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FBI Criminal Justice Information Services (CJIS) Division
National Instant Criminal Background Check System (NICS) Section



**Guidance on NICS Related Hits to the
National Crime Information Center's (NCIC) Gang File**

In August 2009, the NCIC Violent Gang and Terrorist Organization File was divided into two separate files: the Known or Suspected Terrorist (KST) File and the Gang File. In 2011, the Deputy Attorney General (DAG) opined, in a memorandum entitled "Updating NICS Procedures to Ensure that Suspected members of Terrorist Organizations or Violent Gangs Do Not Receive Firearms in Violation of the Law," the handling of hits to the Gang File could be delegated while the responsibility of handling the KST File would remain with the FBI. Based upon this memorandum and requests from various states to allow them to handle the Gang File hits, the NICS Section will be transferring this responsibility back to state users **effective January 15, 2019**. As of this date, there will **no longer** be a banner on the response stating, "DO NOT PROCEED" WITH THIS TRANSACTION UNTIL CONTACTED BY FBI/NICS." The NICS user will receive the "Criminal Gang Member – Caution" Message Key with record data in the NCIC hit and will process by directly contacting the Originating Agency Identifier (ORI) of the record.

The NCIC Gang File was designed to provide identifying information about violent criminal gangs and members of those gangs to law enforcement personnel. This information serves to warn law enforcement officers of the potential danger posed by violent individuals and to promote the exchange of information about gangs and its members to facilitate criminal investigations. While the NCIC Operating Manual does not require hit confirmation on the Gang File, the 2011 DAG opinion indicated the transfer of firearms to suspected members of violent gangs should be delayed for further research, providing law enforcement officials the opportunity to determine whether there is any basis upon which to designate the purchaser a prohibited person under Title 18, United States Code, Section 922. Experience garnered by the NICS Section has proven that disqualifying information may be obtained through outreach to the Gang File ORI. Currently, the NICS Section does not apply a status of proceed to a transaction that includes a valid hit in the Gang File without a response from the ORI.

The following are examples of negative and positive responses to a hit on a Gang File record:

Negative Response:

NO NCIC RECORD DOB/19530531 NAM/SMITH, STEVE SEX/M RAC/W NO NCIC
RECORD VIN/2ADF36BLIG162312



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Positive Response:

1L01HEADER MD2610000

WARNING - STANDING ALONE, NCIC GANG GROUP AND MEMBER FILE
INFORMATION DOES NOT FURNISH GROUNDS FOR THE SEARCH AND SEIZURE OF
ANY INDIVIDUAL, VEHICLE, OR DWELLING

MKE/CRIMINAL GANG MEMBER - CAUTION CMC/05 - VIOLENT TENDENCIES
ORI/MD1230000 NAM/SMITH, STEVE SEX/M RAC/W ETN/H POB/MD
DOB/19530531 HGT/601 WGT/209 EYE/BLU HAI/BRO FBI/1234567 CTZ/US
SKN/ALB SMT/SC R HND FPC/121011C01159TTCI13TT MNU/MD-32614 SOC/123456789
OLN/98765432 OLS/MD OLY/1995 GNG/CRIPS*WADC SGP/ROARING 50S*WADC
ECR/BD DOP/20100115 OCA/92312663 SID/MD99999999
LKI/MD1240000 LKA/MD-2255 MIS/KNOWN TO CARRY TEC 9, TTO IS TEARDROP
LIC/ABC123 LIS/MD LIY/1993 LIT/PC VIN/2627HL525210 VYR/1988 VMA/CHEV
VMO/CEL VST/4D VCO/BLU ORI IS HARPERS FERRY PD MD 301 555-1212
DOB/19550515 AKA/BEBETO, X
AKA/JONES, JOHN AKA/LEON, JOSE NIC/T123698222 DTE/20070914 1400 EST
DLU/20080110 0100 EST NO NCIC RECORD VIN/2ADF36BLIG162312

In instances where the subject does not match the hit to the NCIC Gang File record and there is no additional disqualifying information, the transaction may be proceeded by the NICS user.

When the subject does match the NCIC Gang File record, the NICS user should directly contact the ORI of the Gang File record to ask if they are aware of or possess any information that would prohibit the transfer of a firearm or issuance of a firearm-related permit under state or federal law.¹ It is possible that the ORI phone number provided in the Gang File record will not connect directly to the unit responsible for handling these inquiries. NICS users may need to ask for the unit specifically responsible for Gang related matters. Please note that it may be necessary to explain the federal firearms prohibitions and any applicable state firearms prohibitions to the ORI.

For example, when calling the ORI of the record, NICS users may ask, **“Do you have any information that would prohibit the subject of your gang file entry from receiving or possessing a firearm?”**

¹ In some instances, an NCIC Gang File record will not include the identifiers needed to indicate a valid match. Prior to asking the ORI if they are aware of or possess any information that would prohibit the transfer of a firearm or issuance of a firearm-related permit under state or federal law, it may be necessary to first ask for assistance in determining if a valid match exists. The ORI may have additional identifiers that would help the NICS user make a matching decision.



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Often, an ORI will advise the individual is simply a documented gang member whose activities they are monitoring and they have no additional information regarding the subject.

Common possibly prohibitive information the ORI *may* possess include the following:

- Felony Indictments
- Warrants
- Protection Orders
- Positive Drug Tests
- Probation Restrictions

Therefore, it may be helpful to additionally ask the following specific questions:

- **“Is the individual of your gang file record under felony indictment?”**
- **“Is this individual the subject of any warrants or protection orders?”**
- **“Has this individual failed a drug test within the past year?”**
- **“Is this individual currently on probation?”**

It is not uncommon for the ORI of an NCIC Gang File record to advise the subject of their record “should not” have a firearm. However, it is important to understand that being a member of a gang is not federally prohibiting. Eligibility decisions should be made based only upon the federal firearm prohibitions and any applicable state firearm prohibitions.

The NICS users are requested to submit to the NICS Indices any documentation provided by the ORI that disqualifies the individual of the NCIC Gang File record when the information is not currently located in one of the national databases searched during a NICS check.

The NCIC Gang File records are Law Enforcement Sensitive and must be afforded the same security precautions as criminal history record information. All records in the NCIC are governed by the standards and restrictions set forth in the CJIS Security Policy and the NCIC Operating Manual. NCIC Gang File information should not be disseminated to the subjects of these records.

Please note, the NICS Section recommends that users adhere to all policies and procedures currently set in place by their agency and/or as applicable under state law. This specific guidance is to serve as reference information when developing internal agency policies regarding the handling of Gang File hits as they relate to a NICS background check. Agencies should consider referencing other internal agency guidelines on the handling of NCIC files such as the Protective Interest File, the Sexual Offender Registry File, Supervised Released File and the Violent Persons File.



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Additional information on the NCIC Gang File and the NCIC Operating Manual may be located on the NCIC Special Interest Group (SIG) on the Law Enforcement Enterprise Portal (LEEP)². The CJIS Security Policy may be located on the CJIS SIG. Questions regarding the processing of NCIC Gang File hits during a NICS check may be directed to the NICS Section's Business Relations Team by telephone at 844-265-6716 or via e-mail at <NICSLiaison@fbi.gov>.

² To apply for LEEP access, sign onto <www.cjis.gov> and "Apply for an account".