

Transcript: “A Message from IG Horowitz: The Handling of Firearms Purchase Denials Through the National Instant Criminal Background Check System,” September 2016

Hello. I'm Michael Horowitz, Inspector General for the U.S. Department of Justice.

Today our office issued a report examining the National Instant Criminal Background Check System, otherwise known as “NICS,” which is administered by the FBI.

Licensed gun dealers are required to check NICS, either through the FBI or a state contact, to determine whether a prospective gun purchaser is legally prohibited from buying a firearm.

Our report is focused on how key components of the Justice Department respond after someone who wants to buy a gun is denied by NICS because they are a prohibited person. In general, we found the system is working well in some ways, but also recommended a number of key improvements.

When a NICS check determines that a gun buyer is a prohibited person, the FBI refers the matter to ATF. Between 2008 and 2014, the FBI denied over a half million attempted gun sales, out of more than 51 million transactions it processed. That's about one percent.

ATF, in turn, investigates to determine whether it needs to track down a gun that should not have been sold. ATF also determines whether to refer the case to the local U.S. Attorney's Office -- so it can be considered for criminal prosecution because the attempted gun buyer provided false information when trying to buy the firearm.

Between 2008 and 2015, ATF determined that 558 subjects from transactions denied by the FBI warranted referral to the U.S. Attorney's Offices around the country, which accepted 254, or less than 32 per year, for consideration of criminal prosecution.

In general, our audit had five major findings:

First, the FBI has an effective internal control system, with an accuracy rate of more than 99 percent. Although the overall error rate is low, an isolated breakdown can have tragic consequences. For example, the defendant charged with killing members of a Charleston, South Carolina church, should have been prohibited from buying his weapon. However, in his case, the NICS process was unable to obtain timely and accurate data from local agencies – which would have blocked that sale.

Second, we found that states that process their own NICS transactions did not fully update the NICS database, failing to do so in 630 of 631 transactions we reviewed.

Third, ATF generally has an appropriate system of internal controls for processing NICS denials.

Fourth, there has been an unresolved dispute over the past 15 years between the FBI and ATF over what constitutes a “fugitive from justice” and under what circumstances a purchase should be denied. Under its interpretation of the law, the FBI denied almost 50,000 transactions that the ATF did not consider appropriate denials. Just over 2,000 of

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those transactions resulted in firearms transfers the FBI believed should have been denied, but ATF did not agree and therefore did not attempt to recover the firearms. This is an issue that we found the Department needs to resolve promptly.

Fifth, while the number of defendants prosecuted by the Department for gun crimes has increased recently, we found that charges stemming from NICS violations have dropped substantially since Fiscal Year 2003. This is true despite a request in January 2013 by President Obama that the Department consider whether to bring more NICS denial prosecutions in the wake of the Sandy Hook tragedy.

Our report makes 6 recommendations and the Department agreed with all of them.

To learn more, please visit our website, oig.justice.gov, where you can read the full report.

Thank you for joining us.