

# CRS Insights

Charleston, SC, Mass Shooter Might Have Been Denied a Handgun If Not for Possible Recordkeeping Oversight  
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Federal Bureau of Investigation (FBI) Director James Comey announced on Friday, July 10, 2015, that the alleged assailant in the Charleston, SC, mass murder/shooting at the Emanuel African Methodist Episcopal Church might have been prevented from acquiring a handgun if not for possible recordkeeping oversight on the part of the FBI and Columbia, SC, city police and county sheriff's departments. Director Comey has ordered an internal FBI review of this matter within 30 days. The Director's statement is available at the [FBI website](#).

According to numerous press accounts, at the end of February 2015, the Columbia, SC, Police Department responded to complaints that the alleged assailant was behaving oddly at a Columbia shopping mall. He was found to be in possession of a controlled substance (Suboxone) and was arrested. His arrest record was accessible through an FBI-administered computer network known as the Interstate Identification Index (III), or "Triple I," which allows for interstate sharing of criminal history records for felony offenses and some serious misdemeanors.

In mid-April 2015, the alleged assailant sought to acquire a handgun from a federally licensed gun dealer in the Columbia, SC, area. As required by federal law, the gun dealer and alleged assailant filled out and signed a Bureau of Alcohol, Tobacco, Firearms and Explosives form (ATF Form 4473; this form is available at the [ATF website](#)). The completed and signed ATF form authorized the gun dealer to submit a name-based firearms eligibility background check to the FBI through another computer system known as the National Instant Criminal History Background Check System (NICS). As part of such checks, NICS queries the III, as well as other FBI-administered computer networks and databases.

NICS checks result in one of three outcomes: proceed, deny, or delay. In the assailant's case, the NICS check resulted in a delayed transfer of up to three business days, meaning that the gun dealer could proceed with the transfer under current law at his own discretion if he had not heard back from the FBI after the three-day delayed transfer period had expired. The gun dealer apparently proceeded with this transfer to the alleged assailant after not hearing back from the FBI after the three business days.

According to Director Comey, the FBI NICS examiner found an arrest record for the alleged assailant through a NICS check (and automatic III query), but the arrest record was possibly ambiguous with regard to the arrest's final disposition and the assailant's firearms transfer eligibility. Therefore, the NICS response was a delayed transfer. According to his arrest record, the alleged assailant had been processed for arrest by the Lexington County, SC, Sheriff's Department, so the NICS examiner contacted the Lexington County court, sheriff's department, and prosecutor's office. The Lexington County Sheriff's Department responded that it did not have a record on the alleged assailant and advised the NICS examiner to contact the city of Columbia, SC, Police Department.

However, the NICS examiner contacted the West Columbia, SC, Police Department, because it was listed on the NICS contact sheet for Lexington County. In turn, the West Columbia Police Department responded that it did not have a record on the alleged assailant either. According to Director Comey, the NICS examiner was focused on Lexington County and missed the fact that the city of Columbia, SC, Police Department was listed as the contact for Richland County, the county in which most of the city of Columbia, SC, is located. Consequently, the NICS examiner did not contact the Columbia, SC, Police Department, the agency that held the arrest record for the assailant.

According to the FBI, in cases of delayed transfers, the Bureau will continue to work on a NICS adjudication for up to 90 days, during which time the transaction is considered to be in an "open" status. If the FBI ascertains during the 90 days that the person is not in a prohibited status, then the FBI will contact the federally licensed gun

dealer through NICS with a proceed response. If the person is subsequently found to be prohibited, the FBI will inform ATF and a firearms retrieval process will be initiated. In this case, it does not appear that the FBI ascertained definitively that the assailant was a prohibited person until after the June 17, 2015, Charleston, SC, massacre. According to press accounts, the NICS check on the alleged assailant was initiated on April 11, 2015, and the transfer was made on April 16, 2015. Hence, the 90-day period would have ended sometime around July 11, 2015. Further information about NICS operations can be found at the [FBI website](#).

The FBI established NICS as required by the Brady Handgun Violence Prevention Act, 1993 (Brady Act; [P.L. 103-159](#)), and activated that system under the permanent provisions of that act in November 1998. The Brady Act also originally authorized the National Criminal History Improvement Program, under which, through FY2013, Congress has appropriated nearly \$563 million to provide states with grants to improve criminal history recordkeeping for gun control and other purposes. Similarly, under the NICS Improvement Amendments Act, 2007 ([P.L. 110-180](#)), through FY2013, Congress has appropriated nearly \$64 million to provide states and tribal governments with grants to improve mental health and criminal history recordkeeping on persons who are deemed to be either "mentally defective" or committed to a mental institution, convicted of a domestic violence misdemeanor, or subject to a domestic violence restraining order. At the Department of Justice, the Bureau of Justice Statistics administers these grant programs. See CRS Report R42987, [Gun Control Legislation in the 113<sup>th</sup> Congress](#), for an overview of NICS and further information about these grant programs.