

## Frequently Asked Questions (FAQs) on NICS Estimates

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**Q1: What is the purpose of the estimates?**

A1: The record estimates seek to obtain a count of the number of unique records of events (e.g., convictions, adjudications, commitments) that may be used to disqualify an individual from purchasing a firearm from a federally licensed firearms dealer.

**Q2: How will these estimates be used?**

A2: The record estimates seek to obtain a count of the number of unique records in *originating agencies* of the events (e.g., the number of convictions, adjudications, commitments, orders, outstanding indictments), and, for comparison purposes, the number of those events reflected in records that are electronically available through *state record repositories*. These estimates will be used to determine the percentage of event records that are or can be made available for use by the National Instant Criminal Background Check System (NICS).

**Q3: What is meant by “unique records”?**

A3: The record pertaining to an event is considered unique if it is the single record being counted or estimated from an event. To be unique means two things. First, the record is unique because it is the one record at the originating agency/court and the one record at the repository that documents an event that is reportable for the purposes of these estimates. Second, it is unique because it is not counting multiple instances of the same charge, conviction, etc. For example, if a defendant is charged with multiple counts of the same charge, this should be counted as a single record. If a defendant is charged with a single count of three different charges, this should be counted as three records. The same is true of convictions: When a defendant’s criminal court case results in convictions on multiple counts of the same offense (e.g. assault), it should be counted as one conviction. Alternatively, when a defendant’s criminal court case stemming from one event results in convictions on single counts of multiple charges (e.g., burglary, assault, and armed robbery), this should be counted as three convictions.

**Q4: What is meant by “Originating Agencies”?**

A4: The primary sources of information about the records of events are the originating agencies (e.g., the agencies that make the arrests, issue the warrants or indictments, or adjudicate the cases and enter the convictions or orders.) These agencies will typically have original records about these events, although other agencies involved may also have records of the event.

**Q5: What if more than one agency has a record of the same event?**

A5: It is recognized that the disqualifying events reflected in the categories of records specified in the Act may be available from more than one agency in a state. For example, a record of a single arrest or conviction may appear in the record systems of a police agency, a prosecutor’s office, and the courts. It is not intended that each of these records be counted but rather that a single record of the event be identified and counted in the estimates; it is the record available at the originating agency that should be counted. For example, a court will have a record of a conviction it enters, but so may the arresting agency or prosecutor’s office involved in the case; however, the record should only be counted once, by the court. Repository record estimates will be duplicative of the record

estimate reported for other agencies. The difference between the repository estimate and the other agency or court estimate is that the repository estimate represents the number of records that could be reported to the NICS.

**Q6: What if the originating agency no longer has the record of an event?**

A6: Agencies should communicate with one another to determine which agency is the appropriate originating agency for specific kinds of records. In the event that the appropriate originating agency does not have records available due to destruction or loss of those records for a specific time period, the agencies should collaborate to determine whether those records can be provided through a different agency. If the collaboration between local agencies results in the conclusion that records are available at a different agency, include an estimate for those records. However, if the collaboration between local agencies results in the conclusion that records are not available at any local agency, do not include an estimate for these records in that column. In some instances, records that are not available from local agencies may be available at the repository and can be reported in that column. Agencies should collaborate with one another to determine if the records are available.

**Q7: What is meant by “State Repository”?**

A7: Each state has a central record repository for criminal justice information, which contains records sent by originating agencies and courts. Some states may also have central record repositories for mental health adjudications and commitments. It is through these state central record repositories that automated information is electronically entered into the national databases maintained by the FBI and used for NICS checks.

**Q8: If a record from an originating agency has been reported to the state repository should it still be counted as a unique record in the estimates in the originating agency column (e.g., courts)?**

A8: Yes, a unique record can exist both at the local (originating agency) and state (repository) levels. The purpose of counting the record at both levels is to evaluate the percentage of records at the local (originating agency) level that are reported to and available from the state (repository) level.

**Q9: If a record has already been reported by the state repository to the NICS Index, the Interstate Identification Index (III) or entered into a file within the National Crime Information Center (NCIC), should it still be reported in the estimates of state repository records here?**

A9: Yes, records that have been reported by the state repository to the NICS Index, the III, or an NCIC file should also be reported in the estimates of state repository records here.

**Q10: What is meant by “estimates” of records?**

A10: Estimates, or approximations, of the number of available records are being requested in lieu of exact counts because it is recognized that exact counts of the records being requested may not be known. Where exact counts are known, they should be used rather than estimates.

**Q11: How should the number of records be estimated?**

A11: There are many methods for developing reasonable estimates. These methods involve various mathematical procedures such as the use of monthly or annual averages of caseloads, interpolation (using known data on either end of a range of numbers to fill in missing values in between), extrapolation (using known data to estimate numbers before or after the known numbers), and other statistical methods. The estimation process should be documented in your responses.

Technical assistance is available to assist respondents in determining a reasonable method for calculating the estimates. Contact AskBJS ([askbjs@usdoj.gov](mailto:askbjs@usdoj.gov)) and include "2011 NICS State Estimates" in the subject line for further information.

**Q12: What time period is covered by the estimates?**

A12: The estimates requested are for the period from January 1, 1991, through December 31, 2010. There are, however, three categories (Category 2 Active Indictments/Informations/Verified Complaints, Category 3 Active Wants/Warrants, and Category 6 Protection or Restraining Orders) that request the number of records that were *active* on December 31, 2010. See section **Definition of Key Terms** for additional information on active records.

**Q13: What if 20 years of data are not available for some categories?**

A13: It is likely that some states will not be able to obtain an estimate of records available for the entire 20-year period. If the records for a certain period of time no longer exist, due to record retention practices or other reasons, do not include an estimate for these records. Please indicate in your response what years the estimate covers for each category and the reason(s) for not covering the entire 20-year timeframe.

**Q14: Do the estimates pertain only to *disqualifying* records?**

A14: Not necessarily. In some instances the information collection form seeks estimates of records (e.g., Category 7) typically used by the NICS and state/local firearm programs in determining whether a prospective purchaser is prohibited from receiving a firearm. Ultimately, that determination may require additional research and analysis into the underlying event behind the record, which is typically performed by the NICS and/or a state/local firearms program at the time of a firearm background check.

**Q15: What misdemeanor crimes are disqualifying?**

A15: Disqualifying misdemeanor records include domestic violence and drug offenses that identify a person as an unlawful user or addicted to any controlled substance.

**Q16: What is the correct way to count charges/convictions?**

A16: If a record involves multiple charges/convictions of the same offense, it is considered a single record. If it involves multiple charges/convictions of different offenses, each charge/conviction is counted if it represents a disqualifying event for purposes of these estimates.

**Q17: How should RAP sheets be reported?**

A17: The “Record of Arrest and Prosecution” or “RAP Sheet” may reflect several events on a single, consolidated record about a person. For example the RAP sheet may reflect that the person has two or more felony convictions or other disqualifying events. That consolidated record should not be counted as a “single” disqualifying event if the convictions are the subject of separate judgment and conviction orders as stated above. Instead, each conviction on a consolidated record or RAP sheet should be counted as a separate conviction if it meets the definition of a conviction or disqualifying event.

**Q18: What is a “reasonable” estimate?**

A18: Reasonableness is defined by the use of the acceptable methods to derive estimates (i.e. use of monthly or annual averages of caseloads, interpolation, extrapolation, etc.). However, it is not evaluated solely on the statistical methods used; rather, reasonableness also includes other important factors, such as: record availability, resources, technical capacities, and other issues which may affect the level of effort required to produce an estimate. Technical assistance is available to assist respondents in determining a reasonable method for calculating the estimates. Contact Ask BJS ([askbjs@usdoj.gov](mailto:askbjs@usdoj.gov)) and include “2011 NICS State Estimates” in the subject line for further information.

**Q19: How detailed should the response be regarding how the estimates were derived?**

A19: For each category of records, responses should include any analysis or assessment of records in the state central record repository, surveys of local reporting agencies, analyses of state court statistics, data collection from sample(s) of local agency records, estimates derived from audits of local reporting agencies, and/or any other analytical work performed to support the development of the applicable record estimate. Additionally, if data is missing or there is failure to provide a breakdown of the estimates as requested, be sure to provide a detailed explanation for why the data cannot be reported.

**Q20: What is the purpose of documenting how the estimates were derived?**

A20: The narrative will be used by the Attorney General as a basis for evaluating the reasonableness of the estimates, as required under the NICS Improvement Amendments Act.

**Q21: What information should be provided about the state’s record systems?**

A21: Because each state’s record system is unique, the reporting form calls for a narrative description of how each category of records are maintained in the state, including:

- The type and number of state/local agencies that originally create such records;
- The typical “lifecycle” of such original records, including:
  - when and where the records are created;
  - whether such records are maintained in paper or electronic form;
  - if and how such records are transmitted to state and national files; and,
  - when/how such records are ultimately disposed of, deleted, or otherwise made unavailable

- Any difficulties or impediments faced in accessing records or submitting records to state and national files; and
- Other factors that may affect the availability of the records for state and national files

**Q22: How should agencies collaborate to develop an estimate?**

A22: The estimates should be derived from a collaborative process among executive branch agencies and the judicial branch. Agencies should communicate with one another to determine which agency is the appropriate agency for specific kinds of records. For example, a state court may have originally had information about events in a certain time period but destroyed the records pursuant to a record retention policy, while a police agency or prosecutor's office may have retained records about those events for that time period, then the communication between these agencies is required to fill the gap. Collaboration among these agencies can assist in developing a more complete and informative estimate.

If you have any further questions about how states should develop estimates, please contact AskBJS ([askbjs@usdoj.gov](mailto:askbjs@usdoj.gov)) and include "2011 NICS State Estimates" in the subject line for further information.

**Q23: How should the estimates be submitted?**

A23: The estimate should be submitted using the online data collection tool provided to each state. This contains worksheets for all the required information, including each category of data, as well as fields for documenting the record systems and how the estimates were developed. The data are automatically saved so there is no email, mail or fax requirement for the record estimates and narrative explanations.

**Q24: Who signs off on the estimates?**

A24: Because the estimates are developed by both the executive and judicial branches of state government, your state's submission requires a certification that collaboration has occurred between state court officials, the criminal history record repository, and other officials with relevant information as appropriate. The certification, for the web based tool, is to be initialed and dated by both the Director of the state's NCHIP grant administering agency and the State Court Administrator.

**Q25: What should be counted as Potential MCDV convictions?**

A25: Convictions that qualify in this category need not be definitively labeled as a crime of domestic violence. According to the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), a "misdemeanor crime of domestic violence" means an offense that: (1) is a misdemeanor under Federal or State law; (2) has, as an element, the use or attempted use of physical force, or the threatened use of a deadly weapon; and (3) was committed by a current or former spouse, parent, or guardian of the victim, by a person with whom the victim shares a child in common, by a person who is cohabiting with or has cohabited with the victim as a spouse, parent, or guardian, or by a person similarly situated to a spouse, parent, or guardian of the victim. Examples of possible domestic violence misdemeanor convictions include battery, assault, disorderly conduct, breach of peace, family violence/domestic violence, family assault or battery/domestic assault or battery, stalking, harassment, etc.

For the purpose of reporting estimates of potential MCDV convictions, or originating agencies and state record repositories should include convictions for misdemeanor offenses that may be domestic violence – related, but there is no need for these agencies to determine if the offense is domestic violence. That research will be conducted by the NICS and/or state/local firearms program at the time of a firearm background check.

Inclusion of a record in a state count for estimate purposes only is not a determination that the subject of the record either is or is not prohibited from firearm possession under federal law. That determination requires additional research and analysis which typically is performed by FBI NICS and point of contact states.

**Q26: Where should unlawful drug use records be counted?**

A26: Unlawful drug use records include arrests, adjudications, and convictions. Both felony and misdemeanor arrests should be counted in Category 4. Both felony and misdemeanor adjudications should be counted in Category 4. However, felony arrests or adjudications for unlawful drug use that result in convictions should not be counted in Category 4 since they are represented in Category 1. Only misdemeanor convictions should be counted in Category 4. If the current case management system cannot distinguish felony convictions from misdemeanor convictions for unlawful drug use, please include the combined convictions estimate in Category 4 and indicate in your explanation that these data are overinclusive because they also include felony convictions. Additionally, please indicate that Category 1 is incomplete because it would not include those felony convictions reported in Category 4.

**Q27: What minimum data fields must a record have for entry into the Interstate Identification Index?**

A27: Since all records indexed in the III are supported by fingerprint submission, the minimum fields required for entry into the III are those required by all criminal fingerprint submissions to the FBI via the Criminal Answer Retain (CAR) Type of Transaction (TOT). See Electronic Biometric Transmission Specification (EBTS), Table D-1.

- Logical Record Length (LEN)
- Image Destination Character (IDC)
- Retention Code (RET)
- Name (NAM)
- Place of Birth (POB)
- Date of Birth (DOB)
- Sex (SEX)
- Race (RAC)
- Height (HGT)
- Weight (WGT)
- Eye Color (EYE)
- Hair Color (HAI)
- Date of Arrest (DOA)
- Arrest Segment Literal (ASL)
- Controlling Agency Identifier (CRI)

**Q28: What minimum data fields must a record have for entry into the NCIC Protection Order File?**

A28: A record must include the following fields for entry in the NCIC Protection Order File

- Message Key (MKE)
- Originating Agency Identifier (ORI)
- Subject's (respondent's) Name (NAM), Sex (SEX), Race (RAC)
- One numeric identifier for subject (e.g., Date of Birth) or Protected Person's Name (PPN) and Date of Birth (DOB) or Social Security Number (SOC)
- Originating Agency Case Number (OCA) or Protection Order Number (PNO)
- Date of Issue (ISD)
- Date of Expiration (EXP)
- Brady Record Indicator (BRD)
- Protection Order Conditions (PCO)

**Q29: What minimum data fields must a record have for entry into the NCIC Wanted Persons File?**

A29: A record must include the following fields for entry to cause acceptance of a wanted person entry into NCIC:

- Header (HDR)
- Message Key (MKE)
- Originating Agency Identifier (ORI)
- Name (NAM -base record NAM must be included in all entry messages, and it must be the individual's true name if known)
- SEX
- Race (RAC)
- Height (HGT)
- Weight (WGT)
- Hair Color (HAI)
- Offense Code (OFF)
- Date of Warrant (DOW)
- Originating Agency Case Number (OCA)
- At least one of the following numeric identifiers: DOB (including year, month, and day); FBI; MNU (other than originating agency police or identification number); SOC; OLN with OLS and OLY; LIC with LIS, LIY, and LIT; VIN with VYR, VMA, and VST; or S/F NAM and S/F DOB, (a S/F NAM is required if a S/F DOB is entered as the only searchable numeric identifier); S/F MNU (other than originating agency police or identification number); S/F SOC; or S/F OLN with S/F OLS and S/F OLY.

**Q30: What minimum data fields must a record have for entry into the NICS Index?**

A30: To enter a record in the NICS Index category, the entering agency performs the following steps:

1. Research and validate the information to ensure that the subject meets criteria for inclusion in the File. Any record placed in the NICS Index remains the responsibility of the entering agency.
2. Ensure that the record contains, at a minimum, a NICS record identifier; an agency record identifier; the associated data source; the prohibited category; the originating agency identifier; the name and sex of the subject; and at least one numeric identifier for the subject, e.g., date of birth, social security number, or miscellaneous identification number. Enter all available information. In the near future (deadline not yet set) two additional fields will be required for misdemeanor crimes of domestic violence; the State Statute and Subsection (SST) and the Relationship to Victim (RTV).
3. Note and include any expiration date attached to the record. Temporary protection orders, for example, include an expiration date.