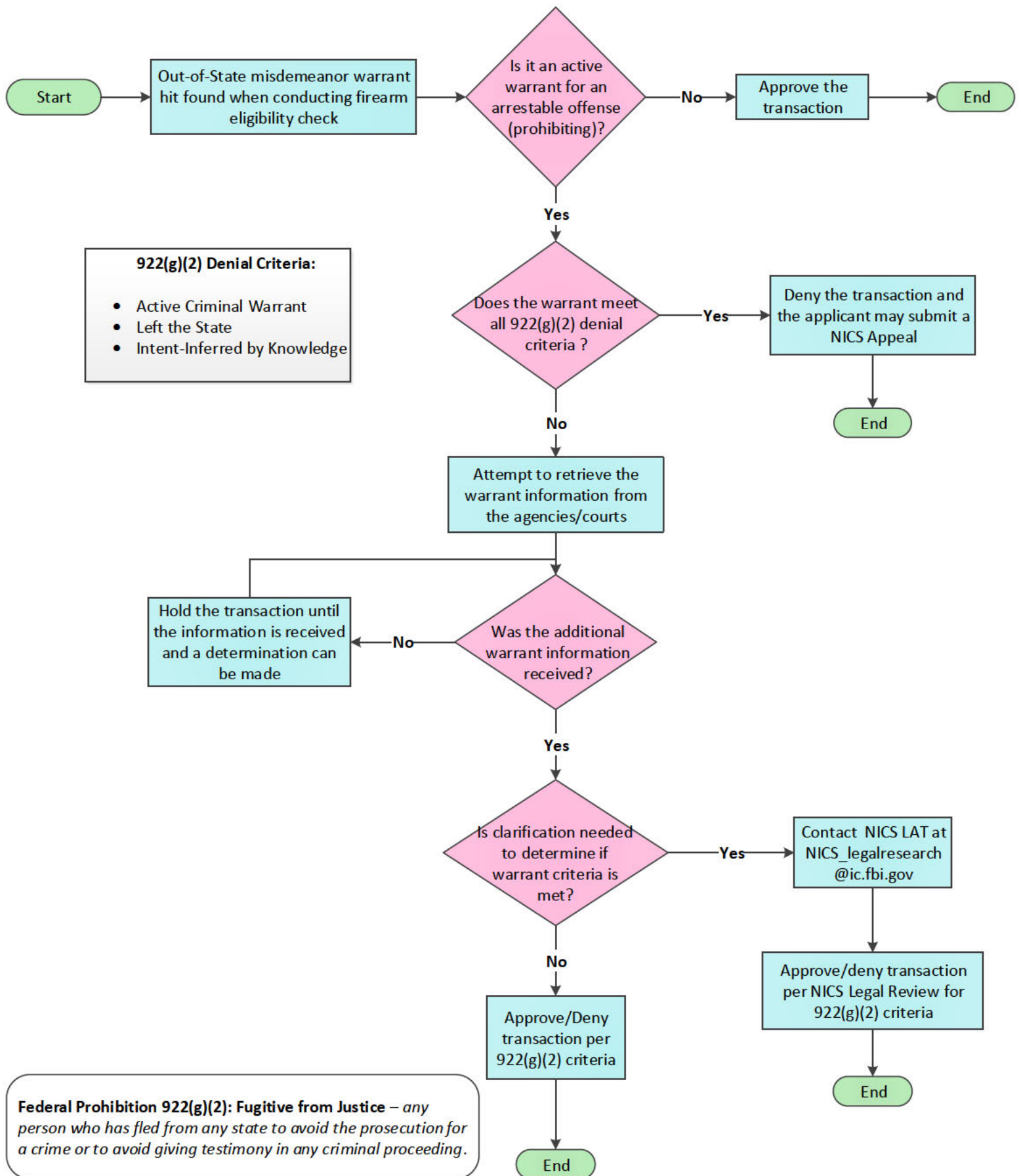


# Federal Prohibition 922(g)(2) Processing Flow

## Firearm Background Check with Out-of-State Misdemeanor Warrants (If No Other Prohibitors)



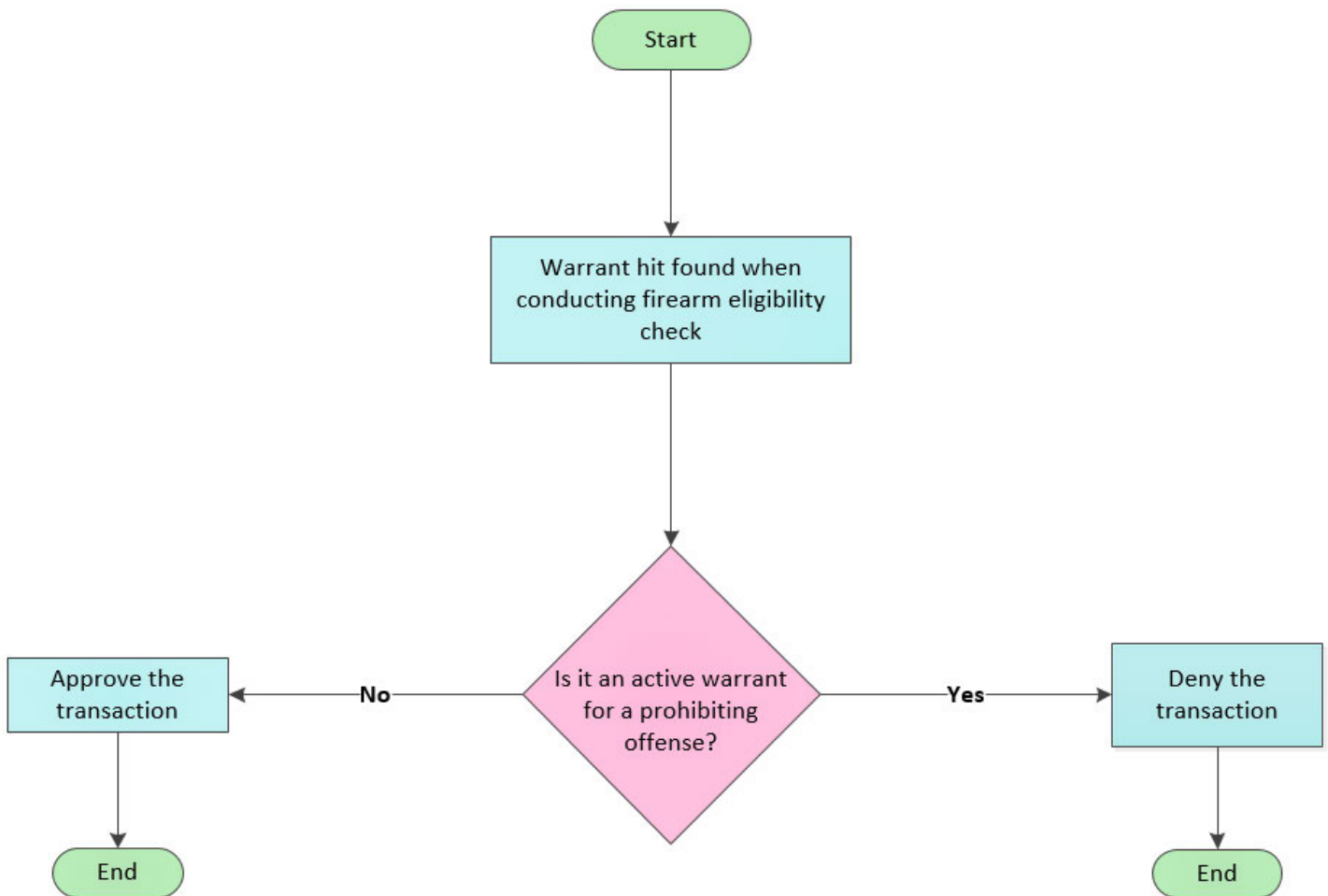


# Bureau of Firearms



## Firearm Background Check with Warrant Processing Procedures

As of July 1, 2017, Senate Bill 87 and Assembly Bill 103 prohibits a person who has an outstanding warrant for a felony and certain misdemeanors from owning, purchasing, receiving, or possessing a firearm, as per penal codes 29800 and 29805. Refer to the Prohibiting Categories list for misdemeanor prohibitions.



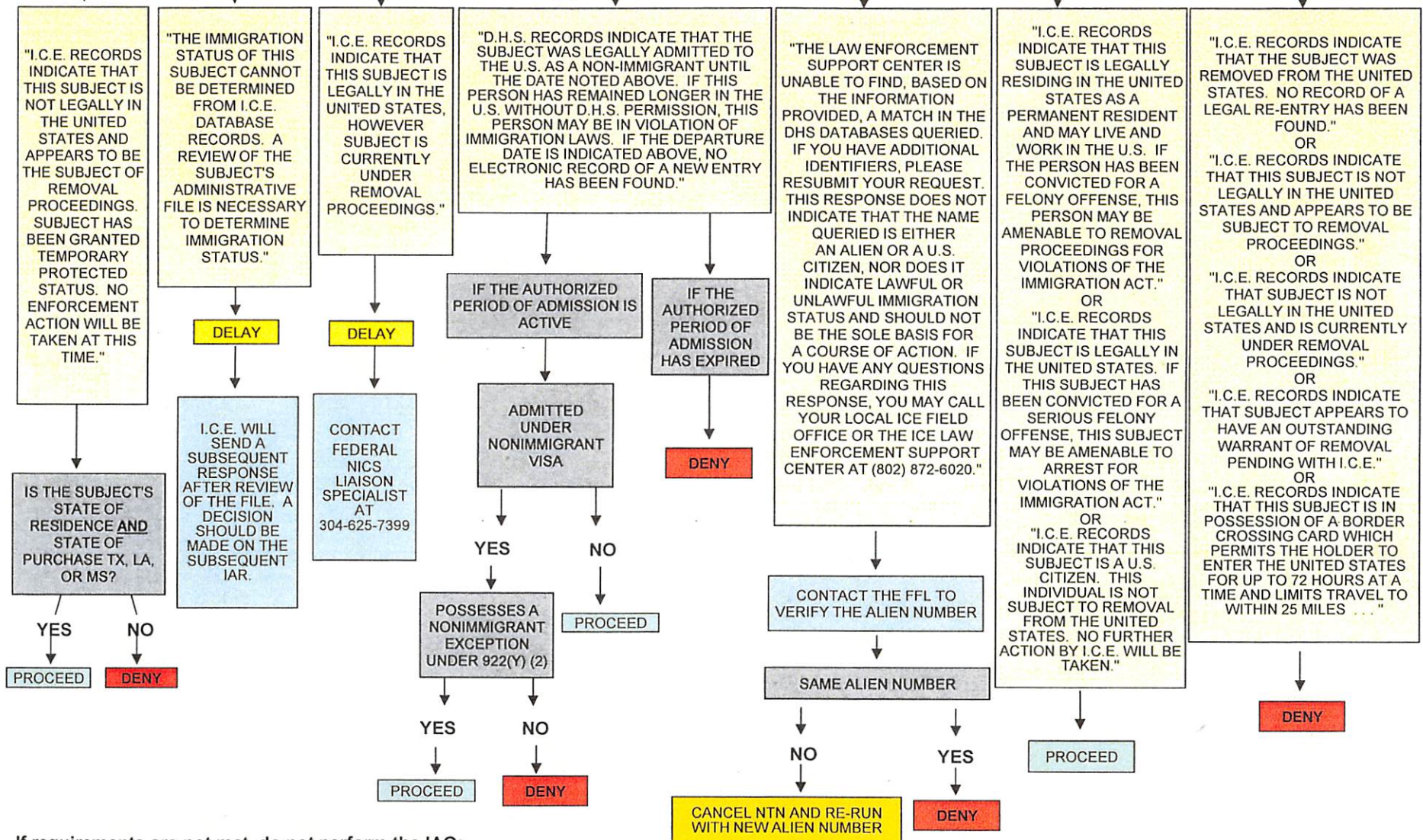
\* Out-of-state misdemeanor warrants still fall under criteria for the 922(g)(2) federal prohibition.



# Immigration Alien Responses (IAR) from the U.S. Immigration and Customs Enforcement (ICE) Law Enforcement Support Center (LESC) for Firearm Purposes

Requirements: All aliens must provide government issued photo identification and a valid I.C.E. - issued alien number (AR#) or admission number (I-94#).  
Nonimmigrants admitted under a nonimmigrant visa must also have a valid hunting license or fall within one of the Non-Immigrant exception categories listed in 18 U.S.C. 922(y)(2) or (3).

## IAR



If requirements are not met, do not perform the IAQ; you must deny or cancel the transaction.



# Bureau of Firearms



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## Federal Prohibition 922(g)(2) Processing Procedures

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As of February 15, 2017, the National Instant Background Check System's (NICS) definition and application of the prohibitor "fugitive from justice" has been re-examined. The FBI recently determined the Brady Act does not authorize the denial of a firearms purchase/ownership under the "fugitive from justice" prohibitor based on the mere existence of an active arrest warrant, which has been current practice.

To comply with this determination, the FBI has implemented a new policy for applying the "fugitive from justice" prohibitor. This policy will require the analysts to establish that the applicant meets the following criteria before denying:

1. Has an active warrant and is subject to a current or imminent criminal prosecution or testimonial obligation;
2. Has fled the state; and
3. Has done so to avoid prosecution for a crime or to avoid giving testimony in a criminal proceeding.

Attached is a flow chart to use when processing a firearms background check where an out-of-state misdemeanor warrant hit is present. Also attached is documentation with a detailed explanation of each criteria that must be met when denying an applicant using the 922(g)(2) federal prohibition.

## DISPOSITION REPORT

State Bureau Requirements must be met.

Forward completed form to FBI, CJIS Division, Clarksburg, WV 26306, Email [R84@fbi.gov](mailto:R84@fbi.gov), or Fax: (304) 625-9896. See instructions on reverse side.

FBI Number (UCN)		State Bureau No. (SID)		*Date of Birth	
*Name on fingerprint card submitted to FBI (Last, First, Middle)				Contributing/Arresting Agency ORI	
*Date of Arrest		Offense(s) Charged at Arrest			
Social Security No.		*Submitting Agency ORI		*Submitting Agency, City, State	

Disposition Maintenance Required (see reverse for explanation): ☐ Add ☐ Replace ☐ Append (CPL only) ☐ Delete

Court Charge #	*Court Offense Literal (COL) Charge at time of Disposition	Felony or Misd	*Court Provision Literal (CPL) Disposition	Relationship to Victim	Is the offense drug related?

\*Mandatory Field

Additional Court Charges and Dispositions can be added on reverse side of form.



## INSTRUCTIONS

1. The purpose of this report is to capture the disposition of an arrest to complete an individual's criminal history record information. The FBI number (UCN) should be indicated, if known. Asterisk indicates mandatory field, but all known data should be provided.
2. If the arrest is disposed of by the arresting agency, as where the arrestee is released without charge, the arresting agency must complete this form. Of course, if the disposition is known when the arrest is submitted, it should be noted on the fingerprint submission and this form is then unnecessary. In the event the case goes to the prosecutor this form should be forwarded to the prosecutor with arrestee's case file.
3. The prosecutor should complete the form to show disposition at the prosecution level if the matter is not being referred for court action. If court action is required, the prosecutor must forward form with case file to court having jurisdiction.
4. The court should complete this form as to final court disposition such as when the arrested person is acquitted, case is dismissed, conviction/sentence imposed or suspended, or person placed on probation.
5. When the arrested person is convicted or pleads guilty to a lesser or different offense than when originally arrested, this information should be clearly indicated.
6. Disposition Maintenance Requested explanation:
  - a. Add: Add new court charge number.
  - b. Replace: Replace existing court charge number and associated COL and CPL.
  - c. Append: Append to the Court Provision Literal only for the specified court charge number.
  - d. Delete: Delete existing court charge number (if exact match).

Court Charge #	*Court Offense Literal (COL) Charge at time of Disposition	Felony or Misd	*Court Provision Literal (CPL) Disposition	Relationship to Victim	Is the offense drug related?

Paperwork Reduction Act Notice: According to the Paperwork Reduction Act of 1995, no persons are required to provide the information requested unless a valid OMB control number is displayed. The valid OMB control number for this information collected is 1110-0051. The time required to complete this information collected is estimated to be five minutes, including time reviewing instructions, gathering, completing, reviewing and submitting the information collection. If you have any comments concerning the accuracy of this time estimate or suggestions for reducing this burden, please send to: Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Washington, DC 20530



# **FBI Criminal Justice Information Services (CJIS) Division**

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**National Instant Criminal Background Check System (NICS)  
Federal Prohibition 922 (g)(2)**

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**[REDACTED] and [REDACTED]  
Training Instructor  
NICS  
March 2017**

**UNCLASSIFIED**



# Federal Prohibition 922 (g)(2)

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Any person who is a fugitive from justice.

“The term ‘fugitive from justice’ means any person who has fled from any state to avoid prosecution for a crime or to avoid giving testimony in any criminal proceeding.”





# Federal Prohibition 922 (g)(2)



## New Guidance

### Department of Justice (DOJ) Review

- DOJ recently reviewed the “fugitive from justice” prohibition
- Determined the Brady Act **does not** authorize the denial of firearm transfers based on mere existence of an outstanding arrest warrant

### Processing Change

- Current process of denying based on the mere existence of an active warrant is **NO** longer valid
- New FBI policy requires NICS to establish specific criteria



# Federal Prohibition 922 (g)(2)



## Two Types of Warrants

### In State Warrants

State of purchase  
and issuing state  
are the same

### Out of State Warrants

State of purchase  
and issuing state  
are different



# Federal Prohibition 922 (g)(2)



## Criteria 1

### Criminal Warrant

- Warrant issued subject to current or pending/potential criminal prosecution or testimonial obligation

## Criteria 2

### Left the State

- The person has left the issuing state

## Criteria 3

### Intent–Inferred by Knowledge

- The person's purpose for leaving the state is to avoid prosecution or giving testimony



# Federal Prohibition 922 (g)(2)



## Criteria 1

## Criminal Warrant

How do we establish?

- Is the warrant active?

**AND**

- Is the warrant for felony or misdemeanor arrestable offense or criminal testimonial obligation?





# Federal Prohibition 922 (g)(2)

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Criteria 2

**Left the State**

How do we establish?

- Out of State Warrants

OR

- Other evidence establishing that subject has left the state



# Federal Prohibition 922 (g)(2)



## Criteria 3

### Intent–Inferred by Knowledge

Research needed:

- Knowledge must occur before subject leaves the state
- Is the person aware of underlying charge/obligation or a warrant would be issued?

\*Request any available documentation from agency who holds the warrant, and the issuing court.



# Federal Prohibition 922 (g)(2)



## Final Decisions

**In State Warrants**  
**Unable to obtain**  
**needed criteria**

No additional  
prohibitions

- Proceed

**Out of State Warrants**  
**Unable to obtain**  
**needed criteria**

No additional  
prohibitions

- Depend on state  
process



# Research Strategies



## Research for additional prohibitions



Do any other potential federal or state prohibitions exist?

- Is subject under information/indictment?
- Has subject tested positive or admitted to use/possession of a controlled substance?
- Does subject have bond restrictions for the purchase or possession of a firearm?

## Questions and Support



Contact LAT with questions and for documentation review

- [NICS\\_legalresearch@ic.fbi.gov](mailto:NICS_legalresearch@ic.fbi.gov)



922(g)(2)  
Fugitive From Justice  
Examples

# State of Purchase: OHIO

## SEARCH REQUESTS AND RESPONSES

FIR: [REDACTED] MID: [REDACTED] LAST: [REDACTED] CADENCE:  
DOB: [REDACTED] SEX: M RACE: W  
SOC: [REDACTED] MNU: HGT: 600 WGT: 160  
PUR: L SOR: OH POB: OHIO

### NCIC RESPONSE DATA

===== N C I C ===== (1 OF 1)

MKE/WANTED PERSON

EXL/D - NO EXTRADITION - INSTATE PICK-UP ONLY.  
SEE MIS FIELD FOR LIMITS

ORI/NM0070000 NAM/[REDACTED], [REDACTED] SEX/M RAC/W

DOB/[REDACTED] HGT/601 WGT/165 EYE/BRO HAI/BLN

SOC/[REDACTED]

OLN/[REDACTED] OLS/NM OLY/2015

OFF/CONTEMPT OF COURT - SEE MIS - FAILURE TO  
PAY

OOC/TRAFFIC OFFENSE

DOW/20090408 OCA/M09TR200XXXXXXXXXX

WNO/M09TR200XXXXXXXXXX CTI/[REDACTED]

VLD/20160805 VLN/

MIS/EXTR/NM ONLY 355 CASH BOND JUDGE SILVA/FTP  
TRF VIOL

DNA/N

ORI IS DONA ANA CO SO LAS CRUCES 575 526-0795

NIC/W3XXXXXXXXXX DTE/20090416 0820 EDT

DLU/20160805 1532 EDT

IMMED CONFIRM WARRANT AND EXTRADITION WITH ORI

# Criteria Needed

- Type of Warrant
  - In state
  - Out of state warrant
- Criminal Warrant
- Left the State
- Intent–Inferred by Knowledge

## **Research Conducted:**

Out of State Warrant: New Mexico warrant, Subject is purchasing and residing in Ohio

Called ORI, spoke to Kayla of the Las Cruces Dona Ana Co SO at 575 526-0795. She advised the warrant is still active. Per court staff subject signed agreement to pay fine and costs, if the payment of fines and costs was not completed warrant would be issued. She stated letter was sent to the subject of the warrant, no receipt of the warrant was provided.

Kalya stated no copies of the warrant can be provided.

\*\*need to determine underlying charge/level

Spoke To Genevive of The Las Cruces Dona Ana Co Magistrate Court At 575 526-0795. She advised the underlying charge was No Registration Plates.

## **LAT Review Request:**

Please review the above information to determine if warrant and research will meet criteria for 922(g)(2)

LAT Response:

Per N. M. S. A. 1978, § 66-8-7, the NM offense NO REGISTRATION PLATES is a MISDEMEANOR

This set of facts MEETS 18 USC 922(g)(2) -Fugitive From Justice.

## **Final Determination**

### **•Deny**

- Misdemeanor level charge/warrant is active
- Out of State Warrant
- Subject signed agreement to pay fine and costs, if the payment of fines and costs was not completed warrant would be issued



# State of Purchase: Arkansas

## SEARCH REQUESTS AND RESPONSES

**FIR:** [REDACTED] **MID:** [REDACTED] **LAST:** [REDACTED] **CADENCE:**  
**DOB:** [REDACTED] **SEX:** F **RACE:** W  
**SOC:** **MNU:** **HGT:** 503 **WGT:** 143  
**PUR:** H **SOR:** AR **POB:** IOWA

### NCIC RESPONSE DATA

===== N C I C ===== (1 OF 1)

MKE/WANTED PERSON

EXL/D - NO EXTRADITION - INSTATE PICK-UP ONLY.

ORI/AR0040400 NAM/[REDACTED] [REDACTED] [REDACTED] SEX/F RAC/W

POB/AR

DOB/[REDACTED] HGT/503 WGT/143 EYE/HAZ HAI/BLK

MNU/AR-[REDACTED] SOC/[REDACTED] OLN/1x1x1x1x1

OLS/AR OLY/2019

OFF/CRIMES AGAINST PERSON SEE MIS -

TERRORISTIC THREATE

DOW/20130724 OCA/WR 13-xxx

WNO/WR13xxx

VLD/20161028 VLN/

MIS/TERRORISTIC THREATENING / HARRASSMENT /

HARRASSING COMMUNICATIONS / BOND IS MIS/1575/00

DNA/N

ORI IS PEA RIDGE PD 479 451-0328

SOC/

IMN/I0000000000 IMT/M

NIC/W8000000000 DTE/20130728 1444 EDT

DLU/20161028 1427 EDT

IMMED CONFIRM WARRANT AND EXTRADITION WITH ORI

# Criteria Needed

- Type of Warrant
  - In state
  - Out of state warrant
- Criminal Warrant
- Left the State
- Intent–Inferred by Knowledge

## **Research Conducted:**

In State Warrant: Arkansas warrant, Subject is purchasing in issuing state

Called ORI, spoke to Jared with the Pea Ridge PD. He advised the warrant is still active and is at the Misdemeanor level for Terroristic Threatening.

Jared advised there is no proof the subject has left the state as his state of residence is still AR. Jared also advised he did not have any record that subject had been notified of the warrant. There are no bond restrictions on subject for the pending charge.

**\*\*Subject is purchasing in the state of issuing warrant. There is no evidence subject has left the state of issuance.**

## Final Determination

- **Proceed**

- Misdemeanor level charge/warrant is active
- Unable to prove subject has left the state
- In State Warrant
  - Unable to meet criteria on In State warrant, proceed

# State of Purchase: Arizona

## SEARCH REQUESTS AND RESPONSES

FIR: [REDACTED] MID: [REDACTED] LAST: [REDACTED] CADENCE: [REDACTED]  
DOB: [REDACTED] SEX: F RACE: W  
SOC: [REDACTED] MNU: [REDACTED] HGT: 509 WGT: 185  
PUR: H SOR: AZ POB: NY

### III RESPONSE DATA

Subject Name(s)

[REDACTED]

Subject Description

FBI Number

[REDACTED]

State Id Number

[REDACTED]

Social Security Number

[REDACTED]

Sex	Race	Skin Tone	Height	Date of Birth
Female	White	Light	5'09"	[REDACTED]

Place of Birth

New York

Caution Information

Notice Open Bench Warrant(s) on File

\*\*\*\*\* CRIMINAL HISTORY

===== Cycle 001 =====

Arrest Date 1978-08-09

Arresting Agency NY0342122 NYCPD PCT 122

Subject's Name

[REDACTED]

Charge Tracking Number

[REDACTED]

Statute Petit Larceny (155.25 )

Severity Misdemeanor





# Criteria Needed

- Type of Warrant
  - In state
  - Out of state warrant
- Criminal Warrant
- Left the State
- Intent–Inferred by Knowledge

## **Research Conducted:**

Out of State Warrant: New York warrant, Subject is purchasing in Arizona

Called Court 718-675-8558 And Spoke With Jessica. She stated the bench warrant from 1978 is still active for misd Petit Larceny. Jessica stated that the subject made several appearances to court in Aug-Nov 1978 and then did not show up. Jessica stated the subject was aware that missing a scheduled court date would result in a bench warrant being issued. I requested hard copies of any court documentation and she advised that this is the only info and there are no hardcopies.

## **LAT Review Request:**

Please review the above information to determine if warrant and research will meet criteria for 922(g)(2)

LAT Response:

This set of facts MEETS 18 USC 922(g)(2) -Fugitive From Justice.

## **Final Determination**

- **Deny**
  - Misdemeanor level charge/warrant is active
  - Out of State Warrant
  - Subject was aware if he did not show up in court a warrant would be issued

# State of Purchase: Texas

## SEARCH REQUESTS AND RESPONSES

FIR: [REDACTED] MID: [REDACTED] LAST: [REDACTED] CADENCE:  
DOB: [REDACTED] SEX: F RACE: B  
SOC: [REDACTED] MNU: [REDACTED] HGT: 506 WGT: 143  
PUR: H SOR: TX POB: AR

### NCIC RESPONSE DATA

===== N C I C ===== (1 OF 1)

MKE/WANTED PERSON

EXL/D - NO EXTRADITION - INSTATE PICK-UP ONLY. SEE MIS FIELD FOR LIMITS

ORI/AR0600300 NAM/[REDACTED] SEX/F RAC/B ETN/N POB/AR

DOB/[REDACTED] GT/506 WGT/145 EYE/BRO HAI/BLK FBI/[REDACTED]

SOC/

OLN/922XXXXX1 OLS/AR OLY/2010

OFF/CONTEMPT OF COURT - SEE MIS - CONTEMPT OF COURT

OOC/LARCENY

DOW/20130412 OCA/13XXXXX

VLD/20160729 VLN/

MIS/FAILURE TO PAY FINES AND VIOLATION REVOCATION FOR THEFT OF PROPERTY // WE

MIS/WILL ONLY TRAVEL WITHIN PULASKI COUNTY OR AN ADJOINING COUNTY // BOND:

MIS/\$905/00

DNA/N

ORI IS NORTH LITTLE ROCK PD 501 771-7117

OLN/34XXXXX4 TX 2017

NIC/W65XXXXXXXXX DTE/20130413 0447 EDT DLU/20160729 1021 EDT

IMMED CONFIRM WARRANT AND EXTRADITION WITH ORI



# Criteria Needed

- Type of Warrant
  - In state
  - Out of state warrant
- Criminal Warrant
- Left the State
- Intent–Inferred by Knowledge

## **Research Conducted:**

Out of State Warrant: Arkansas warrant, Subject is purchasing in Texas

Received the petition/affidavit for violation/revocation from AR Little Rock Probation And Parole

He failed to pay probation fees and failed to report to probation officer for the charge of theft was issued on 4-11-2013 conditions of probation

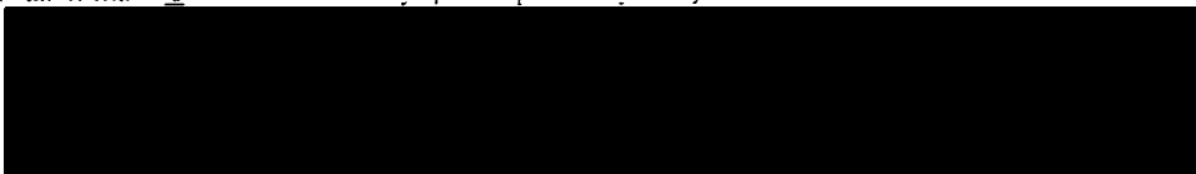
He will stay in the state unless given permission to leave, he is in TX at this time

Copies of documentation are included



# North Little Rock District Court - 1st Division **Conditions of Probation**

1. I will report to the probation office each month in person according to my scheduled report date. I understand that my report date may only be changed with a 24 hour advance notice.
  2. I will not associate with persons who have a criminal record, nor will I go to places where there is criminal activity.
  3. I will not own, purchase, possess, or be in the presence of any firearms.
  4. I will not violate any criminal laws (federal, state, or local). I will notify my probation officer, within 48 hours of being arrested or charged with a criminal offense.
  5. I will remain in the state of Arkansas unless given permission to leave.
  6. I will find and maintain full-time employment, vocational training, or education. I will notify my probation officer within 48 hours of changing jobs or employment status.
  7. I will pay any and all fines and court costs in payments through the Clerk's Office within the time frame provided.
  8. I understand that probation is for one year and that all of the conditions of probation apply fully within that year. I understand that the term of my probation may be extended due to noncompliance with the conditions of probation, failure to report to probation, or failure to pay the probation fees.
  9. I understand that there is a \$10.00 probation fee due within 30 days. I understand that there is a \$35 probation fee assessed each month to be paid at my scheduled report date.
  10. I will follow the probation officer's advice and recommendations. I will promptly and truthfully answer any and all questions from my probation officer or in court forms.
  11. I will willfully submit to reasonable searches of my person, property, and possessions as requested by my probation officer. I will permit the probation officer to visit my residence at reasonable times for the purpose of examination and inspection in the enforcement of the conditions of probation. I will notify my probation officer within 48 hours of changing residence.
  12. I will not use or possess any controlled substance without a lawful medical prescription, nor will I be in the presence of any controlled substances.
  13. I will submit to drug and alcohol testing as required by my probation officer and will pay any associated fees.
  14. If I am court ordered to attend a class, I will register for and attend the class within 30 days. I will provide a certificate of completion within one week of completing the class.
  15. I understand that if I have been convicted of Possession of a Controlled Substance, my Driver's License will be suspended for six months in accordance with state law.
  16. I understand that if I have been convicted of Domestic Battery, I may be required to submit to DNA testing. If DNA testing is required, I will willfully submit to testing and pay any associated fees.
  17. If there has been a No Contact Order issued, I will refrain from any and all contact with the protected person. I understand that if I violate the No Contact Order, a warrant will be issued for my arrest and my probation may be revoked.
  18. I understand that if I have been convicted of Public Sexual Indecency or Indecent Exposure at Bums Park, that I will be barred from Bums Park for one year. I understand that if I enter Bums Park within that year, my probation may be revoked.
- I have read and understand all of the conditions of probation. I understand that probation is an alternative to incarceration. If I fail to abide by the conditions of probation or any other order of the court, my probation may be revoked and I may spend up to one year in jail.



NORTH LITTLE ROCK DISTRICT COURT  
CRIMINAL DIVISION

PETITION/AFFIDAVIT FOR VIOLATION/REVOCATION

I, [REDACTED] (PROBATION OFFICER) HAVING BEEN DULY SWORN  
STATE: THAT [REDACTED] (DEFENDANT) Black (RACE) Female (SEX)  
[REDACTED] (DOB) [REDACTED] (ADDRESS) WAS  
PLACED ON PROBATION BY THIS COURT ON 8/14/12 (DATE) FOR  
CHARGE(S) OF:

12-6603 Theft of Property

SAID DEFENDANT AGREED TO FOLLOW THE PRESCRIBED CONDITIONS OF  
HIS/HER PROBATION. THAT ON OR ABOUT THE DAY 14 OF September, 2012  
DEFENDANT VIOLATED THOSE RULES AND REGULATIONS BY:

- ☒ [ X ] FAILED TO PAY PROBATION FEES AS AGREED.  
☐ [ ] FAILED TO PAY RESTITUTION AS AGREED.  
☒ [ X ] FAILED TO REGULARLY REPORT TO THEIR PROBATION OFFICER AS AGREED  
☐ [ ] FAILED TO SIGN UP FOR PROBATION  
☐ [ ] FAILED TO PAY COURT ORDERD FINES AND COST AS AGREED  
☐ [ ] FAILED TO COMPLETE COMMUNITY SERVICE WORK AS AGREED  
☐ [ ] OTHER CAUSES

FOR THE FOREGOING REASONS [REDACTED] PROBATION SHOULD BE REVOKED.

SUBSCRIBED AND SWORN TO THIS DATE 11 DAY OF April, 2013

\_\_\_\_\_  
(PROBATION OFFICER) \_\_\_\_\_ (CLERK/DEPUTY CLERK)

I, Judge \_\_\_\_\_, NORTH LITTLE ROCK DISTRICT JUDGE, HAVE REVIEWED THE  
FOREGOING AFFIDAVIT, AND I FIND THAT THERE IS REASONABLE CAUSE TO BELIEVE  
THAT THE DEFENDANT HAS VIOLATED ONE OR MORE CONDITIONS OF HIS PROBATION.  
THAT A WARRANT (OR SUMMONS) SHOULD BE ISSUED FOR HIS ARREST. THE COURT  
FURTHER FINDS THAT, ON ARREST THE DEFENDANT'S BAIL SHALL BE \$250.00, SUBJECT  
TO IT BEING HEARD BY THE COURT AT THE FIRST APPEARANCE.

\_\_\_\_\_  
J. JUDGE

## **LAT Review Request:**

Please review the included documentation to determine if intent can be inferred. Subject is currently residing and purchasing in TX.

LAT Response:

This will meet criteria for 18 USC 922(g)(2) -Fugitive From Justice.

## **Final Determination**

### **•Deny**

- Misdemeanor level charge/warrant is active
- Out of State Warrant
- Subject knew he had a current obligation to report to his probation officer and not leave the state without prior approval. Subject is now residing in Texas and did not report for to the probation officer.