



# **National Instant Criminal Background Check System (NICS)**

Presented by:

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**NICS Liaison Specialists**

# ***Topics of Discussion***

- 1. The History of the National Instant Criminal Background Check System (NICS)**
- 2. The NICS Process**
- 3. Systems Accessed**
- 4. Federal Prohibitors**
- 5. How You Can Help**
- 6. The NICS Index**
- 7. Submission of Data to the NICS Index**
- 8. The NICS Improvement Amendments Act of 2007 (NIAA)**



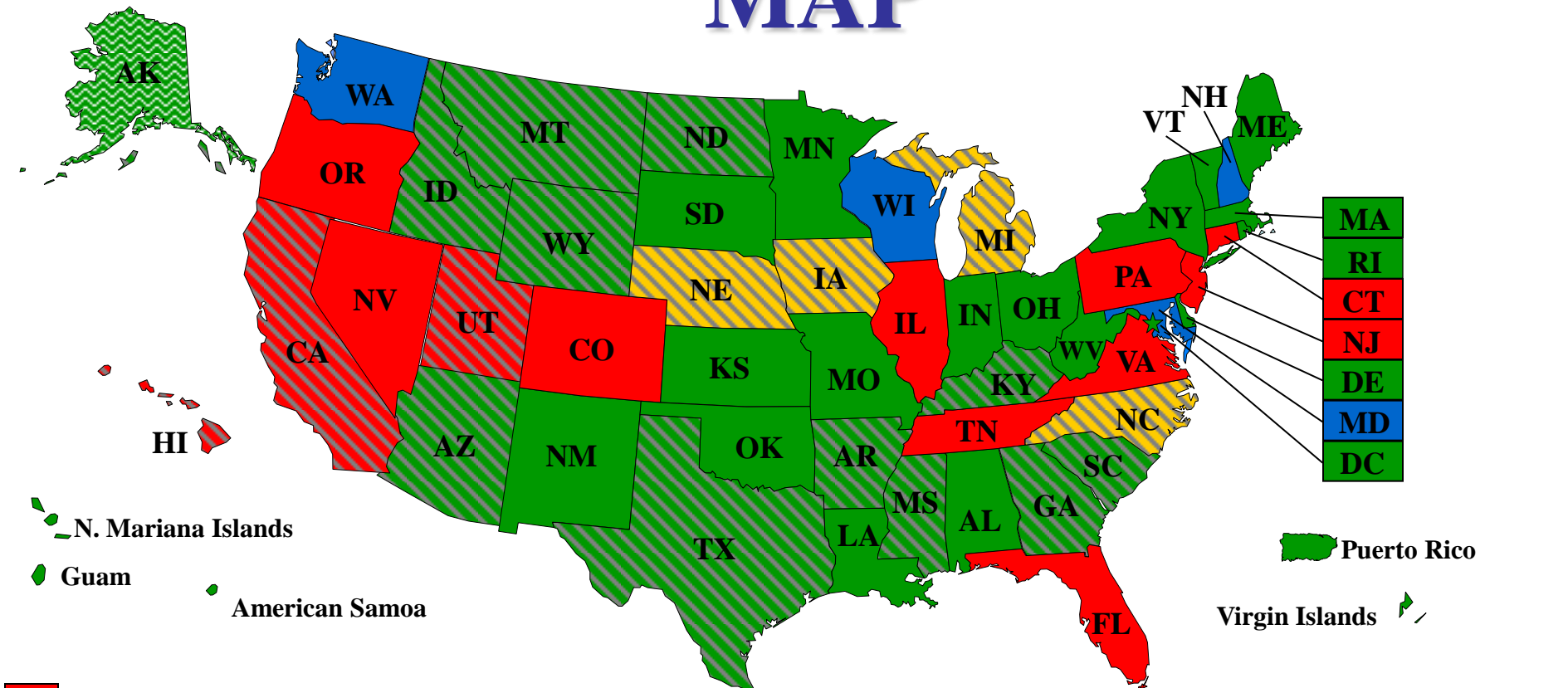
# The Brady Handgun Violence Prevention Act of 1993 (Brady Act)



- President Ronald Reagan
- Press Secretary James Brady
- Lobby for Stricter Firearm Regulations

The Brady Act was approved by Congress on November 30, 1993, as an amendment to the Gun Control Act of 1968.

# NICS PARTICIPATION MAP





# The NICS Background Check Process

ATF  
Form

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

OMB No. 1140-0020

## Firearms Transaction Record Part I - Over-the-Counter

**WARNING:** You may not receive a firearm if prohibited by Federal or State Law. The information you provide will be used to determine whether you are prohibited under law from receiving a firearm. Certain violations of the Gun Control Act are punishable by up to 10 years imprisonment and/or up to a \$250,000 fine.

Transferor's Transaction Serial Number

Prepare in original only. All entries must be in ink. Read the Important Notices, Instructions and Definitions on this form. "Please Print."

### Section A - Must Be Completed Personally By Transferee (Buyer)

1. Transferee's Full Name  
Last Name First Name Middle Name (If no middle name state "NMN")

2. Current Residence Address (Cannot be a post office box.)  
Number and Street Address City County State Zip Code

3. Place of Birth  
U.S. City/State Foreign Country

4. Height  
Ft. In.

5. Weight

6. Gender  
Male ☐ Female ☐

7. Birth Date  
Month Day Year

8. Social Security Number (Optional, but will help prevent misidentification.)

9. Unique Personal Identification Number (UPIN) if applicable (See Instruction to Transferor 6.)

10. Race (Ethnicity) (Check one or more boxes.)  
☐ American Indian or Alaska Native ☐ Black or African American ☐ Native Hawaiian or Other Pacific Islander  
☐ Hispanic or Latino ☐ Asian ☐ White

11. Answer questions 11.a. through 12 by writing "yes" or "no" in the boxes to the right of the questions.

a. Are you the actual buyer of the firearm(s) listed on this form? **Warning: You are not the actual buyer if you are acquiring the firearm(s) on behalf of another person. If you are not the actual buyer, the dealer cannot transfer the firearm(s) to you. (See Important Notice 1 for actual buyer definition and examples.)**

b. Are you under indictment or information in any court for a felony, or any other crime, for which the judge could imprison you for more than one year? (An information is a formal accusation of a crime by a prosecutor. See Definition 3.)

c. Have you ever been convicted in any court of a felony, or any other crime, for which the judge could have imprisoned you for more than one year, even if you received a shorter sentence including probation? (See Important Notice 4, Exception 1.)

d. Are you a fugitive from justice?

e. Are you an unlawful user of, or addicted to, marijuana, or any depressant, stimulant, or narcotic drug, or any other controlled substance?

f. Have you ever been adjudicated mentally defective (which includes a determination by a court, board, commission, or other lawful authority that you are a danger to yourself or to others or are incompetent to manage your own affairs) OR have you ever been committed to a mental institution? (See Important Notice 4 and Definitions 5 and 6.)

g. Have you been discharged from the Armed Forces under dishonorable conditions?

h. Are you subject to a court order restraining you from harassing, stalking, or threatening your child or an intimate partner or child of such partner? (See Important Notice 5.)

i. Have you ever been convicted in any court of a misdemeanor crime of domestic violence? (See Important Notice 4, Exception 1 and Definition 4.)

j. Have you ever renounced your United States citizenship?

k. Are you an alien illegally in the United States?

l. Are you a nonimmigrant alien? (See Definition 8.) If you answered "no" to this question, you are not required to respond to question 12.

12. If you answered "yes" to question 11.l., do you fall within any of the exceptions set forth in Important Notice 4, Exception 2? (e.g., valid State hunting license.) (If "yes," the licensee must complete question 20c.)

13. What is your State of residence (if any)? (See Definition 7. If you are not a citizen of the United States, you only have a State of residence if you have resided in a State for at least 90 continuous days immediately prior to the date of this sale.)

14. What is your country of citizenship? (List/check more than one, if applicable.)  
☐ United States of America ☐ Other (Specify) \_\_\_\_\_

15. If you are not a citizen of the United States, what is your U.S.-issued alien number or admission number?

Note: Previous Editions Are Obsolete

ATF Form 4473 (5300.9) Part I  
Revised May 2007

4473



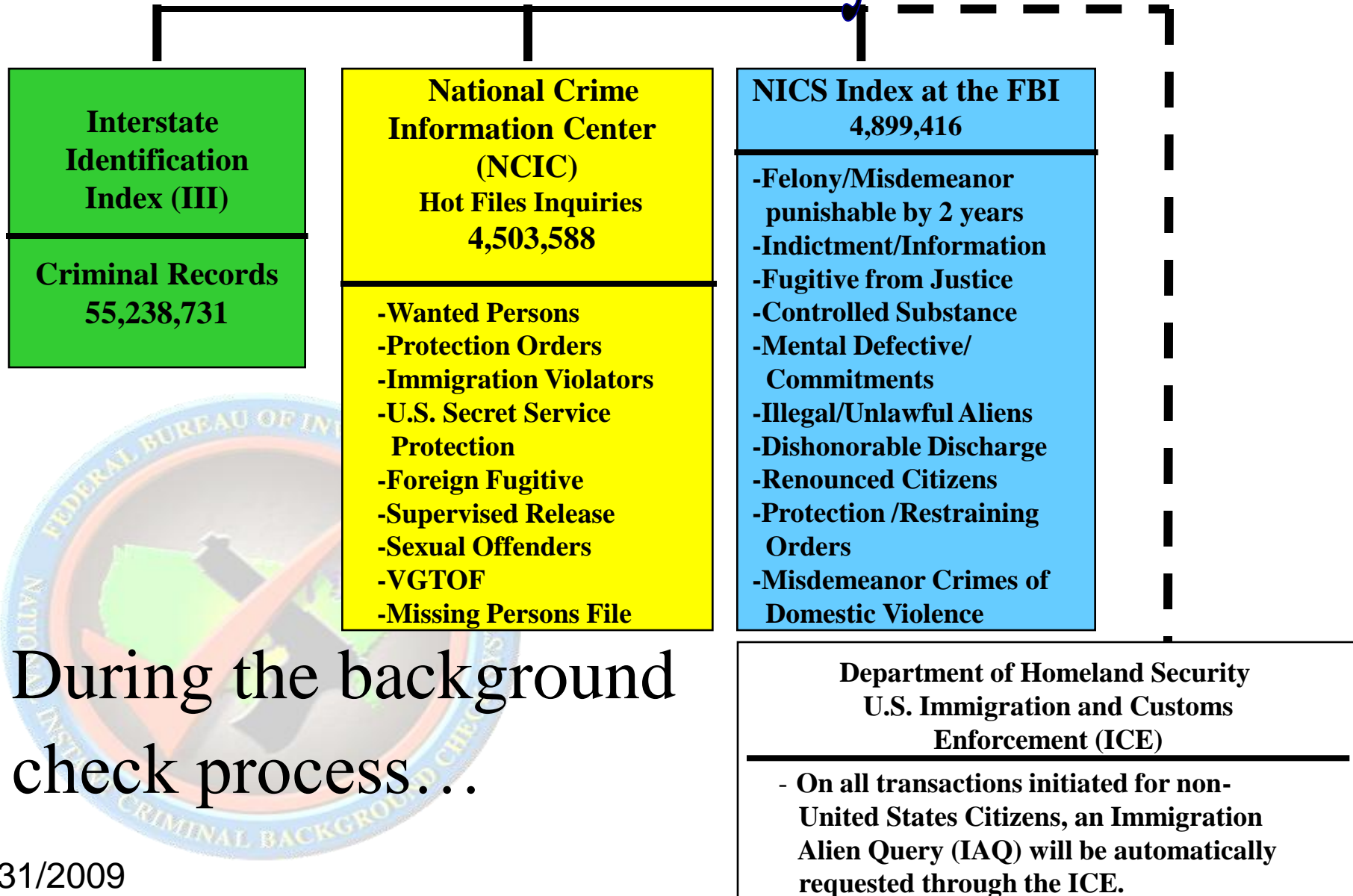


# The NICS Process. . .

**Federal Firearms Licensees (FFLs) contact the NICS by telephone, or other electronic means, with the gun applicants descriptors. NICS conducts an instant search of criminal and non-criminal databases to determine applicant's eligibility based on state and federal law.**

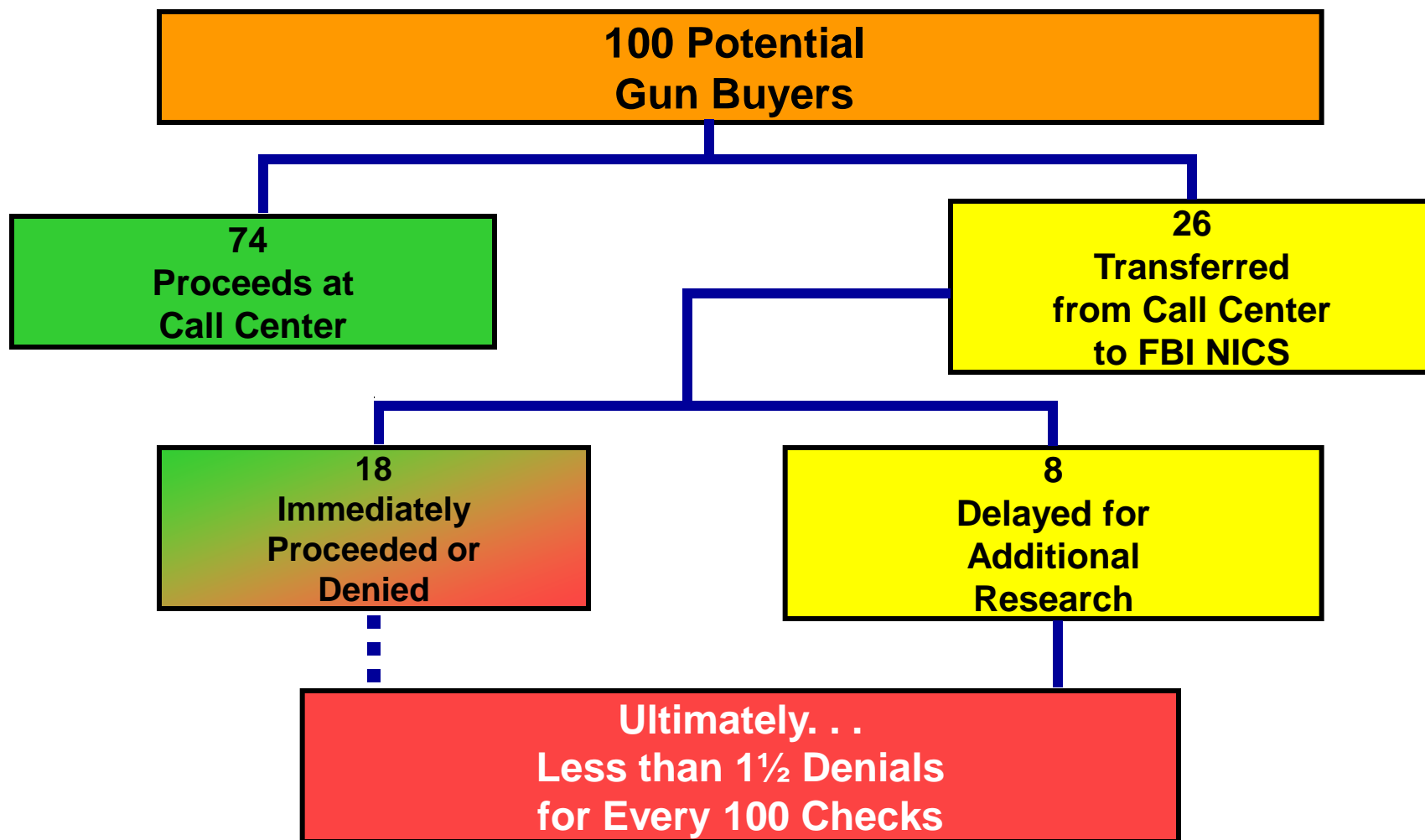


# Databases Searched by the NICS





# A Sampling of NICS Transactions







# Information Needed . . .

## **THE NICS MUST CONTACT . . .**

- Local law enforcement agencies
- Judicial agencies
- Other agencies

**. . . to obtain needed missing information.**



**We understand that  
working conditions  
are not always  
optimal.**





# Three-Business-Day Requirement

*To ensure that the NICS can make eligibility determinations within the three-business-day time frame:*

- Improved information sharing is needed
- More complete criminal histories
- Improved record keeping
- Timely response from assisting agencies with missing information





# The Gun Control Act

## 18 U.S.C. 922(g) & (n)

- (g)(1) Are Convicted of a Crime Punishable by Imprisonment for a Term Exceeding One Year**
- (g)(2) Are Fugitives From Justice**
- (g)(3) Are Unlawful Users of or Addicted to Any Controlled Substance**
- (g)(4) Have Been Adjudicated as Mental Defectives or Been Committed to a Mental Institution**
- (g)(5) Are Aliens and Are Illegally or Unlawfully in the United States**
- (g)(6) Have Been Discharged From the Armed Forces Under Dishonorable Conditions**
- (g)(7) Have Renounced Their United States Citizenship**
- (g)(8) Are Subject to a Court Order Restraining Them From Committing Domestic Violence**
- (g)(9) Have Been Convicted in Any Court of a Qualifying Misdemeanor Crime of Domestic Violence**
- (n) Are Under Indictment/Information for a Crime Punishable by Imprisonment for a Term Exceeding One Year**



# Federal Prohibitor 922 (g)(1)

**FELONY / DISQUALIFYING MISDEMEANOR**

- Persons who have been **CONVICTED** in any court of a crime punishable by imprisonment for a term **EXCEEDING ONE YEAR** whether or not sentence was imposed.

**OR**

- Any state offense classified by the laws of the state as a **MISDEMEANOR** and punishable by a term of imprisonment of more than **TWO YEARS**.





# Federal Prohibitor 922 (g)(1)

**FELONY / DISQUALIFYING MISDEMEANOR**

## **HOW YOU CAN HELP**

- **Forward final dispositions to State and Federal agencies for criminal history update**
- **Provide level of conviction, convicting statute, subsection information**



# Federal Prohibitor 922 (g)(2)

## FUGITIVES FROM JUSTICE

- **Any active misdemeanor or felony criminal warrant hit upon can be used to disqualify a purchaser.**
- **Outstanding traffic citations are not disqualifying; however, misdemeanor warrants for failing to appear for a traffic citation are disqualifying.**



# Federal Prohibitor 922 (g)(2)

**FUGITIVES FROM JUSTICE**

## **HOW YOU CAN HELP**

- **Place all misdemeanor and felony warrants in NCIC or NICS Index**
- **State held databases can not be seen at the national level**



# Federal Prohibitor 922 (g)(3)

**IS AN UNLAWFUL USER OF OR ADDICTED TO ANY  
CONTROLLED SUBSTANCE**

**~as defined in Section 102 of the Controlled Substance Act**

- **Persons who use a controlled substance and have lost the power of self-control with reference to the use of the controlled substance**
- **Persons who are current users of a controlled substance in a manner other than prescribed by a licensed physician**

**Temporary prohibitor – 1-year time frame**



# Federal Prohibitor 922 (g)(3)

## DRUG USER/ABUSER

- **Proof must be established that the substance was a controlled substance (positive drug test)**
- **Paraphernalia can be used if it tested positive**
- **Conditions of bail, probation for periodic drug testing**
- **Prohibitor refers to an INFERENCE of drug use**
- **DUI offenses**





# Federal Prohibitor 922 (g)(3)

**DRUG USER/ABUSER**

## **HOW YOU CAN HELP**

- **Forward final dispositions to State and Federal agencies for criminal history update**
- **Submit disqualified individuals to the NICS Index (failed drug testing while on probation, etc.)**



# Federal Prohibitor 922 (g)(4)

**HAS BEEN ADJUDICATED AS A MENTAL DEFECTIVE  
OR COMMITTED TO A MENTAL INSTITUTION**

- **A determination by a court, board, commission, or other lawful authority that a person, as a result of marked subnormal intelligence, or mental illness, incompetency, condition or disease is:**
  - **A danger to himself or others; or**
  - **Lacks the mental capacity to manage their own affairs; or**



# Federal Prohibitor 922 (g)(4)

**HAS BEEN ADJUDICATED AS A MENTAL DEFECTIVE  
OR COMMITTED TO A MENTAL INSTITUTION**

- **Found to be insane by a court in a criminal case; or**
- **Found incompetent to stand trial or found not guilty by reason or lack of mental responsibility; or**
- **Formally committed to a mental institution by a court, board, commission, or other lawful authority (Involuntarily committed for treatment).**

**Must be an *involuntary* commitment for *treatment*!**



# Federal Prohibitor 922 (g)(4)

## MENTAL DISQUALIFICATION

### HOW YOU CAN HELP

- **Forward final dispositions to State and Federal agencies for criminal history update**
- **Submit disqualified individuals to the NICS Index**
- **Provide complete information (ie: “Dismissed by Reason of Insanity” instead of simply “Dismissed”)**



# Federal Prohibitor 922 (g)(8)

## DOMESTIC VIOLENCE PROTECTION ORDERS

**Is subject to a court order that restrains the person 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.**





# Federal Prohibitor 922 (g)(8)

## DOMESTIC VIOLENCE PROTECTION ORDERS

1. **Must be a court order in which the subject received actual notice and had an opportunity to participate in a hearing**  
**AND**
2. **The protected person is an intimate partner of the subject (spouse, former spouse, parent of a child, does/has cohabited)**  
**AND**
3. **The order must restrain future conduct**  
**AND**
4. **The order includes a credible threat finding or a prohibition of physical force**



# Federal Prohibitor 922 (g)(8)

## DOMESTIC VIOLENCE PROTECTION ORDERS

### BRADY INDICATORS

**Y = YES the individual is prohibited.**

**N = NO the individual is not prohibited.**

**U = UNKNOWN if the individual is prohibited.**



# Federal Prohibitor 922 (g)(8)

## DOMESTIC VIOLENCE PROTECTION ORDERS

### HOW YOU CAN HELP

- **Record all needed information; actual notice, relationship, restrains future conduct, credible threat**
- **Enter ALL protection orders in NCIC when information is received**
- **Enter Protection Order Condition Number Seven (PCO 7) when applicable**
- **Enter FEDERALLY prohibited protection orders in the NICS Index**



# Federal Prohibitor 922 (g)(9)

**Has been convicted in any court of a misdemeanor crime of domestic violence**

- 1. There must be a misdemeanor conviction, unless the state does not have misdemeanors**  
**AND**
- 2. The convicting statute must have as an element, the use or attempted use of physical force or the threatened use of a deadly weapon**  
**AND**
- 3. The specific relationship must exist (Spouse, former spouse, parent, guardian, child in common, is cohabiting or has cohabited, or a person similarly situated)**



# Federal Prohibitor 922 (g)(9)

**MISDEMEANOR CRIME OF DOMESTIC VIOLENCE**

## **HOW YOU CAN HELP**

- **Forward final disposition to State and Federal agencies for criminal history update**
- **Provide level of conviction, convicting statute, subsection information**
- **Record all needed information; relationship, convicting statute/subsection**





# Federal Prohibitor 922 (n)

**Under indictment or information for a crime punishable by imprisonment for a term exceeding one year.**

**Information:** Formal accusation of a crime alleging that a person committed a specified offense, **made by a prosecuting attorney.**

**Indictment:** Formal accusation of a crime alleging that a person committed a specified offense, **made by the grand jury.**



# Federal Prohibitor 922 (n)

**UNDER INDICTMENT OR INFORMATION**

## **HOW YOU CAN HELP**

- **Forward indictment/information for criminal history update**

# NICS Index





# What is in the NICS Index?

Anything that would  
**FEDERALLY PROHIBIT**  
an individual that is  
not within the  
NCIC or the III record.



# Who is in the NICS Index?

- **Felony Convictions or Misdemeanors punishable by more than 2 years**
- **Under Indictment or Information**
- **Fugitive from Justice**
- **Controlled Substance Abusers**
- **Persons with Mental Health Adjudications or Commitments**
- **Illegal/Unlawful Aliens**
- **Dishonorable Discharged**
- **Citizen Renunciants**
- **Protection/Restraining Order**
- **Misdemeanor Crime of Domestic Violence**



# The NICS Index

Approximately

4.9 million

criminal and non-criminal  
records





# The NICS Index

- **To protect the individual's privacy, no medical information is accepted or maintained in the NICS Index.**
- **Only name and descriptive information is required for entry into the NICS Index.**
- **Privacy is ensured by having the details underlying the reason for the record entry maintained by the entering agency.**





# The NICS Index

- **The records concerning an entry into the NICS Index are maintained by the contributor.**
- **If NICS Index data from the contributor provided the basis for the ineligibility decision, the contributor will be responsible for verifying the record upon appeal.**



# 28 C.F.R. Part 25

## **NICS Access Limited to:**

- 1. Allowing a FFL to initiate a background check in connection with a proposed firearm transfer as required by the Brady Act.**
- 2. Providing information to local, state, or federal criminal justice agencies in connection with firearm purchases and the issuance of a firearm-related or explosive-related permit or license.**
- 3. To provide information to the ATF in connection with a civil or criminal law enforcement activity relating to the Gun Control Act.**

# How to Contribute





# How to Contribute

**Three modes by which to contribute:**

- 1. Electronic connection between the NICS and the states through the NCIC front-end**
- 2. Batch data transfer on CD-ROM or diskette**
- 3. E-mail formatted information to NICS Index Liaison Specialist**

**POC: Sherre Baker @ (304)625-7348**





# Required Fields to Contribute

**An entry into the NICS Index requires, at a minimum, the following fields to be populated:**

- 1. Name**
- 2. Sex**
- 3. PCA – Prohibiting Category Code**
- 4. DOB\***
- 5. ARI – Agency Record Identifier**

**\* DOB may be replaced by either the miscellaneous number (MNU) or Social Security Number**

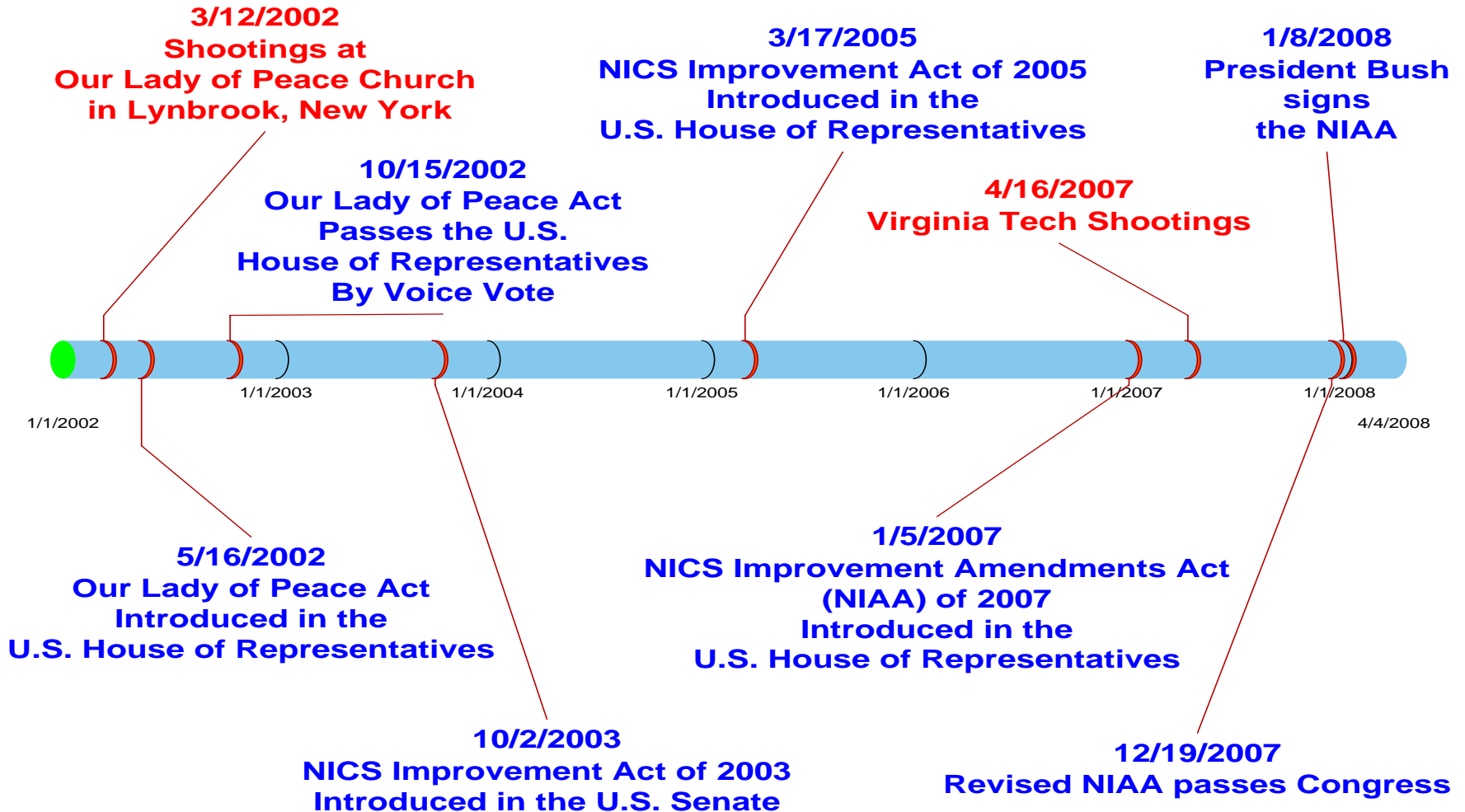
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# The NICS Improvement Amendments Act (NIAA) of 2007 P.L. 110-180





# NIAA Timeline







# Purpose . . .

**The NIAA seeks to address the gap in information about prohibiting mental health adjudications and commitments, as well as other prohibiting backgrounds, available for use in a NICS check. Filling these information gaps will better enable the system to operate as intended to keep guns out of the hands of persons prohibited by federal or state law from receiving or possessing firearms, while providing more accurate and complete information, updated criminal history records, and more immediate proceeds.**



# Records Covered

- **Felony Convictions**
- **Felony Indictments**
- **Fugitives from Justice**
- **Drug Arrests and Convictions**
- **Prohibiting Mental Health Records**
- **Domestic Violence Protection Orders**
- **Misdemeanor Crimes of Domestic Violence**



# What has Changed?

- ~Relief from Disabilities**
- ~Funding available**



# **NICS**

## **Contact Information**

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