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ATTENTION: AGENCY TAC/POC

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REVIEW AND DISTRIBUTE THIS NOTICE ACCORDINGLY



FBI Audit Findings: NICS

The North Carolina State Bureau of Investigation and local NC agencies were audited by the FBI CJIS Division in May 2023. The audit consisted of a review of North Carolina's permits that qualify as an alternative to the NICS background check identified as Concealed Handgun Permits (CHP). It also consisted of a review Disposition of Firearm (DOF) transactions, NICS Indices submissions, and NICS Denial Notifications (NDN).

Pertinent Info:

The results of the NICS are in the following areas of non-compliance which have been addressed:

- **Point Of Contact (POC) Requirements - POC Determination Messages:** Ensure appropriate transaction determination messages are forwarded to the FBI NICS in accordance with Title 28, C.F.R., Chapter 1 § 25.6 (h) – NICS Denial Notifications (NDN Transaction) were not submitted to NICS when an agency made decisions to deny a Concealed Handgun Permit and or return a firearm to an individual (QDOF Transaction) based on a federal prohibitor.
- **POC Requirements - Conducting an Immigration Alien Query:** Ensure Immigration Alien Inquiries (IAQs) are conducted using the correct purpose code on all non-United States citizens prior to the sale of a firearm, the issuance of a permit to possess or acquire, a permit to carry, or an explosive permit. A sampling of IAQ responses indicated information which should have prevented a subject from receiving a CHP.
- **POC Requirements - POC, Partial-POC, or Alternate Permit Requirements:** Ensure the sale of a firearm, permit to possess, or acquire, a permit to carry, or an explosive permit is based on criteria equal to or more stringent than imposed by Title 18, U.S.C., § 922 (g) or (n) without a state statute authorizing such practice. Agencies are encouraged to carefully review all responses from NICS Indices, III and other available records to applicable federal and state prohibitors are applied.

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North Carolina State Bureau of Investigation

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Please do not rely solely on this document as an all-inclusive resource.

If you are uncertain about any issue, please seek out guidance from your agency legal counsel or contact the SBI for direction to an appropriate guiding authority.

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- **Use of NICS - Use of NICS and Interstate Identification Index (III):** Ensure III is only used for authorized purposes. Documentation must exist to support III and NICS transactions.
 - **Federal Denial Criteria - Controlled Substance User:** Ensure individuals are denied who are unlawful users of or addicted to any controlled substance per Title 18, U.S.C., § 922 (g) (3). Agencies are encouraged to carefully review all responses from NICS Indices, III and other available records to applicable federal and state prohibitors are applied.
 - **Federal Denial Criteria - Misdemeanor Crime of Domestic Violence:** Ensure all potential misdemeanor crimes of domestic violence charges that include an element of force are researched in accordance with Title 18, U.S.C., § 922 (g)(9). Agencies are encouraged to carefully review all responses from NICS Indices, III and other available records to applicable federal and state prohibitors are applied.
 - **NICS Index Submission Requirements - Integrity of NICS Index Records:** Ensure NICS Index records are accurate and valid in accordance with Title 28, C.F.R., § 25.5 (b). Agencies are encouraged to carefully review all responses from NICS Indices, III and other available records to applicable federal and state prohibitors are applied. The NICS audit revealed records that invalid, inaccurate, and unable to locate supporting documentation. The invalid records consisted of expired domestic violence orders still existing as disqualifying entries in NICS. Inaccurate PCA codes had been assigned to NICS Indices entries (these have been corrected).

In Review:

- Submit the NDN transaction when agency makes decisions to deny a Concealed Handgun Permit and/or to return a firearm to an individual (QDOF Transaction) based on a federal prohibitor.
 - Ensure Immigration Alien Inquiries (IAQs) are conducted using the correct purpose code on all non-United States citizens prior to the sale of a firearm, the issuance of a permit to possess or acquire, a permit to carry, or an explosive permit.
 - Agencies are encouraged to carefully review all responses from NICS Indices, III and other available records to applicable federal and state prohibitors are applied.
 - Ensure III is only used for authorized purposes.
 - Ensure individuals are denied who are unlawful users of or addicted to any controlled substance.
 - Ensure all potential misdemeanor crimes of domestic violence charges that include an element of force are researched.
 - Ensure NICS Index records are accurate and valid.
 - For questions/assistance, please contact your District SBI DCIN Training Specialist.
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