

# ***KINGMAN COUNTY SHERIFF'S OFFICE***

POLICY AND PROCEDURE MANUAL

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## **Section 5.3**

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

#### **1. INTRODUCTION**

The National Instant Criminal Background Check System (NICS) is a computerized system designed to immediately determine if a person is disqualified from receiving or possessing firearms by conducting a search of available records. NICS was developed in response to the enactment of *The Brady Handgun Violence Prevention Act of 1993 (Brady Act)*.

#### **2. PURPOSE**

The goal of the NICS Section and state Point of Contact (POC) is to ensure that law-abiding citizens are able to obtain firearms legally and to prevent firearms from falling into the hands of those individuals who are disqualified from having a firearm.

The National Instant Criminal Background Check System (NICS) Index contains information provided by local, state, tribal, and federal agencies regarding persons prohibited from receiving firearms, which may not be found in the Interstate Identification Index (III) or the National Crime Information Center (NCIC). A valid match to the NICS Index based on descriptive information results in an immediate denial for a prospective firearms receiver.

### 3. PROHIBITING CATEGORIES

Various laws support participation in the NICS Index. They are the Gun Control Act of 1968, the Brady Handgun Violence Prevention Act of 1993 (Brady Act), the NICS Improvement Amendments Act of 2007, and various state statutes.

Prohibiting categories of the NICS Index mirror the federal firearm prohibitions listed below and **also include prohibitions that disqualify based on Kansas state statute:**

- Felony convictions of 1 year or more or misdemeanors punishable by more than 2 years
- Under indictment/information
- Fugitives from justice
- Unlawful users/addicted to a controlled substance
- Adjudicated mental/committed to a mental institution
- Illegal/unlawful aliens
- Dishonorable discharge from the U.S. Armed Forces
- Renounced U.S. citizenship
- Protection/restraining order
- Misdemeanor crimes of domestic violence (MCDV)
- State prohibitions

Prohibiting information possessed by law enforcement may not qualify for entry into the III or the NCIC, depending on the requirements and information available. Examples include positive drug tests, involuntary mental health commitments, warrants and protection orders, MCDV, and indictment/information data. However, law enforcement agencies may submit the prohibiting information to the NICS Index when applicable.

### 4. POLICY

Only personnel who have been trained on NICS and have NCIC access may access QNP message key. Requests shall only be for law enforcement in possession of a firearm to determine if a person is disqualified from receiving or possessing a firearm before returning the firearm to a person.

The use of the QNP message key, which accesses NCIC, III and the NICS Index, shall only be used for the **return/release of a firearm**. In the circumstance of a foreign born individual, the QNP will also trigger a search through IAQ when the Citizenship (CTZ) field is populated with "Non-US Citizen". To locate the QNP form, you will go to Forms in Open Fox, Select "Other Transactions", choose "NICS" and then query all NICS Records.

All subject records submitted to the NICS Index are predetermined to be firearm prohibiting by the record-contributing agency prior to their entry into the database.

Law enforcement officer shall provide; Name, Sex, Race, Date of Birth, Residence State, Purpose Code (listed below) and a Case Number.

Personnel Accessing NICS shall only run enquiry once all Mandatory fields are met:

Mandatory fields include:

\*Name

\*Sex

\*Race

\*Date of Birth

\*Residence State

\*Purpose Code

\*\*In 2017, an agency case number will be required. A "Call Cad Number" will be accepted.

Purpose Codes will be required to be one of the following:

-22 – Return of Handgun

-23 – Return of Long gun

-24 – Return of Other

When non-US citizenship information is provided, additional data is required: Country of Citizenship, Miscellaneous Number and Exception. This will provide access to their immigration status via the IAQ message key.

During the audit process of the QNP transaction the Case Number (OCA) and NICS Transaction Number (NTN) will be utilized and will be required to be maintained with the agency's case file or a transaction log.

## **5. DENIAL**

NICS is an investigative tool to assist law enforcement officers in making better informed decisions regarding an individual's eligibility to receive firearms in accordance with federal and state law. A law enforcement office may deny the transfer of a firearm and document the denial with NICS transaction number.

## **6. CHALLENGES OR APPEALS TO DENIALS:**

**Persons who believe they have been wrongfully denied the transfer of a firearm based on a deny decision rendered by the agency may file an appeal or challenge the denial to the FBI.**

ALL appeals of a denial decision must be made IN WRITING to the NICS Section at the FBI. This may be completed by an electronic submission, mail or fax. The subject will need to be given the NTN number from the QNP transaction return.

The subject must provide the complete name, complete mailing address and NICS Transaction Number (NTN) or State Transaction Number (STN). It is also highly recommended that a complete fingerprint card be submitted along with the initial denied response.

The Electronic form is located on the FBI's website at [www.fbi.gov/nics-appeals](http://www.fbi.gov/nics-appeals)

Mail:

Federal Bureau of Investigation  
Criminal Justice Information Services Division  
National Instant Criminal Background Check System Section  
Appeal Services Team, Module A-1  
Post Office Box 4278  
Clarksburg, WV 26302-4278

FAX: 1-304-625-0535