



STATE OF WISCONSIN  
DEPARTMENT OF JUSTICE

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September 14, 2012

Amber Peterson  
Circuit Court Policy and Procedure Advisor  
Director of State Courts  
110 E. Main Street  
Madison, WI 53703

Dear Amber:

I am writing you at your request for support of the changes to retention of records time frames as they govern guardianship and mental health commitments from 7 years to 75 years. As you are well aware, the above mentioned records maintained by the Courts deal with state and federal disqualifiers for purchase and possession of firearms as well as for licensure of carrying concealed weapons. The FBI, CJIS Division, requires that all agencies maintain the disqualifying and supporting documents in a NICS Index entry as long as the subject is in the NICS Index (for audit purposes). While the subject in question remains in the NICS Index, the courts or other agencies must maintain these records. 75 years as a retention period would in most, but not all, scenarios suffice for this requirement. Further, this retention of records time frame is consistent with those dealing with other disqualifiers (i.e. felonies). Wisconsin is required to comply with FBI requirements in accordance with their policies and with the following statutes and administrative codes of this State.

2009 Wisconsin Act 258 (published May 21, 2010) enacted and amended state statutes governing orders to individuals not to possess firearms, orders the seizure of any firearm owned by the individual, and informs the individual of the requirements and penalties under s. 941.29 if the court determines that the individual is prohibited, under 18 USC 922 (g) (4), from possessing a firearm. Further, this act created s. 175.35 (2g) (d) to read:

1. The department of justice shall promulgate rules to convey information in a timely manner to the national instant criminal background check system regarding individuals ordered not to possess a firearm under s. 51.20 (13) (cv) 1., 51.45 (13) (i), 54.10 (3) (f) 1., or 55.12 (10) (a).
2. The department of justice shall promulgate rules to convey information in a timely manner to the national instant criminal background check system regarding the cancellation under s. 51.20 (13) (cv) 1m., 51.45 (13) (i) 2. c., 54.10 (3) (f) 2.c., or 55.12 (10) (b) 3.

In addition, Wisconsin Administrative Code, Jus 10.095 (1) (a) (3) (b) states: The department shall in a timely manner provide relevant information that has been added to the departmental database to the national instant criminal background check system, 28 CFR Part 25, in accordance with system procedures.

In summary, The Department of Justice is required to submit the above records/information to NICS Index and the Courts are required to maintain those records and supporting documents as long as that person is disqualified or prohibited under 18 USC 922 (g) (4). We feel that in most cases, all of these requirements can be accomplished with a records' retention time period of 75 years and that this time frame falls within accepted parameters for other similar documentations. Please feel free to call with any concerns or questions.

Sincerely,

A handwritten signature in black ink, appearing to read "B. O'Keefe". The signature is written in a cursive style with a large, sweeping "B" and a distinct "O'Keefe".

Brian O'Keefe  
Administrator, Division of Law Enforcement Services