



Written by [Bob Adelman](#) on October 10, 2016

## Gun Background Check Denials Not Prosecuted, Appeals Not Processed

The audit [released last month](#) of how well the FBI is handling background check denials by the Inspector General's Office in the Justice Department was designed to "focus on how the DOJ handles" denials. What it revealed was unsettling: "We found that the number of NICS [National Instant Criminal Background Check System] denial prosecutions has dropped substantially since 2002, when 166 subjects were accepted for consideration of prosecution. Between 2008 and 2015 ... the USAO [United States Attorney's Office] accepted for consideration of prosecution 254 subjects ... less than 32 subjects per year."



In other words, since 2008, while background checks have been soaring, the number of those being prosecuted for failing the check has dropped by 80 percent!

How can that be? When the Brady Campaign was pushing for background checks back in 1993, it promoted the measure as necessary to keep criminals and other offenders from getting guns. It now states categorically that "background checks on gun purchases have blocked 2.4 million sales to dangerous people since the inception of the Brady Handgun Violence Prevention Act ... Since the background check system was started, it has blocked more than two million sales to dangerous people."

There are so many flaws in the Brady Campaign's claim one scarcely knows where to begin. The real number of those failing the background check is 1,323,372 between the inception of the NICS and May 31, 2016. Second, what criminal would trouble himself to complete the IRS Form 4473, exposing himself to government attention, when he could easily obtain a firearm illegally? So the focus of the NICS is clearly on law-abiding citizens. Thirdly the system has vast loopholes, even after more than 15 years of operation.

One especially notable case is the failure of the FBI to pick up Dylan Roof, the shooter in the June 2015 murder of nine people at a church in South Carolina. That failure was admitted by FBI Director James Comey: "The thought that an error on our part is connected to this guy's purchase of a gun that he used to slaughter these good people is very painful to us." There are other failures, but this one proves the point: Nine innocents are dead because of the failure of the system to pick up Roof and keep him from purchasing the firearm he used in the attack.

Presently the NICS is blocking about 100,000 people out of the nearly two million currently applying for permission to purchase a firearm every month. Persons being blocked include anyone who receives VA or Social Security disability benefits with the help of a financial advisor or manager, has been convicted of a crime punishable by imprisonment for more than one year, is under indictment for such a crime, is a fugitive from justice, has been judged a mental defective or committed to a mental institution, is an



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unlawful user of or addicted to any “controlled” substance, is illegally in the United States, has been discharged from the Armed Forces under “dishonorable” conditions, is subject to a restraining order concerning a partner or a child, or has been convicted of a crime of domestic violence.

Common sense would dictate that far more than 32 individuals a year out of more than 20 million applying for a gun purchase present a danger to society.

What’s really afoot here? In January the FBI made public that they were no longer processing appeals for those wrongfully caught in the government net either because of errors, inaccuracies, confusion over spellings, or for other reasons. In other words, once on the list, forever on the list. It’s bad enough that individuals caught in that net would have had their rights violated without due process of law. It’s worse that once their rights were violated, they would have had to file an appeal to restore those rights: They were guilty until proven innocent. And now those appeals are no longer even being processed.

As the NRA pointed out in January, “An individual who found himself erroneously flagged by NICS, no matter how law-abiding, would have no avenue to acquire legally a firearm and no means to challenge their incorrect NICS status.” Added the NRA: “[The failure of NICS] reveals that the anti-gun politicians’ true motive isn’t to diminish unlawful firearm possession or reduce crime, but to further burden and discourage lawful gun ownership.”

What the latest study from the Justice Department’s IG reveals is that the NICS is working very well indeed: It captures an average of 100,000 citizens every month who have applied for government permission and then were denied that permission. After filtering through the various levels of bureaucracy, a few are actually prosecuted. But the vast majority now are finding themselves caught in a trap with no way to get out: They’re guilty until proven innocent and cannot now legally own a firearm. Perhaps this is exactly what the Brady Campaign and its enablers and anti-gun political supporters intended all along.

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