



Sharing Information to Databases that Support NICS

Presented by:

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Federal Bureau of Investigation
Criminal Justice Information Services Division

National Instant Criminal Background
Check System (NICS) Section



NICS Guiding North Star

Daily decisions made, at all levels of the section, will focus on the mission of keeping the country safe and supporting those who are exercising their 2nd Amendment rights with a culture of good judgment, high energy, demonstrated competence, and customer service.



Databases Searched by NICS

**Interstate
Identification
Index
(III)**

**National
Crime
Information
Center
(NCIC)**

**NICS
Indices**

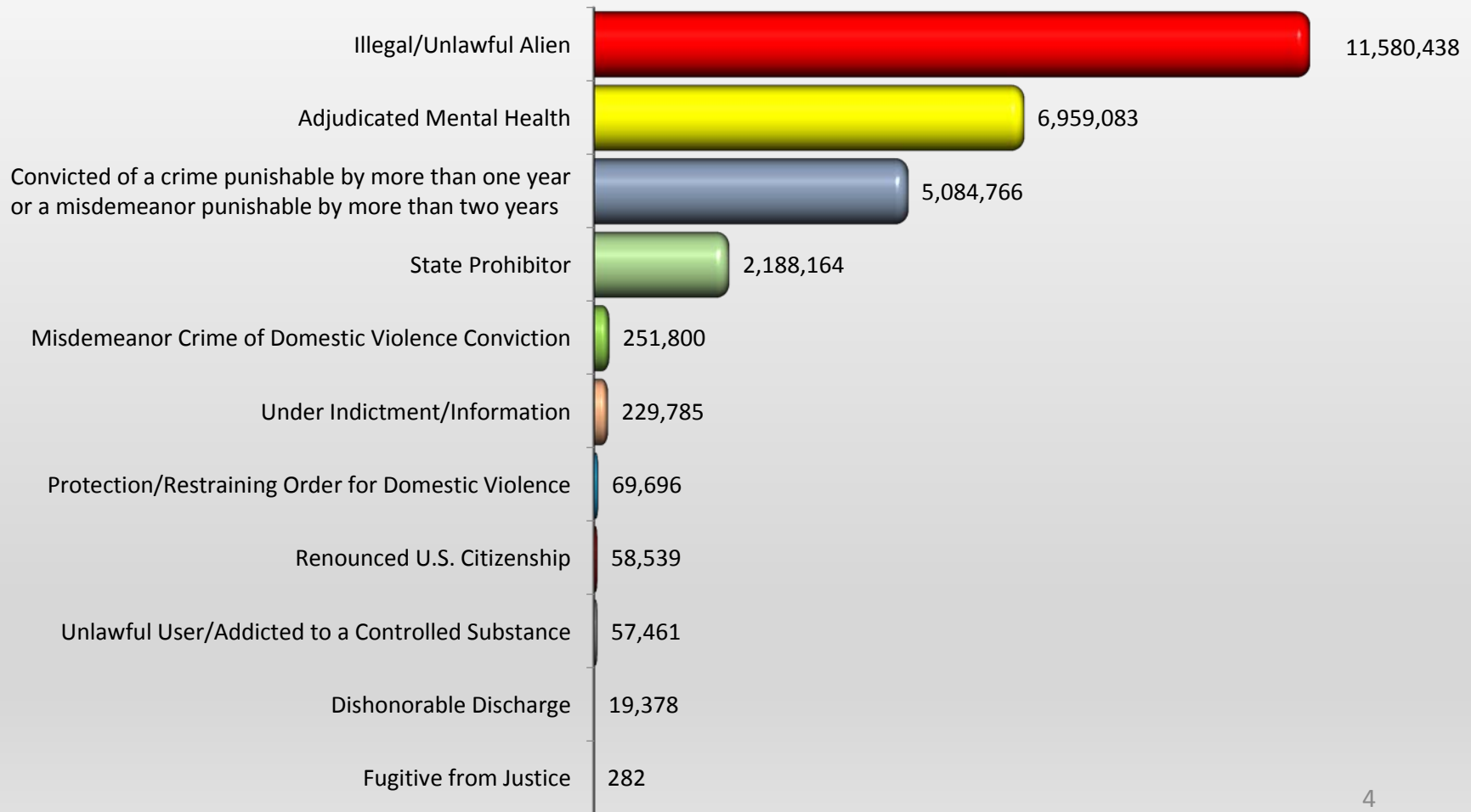
**Department of Homeland Security's U.S.
Immigration and Customs Enforcement**



NICS Indices Active Records

As of June 30, 2022

Program-to-date **26,499,392**





The Gun Control Act

18 U.S.C. § 922(g) and (n)

The federal firearm prohibitions apply to any person who:

- (g)(1) Has been convicted of a crime punishable by imprisonment for a term exceeding one year (or a misdemeanor crime punishable by imprisonment over two years).
- (g)(2) Is a fugitive from justice.
- (g)(3) Is an unlawful user of or addicted to any controlled substance.
- (g)(4) Has been adjudicated as a mental defective or committed to a mental institution.
- (g)(5) Is an alien who is illegally or unlawfully in the United States or who has been admitted to the United States under a nonimmigrant visa.
- (g)(6) Has been discharged from the Armed Forces under dishonorable conditions.
- (g)(7) Has renounced U.S. citizenship.
- (g)(8) Is subject to a qualifying protection/restraining order.
- (g)(9) Has been convicted in any court of a misdemeanor crime of domestic violence.
- (n) Is under indictment/information for a crime punishable by imprisonment for a term exceeding one year.



Three Business Days

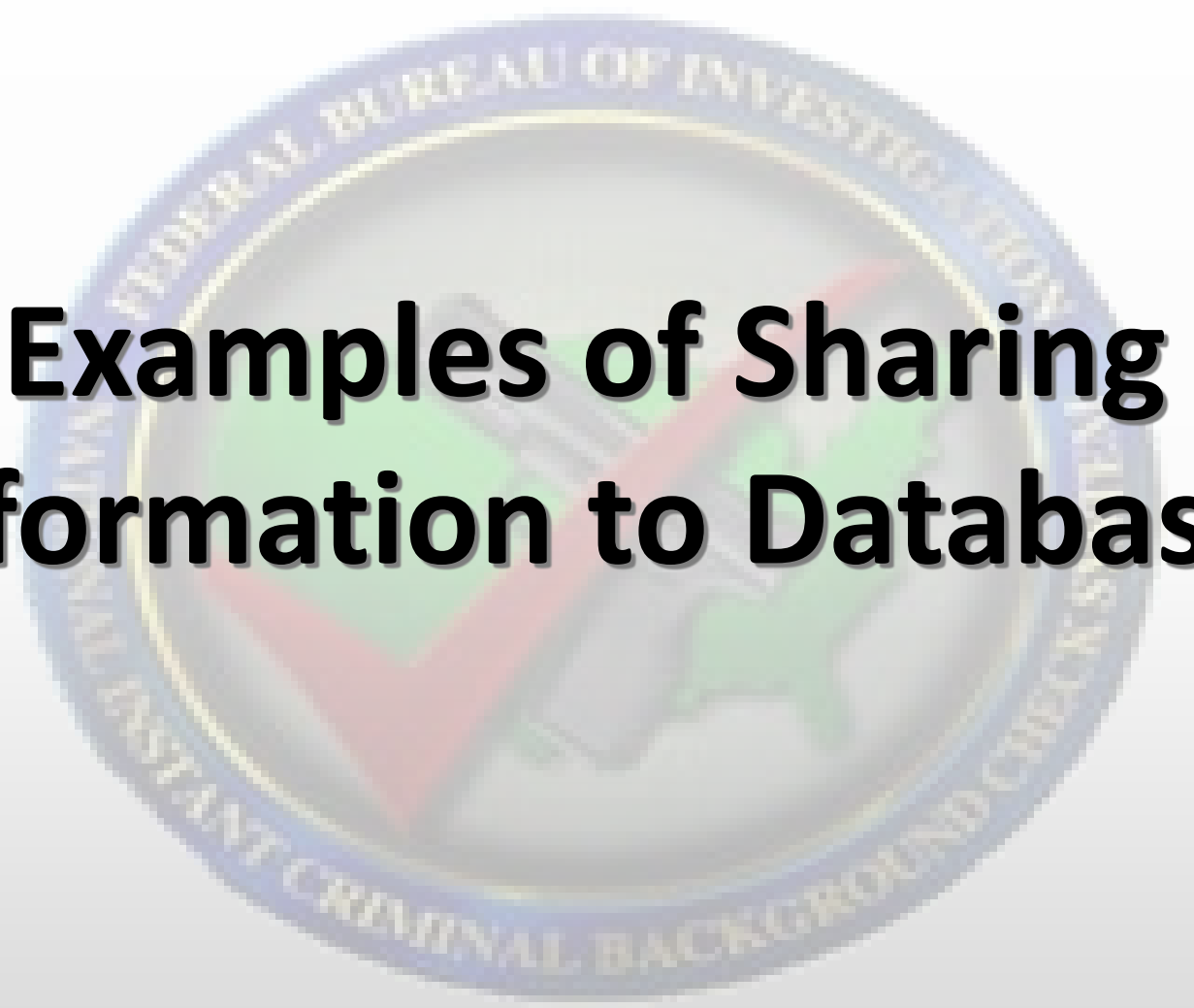


- An FFL is not prohibited from transferring a firearm after the third business day, even if the NICS Section has been unable to provide a proceed response.
- If information is received after the transfer of a firearm indicating the transferee is a prohibited person, a firearm retrieval referral is sent to ATF.

Retrieval referrals are cause for concern due to public/officer safety risks and resource demands placed upon law enforcement in retrieving the firearm.



Examples of Sharing Information to Databases

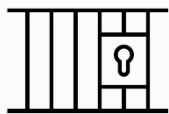




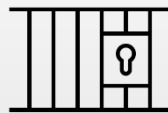
18 U.S.C. § 922(g)(1)

Convicted of a crime punishable by imprisonment for a term exceeding one year (or a misdemeanor crime punishable by imprisonment over two years).

The arrest may or may not be in III.



If the arrest is in III, immediately update the disposition to the record.



If the arrest is not in III and criteria for 18 U.S.C. § 922(g)(1) have been met, make a NICS Indices entry.



UNCLASSIFIED

18 U.S.C. § 922(n)

Under indictment/information for a crime punishable by imprisonment for a term exceeding one year (or a misdemeanor crime punishable by imprisonment over two years).

The arrest may be in III, but the indictment/information most likely will not be included.



If the indictment/information is not in III and the criteria for 18 U.S.C. 922(n) have been met, make a NICS Indices entry.

UNCLASSIFIED



UNCLASSIFIED

18 U.S.C. § 922(g)(2)

Fugitive from Justice

The warrant may or may not be in NCIC.



If applicable, enter the warrant in NCIC immediately.



If applicable, include firearm restrictions in the NCIC entry.



When contacted, provide details about the warrant.



If criteria for 18 U.S.C. § 922(g)(2) have been met, make a NICS Indices entry.

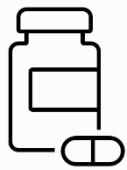


UNCLASSIFIED

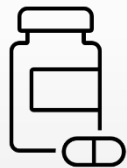
18 U.S.C. § 922(g)(3)

Unlawful user or addicted to any controlled substance.

The arrest may or may not be in III.



If the arrest is in III, immediately update the disposition to the record.



If the arrest is not in III and the criteria for 18 U.S.C. § 922(g)(3) have been met, make a NICS Indices entry.



If the arrest is in III without a disposition and the criteria for 18 U.S.C. § 922(g)(3) have been met, make a NICS Indices entry.



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18 U.S.C. § 922(g)(4)

Adjudicated mental defective or committed to a mental institution

This information will most likely not be in III; therefore, a NICS Indices entry can be made.



When making the NICS Indices entry, detailed biographic information should be provided.



Supporting documentation should be maintained for the life of the NICS Indices entry.



If an arrest is in III and there is a mental health disposition, III should be updated immediately.



UNCLASSIFIED

18 U.S.C. § 922(g)(8)

Protection/Restraining Order

The order may or may not be in NCIC.



If applicable, enter the order into NCIC immediately.



If applicable, set the Brady Indicator.



When contacted, provide details about the order.



If an NCIC entry is not possible, make a NICS Indices entry if criteria for 18 U.S.C. § 922(g)(8) have been met.



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18 U.S.C. § 922(g)(9)

Misdemeanor Crime of Domestic Violence

The arrest may be in III, but the relationship may not:

- If the arrest is in III, immediately update the disposition to the record. The relationship should be included if possible.
- Court records and incident reports should be completely updated in the event physical force or relationship information is needed.
- If 18 U.S.C. § 922(g)(9) criteria have been met, make a NICS Indices entry.



State Prohibitors

The arrest may or may not be in III.



If the arrest is in III, immediately update the disposition to the record.



If the arrest is not in III and the state prohibitor has been met, make a NICS Indices entry.



Extreme Risk Protection Order (ERPO)

In general, ERPOs:

- ❖ Consist of a court order temporarily restricting an individual from receiving/possessing firearms, based on a finding of being a danger to self or others.
- ❖ Allow family members, household members, law enforcement, etc., to petition the court and provide the extreme risk information.
- ❖ Do not involve a protected person or other criteria needed to establish the 18 U.S.C. § 922(g)(8) prohibition.



Sharing ERPO Information

The NCIC ERPO File will be available August 1, 2022, for entry. NCIC criteria will need to be met to make an entry. If NCIC criteria are unable to be met and there is an active and valid ERPO that would prohibit firearm possession, a NICS Indices entry should be made.

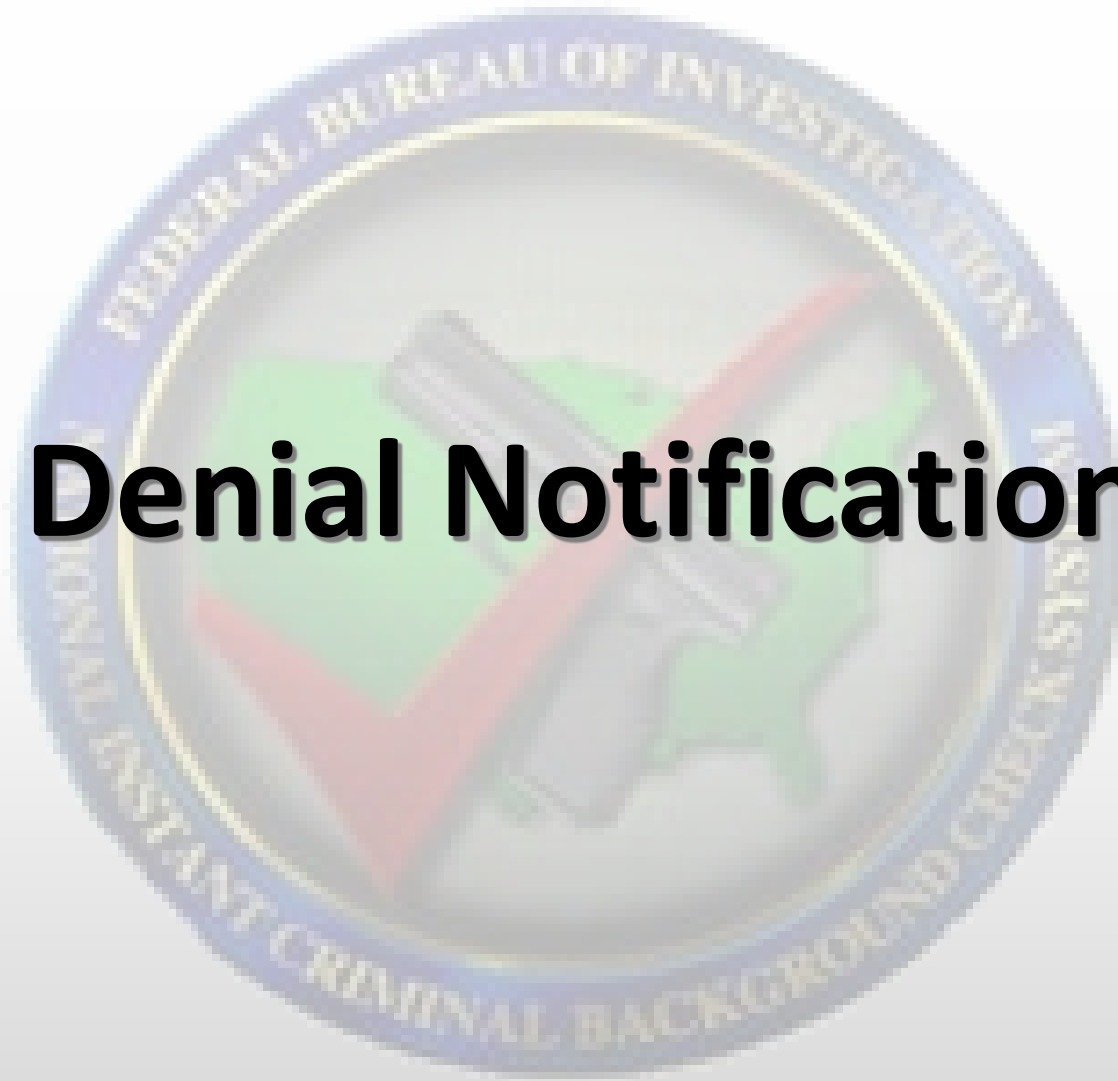


Sharing Other Court-Ordered Firearm Restrictions

Active court orders with firearm restrictions associated with terms of probation, bond release, parole, etc., are prohibiting for NICS purposes regardless of state of residence, state of purchase, or state of issuance and should be shared to the NICS Indices.



NICS Denial Notification Act





NICS Denial Notification Act

The NICS Denial Notification Act was signed into law on March 15, 2022.

- ✓ The NICS Denial Notification Act requires the FBI to send a denial notice to state, local, or tribal law enforcement within 24 hours of the denial.
- ✓ The FBI will begin sending denial notices no later than October 3, 2022.



Questions and Discussion





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