Supporting Statement for Paperwork Reduction Act Submissions

Extension, without change, of a currently approved collection

National Instant Criminal Background Check System (NICS) Firearms Disposition Record

**OMB Control #** 1110-0055

Part A. Justification

1. **Necessity of Information**:

In November 1993, the Brady Handgun Violence Prevention Act (Brady Act), Public Law 103-159, was signed into law and required federal firearms licensees (FFLs) to request background checks on individuals attempting to purchase a firearm. The permanent provisions of the Brady Act, which went into effect on November 30, 1998, required the U.S. Attorney General to establish the National Instant Criminal Background Check System (NICS) that FFLs may contact by telephone or other electronic means for information to be supplied on whether the receipt of a firearm by a prospective transferee would violate prohibitions enumerated in Title 18 United States Code Section 922 (t) of Title 18, United States Code.

In 2015, the FBI authorized Criminal Justice Agencies (CJAs) to initiate a NICS background check to assist their release of seized firearms. The FBI provided authorization via a change to the NICS Regulation, Title 28, Code of Federal Regulations, section 25. 6(j) in the Federal Register, Volume 78, Number 18. This use of NICS has been termed the Disposition of Firearms (DOF).

**2. Needs and Uses:**

The purpose of the collection is to enable federal, state, local, or tribal CJAs to access NICS to conduct DOF checks prior to disposing of firearms in their possession. In order to conduct a DOF, an agency is required to obtain and enter the minimally-required identifying information necessary for the initiation of a NICS background check. Those agencies conducting background checks must also verify the identity of a person applying for the return of a seized firearm by examining an identification document presented by the individual.

**3. Use of Technology**:

DOF checks must be conducted by approved agencies through: (1) the National Crime Information Center (NCIC) via the query with all NICS Protection Orders Returned (QNP) message key (MKE); (2) the FBI via NICS E-Check; or (3) through a state-designated agency serving as a point of contact (POC) for NICS.

Utilization of the NCIC method of sending a QNP for a check requires entering the individual’s information in the following fields: Originating Agency Identifier (ORI), Purpose Identification Number (PUR ID), First and Last Name (NAME), Gender (SEX), Date of Birth (DOB), Race (RAC), Ethnicity, and State of Residence (SOR). However, NICS search results may be more accurate if optional data is provided during the NCIC QNP. Optional data includes: Middle Name, Social Security Number (SOC), Place of Birth (POB), Height (HGT), Weight (WGT), Citizenship (CTZ), Country of Citizenship (COC), Miscellaneous Number (MNU), Exception (EXC), State Transaction Number (STN), and Originating Agency Case Number (OCA). The CJIS Systems Officer (CSO) may choose to require any of the optional data with the submission of a DOF background check via QNP. Also, if citizenship information is provided and the individual is a non-U.S. citizen, additional data (e.g., COC, MNU, EXC) is required.

Initiation of a DOF check through NICS E-Check for background checks through the Law Enforcement Enterprise Portal (LEEP) allows only agencies authorized by the CSO and validated by the FBI to conduct background checks. The ORI will initiate background checks by providing the aforementioned required descriptive data (and any optional data that is provided) of the individual. A NICS Transaction Number (NTN), unique to each DOF check, will be provided to the ORI. The ORI will use the NTN to retrieve the status of the check determined by the FBI via LEEP’s NICS E-Check service.

Reliance of a state POC to process a DOF check through NICS is a method used by some agencies. The state POC processes the check through NICS in a manner consistent with the state’s processing of an FFL-initiated firearm and firearm permit-related background check and will provide a final response to the submitting agency. Fields populated to complete the check are the same as the previous two methods.

No form is required by the FBI to document this use of NICS by agencies. No forms will be produced or mailed to the various federal, state, local, or tribal CJAs. CJAs can request from the individuals, either orally or in writing, the minimal information needed to initiate such background checks.

**4. Efforts to Identify Duplication:**

This collection does not duplicate other data collections. This is the only collection that enables agencies to run NICS background checks for the purposes of returning firearms to an individual.

**5. Methods to Minimize Burden on Small Businesses**:

The collection of information will not have any impact on small entities. Some agencies are small government entities. However, the impact of this collection on small entities is likely to be minimal as the FBI requires only a small amount of information to conduct the search, the collection is voluntary for the individual to provide this information to the agency, and the agencies already have in place, or access to, the equipment necessary to conduct the checks for permits, licenses, or DOF checks.

**6. Consequences of Less Frequent Collection**:

If the agency does not submit the minimum required identifying information, then the DOF check cannot be initiated.

**7. Special Circumstances Influencing Collection:**

There are no special circumstances.

**8. Public Comments and Consultations:**

The FBI contacted the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) to review the data collection and provide feedback during the original collection. No comments were received as a result of previous Federal Register notices.

**9. Payment of Gift to Claimants**:

There is no payment made or gift to an individual who provides the required information to

NICS.

**10. Assurance of Confidentiality**:

Confidentiality of this information is not guaranteed.

**11. Justification for Sensitive Questions:**

The identifying information collected regarding the individual is sensitive in that it is personally-identifiable information. Providing the information is voluntary but necessary for agencies to enter the information in NICS and initiate a DOF check. Failure or refusal by the individual to provide the information to the agency will result in the inability to conduct a DOF check. In addition to the need for the information to initiate the DOF check, the personal information is necessary to more accurately identify and verify or eliminate potential matches returned from the check. For example, providing the individual’s social security number is voluntary but providing it will provide for more accurate determinations in the name-based searches (check) of NICS.

**12. Estimate of Hour Burden:**

The FBI estimates the average NICS check should take no more than three minutes. In Calendar Year 2022, states submitted 126,014 DOF checks.

Number of respondents: 20,172 CJAs are enrolled to utilize DOF

Frequency of response: as needed

Total annual responses: 126,014

Minutes per response: 3 minutes

Annual hour burden: 6,300.7

**13. Estimate of Cost Burden:**

The burden of a NICS background check for DOF directly correlate to the agencies’ use of NICS. A range of expenses potentially incurred by a CJA using this access authorization can be estimated by using the mean hourly wage for a clerical or administrative assistant level employee or a law enforcement officer (police and sheriff’s patrol officer) conducting the checks. The following figures are derived from the Bureau of Labor Statistics as of 2022 for administrative employees and for law enforcement officers. As noted, the FBI estimates the process of conducting a NICS check should take no more than three minutes. The 2022 administrative assistant mean hourly wage is $25.28. The 2022 mean hourly wage for a law enforcement officer is $34.32. The cost for an administrative NICS check is $1.63 cents. If a law enforcement officer conducts the NICS check, then the cost would be $1.71. The FBI was unable to estimate how often and which one of the thousands of CJAs may choose to employ the access and which staff member will conduct the check is similarly unknown. The Federal Government assumes only those costs associated with the effort necessary to conduct the check by systems and personnel are already in place at the FBI.

**14. Estimated Annualized Costs to Federal Government:**

Negligible. Only those costs associated with the effort necessary to conduct the check by systems and personnel are already in place at the FBI.

**15. Reasons for Change in Burden:**

The number of CJAs conducting DOF checks has increased since reported in the first OMB collection. This is a result of DOF being a new type of check for which there was no data at the time of previous reporting which was only an estimate of how many CJAs were predicted to use the capability in the future. Since implementation of DOF checks, the actual number of agencies participating and conducting checks can be determined and is reflected in the renewal. In addition, the volume of all DOF checks have increased and have been included in the time calculation for this collection. The actual time it takes to complete a transaction has not changed; however, the cost of law enforcement and administrative salaries has increased over time.

**16. Plans for Publication:**

The data collected will be used by the FBI Criminal Justice Information Services Division’s NICS Section and state users solely in connection with firearm, DOF-related background checks conducted in accordance with the promulgated regulations. The information will be maintained as permitted by law and subject to destruction in accordance with purge retention requirements, as applicable, in a database for use by FBI employees, FBI contract employee, and/or the submitting agency. This information will not be published.

**17. Expiration Date Approval:**

No exceptions to the certification statement are requested.

**18. Exceptions to the Certification Statement:**

There are no exceptions to the certification statement.