

# Memo

**To:** Sergeant Andrew Lubrano, Supervisor  
NHSP Permits and Licensing Unit

**From:** Earl M. Sweeney, Assistant Commissioner

**cc:** Captain Steve Barrett, Commander Support Services Bureau

**Date:** September 28, 2009

**Re:** NH Gun Line complaint

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We recently received a complaint from an attorney that the NH Gun Line, the state point of contact for the National Instant Criminal Background Check System (NICS) has been conducting NICS checks for unauthorized purposes. Specifically, we are said to have run NICS background checks for certain courts and for the Manchester Police Department before these entities would release lawfully confiscated firearms to their owners.

I have had our legal intern research the federal Gun Control Act of 1968 and the Brady Handgun Violence Prevention Act, and the federal administrative rules and find that if in fact this has been happening, the attorney who complained is correct that we should not be doing it. I have attached a copy of the legal research for your perusal.

Conducting NICS checks prior to returning confiscated firearms technically constitutes misuse of NICS and exceeds the authority granted to the Department of Safety by the NH Legislature. NICS checks can only be conducted for federally licensed importers, manufacturers, or dealers.

There is nothing to prohibit Triple-I or NCIC checks being run for this purpose, but not NICS checks. Please advise your staff that if they have been doing this, the practice should cease.

EMS/eep