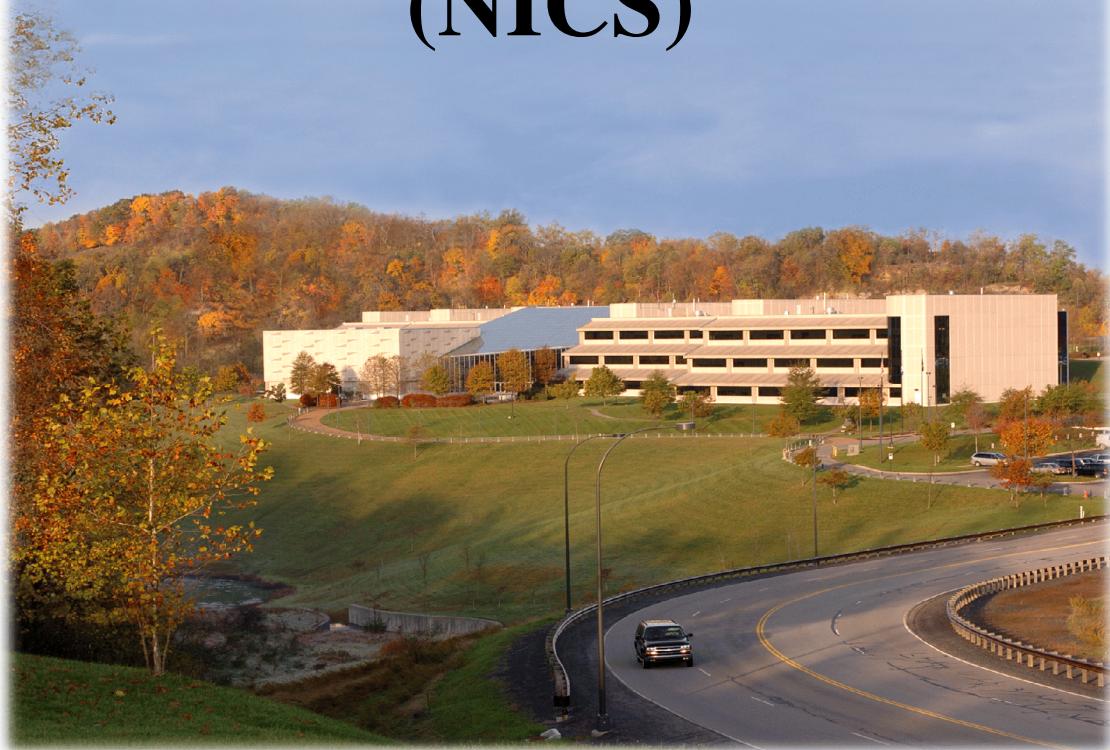




National Instant Criminal Background Check System (NICS)



Operations 2005

FBI
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.**



In 2005, the FBI Criminal Justice Information Services (CJIS) Division's National Instant Criminal Background Check System (NICS) Section, witnessed many significant improvements and achievements in the furtherance of its mission by identifying, developing, and implementing system improvements to consistently provide its users with a highly effective and efficient level of quality service. Highlights of the 2005 NICS accomplishments include the following:

- From the inception of the NICS on November 30, 1998, through December 31, 2005, a total of 62,060,717 background checks were conducted through the NICS. Of these, 31,946,121 were processed by the NICS Section at the FBI and 30,114,596 were processed by the NICS Point-of-Contact (POC) states.
- From November 30, 1998, through December 31, 2005, the NICS Section has denied a total of 473,433 firearm transfers. The NICS Section denial rate for 2005 (1.35 percent) remained approximately the same as that for 2004 (1.36 percent).
- In 2005, the NICS Index was increased by an additional 295,835 record entries. From program inception in November 1998 through December 31, 2005, the NICS Index has witnessed an increase in the number of *readily available* federally prohibiting records by approximately 325 percent. As of December 31, 2005, approximately 3,960,682 prohibiting records were maintained in the NICS Index.
- The NICS Section achieved a 91.47 percent Immediate Determination Rate (IDR) for 2005, thus meeting its goal of maintaining a 90 percent or better IDR.
- In the spirit of protecting national security and public safety, the NICS Section, as of December 31, 2005, has obtained over 547,000 dispositions for posting/updating to criminal history records; forwarded over 15,270 documents to state authorities for record maintenance at the state level; and scanned over 100,000 criminal history documents for supplemental use with future background check transactions.

- To enhance existing services, the NICS Section identified a means that will allow for the secure access of the Voluntary Appeal File (VAF) by the POC states. Implemented on February 9, 2005, the POC states are now able to access the data maintained in the VAF via Law Enforcement Online.
- On April 10, 2005, the NICS was successfully integrated to a newer, state-of-the-art “superdome” environment recently deployed by the CJIS Division to house the NICS’ partnering systems. This “rehost” created a more robust partnership between the databases that are collectively searched during the background check process. As a result, the NICS achieved a 100 percent system availability level in June, July, October, November and December 2005, and thus was able to provide effective and efficient service to its users 99.63 percent of the time in 2005.
- The NICS Section was invited to attend and participate in the National Rifle Association's (NRA) annual meeting/exhibit in April 2005. As first-time attendees during the 2005 NRA meeting, the NICS Section participated as an exhibitor and, with available staff on-hand, shared information concerning the background check and related processes to many of the over 110,000 persons (e.g., NRA members, Federal Firearms Licensees [FFLs], legislative representatives, and the public) in attendance.
- To provide the NICS Section with the tools necessary to perform in an optimally efficient and effective manner, the NICS Section successfully deployed Phase I of the Personal Computer (PC) Client desktop automation system enhancement on June 12, 2005. The development of Phase II of PC Client is currently under development.
- On June 14, 2005, the NICS Section began tracking the effectiveness and the efficiency of utilization of the Spanish-screen format (e.g., a processing tool to aid in overcoming language barriers) functionality for the NICS E-Check. As of December 31, 2005, there were over 60 occurrences of an FFL utilizing the NICS E-Check Spanish-screen format option.
- To maximize the use of all available resources and increase productivity in processing background checks, the NICS Section combined the Transfer Process and the Customer Service functions. To effectively accommodate the merger of the two processes, the NICS Section implemented the utilization of Whisper Technology which provides the NICS employees with an audible introduction of the type of call (e.g., the specification requirements for processing) that is pending. The successful implementation of Whisper Technology and the consolidation of the two processes was accomplished in June 2005.

- On July 1, 2005, the state of Georgia ceased to operate as a POC for the NICS. As a result, the NICS Section assumed the processing of transactions initiated by the FFLs conducting business in Georgia. As of December 31, 2005, the NICS Section provided full service to the FFLs conducting business in 29 states (including Georgia), 5 territories and 1 district, while 21 states participated with the NICS in either a Full-POC or a Partial-POC capacity.
- On July 3, 2005, the NICS Section enhanced its E-Check processing regimen by implementing a feature that provides an automated missing disposition instruction to the FFLs when the results of a NICS background check has not yielded a final transaction status. This enhancement eliminates the need for the NICS employees to expend a vast amount of time on the telephone manually providing the required notifications.
- To assist the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) with workload management and firearm retrieval referral prioritization, the NICS Section identified and implemented a system enhancement that ranks a delayed denial transaction and separates the ranked delayed denials from the standard denials. In addition, firearm retrieval referral codes were successfully implemented on July 17, 2005.
- On July 17, 2005, based on a recommendation from the Government Accountability Office, the NICS Section assumed total oversight of all background checks (federal and state) that descriptively match the subject of a National Crime Information Center Violent Gang and Terrorist Organization File (VGTOF) record. In 2005, the NICS Section processed 239 valid VGTOF-matched transactions of which 205 were proceeded. Of the 239 VGTOF-matched transactions, 19 were denied based on federal prohibitive criteria that was obtained through routine research and processing.
- On September 15, 2005, the NICS Section, with the assistance of the CJIS Division's Information Technology Management Section (ITMS), implemented an interim adaptation of the FBI's envisioned Major Case Contact Center (MC3) to assist with the collection of information and complaints resulting from the aftermath of Hurricane Katrina. As of December 31, 2005, the MC3 received approximately 3,590 calls yielding 1,878 record entries resulting in 26 indictments or complaints.
- On November 1, 2005, the 60 millionth background check was initiated via the NICS and processed by the NICS Section personnel.
- In 2005, the NICS Section installed additional specialized software, designed to enhance the employee work scheduling process. The new scheduling software, when combined with previously deployed scheduling software, further enhances the NICS Section with an optimal workload management tool that will assist the NICS Section in providing consistent and optimal service.

- The Explosives Background Check Process was implemented by the NICS Section in February 2003. As of December 31, 2005, a total of 116,010 explosives background checks were processed by the NICS Section.
- During the background process, an Immigration Alien Query (IAQ) is automatically requested of the Department of Homeland Security's U.S. Immigration and Customs Enforcement (ICE) for all non-U.S. citizens in order to determine the subject's legal/lawful status in the United States. In 2005, the NICS Section submitted over 30,600 such IAQ requests to the ICE.
- The VAF allows the NICS Section to maintain information pertaining to non-prohibited persons to assist in the timely review and determination of said person's eligibility to receive firearms in future transactions. As of December 31, 2005, there were 782 successful entries maintained in the VAF database. In 2005, a total of 297 VAF participants were able to receive a firearm without experiencing a lengthy delay or denial.
- Concentrating efforts in seeking overall program efficiency and effectiveness, the NICS Section continued its Streamlining Initiative in 2005. As a result, many of the NICS Section's processes were streamlined and/or enhanced resulting in a more effective and efficient operation.
- In 2005, there were 3,771 firearm retrieval cases referred to the ATF. The percentage of firearm retrievals referred to the ATF in 2005 decreased in spite of an almost 6 percent increase in the NICS Section's workload in 2005.



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

Through a cooperative effort with agencies such as the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) and the Department of Justice (DOJ), in addition to local and state law enforcement agencies, the FBI developed the NICS, which became operational on



November 30, 1998. The NICS was designed to immediately respond 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 which collects the prospective firearm transferee's descriptive data *and* asks questions intended to capture information that may immediately indicate to an FFL that the subject is a prohibited person, thereby negating the need to continue the background check process. Pursuant to federal law, a prospective transferee is required to present proof of identity via a form of government-issued photo

identification to an FFL prior to the FFL's submission of subject descriptive data to the NICS. 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.

¹ Persons licensed by the ATF as a manufacturer, dealer, or importer of firearms.

These databases are:

Interstate Identification Index (III): The III contains an expansive number of criminal history records. The III records searched by the NICS during a background check, as of December 31, 2005, numbered over 46,087,000.

National Crime Information Center (NCIC): The NCIC contains information on protection orders, wanted persons, and others. The NCIC records searched by the NICS during a background check, as of December 31, 2005, numbered over 3,238,000.

NICS Index: The NICS Index² contains records contributed by local, state, and federal agencies pertaining to individuals *federally* prohibited the transfer of a firearm. The records maintained in the NICS Index, as of December 31, 2005, numbered over 3,960,000.



Also, a fourth search, via the applicable databases of the Department of Homeland Security's U.S. Immigration and Customs Enforcement (ICE), may be required pursuant to federal 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 2005, the FBI Criminal Justice Information Services (CJIS) Division's NICS Section and its Point-of-Contact (POC) state counterparts requested over 30,600 such queries of the ICE. The 2005 number of Immigration Alien Queries (IAQ) requests represents an approximate 11 percent increase from the number requested in 2004.

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. A much smaller percentage of the inquiries are delayed due to missing or incomplete information, e.g., final dispositions or crime classification level, that is necessary in order to make a final determination as to whether the firearm transaction may be proceeded or must be denied.

² The NICS Index, created specifically for the use of the NICS, contains record information that is not located in the III or the NCIC databases pertaining to individuals federally prohibited from the transfer of a firearm.

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. In instances where 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 NICS Section will search for the information needed to complete the record. This process often requires outreach to local, state, and federal agencies, such as court systems, law enforcement agencies, probation and parole agencies, etc. In these instances, the Brady Act provides three business days for the purpose of obtaining additional clarifying information with which to make a determination as to the prospective firearm transferee's eligibility. If the 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.

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 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.³

The NICS Section created a Voluntary Appeal File (VAF) for the purpose of allowing lawful purchasers to request that the NICS retain information such as court documentation, arrest information, and fingerprint cards which may clarify or prove their identity to avoid erroneous delays or denials on future NICS transactions.

The Safe Explosives Act requires that persons who transport, 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 officially became effective on May 24, 2003. Background checks for explosives permits, under the Safe Explosives Act, are processed through the NICS by the NICS Section.

Extensive measures are taken to ensure the security and the integrity of NICS information. Access to 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 NICS information are available on the Internet at www.fbi.gov/hq/cjisd/nics/index.htm.

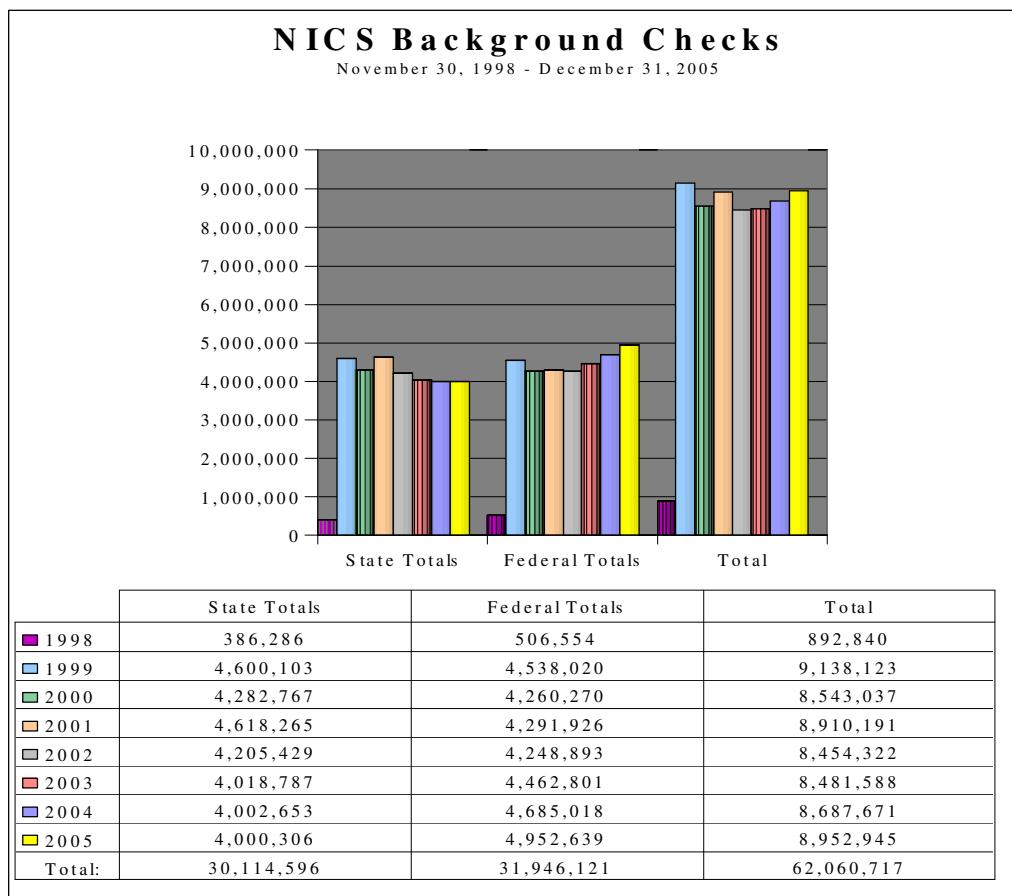
³ The provisions for appeals are outlined by the NICS Regulation at Title 28, Code of Federal Regulations (C.F.R.), Part 25.10 and Subsection 103(f) and (g) and Section 104 of the Brady Act.

NICS 2005 Operations

NICS Transactions

Since the inception of the NICS and throughout the year ending on December 31, 2005, a total of 62,060,717 background check transactions were conducted through the nation's firearms and explosives background check system. Of these transactions, 30,114,596 were processed through the POC states, while the majority, or 31,946,121 transactions were processed through the NICS Section (reference Figure 1).

Figure 1
NICS Transactions, November 30, 1998, through December 31, 2005

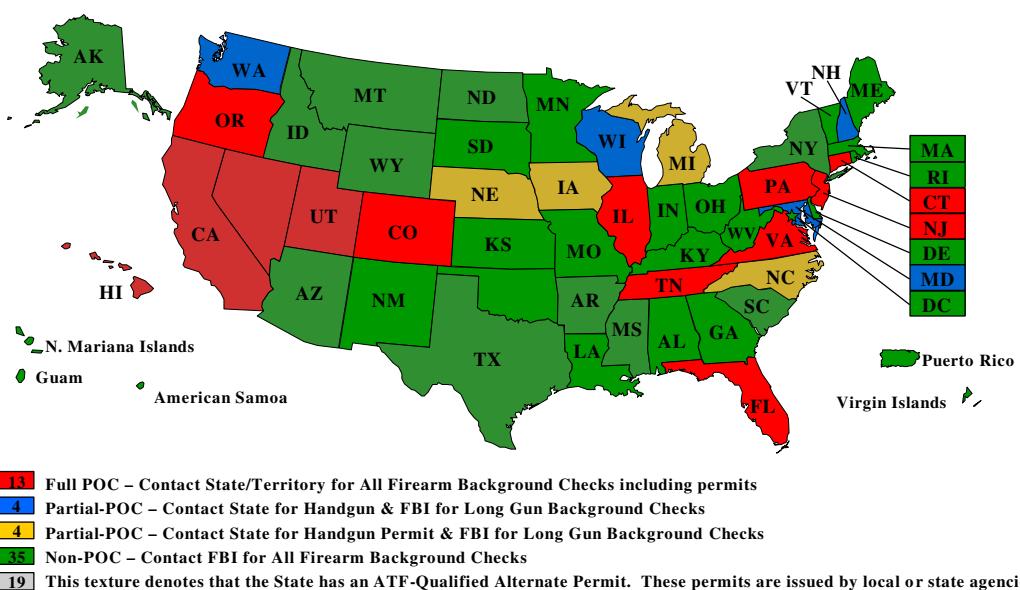


NICS Participation

Pursuant to the NICS Regulation, the FFLs will initiate background checks with the NICS by contacting either the NICS Section or a state-designated POC. Any state can implement its own Brady NICS Program by designating a local or state law enforcement authority within the state to serve as an intermediary between its FFLs and the NICS in a POC capacity. A state can, at any time, choose to become a POC state. A POC state can also, either through state law or by operation of state policy, cease operations as a POC state. The FFLs conducting business in those states that choose not to participate with the processing of NICS background checks will contact the FBI, via the NICS Section's Contracted Call Centers, to initiate background checks (except where otherwise specified, e.g., a recheck following a successful appeal).

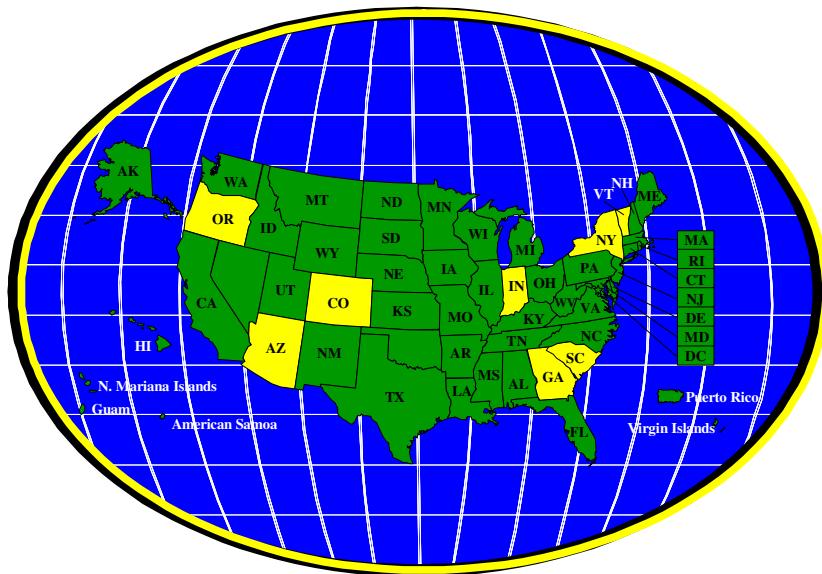
As of December 31, 2005, the NICS Section provides full service to the FFLs conducting business in 29 states, 5 territories and 1 district, while 13 states have agencies acting on behalf of the NICS in a full-POC capacity by conducting all of their own state background checks via the NICS. Eight states continue to share responsibility with the NICS Section by acting as a partial POC. Partial-POC states have agencies designated to conduct background checks for handguns and/or handgun permits, while the NICS Section processes all of their long gun transactions. The NICS Participation Map (reference Figure 2) depicts each state's participation level with the NICS as of December 31, 2005.

Figure 2
NICS Participation Map as of December 31, 2005



As a result of legislation passed on April 6, 2005, the state of Georgia ceased operations as a Full POC for the NICS effective July 1, 2005. As such, the NICS Section initiated a transition plan which included the enrollment of Georgia's FFLs to conduct business with the NICS Section. The NICS Section received its first Georgia firearm check on June 20, 2005, via the NICS E-Check. As a result of Georgia's change in NICS participation status, the NICS Section has assumed the processing of all background check inquiries submitted via Georgia's FFLs. This change in participation marked the most recent of many state-initiated modifications to state participation with the NICS (reference Figure 3).

Figure 3
Historical Changes in NICS State Participation as of December 31, 2005



- **Colorado:** Ceased operations as a Partial POC in March 1999 and subsequently resumed operations as a Full POC in August 1999.
- **South Carolina:** Ceased operations as a Full POC in October 1999.
- **Oregon:** Implemented Full-POC operations in December 2000.
- **Vermont:** Ceased operations as a Full POC in February 2002.
- **Arizona:** Ceased operations as a Full POC in August 2002.
- **Indiana:** Ceased operations as a Partial POC in October 2003.
- **New York:** Reclassified as Non-POC in September 2004.
- **Georgia:** Ceased operations as a Full POC in July 2005.

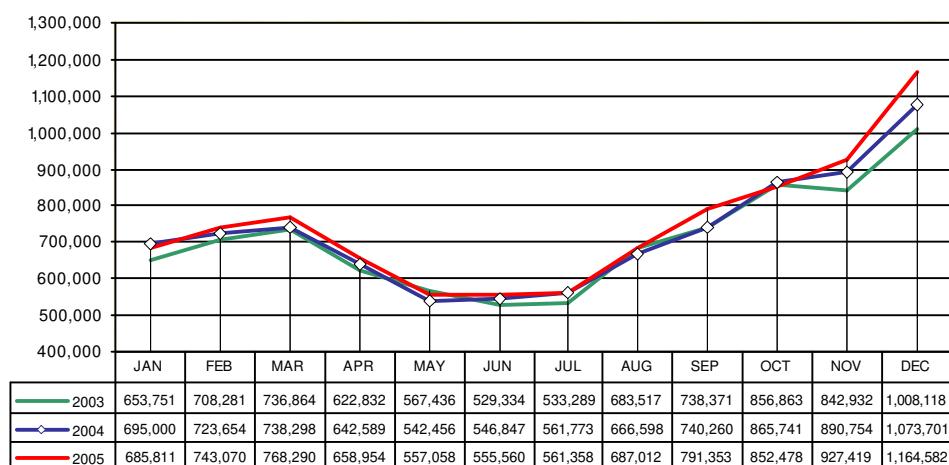
Alternate Permit Status

With the implementation of the NICS in 1998, certain state firearm permits (e.g., carry concealed weapon permits, permits to purchase) were qualified by the ATF as permits that would suffice *in lieu of* (e.g., an alternate to) a NICS check at the point of sale/transfer. As one of the requirements for eligibility to receive an ATF-approved alternate permit, a NICS background check *must* be included as part of the permit-issuing and renewal process. Alternate permits are issued for a designated period of time, many being valid for up to five years depending on the existing laws in the particular state of issuance. Presentation of an active alternate permit to an FFL when attempting to receive a firearm will preclude the necessity of the FFL conducting a NICS background check with each firearm transfer during the life of the permit. In 2005, as a result of the ATF's comprehensive review of the *in lieu of* permit qualifications for each of the alternate permit states, several changes in participation occurred. As of December 31, 2005, there were 18 states and/or U.S. territories which were afforded alternate permit status by the ATF. The NICS Participation Map (reference Figure 2 on page 5) depicts those states which, as of December 31, 2005, maintained alternate permit status with the NICS.

NICS Activity

Yearly, the NICS experiences a consistent and predictable increase in transactional activity associated with the onset of state hunting seasons and the year-end holidays. Firearms are part of the retail industry; therefore, substantial increases in firearm sales historically begin in late summer and progressively increase through the month of December. Corresponding to the escalation in firearm sales typically witnessed in the months leading toward the end of a calendar year, the influx of transactional activity to the NICS also progressively increases. This period of time, when the number of firearm transactions are increasing (reference Figure 4), is referred to as the NICS "peak season."

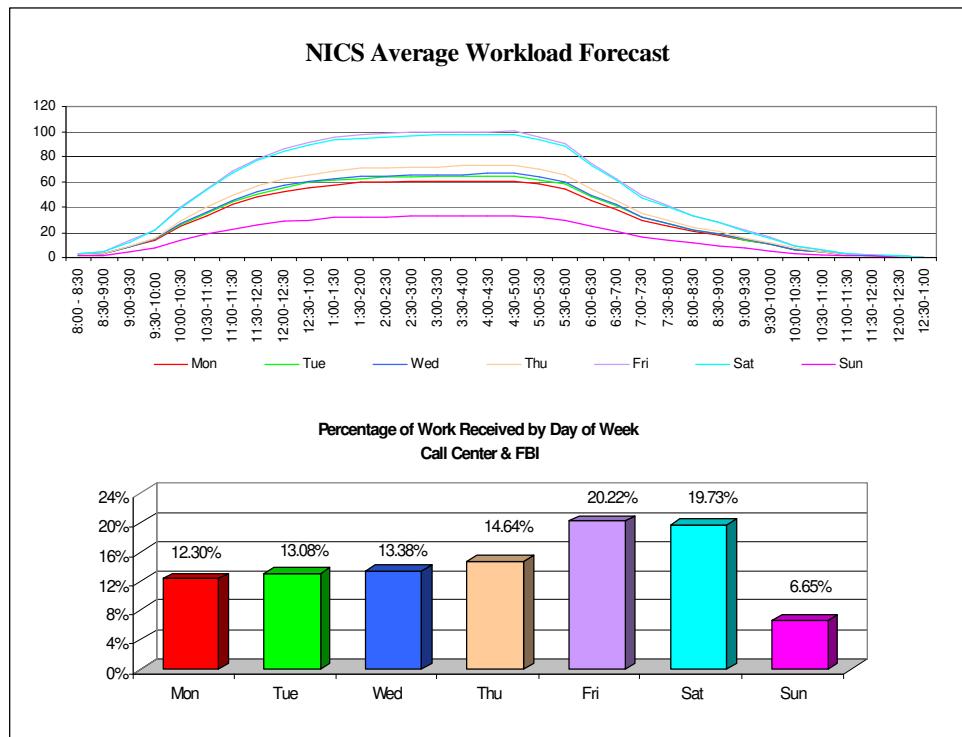
Figure 4
Annual Comparison of NICS Activity - 2003 through 2005



The NICS standard available hours of system operation are 8 a.m. EST to 1 a.m. EST, 364 days a year.⁴ However, in the spirit of effective and efficient customer service, and to accommodate the escalating transactional influx typically associated with each year's "peak season," the hours of system availability are customarily expanded to provide longer periods of access to the POCs. This additional available operating time aids in deterring potential "bottlenecks" which can accompany demand and activity levels associated with eminent "peak season" volumes.

In order to successfully accommodate the increase of transactions during "peak season" and, in turn, provide optimal customer service to the NICS users in "peak" as well as "non-peak" times, the NICS Section allocates its resources by utilizing a workload forecast model. The NICS Section's workload forecast model calculates and provides the data needed to determine the necessary adjustments to ensure adequate staffing for workload maintenance, both at the NICS Section and its Contracted Call Centers. The NICS Section's staffing model, designed to calculate the number of NICS employees required for each business day, also evaluates current schedules to determine any anticipated or potential deficiencies. Similar to the retail industry, approximately 40 percent of all contacts are received on Friday and Saturday with the majority between the hours of 11 a.m. and 7 p.m. During anticipated times of greater demand, staffing levels are adjusted to support an increase in workload (reference Figure 5).

Figure 5
NICS Average Workload Forecast



⁴ The system is not available on Christmas Day.

The NICS Section conducts ongoing comprehensive system and process checks aimed at assessing operational performance. Continual assessment of daily operations keeps the NICS Section current with ever-changing needs in order to maximize its resources to provide optimal customer service. The acquisition and installation of a supplemental software module in 2005 provides the NICS Section with an additional workload management tool via the utilization of advanced applications for various other aspects of business operations, e.g., projecting an effect on workload when unique and/or atypical impacts to daily business operations occur. The effective use and application of historical call volume, transaction volume, and time study data in predicting future workload requirements has enhanced the NICS Section's ability to more effectively develop staffing projections and concise work schedules. This, in turn, continues to amplify the efficiency of workload management and provide consistent and optimal customer service to the users of the NICS.

NICS Section Denials

Since the implementation of the NICS on November 30, 1998, and through year-end 2005, a total of 473,433 firearm transactions (or approximately 1.48 percent) have been denied by the NICS Section. Until the passage of the NICS Final Rule on July 20, 2004⁵, the POC states were not required to report final eligibility determinations (e.g., denials) to the NICS⁶; therefore, statistics outlining the number of background check denials rendered by the states is not available via the NICS.

The Bureau of Justice Statistics' (BJS) Firearm Inquiry Statistics Program, implemented in 1995, collects information on background checks conducted by local and state agencies. The local and state data, when combined with the NICS data, provide cumulative estimates of the total number of background check transactions and denials resulting from the Brady Act requirements and similar state laws.

With data provided by the local and state agencies that conduct their own background checks, the BJS has estimated that approximately 507,167 local/state firearm transactions have been denied for the period of November 30, 1998, through December 31, 2004⁷ (the 2005 data not available at this time). Referencing Table 1, the denial rates for the NICS Section (through December 31, 2005) as well as the states (through December 31, 2004) have steadily declined.

⁵ Reference the *Federal Register*, Vol. 69, No. 141, Friday, July 23, 2004.

⁶ The NICS Final Rule, effective July 20, 2004, provides that the POC states must transmit electronic NICS transaction determination messages to the FBI; however, a deadline for this to occur was not specified. The legislation specifies all POC states must continue to work with the NICS Section to satisfy the requirement as soon as possible; therefore, in the interim, the data outlining transactions/denials rendered by the states is obtained via BJS sources until all states are in compliance as specified above.

⁷ Reference the BJS publication entitled "Background Checks for Firearm Transfers, 2004" which can be accessed via the BJS Web site at www.ojp.usdoj.gov/bjs/pubalp2.htm.

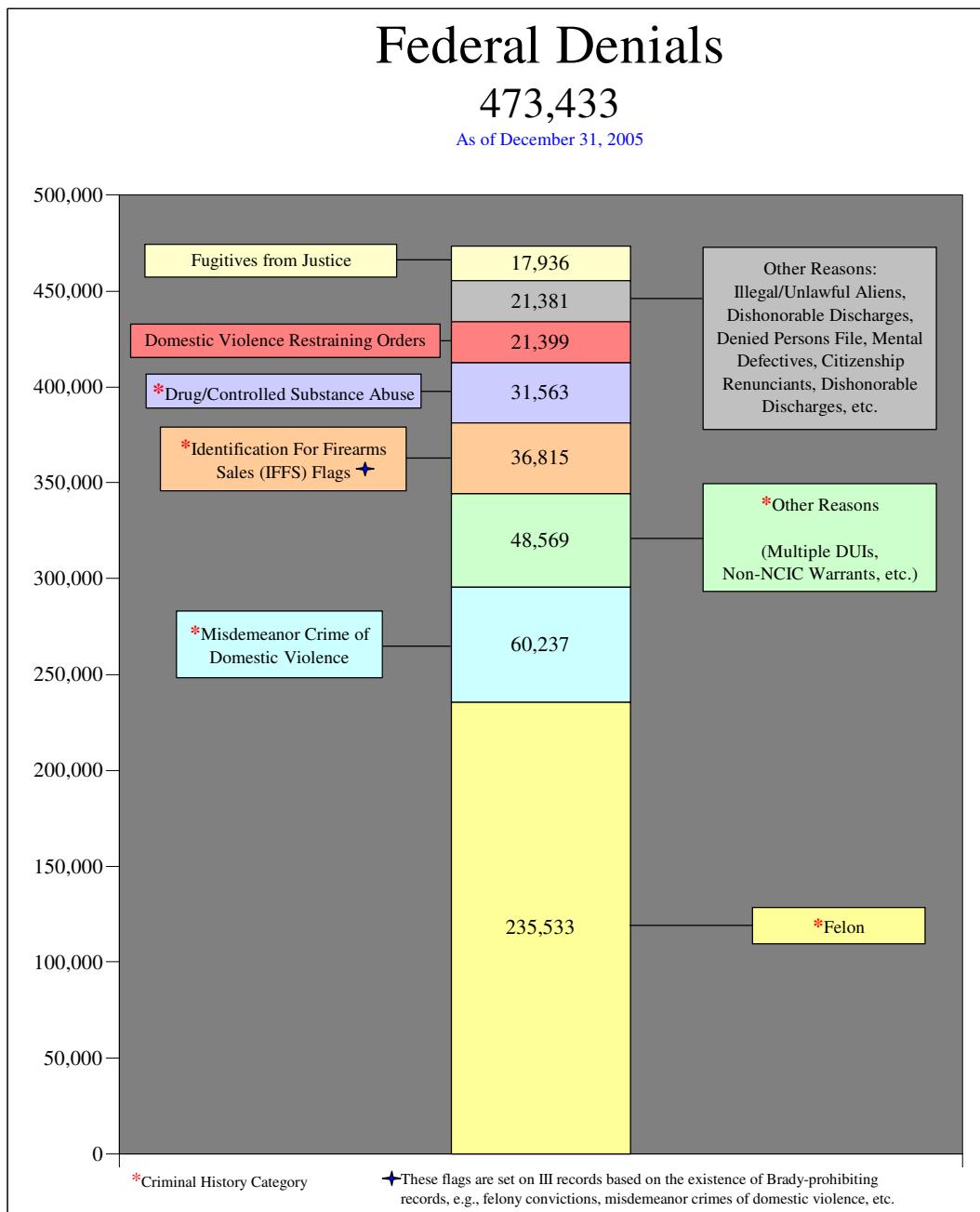
Table 1
The NICS Denial Rate

	Number of Transactions Conducted		Number of Denials Rendered		Denial Rate Percentage	
	NICS Section	POC States	NICS Section	POC States ⁶	NICS Section	POC States
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	1.83
2005	4,952,639	4,000,306	66,705	N/A⁸	1.35	N/A⁸
Program-to-Date as of December 31, 2005	31,946,121	30,114,596	473,433	N/A	1.48	N/A

The leading reason for NICS Section denials (reference Figure 6 on next page), both historically and in 2005, is the existence of a felony record. Comparably, the BJS also reports that from 1999 through 2004 (2005 data unavailable), the majority of denials rendered by state and local agencies, parallel to the NICS Section, was the result of the applicants' felony convictions or indictments.

⁸ At the time of this report, the 2005 data outlining background checks for firearm transfers had not been published by the BJS.

Figure 6
The NICS Section Denial Distribution



Firearm Retrieval Referrals

When processing firearm background checks, if record-completing information (e.g., dispositions) is missing from a criminal history record and a final transaction decision of either proceed or deny cannot be determined and provided to the FFL within the Brady-mandated three-business-day time frame, it is the FFL's option to legally transfer the firearm. In these instances, a firearm could be transferred to an individual who is later (e.g., after the subsequent receipt of disqualifying disposition information) determined to be a prohibited person. These types of scenarios are serious and require immediate attention by the NICS Section personnel and referrals to the ATF. The ATF determines if a firearm retrieval and/or a criminal investigation concerning the falsification of the ATF Firearm Transaction Form will be pursued.

In 2005, the NICS Section referred 3,771 such scenarios to the ATF for further review, evaluation, and possible retrieval of the firearm and/or investigation. Since the implementation of



the NICS in November 1998, and through December 31, 2005, records indicate that over 26,600 such transactions⁹ have been referred to the ATF for follow-up investigation. These types of situations present ongoing public safety *and* law enforcement safety risks as, in many instances, the firearm must be retrieved. While tremendous strides have been made by local, state, and federal agencies in availing record-completing/clarifying information to the law enforcement community, it is apparent that more is needed.

System Availability of the NICS

Providing optimal customer service is a key factor in the success of any organization or program; therefore, maintaining a high level of system availability and accessibility remains a top priority for the NICS Section. Partnering with the NICS to provide information necessary in the background check process, the CJIS Division manages the operations and maintenance of the NICS' interfacing systems that collectively are termed the CJIS System of Services (SoS). The CJIS SoS, comprised of the NCIC, the NICS, and the Integrated Automated Fingerprint Identification System, provides fingerprint identification capabilities, criminal history services, wanted person checks, etc. The information available through the CJIS SoS facilitates law enforcement operations and various public safety initiatives across the United States and additionally provides the information needed to determine subject eligibility for individuals attempting to receive firearms or firearms/explosives permits. As such, the NICS is dependent on the information provided by the CJIS SoS in order to operate as designed and to complete each query of the system in an efficient and effective manner.

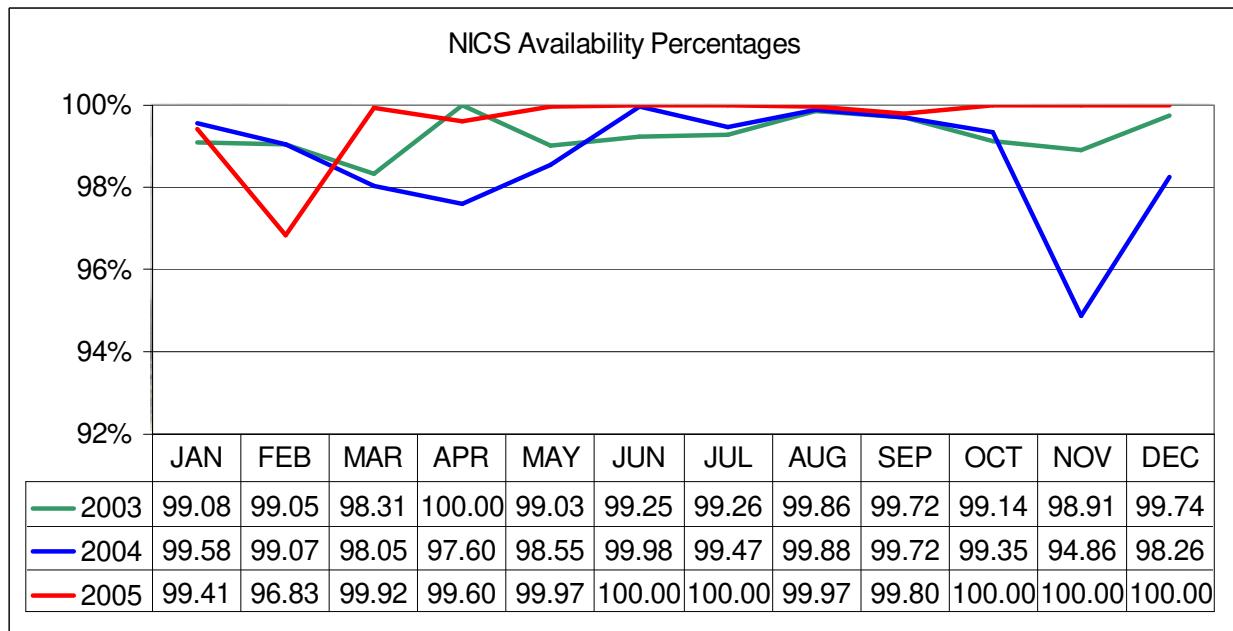
Prior to 2005, the CJIS Division implemented and successfully completed a "rehost" of the systems comprising the SoS (the NICS' partnering systems) to a newer state-of-the-art

⁹ This information is based on data compiled regarding transactions processed by the NICS Section.

"superdome" environment. After a great deal of planning and preparation by the staff of the NICS Section and the CJIS Division's Information Technology Management Section (ITMS), the relocation of the NICS, as the final phase of the CJIS Division's overall rehost project, was successfully accomplished on April 10, 2005.

In today's business world, all organizations strive to achieve a 100 percent service availability level. Whatever the service or the product, good service champions good business. As such, the relocation of the NICS to a more sophisticated infrastructure housing all of the systems comprising the CJIS SoS launched a more robust partnership between the systems searched during the background check process. The movement of the CJIS SoS to its new operating platform successfully enhanced the overall effectiveness and efficiency of the CJIS Division Systems including the NICS (reference Figure 7).

Figure 7
The NICS Availability 2003-2005



With the rehost of the NICS to the CJIS SoS, dramatic strides in the NICS availability level were witnessed in 2005. Prior to 2005, a 100 percent NICS availability level had only been noted once, in April 2003. After the implementation of CJIS Division technological advancements, the NICS witnessed five months of 100 percent system availability and noted a total yearly availability average of approximately 99.63 percent during 2005.

The NICS background check process requires the application of several interconnected but separate and distinct operating systems and corresponding processes to achieve its stated purpose. Issues with service availability have been greatly depreciated; however, even with intermittent periods of service unavailability, the quality of service provided to the NICS customers remains outstanding.

Performance of the NICS

Performance measures are used to assess an organization's progress relative to the implementation of business policies, strategies, and activities. Providing indications of an organization's ability to efficiently and effectively avail its product or service, performance measures supply an organization with the necessary tools utilized in measuring the quality of their output. By defining specific and critical measurable elements, a business can assess how various attributes which cumulatively comprise daily business operations have performed. The performance of these identified elements guide an organization to success by providing an overview of business variables that assist management in identifying opportunities for program enhancement and sustainable changes that will contribute to tangible improvements.

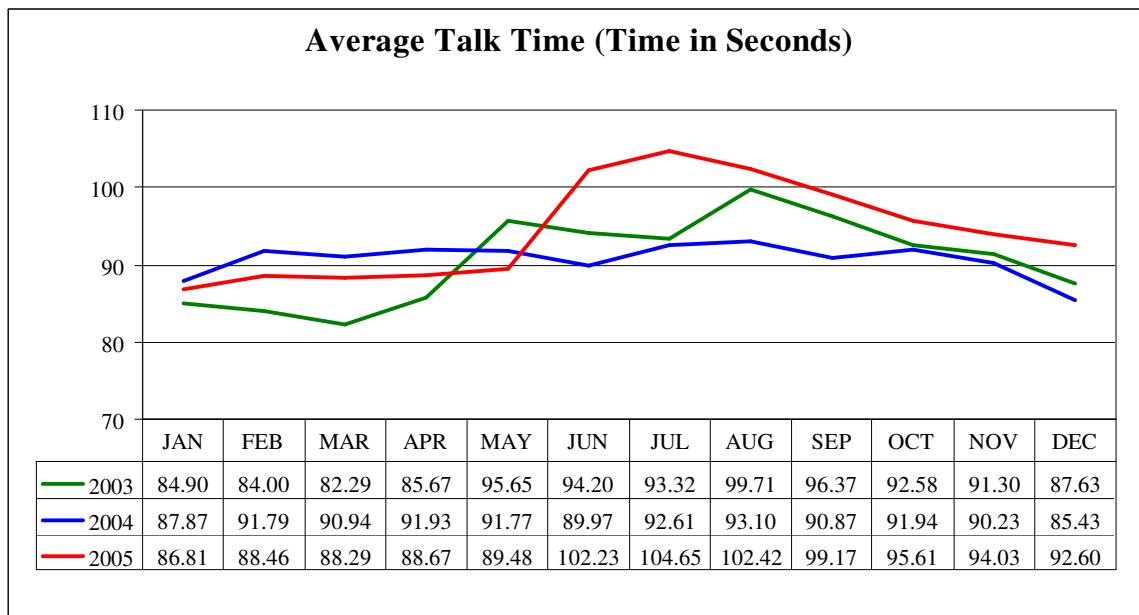
Notwithstanding intermittent issues that occur with interfacing CJIS Division Systems or periodic spikes in the transactional influx of incoming background check inquiries which can occur for a number of reasons (e.g., world or U.S. current events, legislative changes, etc.), the NICS Section continues to exceed performance expectations and remain consistent in providing exceptional service to its users.

- *NICS Section's Average Talk Time:* The NICS Section's average talk time during the Transfer Process refers to the amount of time spent on providing service from the time the call is answered until the call is concluded. The mission of the NICS Section is to provide the *timely* determination of a person's eligibility to possess firearms or explosives in accordance with federal law. With this philosophy in mind, a timely determination requires minimal time spent in completing a background check during the FFL's initial telephone call.

Based on various factors, e.g., historical call averages, and absent a comparable industry standard, the NICS Section established a target average talk time of *less than 95 seconds*. In 2005, the NICS Transfer Process and Customer Service processes were combined as one functionality. This realignment witnessed some elevation in the talk-time level until

necessary adjustments in the reporting calculations were effected. Overall, the NICS Section's Transfer Process talk time for 2005 averaged at approximately 94 seconds for the year, thereby continuing to meet or exceed the Section's internally established goal (reference Figure 8).

Figure 8
NICS Section Transfer Process Average Talk Time 2003 - 2005

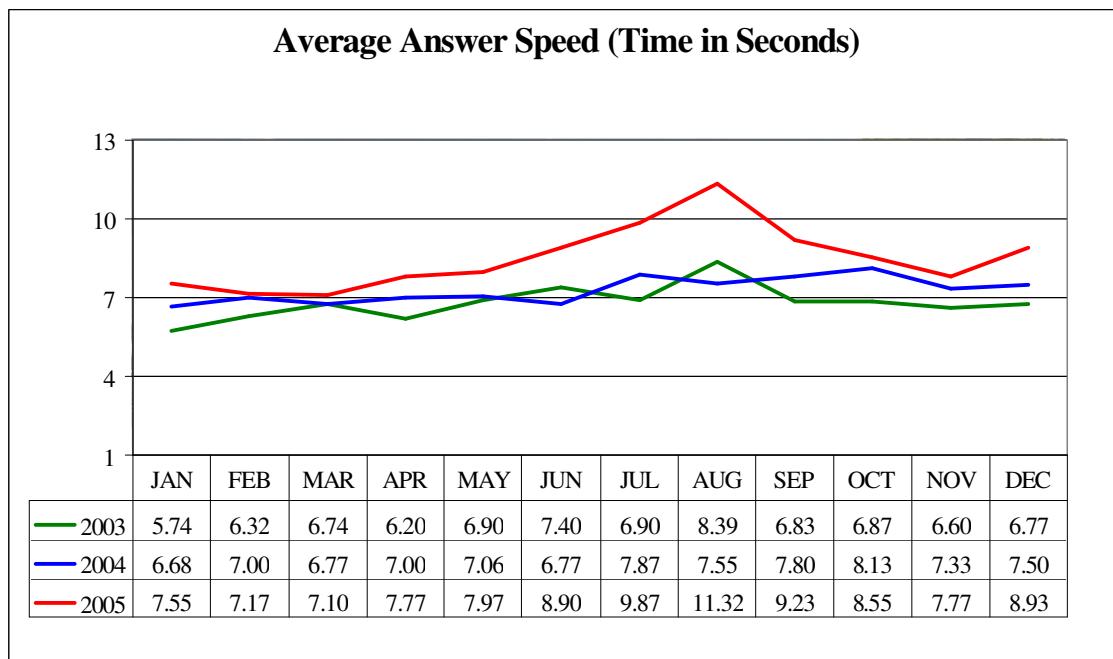


- *NICS Section's Average Answer Speed:* The NICS Section's answer speed during the Transfer Process refers to the average amount of time (calculated in seconds) that a caller waits before the call is answered by a NICS Section employee. Many factors, such as the time of the day, week, month, year, etc.; changes in processes; system and/or technological modifications; and increases in product demand can have a bearing on the rate at which calls are addressed and processed by the NICS Section. Additionally, higher transactional levels, e.g., those associated with the NICS "peak season," place a greater demand on the system which, in turn, can affect various service levels.

Similar industry standards (e.g., similar to those for call centers) assess an average answer speed at approximately 80 percent of all calls being answered within 20 seconds; however, the NICS Section strives to achieve better and has established an internal processing goal of all calls being answered within seven seconds. In August 2005, the NICS Section adjusted its average answer speed goal from seven to nine seconds due to the implementation of

Whisper Technology¹⁰ which added approximately two additional seconds to the Transfer Process answer speed rate. As such, the NICS Section's answer speed rate for 2005 (reference Figure 9) averaged approximately nine seconds and again meeting its internally established goal and surpassing industry standards.

Figure 9
NICS Section Transfer Process Average Answer Speed 2003 - 2005



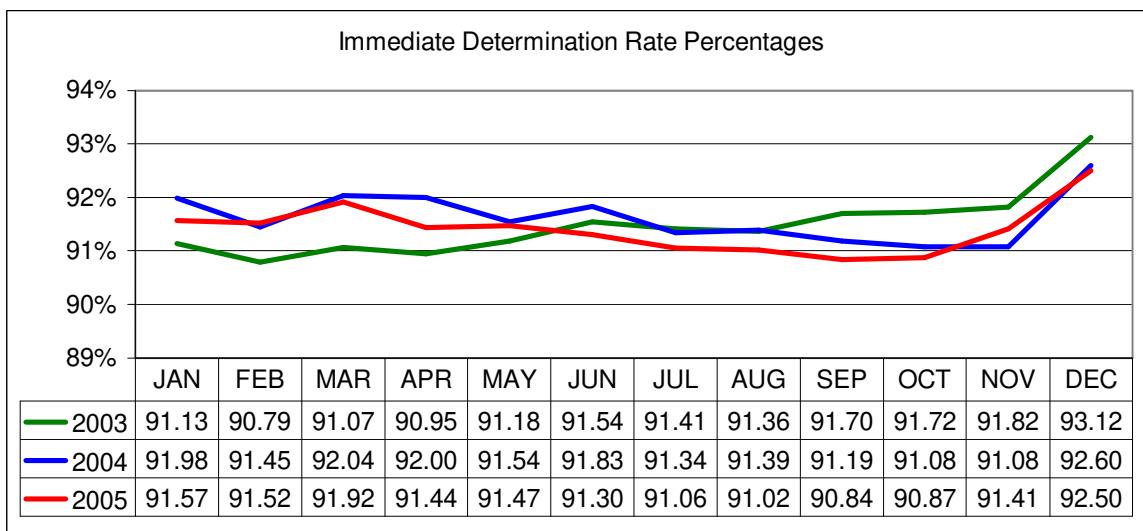
- *NICS Section's Immediate Determination Rate (IDR):* The NICS was established so that any FFL can contact the system, via the NICS Section or a state-designated POC, for information to be supplied *immediately* as to whether the transfer of a firearm would be in violation of federal or state law. Cognizant of 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 as to subject eligibility.

In 2002, pursuant to a directive by the U.S. Attorney General, the NICS Section identified, developed (with the assistance of the CJIS Division's technical support staff), and ultimately implemented the "Transfer Process" as a means to increase the NICS Section's IDR, the

¹⁰ Reference page 19 for further details pertaining to Whisper technology.

rate by which final transaction statuses are provided to the NICS Section's customers during the FFL's initial call initiating a firearm background check. As a result of the deployment of the NICS Section's Transfer Process, in July 2002, a dramatic increase in the IDR was realized. Even with an almost 6 percent increase in the number of transactions received by the NICS Section for processing in 2005, the IDR remained consistent at 91.47 percent for 2005 (reference Figure 10).

Figure 10
NICS Section's Immediate Determination Rate 2003 - 2005





The NICS Section recognizes that the continued success of any organization depends on a good working relationship between the independent components that cumulatively comprise its overall operations. In order to conform with evolving business and operational needs, and to repeatedly meet or exceed continued excellence in service, the NICS Section consistently works to identify and develop upgrades and system enhancements to ensure the continued success and viability of the NICS. In order to remain one step ahead of ever-changing technology and business needs, the NICS Section must continually enhance the NICS to meet the demands placed upon the nation's firearms and explosives background check system. Some of the upgrades and/or enhancements effected by the NICS Section and the ITMS in 2005 are:

NICS Rehost

On April 10, 2005, the NICS was relocated from its previous multi-platform architecture to that of a single vendor "superdome" environment. The relocation of the NICS, the latest in a series of rehosts of the CJIS Division Systems from an older, unsupported architecture to that of a fully supported "state-of-the art" superdome environment, was completed as scheduled and without incident. The rehost of the NICS marked the successful completion of the CJIS Division's overall rehost project. The integration of the NICS within the same operating platform as that of the III (in addition to other CJIS Division Systems) has created a more robust partnership between all the systems collectively referred to as the SoS and further enhanced the overall effectiveness and efficiency of the NICS as witnessed by the increased system availability level reported in 2005.¹¹

Workload Management Technology

In January 2005, the NICS Section implemented the utilization of a new workload scheduling software package. The new workload scheduling tool provides the NICS Section with the capability to better manage employee work times and workloads. Using specific types of data, such as historical call and transaction volumes, the scheduling software is designed to more effectively generate forecasts of anticipated contact volumes. The implementation and application of the aforementioned software has greatly assisted the NICS Section in creating detailed work schedules to ensure that the level of required employees with the skill sets needed to meet the needs

¹¹ Reference "System Availability of the NICS" on page 11 for further information.

of the NICS customers is parallel to the level of available staffing. (For additional information, reference page 8.)

Whisper Technology

The NICS Section is currently utilizing Whisper Technology, a software package that generates an automatic telephonic announcement specifying the type of incoming call (either Transfer Process or Customer Service) that a NICS Legal Instruments Examiner (NICS Examiner) is about to receive for processing. Whisper Technology has allowed the NICS Section to effectively combine the previously separate Customer Service and Transfer Process functions into one single function, thereby increasing the efficiency of the NICS Examiners via multitasking capabilities. Each specific type of function requires different types of information retrieval and processing. By providing an audible introduction of the type of call pending, the NICS Examiners are able to prepare for the type of processing required to effectively and efficiently facilitate each call received. The NICS Section deployed Whisper Technology in June 2005.

Firearm Retrieval Referral Codes

In response to a recommendation by the DOJ's Office of the Inspector General in a report entitled, "Review of the Bureau of Alcohol, Tobacco, Firearms and Explosives Enforcement of the Brady Act Violations Identified Through the National Instant Criminal Background Check System, Report Number 1-2004-006," the NICS Section initiated the development of a system change to enhance the timely facilitation of firearm retrieval cases referred to the ATF for investigation and/or prosecution. To assist the ATF with workload management and prioritization, the NICS Section implemented a system enhancement that (1) ranks a delayed denial transaction based on ATF-determined categories applicable to the specific denial, and (2) separates the ranked delayed denials from the standard denials, thereby allowing the ATF to identify and/or prioritize referrals where a firearm must be retrieved. This initiative was successfully implemented by the NICS Section on July 17, 2005.

NICS VAF Access via CJIS Internet Local Area Network (LAN)

To enhance existing services, the NICS Section identified a means that would allow for the secure access of the VAF by the POC states. By charting the identifying and record information of successful VAF candidates into a standard text file format, e.g., by Unique Personal Identification Number (UPIN) and/or alphabetically by last name, the NICS state counterparts, as of February 9, 2005, are capable of accessing the information maintained in the VAF database via the CJIS Internet LAN (formerly known as Law Enforcement Online).

Personal Computer (PC) Client

To provide the NICS Section employees with all the tools necessary to perform their assigned duties within the confines of their individual workstation in an efficient and effective manner, the NICS Efficiency Upgrade Project was envisioned. With development underway in 2003 and 2004, Phase I-A of the project, entitled PC Client, was deployed by the NICS Section in June 2005. PC Client provides the NICS employees with a single point of access to the databases necessary to process NICS background check transactions at their workstation. The PC Client functionality provides desktop accessibility to the national databases searched by the NICS during the background process without the employees having to leave their desktop workstation.

In November 2005, the NICS Section initiated the implementation of Phase I-B of PC Client by adding two features to its work environment--the outbound facsimile server and internal e-mail capability. The outbound facsimile server provides NICS Section employees the capability to send facsimile requests/messages to external agencies from their desktop within their individual workstation. This functionality alone has proved beneficial to the NICS Section as employees no longer have to expend time by leaving their desks to transmit facsimiles to outside agencies. Additionally, the internal e-mail option allows the NICS Section employees to send electronic mail to all levels of responsibility, thereby enhancing the timely facilitation of internal communications.

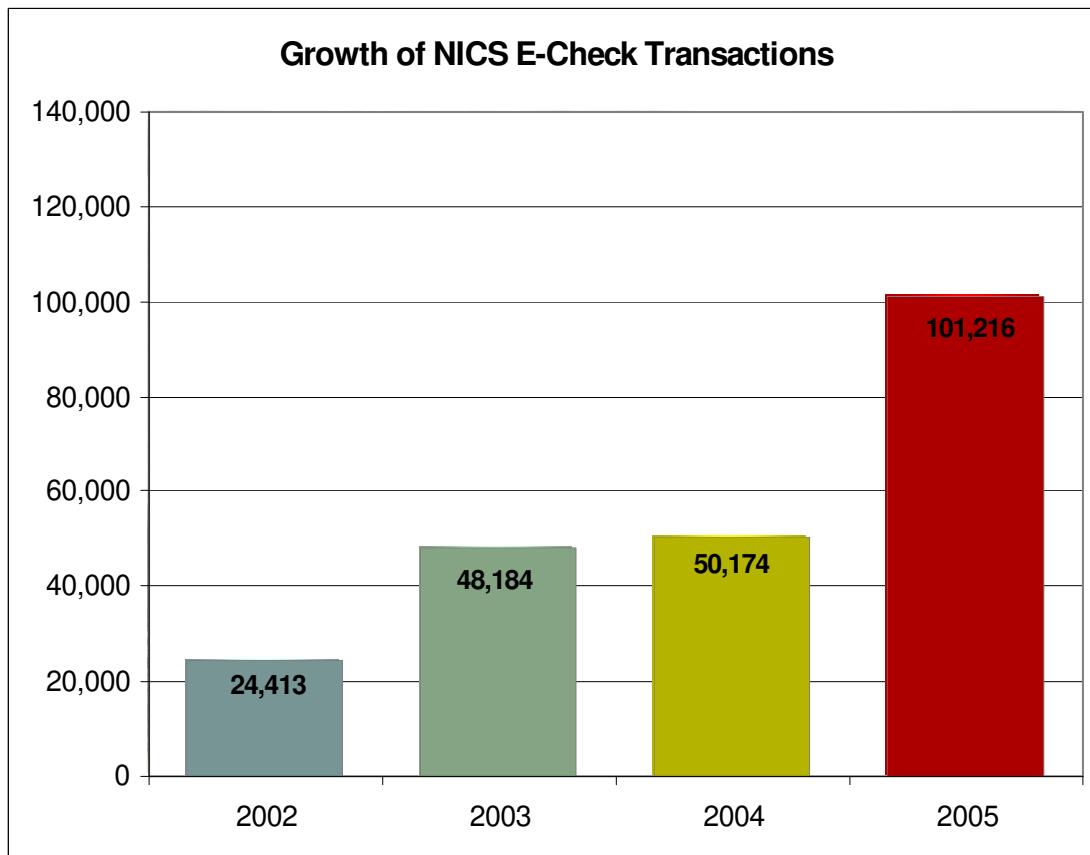
The completion of Phase II of PC Client is scheduled for July 2006. Currently in development for the future deployment is:

- *Incoming Facsimile Server:* The connectivity to the incoming facsimile server will allow the NICS employees to receive facsimile transmissions directly via their desktops. This processing enhancement will result in increased efficiency as the NICS employees will no longer have to leave their workstations to retrieve incoming facsimile transmissions from other areas as is the current procedure.
- *Document Server:* The PC Client Document Server will enable the NICS Section to place all of the resource documents needed for processing NICS transactions, e.g., the NICS Section's Standard Operating Procedures, within the accessibility of the PC Client environment. This enhancement will eliminate the need for the NICS employees to maintain massive, cumbersome binders of printed resource materials.
- *Report Server:* The Report Server provided via PC Client will allow authorized NICS Section personnel to request reports directly from the NICS, thereby eliminating the need to contact the ITMS to have specific reports generated.

NICS E-Check

The NICS E-Check provides the FFLs with the capability to initiate an unassisted NICS background check for firearm transfers via the Internet. In the alternative, the FFLs utilizing the NICS E-Check also maintain the capability to initiate background checks telephonically via the NICS Section's Contracted Call Centers. From the implementation of the NICS E-Check in August 2002, through December 31, 2005, approximately 223,987 transactions have been conducted via the Internet-based electronic access to the NICS (reference Figure 11). In 2005, the NICS E-Check transactions increased approximately 100 percent over 2004. As of December 31, 2005, there were approximately 2,026 FFLs actively enrolled with the NICS E-Check.

Figure 11
Growth of NICS E-Check Transactions



Utilizing the NICS E-Check, an FFL performs direct data entry of a prospective firearm transferee's descriptive information into the system rather than relay the data telephonically to a contracted Call Center employee, thereby increasing data integrity and, ultimately, producing more effective search results. Additional benefits of using the NICS E-Check¹² are:

- The FFLs can retrieve and print NICS background check results 24 hours a day, 7 days a week.
- Increased usability in overcoming language barriers.
- Increased usability for the hearing and speech impaired.
- The FFLs can receive informational mass e-mails and messages regarding the NICS operational status from the NICS Section.

Further initiatives regarding the NICS E-Check were identified and implemented in 2005 along with others that are pending development. The following information provides details of those initiatives:

Implemented Modifications to the NICS E-Check

- *Automated Missing Disposition Instruction (MDI) for the NICS E-Check:* In accordance with established NICS policy, a notification must be provided to an FFL when the results of a background check search for a potential purchaser does not yield a final transaction status of either proceed or deny within the three-business-day time frame provided by the Brady Act for the purpose of obtaining missing and record-completing disposition information. Typically, these notifications are effected telephonically. A recent system enhancement now enables the NICS Section to provide the MDI notifications via the NICS E-Check. The development and implementation of the automated MDI for the NICS E-Check eliminates the need for NICS Section employees to spend time completing such notifications to the FFLs via the telephone, thereby allowing for more time to process other delayed background check transactions for other FFLs, in addition to providing the notices in a more timely manner. The automated MDI system enhancement to the NICS E-Check was implemented on July 3, 2005, and is operating effectively as designed.
- *Spanish Screen Format:* In order to assist in overcoming language barriers that, at times, occur during the background process, the NICS E-Check was enhanced in January 2004 to

¹² Additional information relating to the NICS E-Check can be obtained by visiting www.nicsezcheckfbi.gov or by contacting the NICS Section via the NICS Customer Service at 1-877-444-NICS.

allow the system's screen formats, instructions, data entry fields, responses, etc., to be displayed in Spanish, at the discretion of the FFL. After availing the Spanish Screen format system enhancement, the NICS Section determined a need to track the effectiveness and efficiency of use by the FFLs utilizing this system option. As such, on June 14, 2005, the NICS Section began tracking the usage of the Spanish Screen format application. As of December 31, 2005, there were over 60 occurrences of an FFL utilizing the NICS E-Check Spanish-screen format option.

Initiatives in Progress for the NICS E-Check

- *Corporate Digital Certificate:* The FBI has implemented security measures that place stringent restrictions concerning access to and use of the NICS E-Check. This is accomplished through computer software validation and certification authority established via an Internet-based registration process. At the current time, each employee of an FFL who accesses the NICS for the purpose of initiating firearm background checks via the NICS E-Check must be issued an *individual* digital certificate. Utilization of a *corporate* digital certificate will allow a corporate 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. As such, corporate FFLs would then be responsible for monitoring the use of their certification by their employees. Working with the CJIS Division's Security and Professional Responsibility Office, the NICS Section is anticipating the approval required to implement a pilot program to test the upcoming protocol for implementing a corporate digital certificate.
- *Enhanced FFL Reporting:* Enhanced FFL reporting will provide an FFL with the capability to capture and maintain background check transaction data pertaining to their customers within their own computer systems. At the current time, enhanced FFL reporting for the NICS E-Check continues in development.
- *NICS E-Check Video:* A promotional NICS E-Check video was completed and premiered at the annual Shooting, Hunting and Outdoor Trade Show in Las Vegas, Nevada, in January 2005. The Government Printing Office is producing the NICS E-Check video on compact disc for dissemination to all FFLs.
- *Access for FFLs Operating in the POC States:* The FFLs conducting business in most POC states were not automated (e.g., point-of-sale devices) and continued to initiate background checks via the telephone. When contacting a state-designated POC, the FFL provides the prospective firearm transferee's descriptive information which is required to initiate a NICS background search. Contacting state-designated POCs via telephone, at times, can create huge volumes of calls being simultaneously processed. At peak processing periods,

bottlenecks can occur within the public telephone network. Such scenarios could limit a state's capability of providing effective and efficient customer service.

Currently, most firearm transactions initiated through a state POC require operator intervention. The implementation of the NICS E-Check functionality for the POC states would provide an optional process for implementing background checks that could alleviate some of the operator delays encountered when facilitating the background check process at the state level. As of December 31, 2005, the NICS E-Check enhancement to provide access for FFLs operating in the POC states continued in development. The NICS Section anticipates the implementation of a pilot operation to test the aforementioned enhancement to the NICS E-Check in September 2006.



NICS Updates

VAF

Per Title 28, C.F.R., Part 25.9(b)(1), (2) and (3), the NICS Section is mandated to destroy 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 within 24 hours of the FFL being notified. On July 20, 2004, pursuant to the NICS Final Rule¹³, the NICS Section implemented the VAF, a database that maintains specific information (e.g., fingerprint cards, documentation) voluntarily provided by applicants for use in determining their eligibility to receive firearms associated with future background checks. The VAF, which is accessed and searched during the background check process, aids in preventing extended delays and erroneous denials for successful applicants. As a result, lawful purchasers who have been delayed or denied a firearm transfer because they have a name or date of birth similar to that of a prohibited person (or other such scenarios) may also request that the NICS maintain information about them to aid in facilitating future firearms transactions.

The VAF is a paper file containing documentation submitted by the applicant and any documentation discovered during research that assists the NICS Section in justifying the individual's inclusion into the VAF. The VAF is also an electronic file containing descriptive information from the paper background checks conducted by the NICS Section as well as the POC states. The information in the VAF will prevent lawful potential firearm purchasers from filing numerous appeal requests and resubmitting supporting documentation, fingerprints, and/or information that would allow a proceed transaction. The successful entry in the VAF of lawful firearm purchasers will decrease the amount of time needed to process approved transactions. Approval for entry into the VAF includes, but is not limited to, the following:

- Subject is not identical with the denying record after a comparison of fingerprints;
- Arrest was not domestic violence related;
- Arrest was not drug related;
- Subject has received an ATF Relief of Disability or a governor's pardon; or
- Subject's record cannot be updated.

¹³ Reference the Federal Register, Vol. 69, No. 141, Friday, July 23, 2004.

When a subject is deemed eligible for entry into the VAF, a UPIN is assigned and the entry is placed into an "active" status. The subject is instructed to provide the UPIN to the FFL whenever attempting to purchase or redeem a firearm. The information kept in the VAF will provide the NICS Section with positive proof of the subject's identity, allowing the lawful transfer of a firearm to take place. An applicant may be disqualified for entry into the VAF for various reasons, e.g., a prohibitive record exists, insufficient information, and others.

Under this process, potential purchasers may apply to be considered for entry into the VAF by signing an applicant statement which authorizes the NICS Section to retain information that would otherwise be destroyed. A complete NICS check is still required for future purchases by the applicant and will result in a denial if additional prohibitive information is discovered. The NICS Section is required to destroy any records submitted to the VAF upon written request of the individual.

Since the VAF began processing cases in July 2004, a total of 297 successful VAF checks have been conducted (reference Table 2). These participants were able to purchase a firearm from a gun dealer without experiencing a lengthy delay or denial.

Table 2
VAF Statistics from July 20, 2004, through December 31, 2005

VAF Applicants	Active UPINs	Pending	Total VAF Checks Conducted*
2004	49	13	0
2005	733	944	297

* Background checks subsequently conducted for VAF applicants after being successfully entered into the VAF database.

NICS Index

Pursuant to 28 C.F.R., Part 25, the NICS Index database was created specifically for use by the NICS and contains records that are not maintained in either the III or the NCIC database, obtained from local, state, and federal agencies pertaining to persons federally prohibited from receiving firearms. All records in the NICS Index will immediately prohibit the individual record holder from the transfer of a firearm.

Records are entered into the NICS Index and maintained via one of several specific and distinctly outlined files. The *Federal Register* (Volume 62, No. 124) identifies the various types of entries by specific categories. The categories within the NICS Index are outlined as follows:

- *Denied Persons*: Persons who are federally disqualified when a record is not already included in the NCIC or the III.¹⁴
- *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.

To increase the quantity of available records for inclusion in the NICS Index, the NICS Section initiated an outreach program¹⁵ to connect with the law enforcement and judicial community, various state and federal agencies, and the general public and to boost awareness of the availability and benefits of the NICS Index.

As a result of numerous efforts by the NICS Section, the number of records contained within the NICS Index has witnessed exceptional growth since program implementation. In 2005, an additional 295,835 records were contributed to the NICS Index and from program inception through December 31, 2005, the NICS Section succeeded in increasing the number of available records in the NICS Index by approximately 325 percent.

The NICS Index is a valuable tool in providing immediate accessibility to federally prohibitive records (e.g., disqualifying mental health records) previously unavailable at the national level. The submission of disqualifying records by state agencies has proven to have a positive impact to public safety by providing information accessible to *all* users when performing NICS background checks. Without this information being readily available, prohibited persons may be successful in their attempts to receive firearms merely by crossing state lines. Referencing

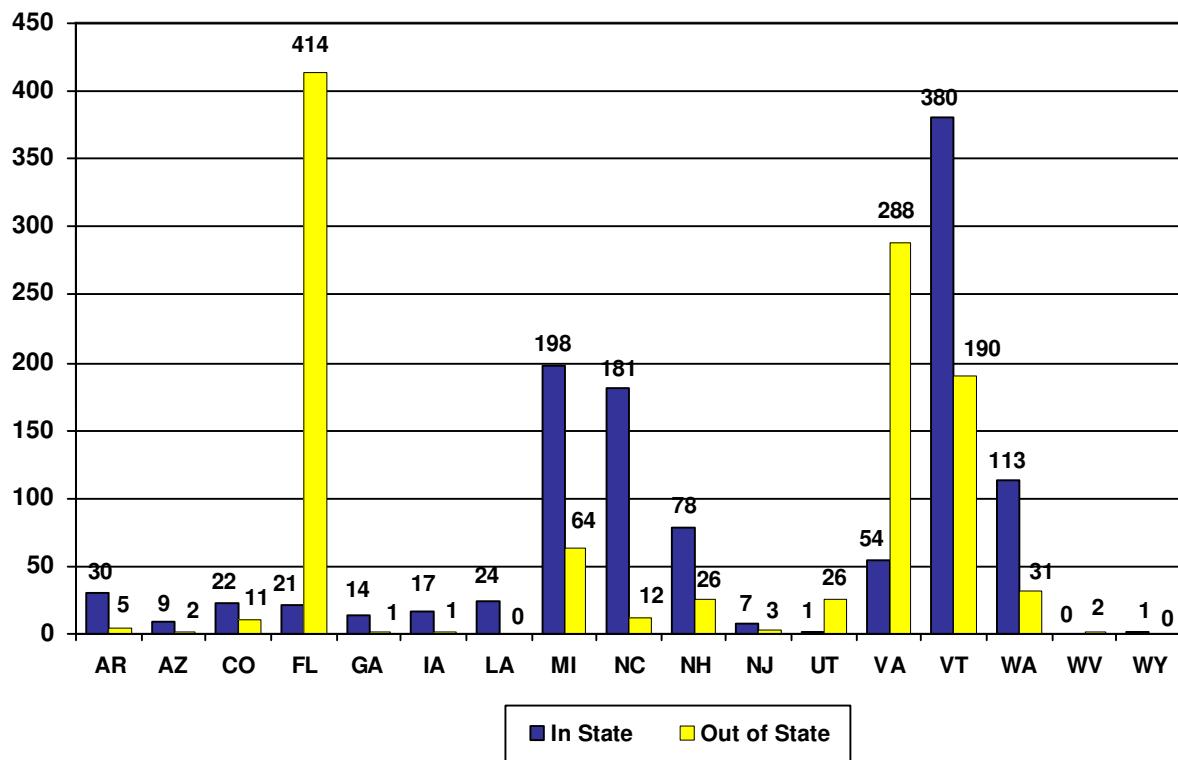
¹⁴ Examples include protection orders or active warrants that are not in the NCIC, persons who are under court order not to possess a firearm as a condition of deferred adjudication, a felony conviction posted to the state record that is not reflected in the III, individuals meeting the federally established criteria pertaining to mental health/illness that cannot be placed in the Mental Defective File due to state laws, etc. Contributing states can submit mental health records to the Denied Persons File of the NICS Index if they do not or cannot (e.g., by virtue of state law) identify the information specifically as a mental health record.

¹⁵ Reference the NICS Spotlight information provided within this document.

Figure 12, it is apparent that the availability of state-held information on a national level has a tremendous impact on public safety.

Figure 12

Denials Based on State-Submitted NICS Index Records as of December 31, 2005¹⁶



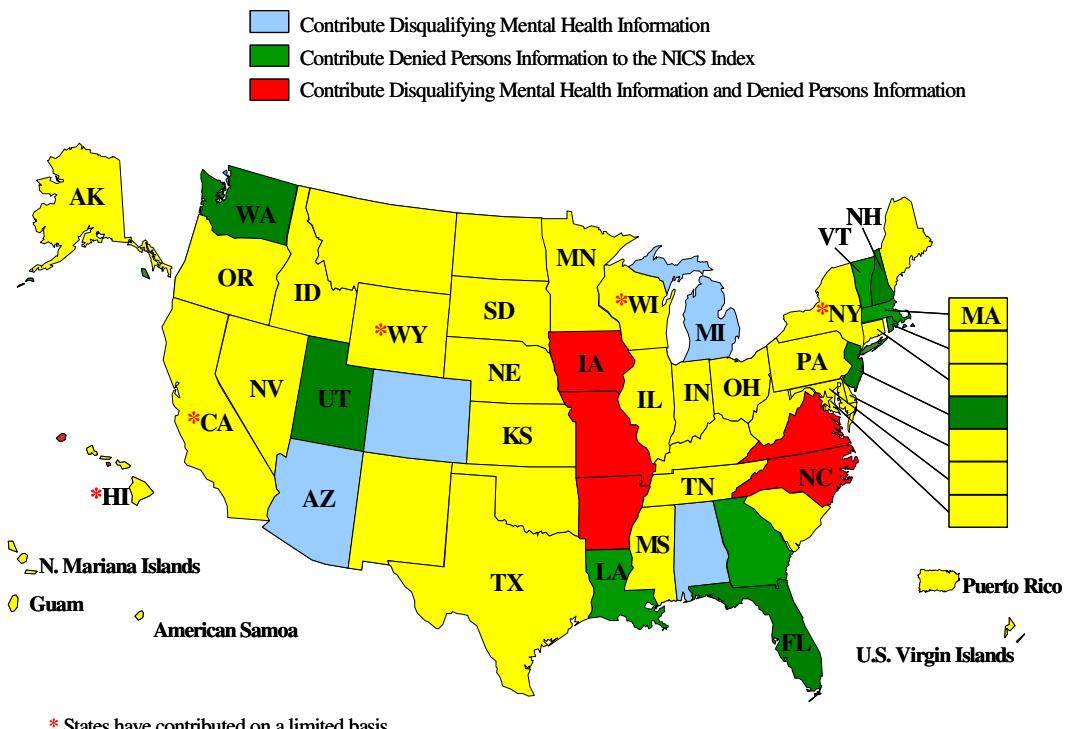
The following story is an example of how the unavailability of prohibiting records at the national level can lead to tragic results:

A 44-year-old man was charged with the murder of his 32-year-old ex-girlfriend, shot to death at her place of employment. Reportedly, the alleged gunman walked into the business via the back door and fired several shots with a handgun. The alleged gunman's attorney acknowledged that his client committed the crime but emphasized his prior history of mental illness. The alleged gunman was institutionalized and treated for depression and other mental health illnesses as early as age 12 and also had a history of substance abuse. None of the mental health records were in the NICS Index for accessibility during the background check process.

¹⁶ These statistics are provided to the NICS Section by the states.

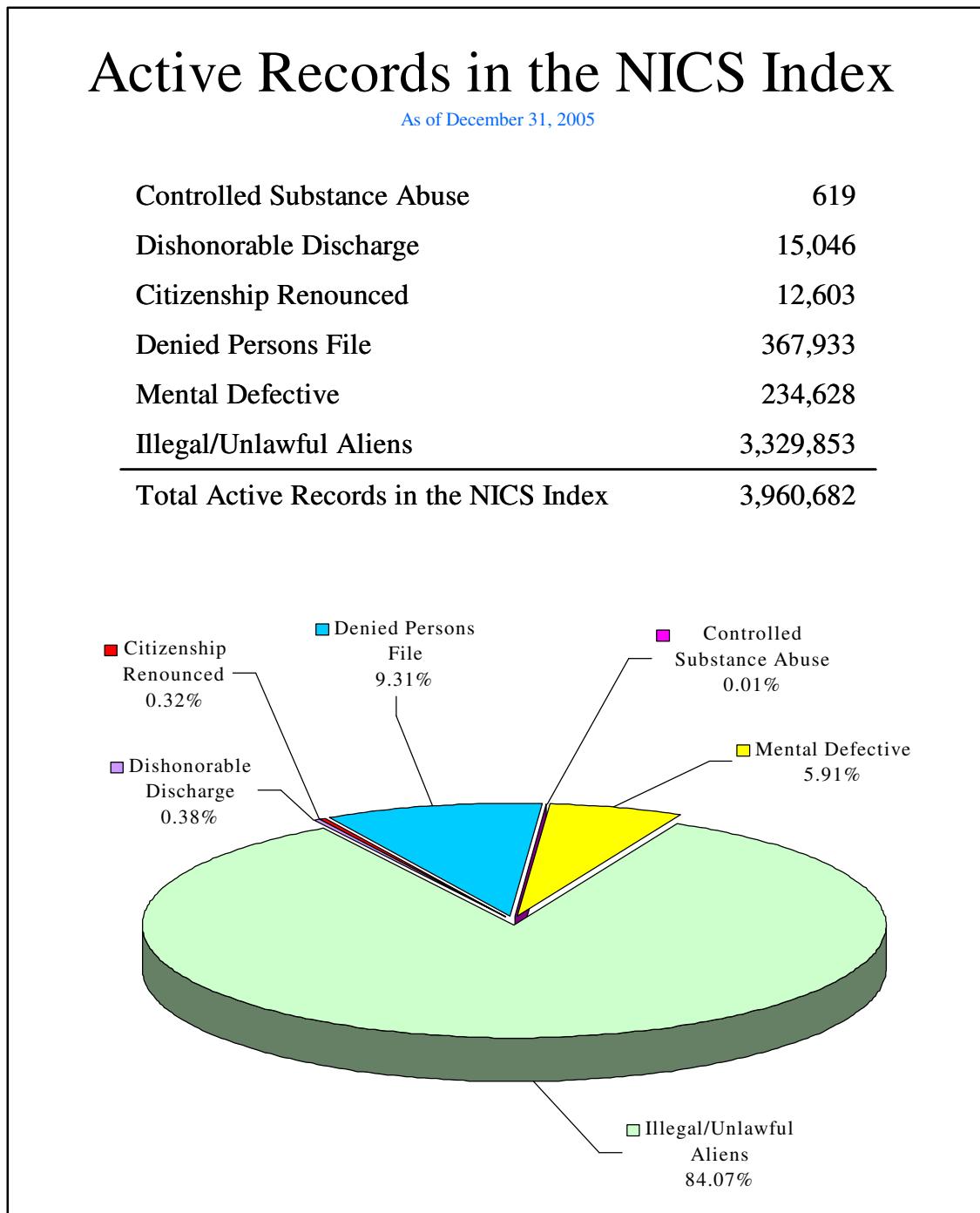
Had the records explicating the aforementioned individual's prior mental health history been made available via the NICS Index, the aforementioned tragedy may not have occurred. As with every other facet of program operations, the NICS Section remains proactive in seeking vital record information necessary to effectively facilitate the nation's firearms (and firearms/explosives permits) background check program. As of December 31, 2005, and referencing Figure 13, approximately 24 states were submitting or had contributed records to the NICS Index (some on a limited basis) and the NICS Section was in contact with several states to solicit vital record information for the NICS Index.

Figure 13
NICS Index State Participation as of December 31, 2005



By obtaining and availing decision-making information (especially records not accessible through the NCIC or the III databases) to the users of the NICS, all states will have access to valuable prohibiting records when performing a NICS background check. Figure 14 reflects the number of active records in the NICS Index per category, as of December 31, 2005.

Figure 14
Active Records in the NICS Index as of December 31, 2005



Violent Gang and Terrorist Organization File (VGTOF) Processing

During the background check process, the NICS searches the III, the NICS Index and the following specific files maintained and availed by the NCIC: the Foreign Fugitive File; the Immigration Violator File; the Protection Order File; the Wanted Person File; the U.S. Secret Service Protection File; the Sentry File; the Convicted Persons on Supervised Release File; the Convicted Sexual Offender Registry; the Gang/Terrorist Organization File; and the Gang/Terrorist Members File. In February 2004, the latter two files were added to the NCIC files searched during a NICS background check, as a result of a November 2003 DOJ directive. Pursuant to the November 2003 directive, the processing agency (either the NICS Section or a POC) is required to delay transactions that generate matches to the VGTOF (a collective term for both the NCIC's Gang/Terrorist Organization File and the Gang/Terrorist Member File) for manual review and evaluation. NICS personnel can then coordinate with FBI field agents to determine whether the agents have prohibiting information about a prospective purchaser on the watch list that is not yet available in the automated databases checked by the NICS. 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, pursuant to the Brady Act, exist.

With the assistance of the Terrorist Screening Center (TSC), a determination is made as to the validity of the descriptive record match. If determined a valid match, the TSC will refer the NICS VGTOF Examiner to the Terrorist Screening Operations Unit and/or the Counterterrorism Watch. The NICS VGTOF Examiner advises of a match and solicits for any information that could prohibit the individual from receiving a firearm pursuant to state or federal guidelines.

Prior to July 17, 2005, the POC states processed their own NICS VGTOF transactions for background checks; however, as a result of a 2004 audit conducted by the Government Accountability Office (GAO), it was determined that inconsistencies, e.g., procedural interpretations or standards of operation, existed in the implementation of VGTOF hit protocols by the POC states as compared to the NICS Section. In response to this finding, the Department determined the volume of VGTOF transactions processed by the POC states was low enough to allow *all* of the NICS VGTOF transactions (state and federal) to be effectively and efficiently processed via the NICS Section. Doing so would relieve the states of the responsibility of ensuring overall consistency in processing all VGTOF-matched transactions. Accordingly, the NICS was enhanced to provide an automated message to the POC states that when the NICS generates a response that includes a VGTOF-matched record, no final determination should be made regarding the transaction until further notification is received from the NICS Section. This change in procedure provided a resolution to the inconsistencies found during the GAO audit. As such, on July 17, 2005, the NICS Section began processing *all* VGTOF transactions including those from POC states.

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. All of 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, e.g., missing dispositions, as opposed to information obtained from inquiries made of field agents.

NICS Appeal Services Team (AST)

The NICS Section is committed to ensuring the timely transfer of firearms to law-abiding citizens while denying transfers to persons who are specifically prohibited by law from receiving or possessing firearms. As provided in the permanent provisions of the Brady Act and further outlined in the NICS Regulations, 28 C.F.R., Part 25.10, individuals who, as a result of the NICS background check, believe they were wrongfully denied the transfer of a firearm may submit a written request for an appeal of that decision.

Table 3
Historical NICS Section Appeal Statistics

Year	Number of NICS Section Transactions	Number of Denials Issued	Number of Appeals Received	% of Denials Resulting in an Appeal	% of Appeals (Denials) Overturned
2000	4,260,270	66,808	9,372	14%	21%
2001	4,291,926	64,500	9,336	14%	29%
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%

(Based on NICS Section Statistics only)

Explosives

As of November 25, 2002, and pursuant to the Safe Explosives Act, enacted as part of the Homeland Security Act, any person who transports, ships, causes to be transported, or receives explosives materials in either interstate or intrastate commerce must obtain a federal permit or license issued by the ATF after undergoing a background check.

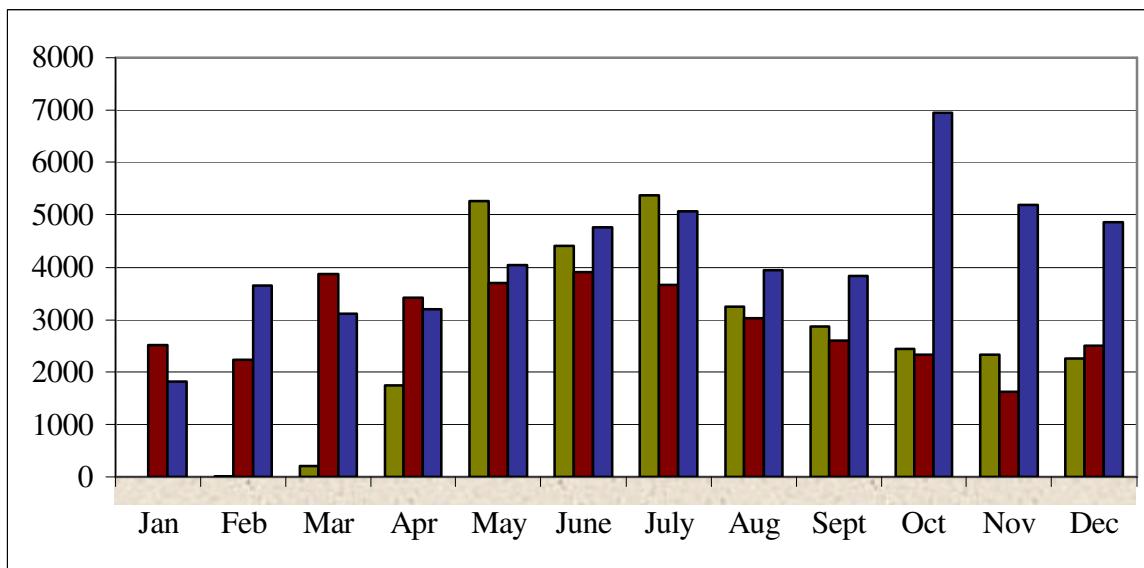
The Safe Explosives Act requires that background checks be conducted on two separate categories for licenses, responsible persons and employee possessors, and one category for permits, a "limited" permit. A responsible person is an individual who has the power to direct the management and policies pertaining 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. An employee possessor is an employee authorized by a responsible person to possess explosives materials and is defined as an individual who has actual physical possession or constructive possession, meaning the individual has dominion or 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. Responsible persons and employee possessors must submit an application to include identifying information and fingerprints to the ATF National Licensing Center (NLC) which, in turn, submits the information directly to the CJIS Division where identification processing is effected. Once the identification processing is completed, the data is electronically forwarded to the NICS Section where a background check will be conducted with results returned to the ATF NLC via the NICS E-Check.

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. The permit is valid for one year, is renewable, and will allow the purchaser to receive explosives materials from an in-state explosives licensee no more than six occasions during their permit's life. The ATF NLC retrieves the results via the NICS E-Check.

The most notable differences between processing a firearms background check versus processing an explosives background check is the fact that 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 (Figure 15). Of the explosives background checks processed by the NICS Section in 2005, a total of 6,755 transactions were processed for responsible persons, and a total of 43,662 background checks were submitted for employee possessors.

Figure 15
NICS Explosives Background Checks through December 31, 2005



	Jan	Feb	Mar	Apr	May	June	July	Aug	Sept	Oct	Nov	Dec	Total
2003	N/A	14	208	1,750	5,268	4,405	5,374	3,251	2,864	2,446	2,330	2,262	30,172
2004	2,517	2,241	3,871	3,422	3,704	3,915	3,660	3,037	2,595	2,336	1,625	2,498	35,421
2005	1,811	3,646	3,110	3,200	4,039	4,767	5,069	3,947	3,833	6,953	5,185	4,857	50,417

NICS Streamlining Initiative

In August 2004, a task force was implemented for the purpose of the review and evaluation of the many recommendations proffered by the NICS Section's employees in the furtherance of the streamlining and enhancement of the NICS Section's work processes. In order to maximize the use of all available resources, the mission of the NICS Streamlining Initiative--*to identify, research and evaluate all recommendations for the improvement and enhancement of the NICS for feasibility, added value to the program, potential cost and/or time savings, and improvements to the overall program efficiency and effectiveness*--has been incorporated as part of the NICS Section's standard operating processes. Some of the more significant changes implemented in 2005 are:

- Several NICS Section standard forms were modified for effectiveness, placed on the NICS Toolbar for efficiency in access, and were automated/reformatted to allow direct data entry rather than by manual completion; plus printing, gathering and attaching hard copy case histories per each of the many utilized forms was eliminated.

- When processing a delayed transaction, an NTN Inquiry can be done in the NICS to determine the existence of other transactions for the same individual whose current transaction is being processed. The NTN Inquiry is now conducted first, rather than further along in the process to ensure that the NICS Examiners are providing consistent results based on all available information. This change allows for a coordination of efforts and eliminates unnecessary redundancy in review, outreach, and research time.
- The requirement for the NICS Examiners to contact numerous external agencies to obtain hard copies of warrants located in the NCIC or the III was eliminated.
- Additional research to determine if a state-prohibiting protection order also qualifies as a federal-prohibiting protection order is no longer required.
- A study conducted by the NICS Section determined that the process of conducting independent queries of the NCIC in an attempt to determine if *state* record information returned via the NICS-combined search response is complete was yielding no additional information; therefore, this process was discontinued.
- Various NICS Section processes were identified for enhancement and automation of effort and with the assistance of the ITMS, development will be implemented in 2006.



Spotlight **NICS** **Outreach**

The NICS Section's Outreach and Information-Sharing Program

One of the biggest challenges facing public safety and law enforcement agencies today focuses on the manageability and need for complete and accurate record information. The inability of many law enforcement and judicial agencies to receive accurate and complete information easily and effectively impedes criminal justice efforts in many ways and at many levels. Optimal available record information not only helps to avoid tragedy resulting via criminal activity but also aids in solving crimes; trending crime patterns; providing opportunities to develop and effect public, victim, and officer safety planning initiatives; and offers guidance in determining possible alternative solutions or plans to mitigate the potential for future crime.

In today's society, America is witnessing a dramatic increase in the use of criminal record background checks to determine where individuals can work, volunteer, engage in various activities, etc., in addition to determining subject eligibility to obtain firearms and/or firearms and explosives permits. As such, the NICS Section's quest for optimally available and accurate criminal history records (CHR) only continues to gain significance. Accurate firearms and explosives eligibility decisions, determined by the NICS, are contingent on:

- the *availability* of records, e.g., disqualifying mental health records, records exhibiting illegal/unlawful alien status, active criminal warrants, Brady-prohibiting protection/restraining order, etc.;
- *complete* criminal history records, e.g., the inclusion of final dispositions, crime classification levels, etc.; and
- effective and efficient communication with and cooperation from users and partnering state and federal agencies.

The *unavailability* of relevant subject-disqualifying information to the national databases searched by the NICS does present real and serious public safety issues. For instance, if the NICS Section cannot make a determination regarding a person's firearms eligibility based on incomplete information matched by the system, federal law provides three business days with which to conduct research in order to determine either a proceed or a deny decision. If the record information needed to effect a final transaction status cannot be obtained and a final transaction decision rendered within the three-business-day time frame, the FFL can legally transfer the firearm. This presents the potential for a firearm to be transferred to an individual who is later determined to be a prohibited person. In these instances, a firearm retrieval referral is sent to the ATF.

The NICS Section remains committed to its mission, "*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.*" As such, just as important to block the transfer of a firearm (or firearm/explosives permit) to an individual disqualified pursuant to state and/or federal law, missing or unavailable record information also hinders the NICS Section's ability to approve a background check transaction for a person who is not prohibited. In certain instances, lawful purchasers are denied or are subject to lengthy delays because of incomplete and/or unavailable record information.

In an attempt to mitigate the aforementioned stumbling blocks to optimal effective and efficient background check processing, the NICS Section, shortly after program implementation in 1998, initiated an outreach and information-sharing program with the law enforcement and judicial community, in addition to the general public. The focus of the NICS Section's outreach and information-sharing efforts remains intrinsic to the goals and objectives of the NICS Section and the ultimate benefits to be achieved via a coordination of efforts by all in the law enforcement and judicial community in providing complete and available criminal history (and related) record information. The following information depicts some of the specific initiatives implemented:

NICS Section's Travel Team

With the aforementioned philosophy in mind, the NICS Section established the NICS Travel Team. The mission of the NICS Travel Team is basic--to travel across the United States (and territories) for the fundamental purpose of educating law enforcement and judicial agencies, among others, about the NICS program and the benefits of available and complete record information on a national level. Members of the NICS Travel Team attend and participate in various conferences, e.g., state clerks of courts conferences, national judges conferences, victims advocacy seminars, law enforcement employees seminars, state Attorneys General conferences, FFL awareness seminars, domestic violence conferences, and many others, to speak not only about the NICS but the comprehensive value of complete record information availability as well. The NICS Section personnel coordinate participation at such types of engagements with the hosting state and/or federal agency, and together optimum outreach and information sharing is

achieved. Since 1999, various members of the NICS Section's staff and the NICS Travel Team have journeyed to most of the states and U.S. territories, some on numerous occasions. As such, the NICS outreach initiative has continually gained momentum and swiftly increased in size and destination base. It was clear that the NICS Travel Team had implemented a movement that would reach far beyond the scope of the NICS Section; however, it was also evident that more was needed.

POC Support Team

One of the goals originally envisioned by the NICS Section became a reality in August 2003 with the implementation of the POC Support Team. The POC Support Team is comprised of a group of NICS employees dedicated to providing a centralized and consistent source for education and support to the POC states. The POC Support Team identifies, develops, and offers a wide range of information-sharing opportunities such as a general overview of the NICS; legal interpretations; appeal processing; permit processes; the NICS Index; firearm retrieval referrals; research strategies; misuse issues; state-to-state record retrieval resources; the interpretation of federal prohibitive criteria, and state and federal terminology; and specialized information pertaining to state-specific law to various interested agencies.

Through effective liaison with POC state law enforcement/judicial agencies and/or other governmental agencies, the POC Support Team works passionately towards its goal of providing optimal service to the criminal justice processes in the United States and its territories. From September 2003 through December 2005, the POC Support Team has facilitated approximately 92 information-sharing sessions in over 50 separate locations in 20 states to over 2,800 participants whose duties vary from those of record clerks to administrative personnel and management, to law enforcement officers, corrections staff and management, Department of Public Safety and FBI officials, federal probation agencies, police department and sheriff's office personnel and terminal agency controllers, etc., in addition to representatives of the offices of the state Attorney General.

The POC Support Team continually receives requests to schedule additional supplementary information-sharing sessions from states that previously used their services, e.g., the decentralized states. Typically, in the decentralized states, there are many agencies that conduct NICS background checks. Ensuring that all such agencies within a state are processing NICS checks in a consistent manner does tend to pose challenges. As many of the smaller agencies may have a limited number of employees available for attendance at state-wide conferences, the POC Support Team avails their services to accommodate visitations to smaller state agencies as well, thus providing full in-state service to all who have identified the need. At times, this involves multiple trips to the same state; however, the end result, *consistency and accuracy in processing*, is realized as a direct result of the NICS Section's information-sharing and outreach efforts.

The services provided by the POC Support Team's efforts have swiftly illustrated the NICS Section's focus on customer service as a vital and integral part of the overall success of the entire NICS program and have served to create a more robust partnership between the FBI, the POC states, and the various integral components of the law enforcement and judicial community.

Increasing the Number of Available and Complete Criminal History Dispositions

Complete and readily available criminal history records serve both law enforcement and the general public in various ways. They provide comprehensive information needed to effect sound law enforcement decisions, effect public and officer safety planning initiatives, forewarn police officers about the type of individuals subject to routine traffic stops, and assist in determining sound and effective legal judgments. As such, it becomes even more crucial to identify and develop methods to efficiently and effectively seek and obtain missing disposition information in order for the NICS to operate as designed.

When processing background checks that are delayed because of incomplete record information, the NICS Examiners must reach out to local, state, and other federal authorities in an attempt to obtain the record-completing data and render an accurate firearms or firearms/explosives permit eligibility decision. As of December 31, 2005, the NICS Section's staff has sought and obtained over 547,000 dispositions for posting to the CHRs. To maximize the use of all available resources, the NICS Section has developed various and integral support services to supplement the processes associated with establishing contact with external agencies to solicit for essential record-completing/clarifying information. The following information depicts many of support services implemented by the NICS Section that serve to enhance the outreach processes:

- *State POC Representatives (SPR)*: Certain NICS Examiners, entitled SPRs, establish and maintain open channels of communication with numerous local and state agency representatives in order to determine which agencies are receptive to external contact, under what circumstances contact can be effected, and how the NICS Section can, in as accommodating a way as possible, obtain their assistance in seeking record/disposition information. As such, the NICS Section's SPRs seek to provide a method of intercommunication between agencies to expedite the record/information-gathering process in a manner that is conducive to the state's organizational requirements. Contact information gathered by these employees is updated and maintained in a comprehensive directory¹⁷ of law enforcement and judicial agency contact names in addition to each state's and/or agency's preferred order of contact.
- *Document Review and Scanning Team (DRST)*: Established in support of the NICS Section's research and evaluation processes, the DRST receives and clarifies documentation received from external sources. The NICS Section receives numerous and

¹⁷ The *State, Federal, and Territorial Disposition Reporting Point-of-Contact Index* is available at www.Public.Sigs/CJIS/Programs/NICS which is accessed via the CJIS Internet LAN.

essential record-clarifying documents that, pursuant to state or federal guidelines, cannot be posted to criminal history records (e.g., data that is not fingerprint based). In order to eliminate redundancy in contacting the same agency for the same valuable information previously requested and received, the DRST captures, via scanning technology, and maintains this documentation for future use. Reciprocally, when disposition information is obtained via outreach efforts with local and/or state agencies, said documentation is also forwarded to the appropriate state authorities, e.g., State Bureaus, for record update/maintenance at the state level. In 2005, the DRST facilitated the referral of over 15,270 documents to state authorities, scanned over 27,460 documents that could not be posted to the CHRs, and scanned over 75,000 (otherwise rejected) documents forwarded by the CJIS Division's Identification and Investigative Services Section (IISS) to the NICS Section for capture and maintenance for future use.

- *Record Information Obtained via the Internet:* America is witnessing the increased popularity and use of the Internet as a resource tool for the exchange of various types of information. Due to the three-business-day time frame limitation imposed by the Brady Act for obtaining record information needed to render final transaction determinations, the NICS Section also considers the value and usefulness of alternative means to obtain disposition data other than those outlined by the CJIS Division. One such method is via the Internet. Not all accessible Web sites displaying criminal history (and related) information are automatically added to the NICS Section's list of available contact resources. When a potential Web site candidate is identified, the NICS Legal Research and Analysis Team (LRAT) conducts in-depth research to validate the authenticity, accuracy, and quality of the information provided via the targeted Web site. Reaching out to an agency, via its Internet Web site, reduces resource costs for many local and state law enforcement and judicial agencies, e.g., time expended in phone calls, facsimile transmissions, record searches, etc. In 2005, the NICS Section validated almost 20 new Web sites for inclusion in its state contact directory. As of December 31, 2005, the NICS Section accesses available record information of over 120 agencies in 25 states available via the Internet and continues to seek and validate additional resources for the attainment of record information via ongoing outreach efforts.
- *IISS' NICS Support Unit (NSU):* When the staff of the NICS Section receive record-completing disposition information needed to render a transaction decision or other documentation (e.g., protection order documents, valid expungement documents), the information is forwarded to the NSU, a group of CJIS Division employees who are dedicated to updating CHRs as a result of information attained via the NICS Section's outreach efforts. Once the subject's FBI record is updated, the disposition/record information is forwarded by the NSU to the respective state bureau for maintenance at the state level. To reiterate prior information, as of December 31, 2005, the NSU has facilitated the update of over 547,000 CHRs at the national level. Referencing Table 4, a breakdown, by year, of the successes relevant to the update/completion of CHRs via the

NICS Section's outreach and information-sharing efforts with the assistance of the NSU is provided.

Table 4

Criminal History Record Updates Based on Documentation Obtained by the NICS Section as of December 31, 2005

Year	Number of CHR Updates
1999	73,240
2000	68,928
2001	79,965
2002	87,838
2003	96,591
2004	74,404
2005	66,561
Total	547,527

Communication Efforts

- *The NICS Section's Liaison Team:* The continued success of the NICS is contingent upon effective communication not only with its users (e.g., the FFLs), but with partnering agencies as well. As such, the NICS Section fosters and encourages a spirit of partnership and cooperation with various other federal agencies that participate in the administration and the completing of NICS background checks (e.g., the DOJ, the ATF, the ICE, and others). To more effectively coordinate and centralize the efforts of the NICS Section regarding the reciprocal exchange of valuable operational and technical communication with partnering agencies, the NICS Liaison Team was created. Dedicated to maintaining ongoing communication and coordination of information-sharing and outreach efforts, the NICS Section's partners are invariably apprized of upcoming events and initiatives as well as issues facing the NICS, and are provided the opportunity for embracing mutually beneficial solutions. For example, previously identified inadequacies in the CJIS Division's electrical system (which contributed to several lengthy system outages that occurred over an extensive period of time) were scheduled for resolution in 2005. The installation process to accomplish the resolution required that the FBI power down its CJIS Division facility and that all associated computer systems, e.g., the NCIC, the III, the NICS Index, would be unavailable for a 24-hour period of time between February 20 and February 21, 2005. So that the NICS users/customers could prepare for the upcoming

system unavailability, the NICS Section's Liaison Team effected detailed notifications to FFLs, the POC states, and partnering state and federal agencies of the impending occurrence. Through effective communication and information sharing, a smooth transition during the 24-hour period of system unavailability was realized.

On December 19, 2005, the NICS Section received a communication from the ICE providing notification that a planned power outage at the ICE's Law Enforcement Service Center was scheduled later that month. As such, through effective and timely information sharing regarding the upcoming event, both agencies and the POC states were able to coordinate alternate measures for the efficient processing of Immigration Alien Queries (IAQs) and the subsequent completion of delayed background checks in as expeditious a manner as possible.

- *NICS Web Site:* The NICS Section is a customer service-oriented operation continually striving to meet the needs and requirements of the law enforcement and the judicial community; various other individuals from local, state, federal, or foreign governments; the media; governmental officials; academia; and the general public. The NICS Section posts valuable and insightful information to its Web site¹⁸ and disseminates various descriptive and detailed literature during conferences, exhibits, seminars, training, and information-sharing opportunities. Requests for specific or general information, in addition to various requests submitted via legislative officials, are received and answered daily by the staff of the NICS Section. Many responses to external requests for data include a referral to the NICS Web site which offers various types of information regarding the NICS and other topics of interest.
- *Information via CJIS Internet LAN:* In an effort to share information and create awareness with the law enforcement community about the NICS, the NICS Section continually updates and supplements its available information accessed via the CJIS Internet LAN which is a secure means of electronic communication between law enforcement agencies. Several topics of interest provided via the CJIS Internet LAN Web site are:
 - ? NICS Online Self-Paced Training;
 - ? NICS Success Stories;
 - ? Advisory Process Topics pertaining to the NICS;
 - ? Federal and/or State Statutes;
 - ? Terminology Information;
 - ? Frequently Asked Questions;
 - ? NICS Operational Reports;
 - ? NICS Participation Map;
 - ? NICS Brochures;

¹⁸ The NICS Web site is www.fbi.gov/hq/cjis/nics/index.htm.

- ? NICS Conference Topic Papers and/or Minutes; and
 - ? Information specific to the VAF.
- *NICS Fax-on-Demand:* The NICS Section has implemented and maintains a Fax-on-Demand dial-up access¹⁹ function that 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 Gun Buyers Resolution Guide, and the NICS Voluntary Appeals Brochure (English and Spanish versions).
- *NICS Newsletter:* To further communication and liaison efforts, the NICS Section's Liaison Team compiles and issues bi-annual NICS Newsletters to the POC states to provide them with the latest news regarding many and diverse topics, such as operational issues; updates on system and/or processing requirements; anticipated/impending legislative mandates regarding the NICS; changes in processing background checks; notifications of upcoming information-sharing opportunities; NICS Index updates; CJIS Division updates/notices; and changes in POC participation.
- *"NICS and You" Bulletin:* In April 2005, the NICS Section began compiling and disseminating a quarterly bulletin, entitled "NICS and You," to its many supporting agencies. The bulletin is designed to share information with the NICS Section's local and state counterparts in the law enforcement and judicial community who assist clarifying record information and providing final dispositions. The "NICS and You" bulletin also shares success stories, statistics, and helpful information in support of why disposition and record-completing/clarifying information is so vital to the NICS.
- *The NICS User Conference:* Each year the NICS Section hosts an annual User Conference, a symposium to bring state and federal agencies together in a unique forum which allows for the reciprocal exchange of ideas, the discussion of items of mutual interest and need, and for the collective interaction in the promulgation of effective resolutions to problematic issues. Originally implemented for the purpose of connecting with the POC states, the NICS Section's annual conference now hosts and elicits participation and interaction from all users (e.g., the Full-POC states, the Partial-POC states, the alternate permit states).
- *The POC Chat Room:* To supplement the sharing of information with its state POC counterparts, the NICS Section implemented the POC Chat Room. While the traditional methods of communication previously mentioned are lucrative resources that encourage and support the needed connectivity between the NICS Section and its partners, today's technology allows for so much more via telecommunications. As logistics need not be a deterrent to effective and efficient communication, agencies can partake in information-sharing opportunities as if in the same room, hence the POC online chat room. In addition

¹⁹ Fax-on-Demand can be accessed via 1-800-550-6427.

to providing opportunities to discuss current events, changes in regulations and operational policies, etc., the POC Chat Room allows for the exchange of information and ideas in "real time" mode.

All Full-POC, Partial-POC, and Alternate Permit State representatives are provided with opportunities to suggest topics for future discussion, make recommendations for improvement of chat processes, and are also notified of each chat session prior to airing. After each chat session, a transcript of the online dialogue is posted and disseminated via the CJIS Internet LAN Web site; therefore, the dissemination of the information discussed is shared with a wide audience extending beyond the scope of those in participation. The NICS Section has hosted several chat sessions to date; some of the topics discussed in 2005 were: the VAF; IAQs; Military Dispositions; the NICS Quality Assurance Program; the NICS Section's LRAT; Search Algorithm; Pawn Shop Purpose Codes; the VGTOF; and Close-up Look at Full-POC Operations.

- *Coordination of Efforts with External Agencies:* In the interest of providing information to state and federal agencies to assist with justice and public safety initiatives in America, the NICS Section is also responsive to requests for statistics and/or information from external agencies, e.g., the BJS, and readily provides requested data, pursuant to federal guidelines governing the dissemination of such, whenever possible. In 1995, as a direct result of the Brady Act, the National Criminal History Improvement Program (NCHIP)²⁰ was established. The NCHIP, whose goal is to improve the nation's safety and security by enhancing the quality, completeness, and accessibility of criminal history record information and by insuring the nationwide implementation of criminal justice and noncriminal justice background check systems, is managed under the purview of the BJS. Through the NCHIP, the states are encouraged to ensure their data systems are compatible with one another and with the national records systems maintained by the FBI; therefore, the partnership fostered by the NICS Section and the BJS aids to support record systems utilized by law enforcement in helping to keep America safe.

The SEARCH organization is dedicated to improving the quality of justice and public safety through the use, management, and exchange of information. The SEARCH organization's vision--*accurate and timely information, supported by well deployed information and identification technology to enable the justice and public safety decision makers to administer justice in a manner that promotes . . . public safety*--is synonymous with the mission of the NICS Section--*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*. As such, the NICS Section supports and monitors the efforts and progress of the SEARCH organization via participation and

²⁰ Further information about the NCHIP is available on the BJS Web site at www.ojp.usdoj.gov/bjs/nchip.htm.

interaction at various conferences, seminars, exhibits and meetings aimed at solving America's need for improved and available criminal justice information.

- *Fostering Relationships:* As a result of effective communications with other external organizations, the NICS Section was invited to attend and participate in the National Rifle Association's (NRA) annual meeting/exhibit in April 2005. As first-time attendees during the 2005 NRA meeting, the NICS Section participated as an exhibitor and, with available staff on-hand, shared information concerning the background check and related processes to many of the over 110,000 persons (e.g., NRA members, FFLs, legislative representatives, and the public) in attendance. The NICS Section also attends and/or participates in other such conferences and exhibits, e.g., the annual Shooting, Hunting and Outdoor Trade Show, conferences with organizations such as the National Shooting Sports Foundation, the National Center for State Courts, the Project Safe Neighborhoods organization, the National Association of Firearm Retailers, the National Pawnbrokers Association, and various FFL seminars as well. These are the opportunities that promote optimal communications and information sharing between agencies with mutual interests.



The NICS 60 Millionth Transaction

The NICS processed its 60 millionth transaction at 8:29 p.m., on November 1, 2005, at one of the contracted Call Centers which was determined to be an immediate proceed.

100,000 NICS Explosives E-Check Transactions

The NICS explosives transactions processed via the NICS E-Check reached 100,000 background checks as of December 28, 2005. The year 2005 proved to be the best year yet for NICS Explosives E-Check transactions with 43,662 total transactions.

NICS Single-Day Records

December 23, 2005: A total of 70,581 POC and non-POC checks (inclusive of NICS E-Check and permit background checks) were processed via the NICS, marking the second largest background check transaction volume day program-to-date through December 31, 2005.

December 23, 2005: A total of 1,306 firearm transactions were processed via the NICS E-Check, marking the largest NICS E-Check background check transaction volume-processing day since the electronic Internet-based access to the NICS was implemented in August 2002 (and through December 31, 2005).

December 23, 2005: A total of 48,684 non-POC state firearm transactions were processed via the NICS, marking the highest transaction volume day program-to-date (through December 31, 2005). The NICS concluded the day with a combined total of 70,581 transactions which are inclusive of non-POC, POC, explosives, NICS E-Check, and permit transactions, marking a 30 percent increase from the same day in 2004.



On January 4, 2005, a NICS Examiner began to research a firearm transaction with a record containing a 2001 arrest for *Criminal Mischief - Damage Property 1st Degree*; the final disposition was missing. The disposition, located and provided to the NICS Section via the U.S. Postal Authorities, specified that the case had been dismissed on October 8, 2002. During the research process, the NICS Examiner was advised of an additional arrest also requiring clarification. Via the appropriate judicial agency, the NICS Examiner was advised that the individual was the subject of an active warrant for *Driving While Suspended*. The local sheriff's office also advised the NICS Examiner they would extradite within the local area. The NICS Examiner obtained the subject's address when she called the FFL to deny the transaction and then notified the sheriff's office of this information. A follow-up call to the FFL on March 2, 2005, by the NICS Section, determined that the subject had indeed been arrested on January 27, 2005.

On January 19, 2005, a NICS Examiner reviewed and evaluated a transaction that matched an NCIC warrant reflecting a valid match to the prospective firearm transferee. The subject of the warrant was wanted in Mississippi for robbing a business with a firearm. The NICS Examiner contacted the originator of the warrant and immediately informed the law enforcement authorities of the location of the subject who was trying to purchase a firearm at a pawn shop in Jackson, Mississippi. The originator of the warrant confirmed that it was still active and advised the NICS Examiner that the subject would be extradited from anywhere in the United States. While the NICS Examiner was still on the telephone, the warrant's originator contacted the pawn shop to coordinate apprehension efforts with the FFL and also with the local law enforcement authorities in the area. When the NICS Examiner called the FFL back to deny the transaction, the FFL advised that the subject had been taken into custody before he could leave the shop.

On January 21, 2005, a NICS Examiner determined that a prospective firearm transferee was a valid match to the subject of a Texas record and began to research a charge of *Assault - Family Member* to determine if it met the federal criteria for the Misdemeanor Crime of Domestic Violence prohibition. The information received, via outreach efforts, stated there was an active warrant for this subject for *Injury to a Child*. The report stated that the subject's wife had come to the sheriff's office with her two children to report that her husband had been drinking while

watching the children and had passed out on the couch. When he awoke, he became angered and began to slap the child in the face repeatedly. The child was observed to have red marks and swelling on the left side of his face. The NICS Examiner called law enforcement authorities and spoke with a warrant officer who verified the warrant was active and advised they would extradite. The NICS Examiner denied the transaction, obtained the subject's address, and notified the aforementioned law enforcement authorities of the subject's location. In follow-up, the NICS Section was advised that the subject had been apprehended on January 25, 2005.

On February 7, 2005, a NICS Examiner reviewed a 2004 arrest for *Aggravated Battery Against Household Member and Resisting, Evading, Eluding an Officer* on the III. The record was missing a final disposition. The arrest had occurred in the state of New Mexico. As such, the NICS Examiner checked a Web site for the New Mexico courts and found that a bench warrant had been issued for this subject on February 3, 2005, for *Fail to Pay*. The NICS Examiner, after contacting law enforcement authorities, received confirmation that the warrant was active and that the authorities would extradite. The NICS Examiner, by reaching out to the law enforcement and judicial community, received a copy of the bench warrant and also a copy of the incident report for the 2004 arrest which detailed a domestic assault on a live-in girlfriend. The subject had become resistant and violent while being arrested and had to be subdued by the arresting officers. The NICS Examiner found that the subject had subsequently been convicted of the domestic assault, thus meeting the established federal criteria for a Misdemeanor Crime of Domestic Violence prohibition. The NICS Examiner contacted the FFL and denied the transaction, and obtained the subject's address which was, in turn, provided to the sheriff's office. The denying record information was placed in the Denied Person File in the NICS Index (as it was not located via the III or the NCIC) and thus was made available on a national level to any agency conducting NICS background checks. In follow-up, the NICS Section was advised that the individual had subsequently been arrested.

On February 11, 2005, a NICS Examiner began to review a delayed transaction for which the prospective firearm transferee had descriptively matched the subject of a warrant for failure to appear on five counts of aggravated criminal mischief and burglary. The warrant indicated the originating agency would extradite nationwide. The NICS Examiner called the warrant department in Maine and was advised that the warrant was active and that the agency was interested in apprehending the subject. The NICS Examiner told the law enforcement authority that she would call back with additional information. The NICS Examiner, after contacting the FFL and obtaining the subject's address, reestablished contact with the sheriff's office and provided them with this information. Less than an hour later, the sheriff's office called the NICS Examiner and, after advising that the subject had been arrested, thanked the NICS Section for providing the information necessary to apprehend this wanted person.

On February 17, 2005, a NICS Examiner matched the subject of a transaction to a Texas record containing a Texas Crime Information Center (TCIC) notice stating that additional information may exist in the TCIC Wanted Persons File. The NICS Examiner, by reaching out to the law enforcement community, contacted the TCIC and found the want notice. The NICS Examiner telephoned the applicable police department and discovered that the warrant for *Attempting to Obtain Dangerous Drugs by Fraud* was active. The police department was interested in apprehending the subject. The NICS Examiner denied the transaction and provided the police department with the subject's address provided by the FFL.

On February 22, 2005, the NICS AST received an appeal request from the subject. A NICS AST Examiner implemented research to determine the validity of the denial. After contacting the police department, the NICS AST Examiner was advised the subject did have an active warrant, but had been apprehended and taken into custody on March 1, 2005. The charge of *Attempting to Obtain Dangerous Drugs by Fraud* was discovered when a local pharmacy had contacted a veterinarian's office where the subject had worked as a veterinarian technician. The pharmacist, wanting to verify the prescription which had been submitted using the veterinarian's license number, had never heard of anyone prescribing that medicine for a dog. The veterinarian advised the pharmacist that he had not issued the prescription and had not authorized any prescription for the animal. When the police reviewed the pharmacy records, they found numerous prescriptions had been filled using the names of the subject's dogs, dating back to 2003. The veterinarian stated he had never written a prescription for that particular drug for any animal, then alerted the pharmacy and indicated the prescriptions were fraudulent.

On March 14, 2005, a NICS Examiner researched a transaction initiated by a pawn shop in Texas. While reviewing the matched record, the NICS Examiner noticed a statement which said, "Additional information exists in the TCIC wanted persons file that may pertain to this individual." The NICS Examiner contacted the TCIC and was advised of the wanting agency. The NICS Examiner also contacted the Warrants Division of the sheriff's office and was informed the warrant was active. After contacting the FFL and denying the transaction, the NICS Examiner obtained the subject's address. She received a call from the sheriff's office stating they had three active warrants on this subject for *Driving While License Suspended* and for probation violations. The Examiner notified the wanting agency of the subject's address.

On March 15, 2005, the NICS Examiner received a call from a member of the sheriff's office asking for the location and phone number of the FFL where this subject had attempted to purchase a firearm. The NICS Examiner provided the information and later received notification that the subject had been apprehended.

On March 26, 2005, a NICS Examiner reviewed a transaction from Delaware which reflected an NCIC warrant for *Theft Where Property Value is \$100,000 and Conspiracy-Second Degree*. The NICS Examiner contacted the Delaware State Police to confirm the validity of the warrant. The Delaware State Police advised that the subject was currently in custody and was with a detective in the interview room at that time. When the NICS Examiner called the FFL to deny the transaction, he was informed that the subject was arrested by state police officers at the store. Delaware FFLs notify both the NICS Section and their state bureau when initiating a NICS check. As such, the state bureau had contacted the Delaware State Police regarding the active warrant and, subsequently, the subject had been arrested before leaving the store.

While researching a transaction on March 26, 2005, containing an NCIC warrant for a felony charge of *Military Deserter*, a NICS Examiner verified that the warrant was active and determined that the U.S. Army would seek extradition for this subject. The NICS Examiner obtained the subject's address from the FFL and notified the U.S. Army of the subject's location. On March 28, 2005, the NICS Examiner received notification from the U.S. Army that the subject had been arrested on March 26, 2005, and was currently lodged in a county jail in Mississippi awaiting extradition to face desertion charges by the military.

On April 6, 2005, a NICS Examiner implemented research on a transaction for the purchase of a handgun from a sporting goods store in Alaska. The prospective firearm transferee's descriptive data matched that of the subject of an NCIC warrant for *Military Deserter*. The NICS Examiner verified the warrant was active by contacting the U.S. Army Deserter Information POC. The POC confirmed the active status of the warrant and stated they would extradite the subject from the state of Alaska. The NICS Examiner contacted the FFL, obtained the subject's address and notified both the military and the Alaska State Police of the subject's location. In follow-up on May 6, 2005, the NICS Examiner was advised that the subject had been arrested in Alaska on the day the background check was initiated after law enforcement officials were notified of the subject's location.

On May 24, 2005, an employee of an FFL in North Dakota initiated a NICS background check on himself. After reviewing the delayed transaction, the NICS Examiner determined a valid match of the prospective firearm transferee's descriptive data to an NCIC warrant for a probation violation associated with a charge of *Intimidation* (including Stalking) from Indiana. The subject also had an FBI record and a state record in Michigan and Indiana. The NICS Examiner called the sheriff's office in Indiana and spoke with a law enforcement officer who verified the warrant for *Felony Intimidation* was active and informed the NICS Examiner they would extradite from North Dakota. After receiving this information, the NICS Examiner called the FFL to deny the

transaction and obtain the subject's address. The NICS Examiner spoke with an employee at the FFL's establishment who turned the call over to a store security officer. The security officer advised the NICS Examiner that the subject was an employee of the FFL and had not completed the ATF Form 4473 which is required for all attempted firearm transfers. The security officer also advised that the subject had been arrested by the police department at the FFL's premises within 45 minutes of when the background check was submitted. In follow-up, the NICS Section was advised that the subject had been taken into custody in North Dakota and was awaiting extradition to Indiana.

On June 13, 2005, a NICS Examiner answered a Customer Service call from a law enforcement officer in New Mexico who had received a facsimile request from the NICS Section seeking final disposition information relating to an arrest for an individual descriptively matched to a prospective firearm transferee. The law enforcement officer was concerned that the subject would be able to obtain a firearm and requested the name of the FFL where the subject had tried to purchase. The law enforcement officer wanted to use the information in court to show that the subject had tried to purchase a firearm while out on bond. The NICS Examiner informed the law enforcement officer that because the transaction was still in a delayed status, the information could not be released. The NICS Examiner questioned the officer further to determine if the subject was currently under indictment or information for the crime of *Receiving Stolen Property*. If this was the case, the transaction would be denied thereby allowing the NICS Section to discuss the transaction with him. The officer stated the case had not yet gone to the grand jury, but he thought there may be firearm restrictions as conditions of the subject's bond release order. The NICS Examiner informed him if he could provide documentation specifying this, the subject would be denied. Within an hour, the NICS Examiner received a facsimile transmission from the sheriff's office showing that on March 29, 2005, the subject's case was ordered for continuance to the grand jury. It included a statement that the subject was not to possess a firearm or dangerous weapon. With this information in hand, the NICS Examiner denied the transaction, and contacted the law enforcement officer with the subject's address and the location of the FFL.

On November 15, 2005, a NICS Examiner verified a match of a prospective firearm transferee's descriptive information to that of the subject of an active warrant for *Neglect of a Child and Failure to Pay Child Support*. The individual was attempting to purchase a firearm in Michigan. Upon contact with the originator of the warrant, the sheriff's office advised that they wanted to effect extradition/apprehension of the subject. The NICS Examiner then contacted the FFL and denied the transaction; however, the subject had exited the premises. The FFL, by choice, contacted the local law enforcement agency and through a coordination of efforts, when the subject returned to the FFL's establishment, apprehension was effected.

A background check conducted by the Georgia Bureau of Investigation (GBI) through the NICS for the purchase of a long gun resulted in the arrest of a man who was wanted in the state of New York for jumping bail in 1978 and vanishing as he was facing retrial in two rape cases in New York. The subject had taken a Muslim name, taught himself Arabic, and had worked as a translator in Cairo during his years on the run. At the time of his arrest, he was living in Atlanta, Georgia, and had opened bank accounts and utility contracts under his given name. The scenario unfolded as the subject tried to buy a long gun in DeKalb County, Georgia, by using his given name and social security number. He had no idea he was the subject of two arrest warrants in the state of New York. The background check research resulted in the GBI discovering information associated with the New York warrants and the subject was ultimately arrested.

New York authorities were preparing to extradite a subject from Georgia when they checked his old file. There they found in a legal folder an article of clothing belonging to one of the victims. Using DNA technology that was unavailable at the time the crime was committed, they obtained a DNA sample from the subject and matched it to the DNA contained on the clothing worn by the victim. Through DNA technology, the sample linked the subject to nine other unsolved sexual assaults in Maryland and two in New Jersey; plus, the subject was suspected of being involved in at least 12 others incidents between 1987 and 1991. The subject had actually been convicted in New York in 1975 of attempted murder and attempted rape; however, the conviction was reversed because of a technicality and prosecutors were preparing to retry him when he disappeared. The subject was being held without bail in New York.

A NICS Examiner processed a transaction for a handgun purchase, initiated from a pawn shop in Texas. The subject's Texas State record reflected a notice that a TCIC warrant may be active. The subject was 72 years old and his Texas State record consisted of arrests beginning in 1947 for *Felony Theft* and included a current arrest on February 18, 2005, for *Deadly Conduct - Discharging a Firearm at or in the Direction of One or More Individuals*. The NICS Examiner called the TCIC and discovered there was an active warrant for this subject from a sheriff's office for *Cruelty to Animals*. A sergeant at the sheriff's office confirmed the active warrant, informed the NICS Examiner they would extradite, and requested the subject's address. The NICS Examiner provided the sheriff's office with this information. In follow-up, the NICS Section learned that the subject had subsequently been arrested.

After receiving a background check denial response, an appellant contacted the NICS Section to implement an appeal of their denial decision and to request entry into the VAF. The appellant provided fingerprints which were identical to those of the subject of the denying criminal history record upon which the transaction denial was based. The appellant's criminal history record revealed a felony conviction which, pursuant to the Brady Act, is federally prohibiting regarding firearms eligibility; thus, the individual's firearm transaction was denied.

The appellant also provided court documentation indicating that the denying record (the felony conviction) was reduced to a misdemeanor in accordance with California State law. In the state of California, the specific statute under which a charge is adjudicated by is a determining factor regarding firearms eligibility; however, a California State record does not avail the statute code under which such a modification in crime conviction level was adjudicated by. The NICS Examiner validated the court documentation which revealed that the felony conviction was reduced to a misdemeanor in accordance with California State law. As a result, the appellant's denial was overturned rendering the individual eligible to receive a firearm.

As this type of clarifying record information cannot be entered on a California State record, said record information would not be readily available to the NICS Section staff during the background check process. As such, a prospective firearm transferee would be subject to future denials associated with subsequent attempted firearm transactions. In such scenarios, the individual would have to appeal every subsequent denial decision based on this seemingly prohibitive record. In order to mitigate unnecessary additional research by the NICS Section for every subsequent background check for this individual and facilitate a timely background check transaction response, the individual was successfully entered into the VAF. Through successful entry into the VAF, the individual will not be denied on future background check transactions based on this specific record.



FBI's Major Case Contact Center

Whether for business in the workplace or on the domestic or the foreign front, the FBI recognizes that everyone stands to benefit from more effective and efficient communications. During the course of criminal investigations over the past several years, the FBI has recognized the need to enhance the communicative processes. Several past major case investigations have revealed the need for added functionality relevant to the effective processing, recording, and/or the exchange of information gathered during the investigative processes. The implementation of "tip" lines has proven to be of great importance to the FBI in solving many crimes. Realizing this, the FBI envisioned that the establishment of a national networked integrated contact center to receive information from the public to assist with current and future investigations could accomplish more.

In the wake of Hurricane Katrina in late August 2005, many federal agencies exhibited an intense spirit of cooperation in offering assistance to effectively support law enforcement operations in the devastated areas hit by the massive storm. One of the many CJIS Division efforts witnessed the collaborative synergy of the staff of the ITMS and the NICS Section in setting up the "Hurricane Katrina Fraud Call Center" within 24 hours of being directed by the Executive Assistant Director of Law Enforcement Services to establish a "hotline" and management protocol for fraud complaints related to storm recovery. Although a concept of operations (CONOPS) document outlining the FBI's vision for its Major Case Contact Center (MC3) had been prepared by the NICS Section, Hurricane Katrina necessitated pushing that concept into reality.

On September 14, 2005, the NICS Section immediately implemented Phase 1 of the MC3 CONOPS specifications document which detailed project specifications, e.g., mode of installation of the toll-free telephone numbers; the preparation of a database to collect, sort, and house the tip information; the NICS Section's training of employees to receive and process the MC3-related telephone calls, etc. During conceptualization and identification of project needs and requirements, the NICS Section was selected to develop, implement and maintain the MC3 as it already utilizes many of the same resources required for the facilitation of a contact center, e.g., basic call center and management infrastructure in place, automatic call distribution and voice menu response capabilities, etc., and also because its employees are already trained to perform customer service functions needed to effectively and efficiently facilitate a contact operation.

Utilizing the NICS Section's call center experience and expertise, the NICS Section created the interim MC3 as required. As such, the NICS Section, already in its Peak (busy) Season, and with assistance from CJIS Division staff:



- Staffed the MC3 on a 24/7 basis (beyond the NICS Section's normal working hours of 8 a.m. to 1 a.m.);
- Collected all submitted information;
- Data entered the submitted information into the FBI's Virtual Command Center (VCC)²¹ on the CJIS Internet LAN network for the appropriate follow-up; and
- Forwarded data to the appropriate FBI Special Agents.

The FBI's interim MC3, implemented to help with collecting information and complaints of potential public corruption and fraud in connection with the aftermath of Hurricane Katrina, was launched on September 15, 2005. As of December 31, 2005, the MC3 had received approximately 3,590 calls resulting in the entry of 1,871 records into the MC3 database. These calls pertained to information relative to federal fraud, charity fraud, public corruption, and other non-Katrina related reports proffered by the public as well. Based on information received via the interim MC3 regarding Hurricane Katrina, over approximately 35 indictments/complaints have resulted.

Subsequently, on December 1, 2005, the Assistant Director of the FBI's Criminal Investigative Division announced the formation of the Gate Cutters Jewelry Task Force to investigate a series of jewelry store burglaries along the East Coast. A second option to the answering menu of the MC3 tip line was activated to take calls from the public regarding this investigation. During the period of time that the Gate Cutters tip line was accessible via the MC3, a total of 485 telephone calls were routed to this line. Of the 485 calls received regarding the "Gate Cutters," 190 were ultimately entered into the MC3.

At the current time, the development of the envisioned MC3, which will eventually provide centralized call routing, call recording capability, a centralized data repository, search capability, and quick retrieval of information, continues. It is envisioned that the MC3 will

²¹ VCCs are accessible online and are used to track information during events and crises.

support 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 needed and as approved by FBI Executive Management. Once the nation's fully integrated contact center is placed in operation, its lines will be manned by FBI personnel and the information collected will be analyzed, investigated, and shared with local, state and federal law enforcement agencies in the furtherance of public safety and criminal justice in America.