



FEDERAL BUREAU OF INVESTIGATION  
**Science and Technology Branch**



Federal Bureau of Investigation

**National Instant Criminal Background Check System  
(NICS) Denials Report**

October 2, 2024

FEDERAL BUREAU OF INVESTIGATION  
Criminal Justice Information Services Division



Table of Contents

Executive Summary ..... 3

Overview of Reporting Requirements ..... 4

Background ..... 4

Data ..... 7

FEDERAL BUREAU OF INVESTIGATION  
Criminal Justice Information Services Division



## Executive Summary

The Violence Against Women Act Reauthorization Act of 2022, Division W of the Consolidated Appropriations Act of 2022<sup>1</sup> (Act), was signed into law on March 15, 2022. Section 1101 of the Act, entitled the NICS Denial Notification Act (NDNA) of 2022, requires the FBI to alert state, local, and tribal law enforcement within 24 hours when a prohibited individual attempts to purchase a firearm if they are denied. The NICS denial notifications (NDNs) include the state of purchase (SOP) where the firearm purchase was attempted and, if different from the SOP, the state of residence of the person attempting the purchase. In addition, the Act requires the date and time of the NDN, the reason for the denial, the location of the federal firearms licensee (FFL), and the identity of the person to be included in the report. NDNs are submitted for all denials FBI has made based on Title 18, United States Code (U.S.C.), Section 922(g) or (n), as well as denials FBI has made based on state prohibitions, as required by the Act. After a NDN has been made, if the FBI later determines that the transfer was not prohibited, the FBI shall contact any agency previously notified and provide them with the updated determination.

Section 1102 of the Act requires the Attorney General to provide an annual report to Congress on certain statistics related to the yearly number of NDNs that the National Instant Criminal Background Check System (NICS) has sent. The following report is submitted in satisfaction of Section 1102, and covers January 1, 2023 through December 31, 2023 (Calendar Year 2023).

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<sup>1</sup> <https://www.congress.gov/bill/117th-congress/house-bill/2471/text>

# FEDERAL BUREAU OF INVESTIGATION

## Criminal Justice Information Services Division



### Overview of Reporting Requirements

Section 1102 of the Act directs the United States (U.S.) Attorney General to submit to Congress, not later than one year after the date of enactment of this section and annually thereafter, a report detailing the following, broken down by federal judicial district:

- “(1) With respect to each category of persons prohibited by subsection (g) or (n) of section 922 or State law from receiving or possessing a firearm who are so denied a firearm—
- (A) the number of denials;
  - (B) the number of denials referred to the Bureau of Alcohol, Tobacco, Firearms and Explosives;
  - (C) the number of denials for which the Bureau of Alcohol, Tobacco, Firearms and Explosives determines that the person denied was not prohibited by subsection (g) or (n) of section 922 or State law from receiving or possessing a firearm;
  - (D) the number of denials overturned through the appeals process of the national instant criminal background check system established under section 103 of the Brady Handgun Violence Prevention Act (34 U.S.C. § 40901);
  - (E) the number of denials with respect to which an investigation was opened by a field division of the Bureau of Alcohol, Tobacco, Firearms and Explosives;
  - (F) the number of persons charged with a Federal criminal offense in connection with a denial; and
  - (G) the number of convictions obtained by Federal authorities in connection with a denial.
- (2) The number of background check notices reported pursuant to section 925B (including the number of the notices that would have been so reported but for section 925B(c)).”

### Background

The Brady Handgun Violence Prevention Act of 1993, (Public Law (P.L.) 103-159) (Brady Act), required the U.S. Attorney General to establish NICS for federal firearms licensees (FFLs) to contact for information to be supplied immediately as to whether the transfer of a firearm to an unlicensed person would violate 18 U.S.C. § 922 (g) or (n),<sup>2</sup> or state law.

<sup>2</sup> [https://uscode.house.gov/view.xhtml?req=\(title:18%20section:922%20edition:prelim\)](https://uscode.house.gov/view.xhtml?req=(title:18%20section:922%20edition:prelim))



FEDERAL BUREAU OF INVESTIGATION  
Criminal Justice Information Services Division



In addition to NICS background checks pursuant to the Brady Act, the NICS indices may be accessed for the following purposes:

- Pursuant to Title 28, Code of Federal Regulations (C.F.R.) Section 25.6 (j)(1),<sup>3</sup> NICS may provide information to federal, state, local, and tribal criminal justice agencies only in connection with the issuance of a firearm-related or an explosives-related permit or license.
- 28 C.F.R. § 25.6 (j)(2) permits NICS to respond to inquiries by the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) in connection with a civil or criminal law enforcement activity relating to the Gun Control Act of 1968 or the National Firearms Act.
- 28 C.F.R. § 25.6 (j)(3) permits a criminal justice agency to run a NICS background check prior to releasing a firearm in its possession to an individual, to help determine if the individual is eligible to receive firearms.

A NICS background check is conducted using the subject's name and descriptive data to identify matching records in the national databases searched by NICS. The databases include the Interstate Identification Index (III), the National Crime Information Center (NCIC), and the NICS Indices. During the NICS background check, if NICS returns a hit based on the data provided, the transaction is reviewed to determine if a valid match has occurred and if a prohibiting record exists. If it is determined the subject is a match to a prohibiting record, the transaction is denied.

Federal law allows FFLs to transfer a firearm to a prospective transferee after the third business day if the FFL has not first received a "Denied" status from NICS. Some state laws extend this waiting period. The NICS Section continues working transactions until they are purged from NICS. In some instances, the necessary background information is obtained, and a final status is not rendered until after three business days have elapsed.

The NICS Section of the FBI's Criminal Justice Information Services Division shares denial information with state, local, and tribal law enforcement in various ways. The sharing of this data is restricted to authorities responsible for investigating, prosecuting, and/or enforcing the violation of law or regulation, (*see* 28 C.F.R. § 25.9(b)(2)(i)). Through the NICS Denied Transaction File, NICS shares denial data with agencies via automated International Justice and Public Safety Information Sharing Network administrative messages (commonly known as Nlets) and with all FBI field offices. The FBI also shares, on a nightly basis, all denied

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<sup>3</sup> <https://www.ecfr.gov/current/title-28/chapter-I/part-25>

FEDERAL BUREAU OF INVESTIGATION  
Criminal Justice Information Services Division



transactions for that day with the ATF's Denial Enforcement and NICS Intelligence (DENI) Branch.<sup>4</sup>

ATF includes electronic denial files received from the FBI in the NICS Referral Application, and the DENI Branch reviews and processes the denials. If a firearm transfer was executed prior to the denial determination, a firearm retrieval case is generated and referred to the appropriate ATF Field Division (FD). If the firearm was not transferred but the reason for denial still meets specific referral guidelines, a standard denial case is generated to the appropriate ATF FD for further investigation. The ATF DENI Branch also shares NICS denial data with state fusion centers.

The Act, which included the NDNA, established requirements for the Attorney General to deliver a NDN to applicable local and state authorities. NDNA defined the term "local law enforcement authority" as a bureau, office, department, or other authority of a state or local government or tribe that has jurisdiction to investigate a violation or potential violation of, or enforce, a state, local, or tribal law. This service was successfully implemented in September of 2022.

One of the largest changes necessary to implement this new requirement was the ingestion of residential address information for certain transactions. The address is collected by FFLs on the ATF Form 4473, Firearms Transaction Record, but has not historically been collected as part of the NICS process. The address of the attempted purchaser is requested from FFLs by NICS only in cases where a transaction is denied or delayed to avoid having to contact the FFL a second time. However, if subsequently proceeded or if the transaction remains unresolved, the address and all other relevant information about the purchaser is purged according to federal regulations. All other data required by NDNA is available within NICS.

For NICS to send the NDN to the appropriate authorities, the NICS Section mapped law enforcement agencies based upon a city, state, county, and zip code combination of the FFL location and the city, state, county, and zip code combination of the attempted purchaser's home address, when necessary. The NDN is delivered via an unsolicited message through NCIC.

ATF actively investigates certain denials made based on federal prohibitions. The NDN contains a caveat to assist with potential deconfliction with the ATF prior to an agency taking any necessary action. State or local agencies may also have deconfliction procedures in place that agencies may want to consider as well. There is no legislative requirement for action placed on the receiving agency, and the NICS Section is not requesting the receiving agency to take any action based on the NDN. Each state and/or agency is responsible for establishing any necessary

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<sup>4</sup> The NDTF resides in the NCIC and contains records for individuals who have received a denied status on a NICS background check. If a status of a transaction is changed from a deny status (i.e., a successful firearm challenge), the record will be removed from the file.

# FEDERAL BUREAU OF INVESTIGATION

## Criminal Justice Information Services Division



policy or procedures related to the NDN as appropriate that align with law or regulation. The NDN contains a web address that agencies can visit for additional information: <https://le.fbi.gov/informational-tools/nics-denial-notifications-for-law-enforcement>. The website contains general information as to why the agency is receiving the NDN and refers the agency to seek processing and/or policy guidance from their state or local agency.

### Data

Although Section 1102 of the Act directs the statistics to be broken down by federal judicial district, only section (F) is reportable by judicial district. All other statistics are not captured or reported in that manner.

#### **(1) With respect to each category of persons prohibited by subsection (g) or (n) of section 922 or state law from receiving or possessing a firearm who are so denied a firearm—**

**(A) The number of denials:** The NICS Section has denied over **2.2 million** transactions since November 30, 1998. The total number of denials for calendar year (CY) 2023 was **116,587**. These denials are commonly called federal denials, as they reflect the background checks the NICS Section processes on behalf of the states that are non-point-of-contact (POC) states or in partial-POC states. State denial information cannot be verified by the NICS Section and is not included within this data.

**(B) The number of denials referred to ATF:** Although not a “referral,” the NICS Section sends all denied transactions to ATF. In CY 2023, there were 116,587 denials sent to ATF. Additionally, during NICS background check research, information is not always available, the agency may not respond, or the agency’s response is received after the third business day. The NICS Section continues working the transaction until it is purged from NICS. In some instances, the necessary background information is obtained, and a final status is rendered after three business days have elapsed. If the final determination results in a denial, the NICS Section will contact the FFL to determine whether the firearm was transferred. If the NICS Section is advised that the firearm was transferred, ATF is notified that a prohibited person is in possession of a firearm. These instances are referred to as firearm retrieval referrals. There were **3,139** federal denials forwarded to the ATF from the NICS Section in CY23 that potentially involved a firearm retrieval.<sup>5</sup>

<sup>5</sup> For each federal denial forwarded to ATF that potentially involves a firearm retrieval, ATF assesses whether: the firearm transfer was completed; the firearm remains with the transferee; the transferee was not prohibited. See table entitled “Denials Referred to the Field” for the number of firearms retrievals reported by ATF in CY 2023.



FEDERAL BUREAU OF INVESTIGATION  
Criminal Justice Information Services Division



**(C) The number of denials for which ATF determines that the person denied was not prohibited by subsection (g) or (n) of section 922 or state law from receiving or possessing a firearm:**

The figures below represent the number of denied persons the DENI Branch determined not to be prohibited.

CY23: Number of denied persons ATF determined not to be prohibited: **231**. This is out of **9,009** referrals made to ATF (firearm retrieval and standard denial) from the NICS Section in CY23 in which a firearm was transferred or otherwise met the referral guidelines.

**(D) The number of denials overturned through the NICS appeals process established under section 103 of the Brady Act:** Individuals who believe they were wrongfully denied a firearm can request a firearm-related challenge (appeal) through the state that conducted their background check or through the FBI. The request can be made to the FBI in writing or online <[www.edo.cjis.gov](http://www.edo.cjis.gov)>. In CY23, there were 22,615 external challenges received by the FBI. Of those challenges, approximately 28% (6,263) were overturned, 55% were sustained, and 17% were not resolved by the end of CY23.

Response Type	Number	Percentage
Overtured	6,263	28%
Sustained	12,406	55%
Unresolved	3,946	17%
Total	22,615	100%

The top three reasons for overturn of a denial include: (1) the subject was confirmed by fingerprint comparison to be non-identical to the record used to make the denial (27 percent), (2) an incomplete state record on III (22 percent), and (3) a NICS Indices entry was negated (17 percent). A complete breakdown of the specific categories of overturned denials for CY23 is depicted in the following chart:



FEDERAL BUREAU OF INVESTIGATION  
Criminal Justice Information Services Division



## EXTERNAL CHALLENGE OUTCOME TOTALS REPORT

01/01/2023 to 12/31/2023

### RESPONSE TYPE

Overtured	6,263
Sustained	12,406
Unresolved	3,946

### OVERTURNED REASON

ICE	323
III (FBI) Record - Inaccurate Disposition Information	78
III (FBI) Record - Incomplete Disposition Information	129
III (State) Record - Inaccurate Disposition Information	449
III (State) Record - Incomplete Disposition Information	1,414
Incorrect Decision - FBI Check	525
Incorrect Decision - State Check	46
NCIC Record - Inactive-Was Not Removed	35
NCIC Record - Not Prohibiting	27
NICS Indices	1,050
Not Ident	1,981
Other	205

### OVERTURNED REASON DETAILS

Adjudication Withdrawn	1
ATF Relief of Disabilities	2
Canceled	42
Delayed Transaction Potential Prohibitors Cleared	33
Denied on Misdemeanor - Not Disqualifying	45
Dismissal	96
Disposition - Applied Incorrectly	158
Disposition - Final Not Prohibiting	345
Disposition - Incomplete	175
Disposition Not Final - Final Disposition Obtained	137
Disposition Provided was Inaccurate	109
Disposition was not Obtained	20
Documentation Provided by Appellant - Nullified Prohibitor	193
Domestic Violence - Does not meet force element	12
Domestic Violence - Less than a misdemeanor	0

### OVERTURNED REASON DETAILS (CONT.)

Domestic Violence - Relationship not met	26
Drug Prohibitor Not Established	4
Erroneous Disposition Provided	20
Expungements	364
Felony Reduced to a Misdemeanor	95
ICE Discrepancy	298
ICE Subject U.S. Citizen	68
IFFS Flag - Inaccurate	201
IFFS Flag - Previously removed	20
IFFS Flag - Prohibitor Nullified	21
Juvenile - Not Prohibiting	12
Legal - Interpretation of Law Changed	6
Legal - Law Changed	1
NICS Indices - Certified Relief of Disabilities	5
NICS Indices - Invalid Entry	558
NICS Indices - Not a Valid Descriptive Match	156
NICS Indices - Voluntary Commitment	0
Non-ident Based on Descriptors	376
Non-ident Fingerprint Card	1,718
ORI or FFL Denial - No Prohibitor	1
Pardons	200
Proceeded Prior to Receiving Challenge	6
Protection Order - Inactive	29
Restoration of Rights	638
State Denial - Felony Reduced to Misdemeanor	5
State Denial - No Disposition	2
State Denial - No Prohibitor	24
Statute Applied Incorrectly	11
Valid Prohibitor on Record - Nullified Prohibitor	3
Warrant - Inactive	25
Warrant - Less Than a Misdemeanor	1

Note: The FBI utilizes the designation of "Other" to represent the overturned reason categories such as: Restoration of Rights (ROR), Indiana expungements, Washington ROR, non-criminal municipal citations, Identification for Firearms Sales flags, and New York certificates of relief.

FEDERAL BUREAU OF INVESTIGATION  
Criminal Justice Information Services Division



**(E) The number of denials with respect to which an investigation was opened by a FD of ATF:**

ATF opens an investigation for each denial referred to an ATF FD. The chart below represents the number of denials referred to the ATF FD categorized by specific FD for CY23. *Delayed denials* are also known as firearm retrievals. They are denials in which the firearm has been transferred to a prohibited person. *Standard denials* are denials meeting the referral criteria and sent to the field. This includes denials that were referred to the field and changed to a proceed by NICS. These numbers include denials that were overturned to a proceed status either through the appeals process or through additional documentation provided by an external agency that resulted in a change in status.

Denials Referred to the Field – CY 2023		
Field Division	Refer-Delayed	Refer-Standard
Atlanta	204	536
Baltimore	14	214
Boston	43	339
Charlotte	154	224
Chicago	57	536
Columbus	95	1162
Dallas	281	944
Denver	51	2
Detroit	64	15
Houston	172	511
Kansas City	185	682
Los Angeles	10	5
Louisville	86	362
Miami	21	39
Nashville	153	637
New Orleans	256	390
New York	3	32
Phoenix	160	34
Seattle	53	0
St Paul	66	201
Washington	0	16
TOTAL	2,128	6,881

\*These numbers include federal referrals from NICS, in addition to referrals from POC states.

FEDERAL BUREAU OF INVESTIGATION  
Criminal Justice Information Services Division



**(F) The number of persons charged with a federal criminal offense in connection with a denial are depicted in the chart below categorized by judicial district:**

The chart below reflects the CY23 total number of NICS denial investigations that resulted in indictments, convictions, and sentencing.

The “indicted” category includes persons charged by information, but not by complaint; however, given the small number of cases that go to prosecution, a complaint without subsequent indictment or information is exceedingly rare.

It is important to note, ATF often does not know or document the USAO case number to the extent an agent has entered a USAO number in the case management system. These would have to be manually searched and pulled. In addition, some FDs cover only POC states and do not receive NICS referrals.

For CY23, there were 9,009 standard denials and delayed denials referred to the field. Of the cases referred, 14 were indicted, five were convicted and two were sentenced as of the end of CY23.

FEDERAL BUREAU OF INVESTIGATION  
Criminal Justice Information Services Division



Number of convictions obtained by federal authorities in connection with a denial CY23: January 1, 2023 through December 31, 2023			
Judicial District	Indicted	Convicted	Sentenced
Northern District of Georgia	1	1 <sup>6</sup>	1
District of Idaho	1		
Northern District of Indiana	1	1 <sup>7</sup>	
Southern District of Indiana	1		
Western District of Kentucky	1		
Southern District of Mississippi	1		
Eastern District of Oklahoma	1	1 <sup>8</sup>	
Western District of Oklahoma	1		
District of Rhode Island	1		
Western District of Texas	1		
Eastern District of Texas	1	1 <sup>9</sup>	
Southern District of Texas	2		
District of Vermont	1	1 <sup>10</sup>	1
<b>Total</b>	<b>14</b>	<b>5</b>	<b>2</b>

**(G) The number of convictions obtained by federal authorities in connection with a denial.** In CY23, there were 5 convictions. See chart above for judicial district breakdown.

<sup>6</sup> Defendant convicted of 18 U.S.C. § 922(a)(6).

<sup>7</sup> Defendant convicted of 18 U.S.C. § 922(g)(4).

<sup>8</sup> Defendant convicted of 18 U.S.C. § 922(a)(6).

<sup>9</sup> Defendant convicted of 18 U.S.C. § 922(g)(1).

<sup>10</sup> Defendant convicted of 18 U.S.C. § 922(a)(6).



FEDERAL BUREAU OF INVESTIGATION  
Criminal Justice Information Services Division



**(2) The number of background check notices reported pursuant to section 925B (including the number of the notices that would have been so reported but for section 925B(c)).**

The NICS Section began collecting the attempted transferee's address on all delayed and denied transactions from FFLs on September 26, 2022. NDNs are delivered to the appropriate local law enforcement agency based on the city, state, county, and zip code combination of the FFL location and the city, state, and zip code combination of the attempted purchaser's home address, if different than where the transaction was attempted. In CY23, NICS sent out NDNs to law enforcement agencies on **124,412** federal firearm background checks. This number changes as denial statuses change. NICS sends subsequent notifications for denials that were overturned.<sup>11</sup>

**Note**

This is a collaborative collection of data provided by ATF and the FBI.

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<sup>11</sup> Technical changes to the NICS appeal/challenged process resulted in an error in the NICS Section's statistical reporting functionality. The number of notifications sent for overturned NDNs could not accurately be reported for calendar year 2023. This issue was identified and the NICS Section has corrected the reporting functionality as of May 2024.