



U.S. Department of Justice

Federal Bureau of Investigation

Clarksburg, WV 26306

August 8, 2006

Honorable Gordon H. Smith
United States Senator
One World Trade Center, Suite 1250
121 SW Salmon Street
Portland, OR 97204

Dear Senator Smith:

This responds to your correspondence dated July 7, 2006, regarding an inquiry from Mr. Kevin Starrett, Executive Director for the Oregon Firearms Federation.

The Brady Handgun Violence Prevention Act of 1993 (Brady Act) requires that the National Instant Criminal Background Check System (NICS) be utilized to determine whether a prospective firearm transfer would violate state or federal laws. The Firearms Unit of the Oregon State Police (OSP) serves as a Point of Contact (POC) for firearm purchases in the state of Oregon using the NICS. As a POC, the OSP Firearms Unit processes all firearm-related background checks in the state of Oregon.

Upon receiving your inquiry, a representative from the FBI Criminal Justice Information Services (CJIS) Division's NICS Section contacted the OSP Firearms Unit to determine if they had instituted any significant changes in processing firearm-related background checks. The OSP Firearms Unit advised that they are now performing research and evaluation on numerous offenses that they had not previously considered as possible misdemeanor crimes of domestic violence (MCDV). The OSP Firearms Unit uses the federal criteria for an MCDV as defined in Title 18, United States Code (U.S.C.), Sections 921(a)(33) and 922(g)(9) as the basis for their research and evaluation during firearm-related background checks. The NICS Section utilizes this same criteria in their research and has been doing so since the inception of the NICS.

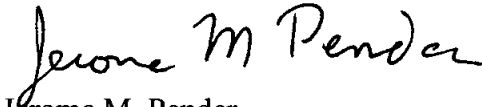
The federal criteria for a misdemeanor crime of domestic violence is defined in 18 U.S.C. §921(a)(33) and 922(g)(9) as: A person who has been convicted in any court of a misdemeanor crime of domestic violence which has an element for the use or attempted use of physical force, or the threatened use of a deadly weapon, 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. Criminal history records often do not contain this information which necessitates that a transaction be delayed while this information is requested from criminal justice agencies.

Honorable Gordon H. Smith

In regard to individuals with no criminal history records that are experiencing delays, the NICS Section has established the Voluntary Appeal File (VAF) for the purpose of allowing lawful purchasers to request that the NICS Section retain information such as court documentation, arrest information, and fingerprint cards which may help clarify or prove an appellant's identity in order to avoid extended delays or erroneous denials on future NICS transactions. Even though the state of Oregon acts as a POC, they have the ability to process transactions for individuals who have been entered into the VAF. A VAF brochure is enclosed for reference.

I trust the above information will be of assistance to you in providing an answer to your constituent.

Sincerely yours,

A handwritten signature in black ink that reads "Jerome M Pender". The signature is written in a cursive style with a large, prominent "J" and "P".

Jerome M. Pender
Deputy Assistant Director
Operations Branch
CJIS Division

Enclosure