



Hon. Merrick B. Garland
Attorney General of the United States
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, D.C. 20530-0001

Hon. Christopher A. Wray
Director, Federal Bureau of Investigation
935 Pennsylvania Avenue, NW
Washington, D.C. 20535-0001

8 September 2022

Dear Attorney General Garland and Director Wray:

As you may know, Gun Owners of America, Inc. (“GOA”) is one of the largest organizations in the nation representing and advocating on behalf of gun owners. We write to bring to your attention an important matter involving the FBI, resolution of which requires your involvement pursuant to federal statute.

In 2019, GOA became aware of the Federal Bureau of Investigation’s (“FBI”) use of a form entitled the “NICS Indices Self-Submission Form.”¹ This document (copy attached), created and in use by the FBI, purports to allow an individual to “voluntarily request permanent entry into the NICS Indices of the FBI’s Criminal Justice Information Services (CJIS) Division’s National Instant Criminal Background Check System (NICS).” Specifically, the form states: “I UNDERSTAND THAT COMPLETION AND SUBMISSION OF THIS FORM WILL RESULT IN DENIAL OF MY RIGHT TO PURCHASE, TO POSSESS AND TO USE ANY FIREARM.”

The NICS Indices Self-Submission Form next requires an individual to certify: “I have a mental-health condition that may cause me to ... be a danger to myself or others” and/or “lack mental capacity adequately to contract or manage the details of my life.” Paradoxically, after requiring a person to certify that he lacks adequate mental capacity to manage his affairs, the FBI form requires a “mental health professional” to certify that the very same person “has adequate mental capacity to voluntarily execute this document.”

Once the FBI obtains a completed NICS Indices Self-Submission Form, the individual who signed it is reported to and entered into the FBI’s NICS system as a “prohibited person” who is federally barred from acquiring or possessing a firearm anywhere in the country. Mere possession of a firearm by such a “prohibited person” constitutes a felony.

After learning of the existence of this FBI form, GOA submitted a Freedom of Information Act (“FOIA”) request to the FBI in October, 2019 in order to obtain documents explaining the creation and use of the NICS Indices Self-Submission Form. In 2020, GOA was forced to file suit in U.S. District Court for the District of Columbia to compel disclosure of records in compliance with FOIA. Since then, based on documents produced, GOA has learned

¹ The NICS Indices Self-Submission Form, while in use by the FBI across the country, reportedly does not appear in the FBI’s list of standardized forms, and does not contain an official FBI form number.

that the FBI has utilized the NICS Indices Self-Submission Form on numerous occasions, to enter persons into the NICS system based on nothing more than an individual having signed the form.

Additionally, the investigative records provided to GOA by the FBI highlight concerns about how the form has been employed in practice to disarm American citizens. For example, the records which the FBI has produced to GOA show that the FBI has obtained signed NICS Indices Self-Submission Forms even though, in one case, the FBI agent “recommends closing this matter as this investigation yielded no nexus to terrorism” and, in another case, an “AUSA ... declined prosecution” of a subject who the FBI believed “does not appear to pose a threat to himself, others, or the President at this time.”

More fundamentally, however, a person does not lose his Second Amendment rights to keep and bear arms simply because he signed a government form purporting to relinquish them. Indeed, there are reasons to believe that the FBI used this form to increase the number of prohibited persons on the NICS list, such as by “suggesting” that a person being interviewed should sign the form to close out an investigation. It is easy to see how signatures could be obtained in response to intimidation, threats, fear, or duress — eviscerating the purported consent required for any agreement to be effective.

Finally, and most importantly, the FBI has no statutory authority to create or to use such a form. The list of prohibited persons established by Congress, set out in 18 U.S.C. §§ 922 (d), (g) and (n), does not contain a prohibitor for a person who merely *self-reports* as mentally incapacitated. Rather, Sections 922(d)(4) and (g)(4) prohibit firearm possession only by someone who “has been *adjudicated* as a mental defective or has been *committed* to any mental institution.” A person who signs an FBI form voluntarily has neither been “adjudicated” anything nor “committed” anywhere. Indeed, if such persons had met the Congressional test for “prohibited persons” under any other federal prohibitor, there would have been no need to coerce them into signing the form. Yet the FBI has been using the signing of its form as the sole basis to deprive Americans of their constitutional rights.

In other words, there no legal or constitutional basis for the FBI to have created or utilized the NICS Indices Self-Submission Form. Apparently, since Gun Owners of America shared our findings publicly, an FBI spokesperson told the *Daily Caller News Foundation* that the form was “discontinued” in December 2019.² Interestingly, this date corresponds to GOA’s first public release of this form in *AmmoLand News*, also in December, 2019.³ Since that date, however, the FBI has yet to inform Gun Owners of America of this form’s discontinuance, or of any corrective actions taken to rectify the situation or to restore the rights of those affected.

Past, present, or future use of this form conflicts with the statute that Congress enacted

² Kaminsky. “EXCLUSIVE: The FBI Secretly Pressured Americans To Waive Away Their Gun Rights”. *Daily Caller*. September 6th, 2022.

³ Crump. “Leaked FBI Document Shows How People Can Self Identify As Prohibited In NICS”. *AmmoLand News*. December 13th, 2019.

and represents a clear infringement of Second Amendment rights that “shall not be infringed.”
Corrective action on your part is thus required and, indeed, is mandated by federal law.

As part of the NICS Improvement Amendments Act of 2007, 110 P.L. 180, Congress enacted **34 U.S.C. § 40901(e)(1)(D)**, which require “information updates” to the NICS system by the Attorney General and the FBI. Specifically, Section 40901(e)(1)(D)(i) states that a “Federal department or agency” which “provide[d] the pertinent information” is “**made aware** that the **basis** under which a record was made available ... **does not apply**,” (emphasis added) the agency “**shall ... remove the record** from any database that the agency maintains and makes available to” NICS (emphasis added). Next, Section (e)(D)(ii) requires that the agency “shall ... notify the Attorney General that such basis no longer applies so that the National Instant Criminal Background Check System is kept up to date.” Finally, the statute provides that “[t]he Attorney General upon receiving notice ... shall ensure that the record in the National Instant Criminal Background Check System is updated, corrected, modified, or removed **within 30 days** of receipt (emphasis added).”

Thus, pursuant to 34 U.S.C. § 40901(e)(1)(D), we hereby notify you, and thereby make you “aware” that the “basis” on which signers of the NICS Indices Self-Submission Form have been reported to NICS “does not apply.” Thus, pursuant to your duties under the statute, we respectfully request that the FBI: (i) identify and “remove” records from its “database” relating to those who have signed the FBI form; (ii) that the FBI (under the authority of the Attorney General) “remove” the offending records from the NICS system;⁴ and (iii) that the FBI halt its use of the illegal and unconstitutional NICS Indices Self-Submission Form.

Additionally, we request confirmation from your office that these statutorily required corrective actions have been taken within 30 days.

Please do not hesitate to contact us if we can be of any assistance or provide additional information.

Sincerely yours,



Erich Pratt
Senior Vice President

⁴ Shockingly, the FBI reports that it does not know how many persons it has added to NICS on this unlawful basis, since it does not correlate NICS entry to a particular signed form.



NICS Indices Self-Submission Form

(You must SIGN this form in the presence of a licensed physician or a licensed mental-health professional)

Please clearly print your full legal name on the line immediately below:

I, _____, voluntarily request permanent entry into the NICS Indices of the FBI's Criminal Justice Information Services (CJIS) Division's National Instant Criminal Background Check System (NICS). **I UNDERSTAND THAT**

COMPLETION & SUBMISSION OF THIS FORM WILL RESULT IN DENIAL OF MY RIGHT TO PURCHASE, TO POSSESS AND TO USE ANY FIREARM. In addition, I understand that once I am in the NICS Indices, I may not be permitted to withdraw my name or information from the NICS Indices.

Please provide the following information about yourself (print clearly):

Any other names ever used: _____

Date of Birth: _____ Place of Birth: _____

Social Security Number _____ Sex (circle) M F

Height _____ Weight _____ Race _____

I have a mental-health condition that may cause me to: (check all that apply):

_____ Be a danger to myself or to others

_____ Lack mental capacity adequately to contract or manage the details of my life

BY SIGNING THIS FORM, I AUTHORIZE DISCLOSURE OF MY MENTAL HEALTH RECORDS TO THE FBI NICS SECTION AND I WAIVE MY RIGHTS TO PRIVACY UNDER THE PRIVACY ACT OF 1974, THE HEALTH INSURANCE PORTABILITY & ACCOUNTABILITY ACT OF 1996 (HIPAA) AND OTHER PERTINENT PROVISIONS OF LAW IN RELATION TO A NICS BACKGROUND CHECK FOR FIREARMS PURCHASE, POSSESSION AND/OR USE, AND TO THIS VOLUNTARY REQUEST FOR MY ENTRY INTO THE NICS INDEX.

My signature: _____

Date: _____

VERIFICATION OF PHYSICIAN OR MENTAL-HEALTH PROFESSIONAL

By my signature below, I verify that I am a licensed physician or licensed mental-health professional who has examined the person whose signature appears above and that, in my professional opinion, he/she understands this form and has adequate mental capacity voluntarily to execute this document. I also verify that the person whose signature appears above signed this document in my presence.

Signature of professional Printed name & title State of licensure & license number

Business address: _____

Telephone: _____ Fax: _____

E-mail form and supporting documentation to NICSIndexSubExternal@fbi.gov, then promptly mail the original to: FBI, 1000 Custer Hollow Rd., Clarksburg WV 26306-0001, ATTN: NICS Liaison Specialist. Questions call (844) 265-6716.