereby eliminating their state warrant file.

Non-serious misdemeanor warrants are, pursuant to 18 U.S.C., Section 922, potential prohibitors for persons attempting to receive firearms and/or firearms/explosives permits. Accordingly, the availability of all non-serious warrants via the NCIC greatly assists the NICS in determining subject eligibility pursuant to the prohibiting criteria established by federal law.

Given the aforementioned, the CJIS APB subsequently voted to allow the entry of non-serious misdemeanor warrants into the NCIC as an option to state system users and, on September 3, 2006, the CJIS Division made available three new message keys: (1) QWA: provides any available warrant records regardless of the type (felony or misdemeanor [serious or non-serious]); (2) QWE: provides records that indicate extradition; and (3) QWF: provides felony warrant records only. These message keys allow for the customization of warrant data sought by NCIC users.

Anticipating the expansion of the NCIC to permit the entry of non-serious misdemeanor warrant data and the impending deployment of the new message keys to accommodate the same, the NICS Section correspondingly made technological and procedural preparations for the upcoming change in NICS processing as well. Effective September 3, 2006, when a background check search is conducted through the NICS via the NICS Section, a QWA is requested of the NCIC.

NICS Assessment Program

In order to meet the responsibility of maintaining the integrity of the NICS, the Attorney General, prior to the deployment of the NICS in November 1998, established a system for its oversight and review. Consequently, the FBI, for the purpose of compliance with a statutory requirement of ensuring the privacy and security of the NICS and the proper operation of the system, decided to retain records of transactions in an audit log. As such, the NICS Audit Log contains information relating to each NICS background check¹² that has been requested by the FFLs and the POC states.

Through audits of the NICS Audit Log, the FBI can identify instances in which the NICS is used for unauthorized purposes and protect against the invasions of privacy that could result therefrom. The NICS Audit Log also allows the FBI to perform quality control checks on the system's operation by reviewing the accuracy of the responses given by the NICS personnel to the FFLs. The Audit Log is also used to analyze system performance, assist in resolving operational problems, support the appeal process, and/or support audits of the use of the system.

With the goal of providing optimal service to its users in the furtherance of public safety, the NICS Assessment Unit (NAU), originally implemented via the NICS Quality Assurance Program, was established shortly after the implementation of the NICS, to provide quality

assurance of the NICS. Consistent with its mission, the NAU not only fulfills the requirements pursuant to federal law, but also reinforces the missions of the FBI and the CJIS Division by ensuring that accurate, effective, and efficient service is provided to the NICS' users in addition to the law enforcement and criminal justice community. The NAU works 17 hours a day, 364 days a year, to ensure that the NICS operates as intended and that the quality of the work generated by the NICS Section staff ranks well above comparable industry standards regarding program accuracy.

The Work of the NAU

The NAU performs assessments of all NICS internal processes and functions to ensure adherence to established guidelines and quality within the NICS Section by:

- Conducting timely and ongoing program assessments;
- Performing daily audits of NICS transactions;
- Determining and promoting accountability at all levels;
- Providing guidance and/or recommending additional training, etc., to all levels of NICS Section employees; and
- Providing and promoting positive reinforcement for work well done.

Various assessments of operational, system and employee performance are reviewed daily,

¹² Pursuant to the NICS Regulation, 28 C.F.R., §25.9 (b), the NICS is required to destroy all identifying information relating to an approved transaction no more than 24 hours after the FFL has been notified of the proceed determination.

weekly, and/or monthly. During any assessment, the NAU references existing federal and state laws, procedures and/or policies governing work, and determines standards based on criteria, such as: (1) efficient use of resources; (2) accuracy of performance; (3) potential areas for improvement in productivity; and (4) potential needs for training or retraining. Each assessment is intended to detect any areas of concern and effect measures to overcome any noted deficiencies. For example, although new employees undergo a comprehensive and rigorous training regimen before joining the ranks of the processing staff, the NICS Section, through continual review and evaluation of employee performance via the NAU, ensures that *all* employees work within established rules and regulations while remaining abreast of the NICS mission.

In 2006, after observing the consecutive yearly increases in the transactional influx to the NICS, the NAU reorganized its staff into five separate but integral components. Through a re-categorization of the NAU's fundamental duties, the strengths of the NAU's staff are more effectively put to use via the centralization of the core duties and functions specific to a particular facet of program assessment. A group of employees with acquired expertise and discipline in one specific area of work can function more effectively and efficiently as a team when their combined skills are devoted to that one specific area of expertise. Thus, the NAU has become empowered to most effectively provide an

optimal product in service to the users of the NICS. In 2006, the NAU performed 106,056 assessment reviews including:

- 74,793 reviews of processed transactions;
- 3,654 reviews of the processing relative to appeals;
- 1,444 reviews regarding the applicable entry of individuals into the NICS Index; and
- over 11,500 various other reviews, e.g., firearm retrieval referrals, call monitoring, etc.

Additionally, during 2006, the NICS Supervisory Legal Instruments Examiners (NICS Supervisors) began performing a portion of the quality control reviews of transactions. This realignment of some of the work from the NAU to the NICS Supervisory Staff allowed the NAU more opportunity to focus on other assessment services indigenous only to the NAU and, in turn, the opportunity to improve their services to the NICS Section.

NICS Section Outreach and Information-Sharing Efforts

Shortly after the implementation of the NICS, the NICS Section realized that the two biggest obstacles facing the NICS program are: (1) a massive number of incomplete criminal history and related records; and (2) a lack of knowledge by local, state and other federal agencies regarding the NICS, its purpose, and its potential value to law enforcement and public safety initiatives. Recognizing that cooperation from law enforcement and judicial agencies when attempting to acquire record-completing disposition information is vital to the background check process, the NICS Section implemented a national educational outreach program.

The goal of the NICS Outreach Program is fundamental in nature--to educate local, state and federal law enforcement and judicial agencies across the United States, via various information-sharing opportunities, about the NICS and the importance of intercommunication through the sharing of final disposition and/or record-clarifying information.

The following information outlines several of the highlights of the outreach efforts discharged by the NICS Section in 2006 in support of its mission to determine subject eligibility to receive firearms (and firearms/explosives permits) in accordance with federal and state law.

NICS Travel Team

Launching the NICS Section's national outreach program in 1999, the NICS Travel Team attends and participates in various national conferences and seminars across the United States. Participation in various

externally-sponsored events often requires the NICS Travel Team to develop and provide presentations covering various facets of the NICS Program and/or manning an information-sharing and exhibition booth.

On numerous occasions throughout 2006, the NICS Travel Team visited various states such as California, Louisiana, Texas, New Mexico, Colorado, Wisconsin, Florida, and Tennessee to attend or participate in events, including various Clerks of Courts Conferences, FFL seminars, Terminal Agency Coordinators Conferences, in addition to conferences sponsored by the National Sheriff's Association, the National Association of Pawn Brokers, County Officials Associations, the International Institute of Municipal Clerks, the National Forum on Criminal Justice and Public Safety, and the National League of Cities. The information shared with and between these agencies is of tremendous value not only to the NICS Program but to the local and state agencies as well.

POC Support Team

Comprising a group of NICS Liaison Specialists who have cultivated extensive backgrounds in all facets of NICS policy and procedures, the POC Support Team dedicates its efforts to providing a centralized and consistent source of information and support to all users of the NICS. Since its implementation in 2003, the POC Support Team has carried out its mission to educate and share information with the law enforcement and judicial community in America about the NICS and how the mutual partnership forged between federal and state agencies benefits the public. The POC

Support Team develops, maintains, and continuously updates the information shared with state and federal agencies and provides tutorials regarding a wide range of topics, such



as the NICS Overview, federally-prohibitive criteria, state prohibitive criteria, terminology and legal interpretations, research strategies, the NICS Index, ICE responses, the NICS appeal process, and the VAF.

In 2006, the POC Support Team presented information-sharing sessions in 34 locations in 13 states to approximately 900 attendees representing diverse job duties and responsibilities, such as law enforcement duty officers and administrative officers; judges and court system personnel; communications and training personnel; auditors; Terminal Agency Coordinators; firearm permit staff; legal assistants and clerks; dispatch personnel; investigative personnel; corrections officers; and intelligence research personnel.

Based on the following comments proffered by information-sharing event participants, it is clear that the POC Support Team's efforts are effective and accomplish the goals of the NICS Section's outreach and information-sharing program.

"It will allow me to make more informed decisions."

"Gives me a better understanding of why disposition information is important . . ."

"Enables me to be more accurate and efficient."

"It will help in evaluating [criminal] histories and in interpreting information . . ."

"Much more understanding of the Brady Law and the disqualifiers."

"More clearly understand the impact of returning information quickly."

"Very impressed with the level of commitment to help local agencies."

Liaisons With External Groups

The NICS Section and various other external agencies share one basic goal in common--to promote the furtherance of public safety. Valuing the commitment that many organizations espouse regarding public safety, the NICS Section establishes and fosters relationships with various external agencies in a joint effort to protect the citizens of our country. As a result, the number of "partners" working along parallel lines to keep America safe continuously grows. Several of the external liaisons nurtured in 2006 by the staff of the NICS Section follow:

- Providing a vast array of informational opportunities via the facilitation of an exhibition booth to promote interaction with event attendees, the NICS Section participated in two conferences hosted by the National Sheriff's Association. These conferences were held in January 2006 and in June 2006.

- From February 9, 2006, through February 12, 2006, the NICS Section staff attended and participated at the National Shooting, Hunting and Outdoor Trade (SHOT) Show in Nevada. The SHOT Show annual exhibition, sponsored by the National Shooting Sports Foundation, connects manufacturers and retailers (and other interested organizations) regarding the latest products and available merchandise associated with the shooting sports industry and provides the NICS Section with the opportunity to establish liaisons with a large number of FFLs/customers at a single event. Together with the ATF, the NICS Section staff presented a seminar on the detection of straw purchase attempts.¹³
- The NICS Section attended and participated in the DOJ Project Safe Neighborhoods National Conference held in Denver, Colorado, from May 2, 2006, through May 4, 2006. The representatives from the NICS Section hosted breakout sessions and sponsored an exhibition booth.
- Representatives from the NICS Section participated in a meeting with the ATF, the DOJ, and the National League of Cities on May 9, 2006, in Washington, D.C. The focus of the discussions centered around the federally-disqualifying criteria associated with the mental health prohibition.
- From May 19, 2006, to May 21, 2006, the NICS Section manned an information-sharing exhibition booth at the annual convention of the National Rifle Association in Milwaukee, Wisconsin. The NICS Section representatives shared information with attendees from 46 of the 50 states, as well as Puerto Rico and Canada.
- The NICS Section attended and facilitated an informational exhibition booth display at the National Pawnbrokers Association and Expo Conference held from July 17, 2006, to July 21, 2006, in Las Vegas, Nevada.
- On September 19, 2006, tribal leaders from across the United States, in addition to U.S. Attorneys, the ATF, the Office of Justice Programs, the National Institute of Justice, the BJS, the Office of Tribal Justice, the NICS Section, and others attended the Office on Violence Against Women Tribal Consultation meeting. The meeting provide invaluable legal and contact information regarding tribal records in the NCIC.
- Representatives from the NICS Section attended the BJS State Repository Conference in November 2006, in Florida. This forum provided information regarding the processing of records at the state level.
- The NICS Section allied with the National Center for State Courts on various occasions in 2006 to (1) establish a web-based module for use in training judicial personnel and other identified agencies about the accurate evaluation of protection order criteria and the appropriate connoting

¹³ A straw purchase occurs when an individual submits to the background check process with the intent of acquiring a firearm for a person who knowingly is a prohibited individual.

of a subject's eligibility to receive firearms; and (2) finalize the development of the Information Exchange Package Document which provides a more efficient way to track court dispositions nationwide.

NICS Section's Disposition Task Force

To further address the missing dispositions from criminal history records at the national level, the NICS Section implemented a CJIS-wide Disposition Task Force comprised of subject-matter experts from within the various sections of the CJIS Division. As such, the first Disposition Task Force, sponsored and headed by the NICS Section, was implemented in 2006. The first conference facilitated by the CJIS Disposition Task Force, entitled Report, Educate and Associate Criminal History (REACH), focused on the importance of criminal history data in order to improve reporting, and the value of making criminal history record information available to the NICS and law enforcement.

Through outreach efforts, the CJIS Division and the NICS Section have sought to partner with local, state and federal agencies to develop new ways to improve the number of complete criminal history records available to the law enforcement and judicial communities. The first REACH Conference, held from July 11, 2006, to July 12, 2006, in Clarksburg, West Virginia, witnessed participation by seven out of the eight states invited in addition to the BJS' National Criminal History Improvement Program Office. Since the conference, the CJIS Division has observed great strides in the direction of methods for improving criminal history reporting practices. The NICS Section is confident that subsequent meetings with additional state and federal officials will have a positive effect regarding the sharing and availability of complete criminal history record information.

NICS User Conference

Each year, the NICS Section hosts an annual User Conference, a symposium designed to connect state and federal agencies together in a unique forum which allows for the exchange of ideas, and the discussion of items of mutual interest and need in an effort to determine effective resolutions to problematic issues.

From June 13, 2006, through June 15, 2006, the NICS Section hosted the 2006 User Conference in Orlando, Florida. The conference noted 100 percent attendance by the Full and Partial-POC states, as well as attendance by the alternate permit POC states, several federal agencies (e.g., the ATF, the ICE, the DOJ, the BJS, the Bureau of Justice Assistance), defense agencies, and independent agencies such as the Regional Justice Information Services, the Structured Decisions Corporation, and the SEARCH organization. The conference included seminars on topics such as Reading Rap Sheets and Research Strategies; Identification for Firearms Sales Flags; the VAF; FFL Audit Logs; Handling Non-citizen Transactions; State Operations; Military Dispositions and the NICS Index, among others.

The conference provided various opportunities for state and federal agencies to meet and discuss, one-on-one, the past year's successes and shortcomings, and to participate in networking activities and discuss projected changes within mutual boundaries. In addition to allowing the NICS Section to share information regarding the NICS program, the annual conference also provided an opportunity to gain feedback and input from the users and partners of the NICS for improved services.

Dissemination of NICS-related Information

Information regarding the NICS and its processes are shared with users and law enforcement agencies via a variety of methods such as:

- (1) Law Enforcement Online (LEO), a communications instrument managed by the FBI linking all levels of law enforcement via a secure network;
- (2) the NICS Web site at www.fbi.gov/hq/cjisd/nics/index.htm, availing descriptive and detailed literature regarding conferences, exhibits, seminars, training, and information-sharing opportunities, and updates;
- (3) the NICS Newsletters, which provide the POC states with information regarding topics such as operational issues, system/processing anticipated/impending legislative changes, and NICS Index updates; and

(4) the NICS Fax-on-Demand dial-up access function (accessible at 1-800-550-6427), which allows individuals to call an automated system and request specific information relating to the NICS, including the NICS Appeal Brochure, the NICS E-Check Enrollment Forms, the NICS VAF brochure, and the FBI guide for obtaining your FBI Identification record.

Additionally, the NICS Section has established an e-mail address, a_nics@leo.gov, where NICS users can obtain speedy responses to inquiries regarding NICS-related topics or issues.

NICS Voluntary Appeal File

Mr. Smith walks into a sporting goods shop to purchase a new long gun. After making his selection, he completes and signs the required ATF Form 4473. With Mr. Smith's identifying information in hand, the FFL contacts one of the NICS Section's Contracted Call Centers and initiates a background check. The NICS check hits against an available record and is thus forwarded to the NICS Section at the FBI's CJIS facility where a deny response, based on a valid match of Mr. Smith's descriptive information to the descriptive information of the subject of a disqualifying record, is rendered in minutes. Mr. Smith is not aware of any problems, past or present, that would preclude his eligibility to purchase a firearm.

Upon advice from the FFL, Mr. Smith appeals his denial decision and subsequently submits his fingerprints. Through fingerprint comparison, the NICS Section determines that Mr. Smith is not the subject of the prohibiting record. Accordingly, Mr. Smith's denial is overturned and a proceed decision is rendered. Mr. Smith, determined to be a lawful firearm transferee, is now eligible to receive a firearm. Several weeks later, Mr. Smith attempts to purchase another firearm and is again denied. Mr. Smith, now angry and facing the appeal process once again, wonders, "How can I be denied again? I just went through an appeal and was proceeded."

Prior to the implementation of the NICS in November 1998, a significant number of comments were rendered to the FBI by individuals, e.g., the public, who opposed the retention of a temporary log of background check transactions that allow a firearm transfer to proceed by the NICS. Most of these comments expressed concern over the potential for the establishment of a firearms registry which is expressly prohibited by the Brady Act.

At the current time,¹⁴ all identifying information submitted by or on behalf of any person who has been determined not to be prohibited from possessing or receiving a firearm must be destroyed within 24 hours

of the FFL being notified. Therefore, specific information that would otherwise provide indication of an individual's eligibility to receive firearms or serve to nullify existent prohibitions cannot be retained via the NICS if associated with an approved background check transaction.

The aforementioned law requiring the destruction of identifying information associated with approved firearm transfers within 24 hours provides assurance to the public that a firearm registry does not exist. However, the destruction of such information in certain instances does not allow the NICS to maintain specific and readily available record-clarifying or record-nullifying information that could assist the NICS with determining an individual's eligibility to receive firearms. To assist with information management, on

¹⁴ Pursuant to 28 C.F.R., Part 25.9 (b) (1), (2) and (3).

July 20, 2004, pursuant to the NICS Final Rule,¹⁵ the NICS Section implemented the VAF.

The VAF is a database that maintains specific information (e.g., fingerprint cards or specific documentation) voluntarily provided by an applicant for use in determining his or her eligibility to receive firearms associated with subsequent background checks. The VAF, which is accessed and searched during the background check process, aids in preventing extended delays or erroneous denials for successful applicants. As a result, lawful purchasers, such as Mr. Smith mentioned previously, who have been delayed or denied the transfer of a firearm because they have descriptive information similar to that of a prohibited person or are the subject of a criminal history record that although nullified cannot be updated and made available during a records review, may request that the NICS maintain information about them to aid in facilitating subsequent firearms transactions.

In the aforementioned scenario, Mr. Smith's initial firearm transfer was denied based on a valid match of his identifying information to that of a prohibited person. Given the fact the NICS is a name-based check only, situations similar to Mr. Smith's may require the submission of fingerprints as proof of identity, hence, the appeal process must be pursued.

In accordance with federal law, when a denied transaction is overturned on appeal based on fingerprint comparison, such as occurred with Mr. Smith during his appeal, the fingerprint card is returned to the individual and all other record information voluntarily provided to or gathered by the NICS Section is destroyed pursuant to federal law. After his successful appeal, Mr. Smith subsequently attempted to purchase another firearm; however, his identifying information was again matched to the subject of a prohibiting record. As the NICS did not have a record of his prior transaction that was overturned on appeal, Mr. Smith was again denied. As a result, Mr. Smith will have to pursue the appeal process, resubmit his fingerprints, etc. Had Mr. Smith been in the VAF, his subsequent denial may not have occurred.

The VAF is a file that houses specific documentation either submitted by the applicant or discovered during research that assists the NICS in justifying the individual's eligibility for inclusion therein. As explicated above, the information in the VAF will help to prevent lawful firearm transferees from:

- experiencing future/subsequent delays and/or denials;
- having to file numerous appeal requests; and
- having to resubmit supporting documentation, e.g., fingerprints,

¹⁵ Reference the Federal Register, Vol. 69, No. 141, Friday, July 23, 2004.

and/or information that would allow a proceed determination.

Reciprocally, the successful entry of data on lawful firearm purchasers into the VAF also provides other benefits such as (1) decreasing the amount of time needed to process approved transactions; (2) providing the NICS Section with more time to devote to processing other delayed transactions; (3) increasing the NICS IDR¹⁶; and (4) hastening the entire background check process for lawful purchasers, the FFLs, the NICS Section and the POC states.

Candidacy for entry into the VAF can be the result of various scenarios, such as: the subject is not a match to the subject of the denying record after a comparison of fingerprints; the subject has documentation confirming a Relief from Disability granted by the ATF or a governor's pardon; and the subject's record cannot be updated. When a subject is deemed eligible for entry into the VAF, a Unique Personal Identification Number (UPIN) is assigned, and the entry is placed into an "active" status. The VAF entrant is instructed to provide his or her UPIN to the FFL whenever attempting to purchase or redeem a firearm. The information maintained in the VAF allows the lawful transfer of a firearm to take place in an expeditious manner. Under this process:

- Individuals may apply to be considered for entry into the VAF by completing an application and signing an applicant statement which authorizes the NICS Section to retain information about them that would

otherwise be destroyed pursuant to federal law.

- A NICS check is still required for future purchases by the applicant and will result in a denial if additional prohibitive information is discovered.
- Records in the VAF can be retained indefinitely; however, if at any time an entrant wishes to be removed and notifies the NICS Section in writing, the NICS Section is required to destroy all records submitted by said individual to the VAF.

Since the VAF began processing cases in July 2004, a total of 1,908 successful VAF checks have been conducted. These participants were eligible to purchase a firearm from an FFL without experiencing a lengthy delay or denial.

In 2006, approximately 2,700 applications for entry into the VAF were rejected. The leading reasons for the rejections were the existence of prohibitive criteria, insufficient information provided on the application or the failure to sign the applicant's statement.

To increase awareness and interest in the VAF and also to minimize the number of rejected applications that occur, the NICS Section:

- provides information to persons appealing their denial transactions via correspondence;
- provides VAF literature to the FFLs it services for dissemination to potentially interested customers;
- provides VAF literature to the POC states for dissemination to their FFLs;

¹⁶ The average amount of time required to determine a final status for each background check transaction while the FFL is still on the telephone during their initial call.

- has compiled and provided information to various organizations (e.g., the National Shooting Sports Foundation and the National Pawnbrokers Association) for dissemination to the public;
- promotes the use of the VAF via such forums as the NICS User Conference, the annual SHOT Show, and the National Rifle Association annual conference, etc.;
- educates various agencies regarding the benefits of the VAF, the requirements for entry, etc., through the NICS POC Support Team.

Prior to August 2006, if the NICS Section was successful in updating an individual's criminal history record (e.g., nullifying the denying record), the individual was not eligible for entry into the VAF. The theory was that a

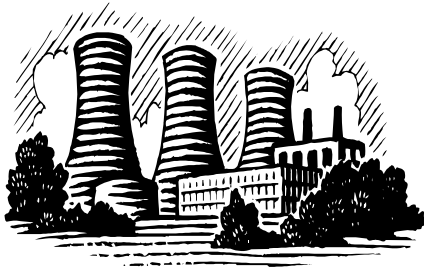
once prohibitive but now nullified criminal history record would be identified and thus, the record itself would not prompt a denial based on that record. This type of scenario has comprised a large portion of the past rejections for entry into the VAF. However, many individuals whose criminal history records were nullified via the NICS appeal process still wished to be entered into the VAF to ensure that subsequent firearm transactions were processed effectively and efficiently.

In August 2006, in the interest of customer service, the NICS Section effected a change in policy to also enter the aforementioned type of cases into the VAF. As more persons become familiar with the requirements for entry into the VAF and its tremendous benefits, the VAF's growth will accelerate, thereby delivering quicker and more effective service for lawful transferees, and gained efficiencies for the NICS Section.

In the Future for the NICS

Nuclear Regulatory Commission (NRC) Background Checks

On August 8, 2005, President George W. Bush signed the Energy Policy Act of 2005, which decrees that (1) security personnel of the U.S. NRC-regulated entities are authorized to transfer, receive, possess, transport, import, and use one or more handguns, rifles, shotguns,



shotguns, machine guns, semi-automatic assault weapons, ammunition

for such guns or weapons, and large capacity ammunition feeding devices (covered weapons) for official purposes; and (2) a NICS background check is conducted to ensure that the security personnel are not prohibited from firearms possession.

The groups directly affected by the legislation are the security personnel of NRC licensees or certificate holders who are engaged in protecting: "(1) a facility owned or operated by an NRC licensee or certificate holder and designated by the Commission or (2) radioactive material or other property that is of significance to public health and safety or the common defense and security, and that is owned or possessed by an NRC licensee or certificate holder, or that is being transported to or from an NRC-regulated facility." The NICS Section, on numerous occasions in

2006, liaised with the NRC, the ATF, and the DOJ regarding the NICS connection and has provided comments to assist the NRC with the development of the NRC guidelines and impending supporting regulations.

Return of Firearm Background Checks

In addition to the Brady Act-mandated checks pursuant to 18 U.S.C., Section 922 (t) (1) and (3), a NICS Index check may be made for only two non-Brady Act purposes, pursuant to 28 C.F.R., Section 25.6 (j). This subsection presently reads: "Access to the NICS Index for purposes unrelated to NICS background checks pursuant to 18 U.S.C., Section 922 (t) shall be limited to uses for the purposes of:

(1) Providing information to federal, state, or local criminal agencies in connection with the



issuance of a firearm-related or explosive-related permit or license, including permits or licenses to possess, acquire, or transfer a firearm, or to carry a concealed firearm,

or to import, manufacture, deal in or purchase explosives; or

(2) Responding to an inquiry from the ATF in connection with a civil or criminal law enforcement activity relating to the Gun Control Act (18 U.S.C., Chapter 44) or the National Firearms Act (26 U.S.C., Chapter 53)."

Under the current federal regulation, criminal justice agencies may not lawfully conduct NICS checks on persons to whom they wish to return firearms that were stolen, confiscated, or used in suicides. Accordingly, the FBI sought and obtained the concurrence of the CJIS APB to amend 28 C.F.R. Section 25.6 (j), by adding a third authorized access to the NICS Index for a purpose unrelated to NICS background checks required by the Brady Act, namely, the return of recovered firearms by criminal justice agencies to an individual.

As a result, once amended, 28 C.F.R., Section 25.6(j) will include a third purpose to address the motion approved by the CJIS APB which will read as follows: Returning firearms in the possession of a law enforcement or criminal justice agency, including returning a firearm to a family member in cases of suicide.

If the state is currently acting as a POC on behalf of the FBI, the checks for those states would also be conducted through the POC as the firearm and firearm-related permit checks are currently conducted. If the FBI currently processes firearm background checks for the state's FFL, then checks would be conducted through the FBI.

NICS Process Study

Recognizing that success requires more than real-time maintenance and incremental "as-needed" enhancements to update the working components that cumulatively comprise its operational system, the NICS Section, via a collaborative effort with an independent contractor, implemented a business process study in October 2006.

The original NICS, mandated by federal law, was envisioned, conceptualized, built, and tested all within a relatively short time frame. During the developmental phase, the NICS was an educated "best guess" effort as the NICS

was an entirely new concept. Even though, after deployment, the system operated as intended and proved to be an effective tool in determining subject eligibility to receive firearms as it was intended, deficiencies in design and flexibility became evident.

System design deficiencies serve to hinder progress when expansion of any system is required. Accordingly, even the most mundane system updates to the NICS can become monumental undertakings given its current architecture. However, with several years of knowledge and expertise, the staff of the NICS Section is now better equipped to determine what is required to produce a most effective and efficient NICS that will accommodate current needs and future requirements more effortlessly. Given the aforementioned, with the acquired experience of the NICS Section's staff and the "outside looking in" perspective provided by the business process study, the NICS Section's goal, in this endeavor, is to:

- identify where and how to expand the functionality of the NICS to efficiently and effectively fulfill the NICS Section's mission to meet the ever-mounting and anticipated yearly increases in transactional influx;
- enhance customer and user satisfaction;
- streamline the decision-making and implementing processes;
- improve business continuity (e.g., preparedness to handle situations that could be prompted by any unforeseen scenario such as the cessation of one or more states serving as POCs for the NICS, new legislation and/or federal mandates, world events, etc.);

- identify and correct the deficiencies currently affecting system performance and productiveness; and
- identify potential opportunities to enhance the overall performance of the NICS.

As the NICS Section is aware that planning for the future cannot be overemphasized, the NICS Process Study, implemented in 2006, and continuing into 2007, will assist the NICS Section in pinpointing opportunities for the optimal improvement of the nation's background check program.



SPOTLIGHT



The NICS Section's Legal Research and Analysis Team

Shortly after the implementation of the NICS in November 1998, the NICS Section realized that changes in state and federal legislation, and internal policies and processes that rely on the accurate interpretation and application of the law are fundamental to providing accurate and timely background check determinations. Recognizing the existence of an ever-changing legal environment in the United States and the resulting impact on the processes associated with determining final statuses for proposed background check transactions, the NICS Section established the State Statute Team.

Every query of the NICS for the same prospective transferee, even if only minutes apart, can produce different results depending on the timing of various factors, e.g., the entry of supplemental, clarifying, or status-determining information. Accordingly, the logic that commands the NICS Section to continually track pending and evolving legislation or conduct legal research leading to valid interpretations of state and federal law in determining subject eligibility to receive firearms or firearms/explosives permits is, if anything, understated.

The State Statute Team, originally facilitated via three of the NICS Section's analytical staff, was implemented for the purpose of research and clarification regarding: (1) the details of any pending or approved state and/or federal legislation and the propensity for impact to the NICS; and (2) the daily statutory interpretation and applicability of the law when conducting research corresponding to particular arrest or adjudication data discovered during the

background check review process. These services are not only invaluable to the NICS Section in quest of producing an optimal quality service to its users or the U.S. citizens, they are the lifeblood that maintains the NICS. Since its creation, the State Statute Team, which has grown not only in size (the team currently consists of eight NICS Legal Administrative Specialists and a NICS Supervisory Legal Administrative Specialist) but also in scope of duties and responsibilities since its implementation, has witnessed a restructuring as well as a new name, the NICS Legal Research and Analysis Team (LRAT). The LRAT's Mission Statement--*To support all*



NICS users by performing complex research, analysis, and interpretation of state and federal laws, statutes, and regulations to ensure adherence to the provisions of the Brady Act--coupled with the aforementioned ideology, motivates the LRAT to not only continuously improve upon existing services

but to also seek new and innovative services to assist both internal and external users. The LRAT effectively and efficiently serves the NICS Section in many diverse ways and discharges various support duties to keep the NICS Section and its users informed. Many of the numerous duties and responsibilities of the LRAT follow:

NICS Section employee requests for research:

During the NICS background check process, approximately 8 percent of all transactions initiated at the NICS Section's Contracted Call Centers result in a delay status. The delay statuses can be prompted for various reasons such as missing disposition information, the omission of arrest or adjudication level (felony or misdemeanor), or incomplete data necessary to establish a "qualifying" misdemeanor crime of domestic violence (MCDV). In many instances, existing state or federal law must be researched to determine specific components of information that cumulatively assist the NICS Section employees in rendering final transaction statuses. When legal research is required, the NICS Section employees contact the LRAT for guidance and/or clarification. The LRAT, in turn, utilizing available resources (e.g., Westlaw, WestDocket, the Bureau of Prisons SENTRY database, state and federal criminal code books, Martins Annual Criminal Code Book,¹⁷ the Uniform Code of Military Justice Manual, the Federal Firearms Regulations Reference Guide, etc.), supplies the missing pieces of the puzzle.

Keeping the NICS Section abreast of pending legislative changes or proposed legislation:

Through various resources, the LRAT identifies and tracks current and proposed federal and state legislation which could potentially effect the NICS. Thus, the LRAT provides the NICS Section with the capability

to plan ahead and prepare for potential impacts to NICS Section and POC states' business operations and thus ensures continued long-term viability.

External requests for research: The LRAT conducts research, analysis, and evaluation of state and/or federal laws at the request of the POC states, external law enforcement and/or judicial agencies, etc., via LEO through the Internet at statutes@leo.gov and by direct contact via the telephone. This customer service promotes the partnership between the FBI and external agencies and assists in ensuring consistency at all levels when rendering background check decisions.

Freedom of Information and Privacy Act (FOIPA) requests: On occasion, individuals submit requests to the NICS Section seeking knowledge of any information that the NICS may have concerning them. In these instances, the LRAT will conduct research, determine if any disseminable information regarding the individual exists, and prepare the appropriate response.

Analysis of current and historical statutes and precedent case law: The LRAT researches, analyzes, and evaluates statutes and case law, judicial decisions, opinions of state officials, and Supreme Court decisions in order to provide sound and applicable recommendations regarding subject eligibility and/or prohibitive statuses of the subjects of the background check process.

Facilitating continual updates to various internal reference guides: The LRAT updates and maintains "quick" reference guides made available not only to the NICS Examiners and

¹⁷ A listing of Canadian criminal offenses.

all of the NICS Section employees via the NICS informational web, but also to the POC states via LEO. Each reference guide, providing a quick tutorial specific to various facets of information, e.g., state and/or federal terminology, offense levels, and pardon and restoration of rights criteria, is intended to provide immediate and clarifying reference information to assist with the accurate and timely determination of background check transactions.

Establishing and maintaining effective liaisons with various agencies: The LRAT has established relationships with various external agencies such as the ATF Division Counsel, state Attorneys General, and POC state officials for the purpose of collaboratively seeking and providing viable interpretations specific to a myriad of state and federal laws. The LRAT seeks and elicits cooperation from external agencies in gathering information with which policy and/or procedural matters can be effected.

Serving as the liaison between the NICS Section staff and the FBI Office of the General Counsel: The LRAT compiles data and prepares synopses of various levels of information, and drafts testimony for federal prosecutions in litigation by U.S. Attorneys and others. The LRAT also works closely with the FBI Assistant General Counsel assigned to the NICS Section regarding routine and/or notable legal matters associated with the processing of background checks by the NICS and, as such, maintains consistency for the NICS Section regarding legal scope.

Representing the NICS Section at various conferences and seminars: The LRAT is often called upon to represent the NICS Section at various seminars and conferences across the United States. The LRAT compiles and provides presentations on such topics as the federal prohibitive criteria established by

the Brady Act, and the criteria requisite for determining a qualifying MCDV or protection order, etc. The LRAT also assists in preparing NICS Section associates for their participation at external information-sharing events, including conferences.

The NICS Section's LRAT thus provides many valuable services not only to its "front line" employees processing thousands of transactions daily, but also to the law enforcement and judicial community in support of the Brady Act and resulting regulations.

Contingent on available resources, the LRAT, on a daily basis, dedicates specific employees (typically one or two employees based on factors such as Busy Season, spikes in business and/or staff availability, etc.) to receive and provide response to inquiries from the staff of the NICS Section for legal assistance. With available data regarding the number of research requests requested of the LRAT by the NICS Section employees during the period of 2004 through 2006, on average, the LRAT has received and accommodated approximately 100 such requests per day; however, and as depicted in Figure 22, the number of internal research requests facilitated by the LRAT continues to increase. Reasons for this increase can be attributed to factors such as changes in POC state participation requiring the NICS Section employees and, in particular, the LRAT to enhance their familiarity with the state's legal environment; changes in state and federal legislation; and region realignment requiring employees to expand their knowledge base corresponding to the states in their new region.

In 2006, the LRAT averaged approximately 130 research requests per day, which equates to a 30 percent increase over the cumulative yearly average. It is important to note that, given certain times of the year, day of the week or times of the day, the LRAT may receive as

many as 200 to 300 internal research requests per day. In this capacity alone, the LRAT provides a tremendous service to the NICS Section and the public by enabling the NICS Section staff to render accurate final

transaction decisions in a more effective and efficient manner. In addition to the aforementioned roles, the LRAT also tracks data specific to other core functions in the following categories:

Figure 22
LRAT Core Functions 2004 - 2006

Task	2004	2005	2006
Research Requests	20,926	39,967	47,627
External Liaison	2,180	4,694	2,278
FOIPA Requests	9	9	27
Legal Information Updates	1,679	2,526	2,828
Correspondence Drafted	19	251	74
NICS Attorney Consultations	277	225	130
Ad hoc Projects	71	47	106

The LRAT works diligently to promote awareness of the NICS and to provide information-sharing opportunities and assistance to the NICS users through the dissemination of information via various conferences and through LEO via the Internet. Just as the NICS Section reaches out to various state-level officials for information regarding legal processes and interpretations of the law at the state level, the vast array of services provided by the LRAT via LEO provides a mechanism by which the NICS users can reciprocally reach out to the NICS Section for assistance regarding federal law and various other issues in attempts to stay informed. There are several categories of information provided by the NICS Section via LEO that are continually updated by the LRAT (e.g., definitions of felonies and misdemeanors by state, federal and state statutes, and restoration

of rights information and terminology). Additionally, the LRAT (reference Figure 23) also posts services available to internal and external users to assist them with interpretations and clarifications regarding the application of federal firearms laws.

The Legal Administrative Specialists staffing the LRAT are individually and collectively dedicated to bringing value to the NICS users and, in turn, reaping value for the NICS Section. The uniqueness of the team dynamic is a result of years of acquired knowledge and expertise regarding the "ins and outs" of every facet of the law that surrounds many of the daily and atypical events that the NICS Section must address and/or provide response.

Figure 23

LRAT Services Offered to Internal and External Users, 2006

The Legal Research and Analysis Team
Available Services

- ✓ Application of the Gun Control Act of 1968 to State-specific Issues
- ✓ Research and Analysis of:
 - State and Federal Statutes, Laws and Regulations
 - Military Dispositions
 - Pardons and Restoration of Rights Processes
 - Supreme Court Case Law
- ✓ State and Federal Disposition Terminology
- ✓ Legislative Update Research
- ✓ Arrest/Adjudication Levels and Corresponding Penalties
- ✓ Arrest/Adjudication Qualification in Meeting Federal Prohibitive Criteria
- ✓ Various Services Upon Request

E-mail: statutes@leo.gov
Telephone: 1-877-444-6427

Through the facilitation of numerous product-enhancing services to both internal and external sources, the LRAT embodies the very spirit of commitment of the FBI.

As further evidence of the LRAT's dedication and commitment to public safety, the team was awarded the 2004 FBI Assistant Director's Award for Exceptional Performance in the Area of Investigative Support based on their work regarding pending background checks that hit against the subject of an NCIC VGTOF record. The LRAT was again nominated for

the 2006 FBI Assistant Director's Award for Excellence in Legal Support based on the team's extensive and in-depth research conducted over the span of a four-month period in assistance to the DOJ associated with an opinion regarding the MCDV prohibition.

The scope of this work, which also required collaboration with the ATF's Legal Counsel, earned the LRAT the 2006 Assistant Director's Award for Excellence in Legal Support and the 2006 U.S. Attorney General's Award for Excellence in Legal Support.



Success Stories of the NICS Section

~ On November 16, 2006, the descriptive information of an individual attempting to purchase a firearm in Michigan was matched to the descriptive information of the subject of a record maintained in the NICS Index, one of the databases comprising the NICS. The prospective firearm transferee had claimed U.S. citizenship; however, the NICS Index record matched to the prospective transferee belonged to an illegal/unlawful alien. All records in the NICS Index are federally prohibiting, and as such, the FFL was advised that the transaction was a deny. The information was referred to the ICE for investigative purposes.

~ In response to a NICS background check, a prospective firearm transferee was matched to the subject of two active warrants located via a review of a matched III record. The NICS Section employee reviewing the transaction contacted law enforcement authorities to determine the status of the information and was advised that the subject of the III records had two active warrants, dating back to 1984, for bad checks. As a result, the prospective transferee was denied based on active warrants over 20 years old, and the originator of the warrant was notified of the attempted firearm transfer to a prohibited person.

~ An individual attempted to purchase a firearm in Texas. A review of a record match generated by the NICS search indicated that the prospective firearm transferee was listed in the sexual offender registry in another state but did not appear to be listed on the Texas registry. Although a valid match of a prospective firearm transferee's descriptive information to the information of the subject of a Sex Offender file record is not in itself prohibiting, public safety was enhanced via effective communication and information sharing with the state of Texas. As a result, the individual was entered into the Texas Sexual Offender registry.

~ On November 20, 2006, an individual attempting to purchase a firearm in South Carolina was matched to a record maintained in the NICS Index for an illegal/unlawful alien. The prospective firearm transferee had claimed U.S. citizenship during the background check information collection process; however, the NICS Index record matched to the prospective transferee belonged to an illegal/unlawful alien. Based on the aforementioned record match, the FFL was advised that the transaction was a deny, and the information was referred to the ICE.

FBI's Major Case Contact Center (MC3)

In 2005, the FBI witnessed the initial phase of the implementation of its long-standing vision of a national networked integrated contact center, the MC3. On September 14, 2005, the DOJ issued a directive to the FBI's Criminal Investigative Division to implement a "tip line" to collect information related to events surrounding reported cases of alleged fraud and public corruption that occurred during the aftermath of Hurricane Katrina. Thus, the MC3, although in interim status, was born. Since then, several instances prompting the use of the MC3 (reference Figure 24) have been facilitated by the NICS Section with assistance by CJIS Division personnel. The MC3, which fosters enhanced communication

between the public and criminal justice initiatives, serves a pivotal role as the collection point for "tip line" information by providing the means to receive information proffered by the public regarding major cases. The MC3 supports multiple simultaneous critical incidents or major case investigations (e.g., cases relating to special events, regional incidents with federal involvement, and/or catastrophic incidents) as approved by FBI Executive Management. Through the use of a toll-free telephone number (1-800-CALL-FBI) and the availability of staff 24 hours a day and 7 days a week, the MC3 can be expeditiously activated in order to meet the need for quick response.

Figure 24
MC3 Activations September 2004 through December 2006

Activation Date	Length of Activation	Instance	Calls Received
September 15, 2005	266 Days	Hurricane Katrina Public Corruption and Fraud	5,131
December 1, 2005	15 Days	Gate Cutters Jewelry Theft Ring	485
June 14, 2006	29 Days	Veterans Administration Laptop Theft	180
June 16, 2006	4 Days	Gabrielle B. Mechen Missing Child	34
August 11, 2006	22 Days	Veterans Administration Missing Desktop Computer	16
August 29, 2006	32 Days	Trenton John Duckett Missing Child	984
November 6, 2006	16 Days	ACS-Government Solution Stolen Computer	50
November 17, 2006	8 Days	Coreen Faye Wiese Missing Child	34

On May 19, 2006, the FBI was notified of the theft of a Department of Veterans Affairs laptop and external hard drive that had occurred on May 3, 2006. The missing equipment contained personal information of several million retired military veterans and active duty military personnel. On May 21, 2006, the FBI opened an investigation, and on June 14, 2006, the NICS Section activated the MC3 in assistance. On June 28th, the day after

the tip line was originally scheduled to cease, the MC3 received and logged a call from a detective located in Washington, D.C. The information provided (the serial number of a laptop procured by an associate) was forwarded to the Baltimore, Maryland, Field Office. The information provided by the FBI's toll-free tip line led to the recovery of the computer equipment.