



FEDERAL BUREAU OF INVESTIGATION Science and Technology Branch



Federal Bureau of Investigation

National Instant Criminal Background Check System (NICS) Denials Report

March 2024

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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 (hereafter “Act”), was signed into law on March 15, 2022. Section 1101 of the Act, entitled the NICS Denial Notification Act 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 notice includes 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 denial notification, 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. Notification on all denials prohibited based on Title 18, United States Code (U.S.C.), Section 922(g) or (n), as well as denials made based on state prohibitions, are required by the Act. After a notice 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 NICS denials. The following report is submitted in satisfaction of Section 1102.

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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 (the “Annual Report to Congress”) 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) (hereafter, “the Brady Act”), required the U.S. Attorney General to establish the National Instant Criminal Background Check System (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),¹ or state law.

¹ [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))

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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),² 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, 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.

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), with all FBI field offices, and on a nightly basis with the ATF's Denial Enforcement and NICS Intelligence (DENI) Branch.³

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

² <https://www.ecfr.gov/current/title-28/chapter-I/part-25>

³ 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.

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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 NICS Denial Notification Act (NDNA) of 2022, established requirements for the NICS Section to deliver a denial sharing service to 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. On September 26, 2022, and ahead of schedule, the FBI successfully implemented the denial notification process in collaboration with the Office of the Deputy Attorney General, the Office of Legal Policy, and ATF.

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 denial “report” 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 denial information is delivered via an unsolicited message through NCIC. The FBI worked diligently in the months and weeks preceding the September 26, 2022, implementation to ensure all external parties affected were informed and prepared. Outreach was conducted and information shared via numerous seminars, conferences, teleconferences, emailed communications, information resources and more. The FBI utilized funding provided in the Bipartisan Safer Communities Act (P.L. 117-159) to develop those upgrades.

ATF actively investigates certain denials made based on federal prohibitions. The denial notification is delivered containing a caveat to assist with potential deconfliction that could be needed for investigations 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 denial notification.

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Each state and/or agency is responsible for establishing any necessary policy or procedures related to the denial data as appropriate that align with law or regulation. The denial notification 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 denial notification and refers the agency to seek processing and/or policy guidance from their state or local agency.

Data

(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 million transactions since November 30, 1998. The total number of denials for calendar year (CY) 2022 was **131,865**. 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 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: All federal denials are referred to ATF. In CY 2022, **131,865** denials were referred to ATF. 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 **3,993** federal denials forwarded to the ATF from the NICS Section in CY22 that potentially involved a firearm retrieval.⁴

(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.

⁴ 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 2022.

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CY22: Number of denied persons ATF determined not to be prohibited: **298**. This is out of **12,674** referrals made to ATF from the NICS Section in CY22 in which a firearm was transferred or otherwise met the referral guidelines.

(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 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>. In CY22, there were 25,043 external challenges received by the FBI. Of those challenges, approximately 30% (7,471) were overturned, 55% were sustained, and 15% were unable to be resolved by the end of CY22.

Response Type	Number	Percentage
Overtured	7,471	30%
Sustained	13,759	55%
Unresolved	3,813	15%
Total	25,043	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 (33%), (2) a NICS Indices entry negated (17%), and (3) an incomplete state record on III (16%). A complete breakdown of the specific categories of overturned denials for CY22 is depicted in the following chart:

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EXTERNAL CHALLENGE OUTCOME TOTALS REPORT

01/01/2022 to 12/31/2022

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RESPONSE TYPE		OVERTURNED REASON DETAILS (CONT.)	
Overtuned	7,471	Domestic Violence - Relationship not met	37
Sustained	13,759	Drug Prohibitor Not Established	6
Unresolved	3,813	Erroneous Disposition Provided	11
OVERTURNED REASON		Expungements	408
ICE	347	Felony Reduced to a Misdemeanor	137
III (FBI) Record - Inaccurate Disposition Information	78	ICE Discrepancy	343
III (FBI) Record - Incomplete Disposition Information	155	ICE Subject U.S. Citizen	80
III (State) Record - Inaccurate Disposition Information	454	IFFS Flag - Inaccurate	216
III (State) Record - Incomplete Disposition Information	1,223	IFFS Flag - Previously removed	19
Incorrect Decision - FBI Check	558	IFFS Flag - Prohibitor Nullified	20
Incorrect Decision - State Check	36	Juvenile - Not Prohibiting	11
NCIC Record - Inactive-Was Not Removed	21	Legal - Interpretation of Law Changed	5
NCIC Record - Not Prohibiting	19	Legal - Law Changed	1
NICS Indices	1,292	NICS Indices - Certified Relief of Disabilities	19
Not Ident	2,451	NICS Indices - Invalid Entry	738
Other	837	NICS Indices - Not a Valid Descriptive Match	213
OVERTURNED REASON DETAILS		NICS Indices - Voluntary Commitment	1
Adjudication Withdrawn	3	Non-ident Based on Descriptors	437
ATF Relief of Disabilities	1	Non-ident Fingerprint Card	2,142
Canceled	53	ORI or FFL Denial - No Prohibitor	5
Delayed Transaction Potential Prohibitors Cleared	33	Pardons	192
Denied on Misdemeanor - Not Disqualifying	81	Proceeded Prior to Receiving Challenge	16
Dismissal	102	Protection Order - Inactive	14
Disposition - Applied Incorrectly	199	Restoration of Rights	719
Disposition - Final Not Prohibiting	390	State Denial - Felony Reduced to Misdemeanor	3
Disposition - Incomplete	178	State Denial - No Disposition	7
Disposition Not Final - Final Disposition Obtained	121	State Denial - No Prohibitor	25
Disposition Provided was Inaccurate	140	Statute Applied Incorrectly	14
Disposition was not Obtained	27	Valid Prohibitor on Record - Nullified Prohibitor	9
Documentation Provided by Appellant - Nullified Prohibitor	256	Warrant - Inactive	16
Domestic Violence - Does not meet force element	21	Warrant - Less Than a Misdemeanor	1
Domestic Violence - 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.

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(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 CY22. *Delayed denials* are also known as firearms 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		
Field Division	Refer-Delayed	Refer-Standard
Atlanta	268	1763
Baltimore	27	296
Boston	48	412
Charlotte	120	146
Chicago	52	664
Columbus	182	2091
Dallas	325	976
Denver	45	0
Detroit	42	0
Houston	259	677
Kansas City	247	752
Los Angeles	10	2
Louisville	121	464
Miami	9	57
Nashville	201	687
New Orleans	366	428
New York	7	152
Phoenix	189	33
Seattle	68	1
St Paul	79	368
Washington	5	35
	2,670	10,004

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

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

The charts below reflect CY22 total number of NICS denial investigations initiated by ATF and the number of prosecution referrals, the number of defendants indicted, and the number of convictions in CY22 for denials initiated in CY22.

The “pending” category indicates referred and either accepted for prosecution or still under U.S. Attorney’s Offices (USAOs) review, but not yet charged by indictment by the end of CY22 (i.e., no charging document or declination.)

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 follow-up 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 CY22, there were 12,657 standard denials and delayed denials initiated for review and 76 were referred. Of those cases, 21 were pending, 18 were indicted, and three were convicted as of the end of CY22.

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NICS Standard/Delayed Denials CY22: January 1, 2022 through December 31, 2022					
	Initiated	Referred	Pending	Indicted	Convicted
Total	12,657	76	21	18	3
By Field Division					
Dallas FD	1,297	16	2	5	2
Denver FD	45	1	1	0	0
Houston FD	936	8	2	1	0
Los Angeles FD	12	0	0	0	0
Phoenix FD	222	2	1	1	0
San Francisco FD	0	0	0	0	0
Seattle FD	69	7	0	0	0
Chicago FD	765	1	0	1	0
Columbus FD	2,274	5	4	1	0
Detroit FD	43	0	0	0	0
Kansas City FD	994	9	0	2	0
Louisville FD	586	4	1	2	0
Nashville FD	888	1	0	0	0
New Orleans FD	793	7	3	3	1
St. Paul FD	394	1	0	0	0
Atlanta FD	2,028	4	1	2	0
Baltimore FD	321	0	0	0	0
Boston FD	460	2	2	0	0
Charlotte FD	266	3	3	0	0
Miami FD	66	5	1	0	0
New York FD	160	0	0	0	0
Newark FD	0	0	0	0	0
Philadelphia FD	0	0	0	0	0
Tampa FD	0	0	0	0	0
Washington FD	38	0	0	0	0

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The following chart depicts the same statistics broken down by judicial district for CY22:

NICS Standard/Delayed Denials				
CY22: January 1, 2022 through December 31, 2022				
	Referred	Pending	Indicted	Convicted
Total	76	21	18	3
By Judicial District				
Northern District of Alabama	1	0	0	0
District of Arizona	2	1	1	0
Eastern District of Arkansas	1	0	1	0
Western District of Arkansas	1	1	0	0
Northern District of Georgia	1	1	0	0
Southern District of Georgia	3	0	2	0
District of Idaho	7	0	0	0
Northern District of Indiana	1	0	1	0
Southern District of Indiana	1	1	0	0
Northern District of Iowa	2	0	1	0
District of Kansas	5	0	0	0
Eastern District of Kentucky	1	0	0	0
Western District of Kentucky	3	1	2	0
Middle District of Louisiana	1	0	0	0
District of Minnesota	1	0	0	0
Northern District of Mississippi	2	1	1	0
Southern District of Mississippi	2	1	1	1
Eastern District of Missouri	1	0	1	0
Western District of Missouri	1	0	0	0
District of Montana	1	1	0	0
District of New Hampshire	2	2	0	0
Western District of North Carolina	1	1	0	0
Northern District of Ohio	2	1	1	0
Southern District of Ohio	2	2	0	0
Eastern District of Oklahoma	3	1	0	0
Western District of Oklahoma	5	0	3	1
Northern District of Oklahoma	6	1	1	0

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NICS Standard/Delayed Denials CY22: January 1, 2022 through December 31, 2022				
	Referred	Pending	Indicted	Convicted
Total	76	21	18	3
District of Puerto Rico	5	1	0	0
District of South Carolina	2	2	0	0
Western District of Texas	3	1	2	1
Northern District of Texas	1	0	0	0
Eastern District of Texas	2	0	0	0
Southern District of Texas	4	1	0	0

(G) The number of convictions obtained by federal authorities in connection with a denial. In CY22, there were 3 convictions. See chart above for judicial district and FD breakdown.

(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. Denial notifications are delivered to the appropriate 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. From the September 26, 2022, deployment date through December 31, 2022, there were a total of **35,829** NICS Denial Notifications (NDNs) sent. This number changes as denial statuses change. NICS sends subsequent notifications for denials that were overturned. The number of notifications for overturned NDNs was **1,926**.

Note

This is a collaborative collection of data provided by ATF, the Executive Office for United States Attorneys, and the FBI.