



**U.S. Department of Justice**  
Federal Bureau of Investigation

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Clarksburg, WV 26306

February 15, 2017

**TO: CJIS SYSTEMS OFFICER AND STATE POINTS OF CONTACT**

**RE: New Guidance Regarding Persons who are Fugitives from Justice**

The National Instant Criminal Background Check System (NICS) is used by Federal Firearms Licensees to determine whether a prospective transferee is eligible to receive or possess firearms. Since the inception of the NICS, the prohibitor “fugitive from justice”<sup>1</sup> has been used to deny a firearms transfer whenever a prospective transferee is the subject of a verified outstanding warrant.

The Department of Justice recently reviewed the “fugitive from justice” prohibitor and the application of the prohibitor in NICS background checks. The Department determined that the Brady Act does not authorize the denial of firearm transfers under the “fugitive from justice” prohibitor based on the mere existence of an outstanding arrest warrant. To comply with the Department’s determination, the FBI will implement a new policy for applying the “fugitive from justice” prohibitor. This policy will require NICS to establish that the prospective purchaser: 1) has fled the state; 2) has done so to avoid prosecution for a crime or to avoid giving testimony in a criminal proceeding; and 3) is subject to a current or imminent criminal prosecution or testimonial obligation.

As the current process of denying a NICS transaction based on the existence of an active warrant alone is no longer valid, all NICS Index entries with the Prohibited Category Code (PCA) of B, “fugitive from justice,” will need to be evaluated to determine if the new standard for prohibition has been met.

In order to avoid automatic denials based on NICS Index entries with the PCA of B, the FBI Criminal Justice Information Services (CJIS) Division’s NICS Section will immediately remove all NICS Index entries with the PCA of B. This action will be completed by February 20, 2017. As a temporary measure, to ensure the accuracy of new submissions to the NICS Index, entries will not be permitted under the PCA of B, “fugitive from justice” category until further notice.

At a time to be determined, NICS Index contributors having records in the “fugitive from justice” category will be asked to evaluate entries based upon the new standards

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<sup>1</sup> 18 USC § 921(a)(15).

and reenter records under the PCA of B, if still applicable. Additionally, some states have laws that prohibit an individual from receiving a firearm or firearm-related permit when an active warrant is present. Other states define the term fugitive more broadly than the federal definition found at 921(a)(15). Where applicable, state NICS Index contributors will also be asked to provide the applicable state laws to NICS and to consider reentry of warrant-related records to the State Prohibition category, PCA of J.

The NICS Section will be scheduling a conference call for Thursday, February 16, 2017, to discuss the change in interpretation for the "fugitive from justice" prohibition and a few other NICS-related business items. It is strongly encouraged that you and/or other members of your staff attend, as you deem applicable.

If you have any questions in the meantime, please contact the NICS Section at 1-844-265-6716 or via email at <[nicsliaison@ic.fbi.gov](mailto:nicsliaison@ic.fbi.gov)>.

Sincerely yours,

A handwritten signature in black ink, appearing to read "Robin A. Stark-Nutter". The signature is written in a cursive, somewhat stylized font.

Robin A. Stark-Nutter  
Section Chief  
NICS Section  
CJIS Division