

MYTH: The federal background check system for firearms purchases includes individually identifiable mental health records.

FACT: The National Instant Criminal Background Check System (NICS) does not allow disclosure of individually identifiable health information, but state data collection practices vary.

Federal law requires federally licensed firearms dealers to perform background checks on prospective firearms purchasers to ensure that the sale would not violate federal, state or local law. The federal background check system for firearms purchases, the National Instant Criminal Background Check System (NICS), began operating in 1998 and is maintained by the Federal Bureau of Investigation (FBI).

When an individual goes to purchase a firearm from a federally licensed dealer, the dealer will query the NICS database to determine whether the individual is barred from gun possession because he or she falls into one or more prohibited categories. These categories include felons, fugitives from justice, illegal drug users, illegal aliens, individuals who have renounced U.S. citizenship, individuals subject to a restraining order for domestic abuse, individuals who have been determined to be a danger or lack the mental capacity to manage their own affairs (including those found by a court to be insane or incompetent to stand trial), and individuals that have been involuntarily committed to a mental institution.¹ The prohibition does not apply to individuals who are in a mental institution for observation, admitted voluntarily, or simply receiving treatment for a mental health diagnosis.

The NICS database includes identifying information about prohibited individuals, including name, social security number, and date of birth. It also includes information about which state or federal agency reported the information and which prohibition

applies to the individual. The database does not contain medical or mental health records. The dealer querying the database prior to a gun sale only knows whether the transaction is prohibited. Someone querying the database prior to a sale cannot access information about the reason for the denial.²

Identifying an individual as prohibited from firearms possession for mental health reasons may come from information contained in mental health records. Most reporting to NICS results from an adjudication (where evidence of mental status is presented, such as a court hearing), but some states require hospitals and mental health facilities to report mental health information to state databases, which are then used to report to NICS.

For More Information:

- [Learn](#) about state and federal laws governing mental health reporting for background checks.
- [Read](#) the Advance Notice of Proposed Rulemaking regarding possible barriers to reporting of individuals who should be prohibited from gun ownership for mental health reasons.
- [See](#) our resources related to privacy and confidentiality of medical records.

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¹ 27 CFR 478.11.

² Leon Rodriguez, HHS Office for Civil Rights Director. News Release: Addressing Unnecessary Barriers to Firearm Background Check Reporting (April 29, 2013). <http://www.hhs.gov/news/press/2013pres/04/address-barriers-firearm-background.html>

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