

NICS Frequently Asked Questions and Answers

Q1. Would an Order to issue a warrant to have a person apprehended, detained, and transported to a Mental Health Facility be reported?

A1. No. As listed under DO NOT REPORT on page 3 of OCA's Texas NICS Mental Health Reporting Manual, you should NOT report emergency mental health detention orders, admissions or warrants, or orders for protective custody.

Q2. In Sept. 2019 the Governor entered an executive order requiring information to be entered in CJIS within 7 days, beginning Jan. 2020 and then within 5 days in Jan. 2021. Does this change the reporting timeline for cases being entered into NICS?

A2. No. The governor's 2019 executive order does not affect the timeline for NICS reporting. It is specific to CJIS criminal disposition reporting.

Q3. If you have a single order that lists both the indicted case number and the magistrate number for the unindicted charge, do you enter it under both case numbers?

A3. Yes, you would enter it under both criminal case numbers. Under Mental Health Commitments – If an individual has more than one commitment order, all should be reported. Although you only have one order it is signed with the intention of covering two separate cases.

Q4. If you have multiple mental health commitment orders in the same case number, do you report each order? How do you enter the case number on subsequent orders?

A4. Yes, you need to report each mental health commitment order issued by the court. If there are multiple orders filed in the same case, add a suffix to the case number for each subsequent order, i.e., cause number 12345-2, 12345-3, etc.

Q5. How would you suggest capturing and reporting all the older cases with reportable orders?

A5. You can generate a list from your case management system or gather the possible cases that would be required to be reported by reviewing docket books. Once the cases have been identified the clerk should review the case files and report applicable orders.

Q6. Do I have to go back and submit zero reports for all months from 1989 to the present in which we did not have reportable orders?

A6. You need to submit all required Zero Reports that have not be submitted. However, some clerks have reported that they cannot enter Zero Reports for periods prior to 2012; according to DPS this is because in 2012 the zero reporting was changed from county-based reporting to ORI-based reporting, and that it is okay and correct that a zero report for a specific ORI cannot be entered for 2011 or earlier.

Q7. What is suggested for cases that are missing required identifying information?

A7. It is recommended that research be conducted to find the missing information. All available data sources, such as the case management system, jail records, and skip tracing databases, should be used to obtain the missing identifying information. In addition, clerks in nearby counties may be contacted to determine if they have any additional information on the individuals. It is also suggested to maintain a list of cases with insufficient identifiers for entry into CJIS/NICS if the information becomes available at a later time.

Q8. What timeline does a clerk have to respond to a NICS inquiry?

A8. Immediately is best, but no later than 24 – 48 hours. NICS has three business days to determine whether a proposed gun transfer is prohibited. If NICS has not been able to make a definitive determination within that time frame, the federal firearm licensee may lawfully transfer the firearm. If NICS does not get a response to their request for additional or clarifying information, the sale of the firearm can proceed.

Q9. Should I submit a report when an adult guardianship that was previously granted in another county is transferred to the court in my county?

A9. You should report only those orders appointing a guardian that are entered by the judge in your county. However, when an existing, active guardianship is transferred into your county, you should obtain written confirmation from the clerk of the originating court that the order appointing guardian was properly entered in the NICS system. If you cannot obtain confirmation from the originating clerk, contact your CJIS Field Auditor directly or the CJIS Field Audit Unit: CJISJJIS@dps.texas.gov to verify that you will need to enter the case into the NICS index.

Q10. Should I submit a report when a temporary adult guardianship that was previously reported is converted to a permanent guardianship?

A10. Yes. The order appointing the permanent guardian will have a later date than the order appointing temporary guardian. Because the later order will be filed under the same cause number as the temporary order, you will need to add a suffix to the case number for the order appointing permanent guardian, i.e., cause number 12345-2.

Q11. Do I report cases involving a minor or juvenile?

A11. It depends on the type of case.

Guardianship Cases:

- Do not report guardianship of minor cases.
- If the subject of a minor guardianship becomes an adult, the minor guardianship should still not be reported; instead, an application for adult guardianship should be filed, if relevant. If an adult guardianship is granted, the adult guardianship must then be reported to CJIS.

Mental Health or Intellectual Disability Cases:

Report cases involving a minor when he/she is:

- 1) ordered by a court to receive temporary or extended inpatient mental health services under Chapter 574, Health and Safety Code; or
- 2) committed for long-term placement in a residential facility under Chapter 593, Health and Safety Code, after being determined to have intellectual disability.

Cases of Delinquent Conduct or Conduct Indicating a Need for Supervision (Juvenile Cases):

Report cases when the juvenile is:

- 1) ordered by a court to receive temporary or extended inpatient mental health services under Chapter 574, Health and Safety Code or Chapter 55, Family Code; or
- 2) committed for long-term placement in a residential facility under Chapter 593, Health and Safety Code, or Chapter 55, Family Code, after being determined to have intellectual disability.

Criminal Cases Involving a Juvenile:

NOTE: the Code of Criminal Procedure applies to criminal cases involving adults, while the Juvenile Justice Code, which is found in Title 3 of the Texas Family Code, applies to juvenile cases.

Report criminal cases involving a juvenile when the juvenile is **tried as an adult** and is:

- 1) acquitted for reasons of insanity or lack of mental responsibility, whether or not the juvenile was ordered to receive inpatient treatment or residential care under Chapter 46C, Code of Criminal Procedure; or

2) found incompetent to stand trial under Chapter 46B, Code of Criminal Procedure.

Q12. I have a minor guardianship case in which the ward is now an adult. Do I report this case to CJIS?

A12. No. If the subject of a minor guardianship becomes an adult, the minor guardianship should still not be reported; instead, an application for adult guardianship should be filed, if relevant. If an adult guardianship is granted, the adult guardianship must then be reported to CJIS.