



Reporting Mental Health
Adjudications and
Commitments to the National
Instant Criminal Background
System (NICS)



***Office of Court Administration
Research & Court Services***



Webinar Organizational Information



FORMAT



TIMING



SHARING AND
AVAILABILITY OF
PRESENTATION



HINTS FOR PRESENTATION





Have you ever had questions about properly reporting court orders related to Mental Health?





What we will cover-

History and Functionality

National and State Statistics

Reporting

Retention & Resources

National Instant Criminal Background Check System (NICS)

NICS is a system used to determine if the name and birth year of a prospective purchaser of firearms or explosives match those of a person who is **not eligible to buy** those items.



History- National Instant Criminal Background Check System (NICS)

The Brady Act mandated that Federal Firearms Licensees (FFL) dealers run background checks on their buyers. In 1998 NICS was up and running, administered by the FBI, and applied to all firearms purchased from FFL dealers, including long guns.



James Brady

August 29, 1940 – August 4, 2014

After an assassination attempt on President Ronald Reagan, where his White House Press Secretary, James Brady, was seriously injured, efforts to create a national system began.



How it works

NICS is a centralized computer system providing information to FFLs on whether a prospective purchaser or transferee is eligible to receive or possess firearms.

After completion of an application for the purchase or transfer of a firearm, an FFL must contact NICS to perform a background check.





How it works

NICS performs the background checks using the automated databases.

Three databases are accessed:

- National Crime Information Center (NCIC)
- Interstate Identification Index (III)
- NICS





How it works

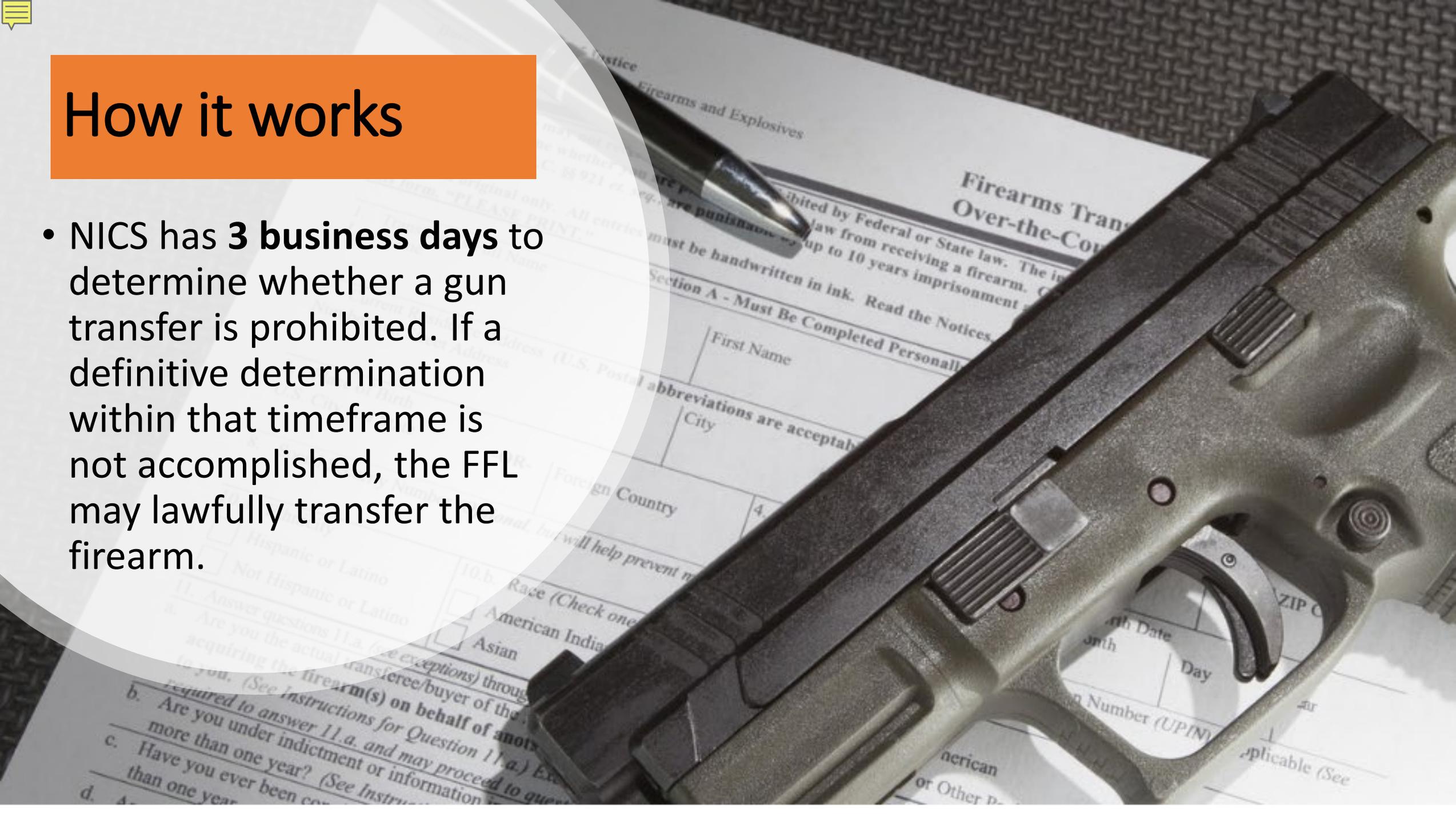
Background Checks-

- Generally determined within a few minutes of receipt of the inquiry. If no match, the dealer may proceed with the transfer.
- If additional information is needed, follow-up requests to agencies such as the police, prosecutors, and/or the courts will occur to establish the eligibility of an individual to possess a firearm under **state** or **federal law**.



How it works

- NICS has **3 business days** to determine whether a gun transfer is prohibited. If a definitive determination within that timeframe is not accomplished, the FFL may lawfully transfer the firearm.

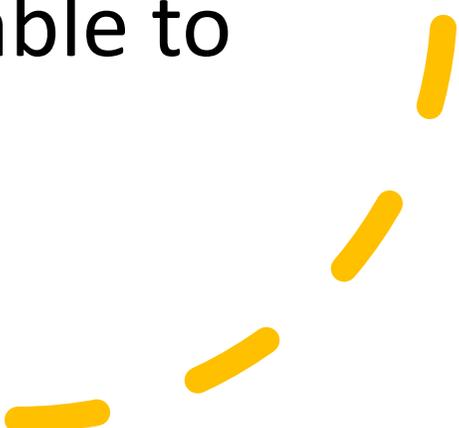




NICS Improvement Amendments Act of 2007

Passed in 2007 in response to the Virginia Tech shootings in order to address gaps in NICS.

Despite having been ruled a danger to himself by a Virginia court, a Virginia Tech student was able to purchase firearms.



NICS Improvement Amendments Act of 2007

Under the Gun Control Act of 1968, it was illegal for the student to purchase the firearms; however, his **mental health adjudication** was not submitted to NICS, which would have resulted in his purchase being denied.



NICS Improvement Amendments Act of 2007

The NICS Improvement Amendments Act of 2007 targeted the reporting of information to NICS about **mental health adjudications** and commitments and other contributing mental health factors. In addition, it required the automation of records to address concerns of delays for law-abiding gun purchasers.



Active Records in the NICS Indices

UPDATED: As of May 31, 2020

<u>Rank</u>	<u>Prohibited Category Description</u>	<u>Total</u>
1	Illegal/Unlawful Alien	8,480,041
2	Adjudicated Mental Health	6,172,991
3	Convicted of a crime punishable by more than one year or a misdemeanor punishable by more than two years	4,514,994
4	State Prohibitor	1,645,869
5	Misdemeanor Crime of Domestic Violence Conviction	213,110
6	Under Indictment/Information	164,423
7	Protection/Restraining Order for Domestic Violence	74,115
8	Unlawful User/Addicted to a Controlled Substance	59,688
9	Renounced U.S. Citizenship	53,422
10	Dishonorable Discharge	18,225
11	Fugitive from Justice	2,561
Total Active Records in the NICS Indices		21,399,439

National Statistics

Over 21 Million Active Cases in the NICS Indices!

NICS Section



2018 Operations Report



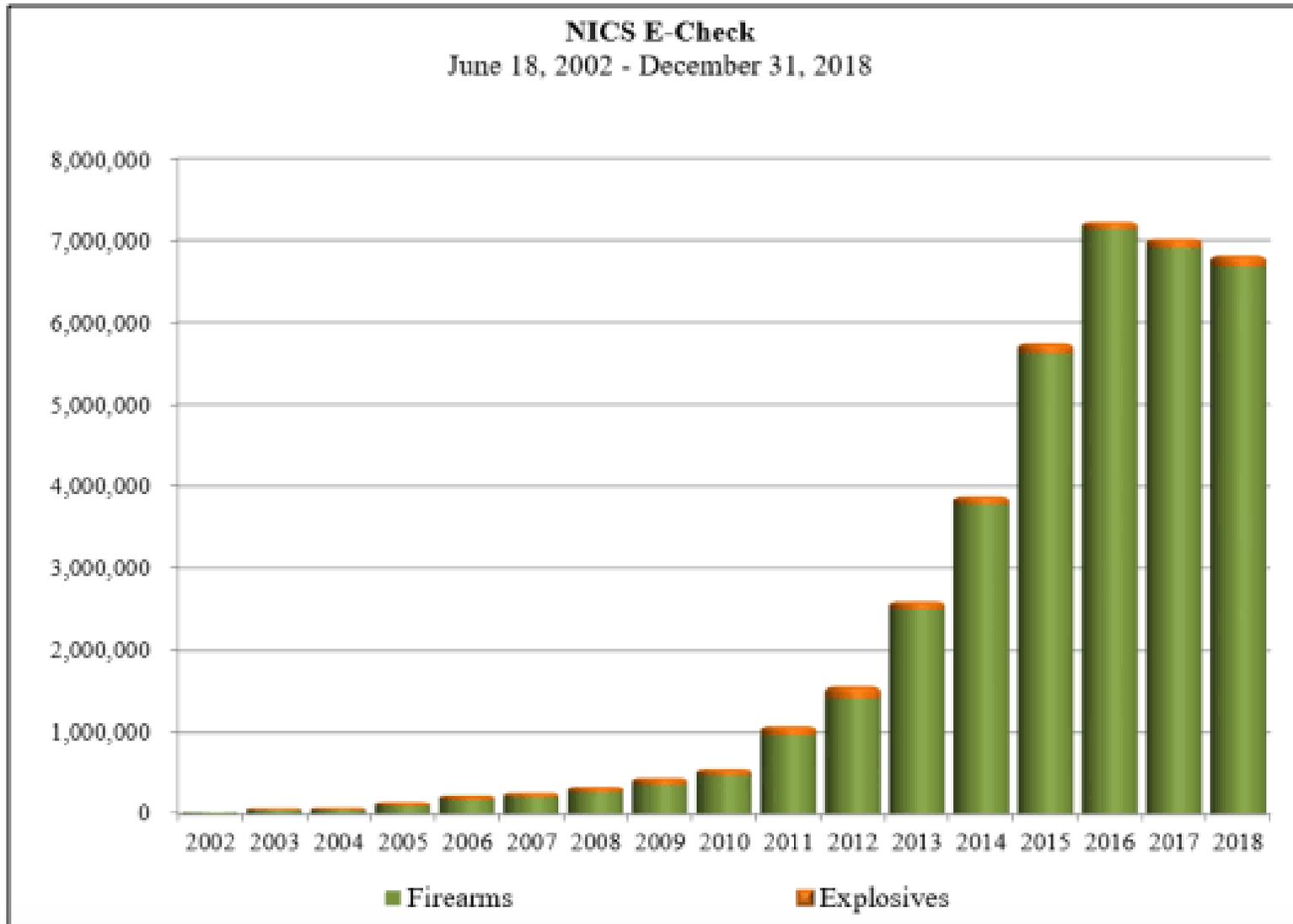


Transactions Created in the NICS

Year	State		Federal	Total	Program-to-Date (PTD) Total
	Transactions	Permits			
1998 ¹	308,117	78,169	506,554	892,840	892,840
1999	3,562,403	1,037,700	4,538,020	9,138,123	10,030,963
2000	3,054,953	1,227,814	4,260,270	8,543,037	18,574,000
2001	3,209,955	1,408,310	4,291,926	8,910,191	27,484,191
2002	2,842,269	1,363,160	4,248,893	8,454,322	35,938,513
2003	2,615,291	1,403,496	4,462,801	8,481,588	44,420,101
2004	2,656,981	1,345,672	4,685,018	8,687,671	53,107,772
2005	2,650,113	1,350,193	4,952,639	8,952,945	62,060,717
2006	2,736,728	2,037,453	5,262,752	10,036,933	72,097,650
2007	2,961,650	3,078,802	5,136,883	11,177,335	83,274,985
2008	3,196,754	3,699,020	5,813,249	12,709,023	95,984,008
2009	3,499,575	4,450,821	6,083,428	14,033,824	110,017,832
2010	3,487,915	4,884,307	6,037,394	14,409,616	124,427,448
2011	4,033,869	5,545,457	6,875,625	16,454,951	140,882,399
2012	5,183,331	5,683,547	8,725,425	19,592,303	160,474,702
2013	5,607,478	6,169,832	9,315,963	21,093,273	181,567,975
2014	4,942,001	7,769,858	8,256,688	20,968,547	202,536,522
2015	5,386,384	8,782,048	8,973,538	23,141,970	225,678,492
2016	6,523,925	11,653,915	9,360,833	27,538,673	253,217,165
2017	5,608,875	10,988,094	8,638,246	25,235,215	278,452,380
2018	5,293,391	12,653,203	8,235,342	26,181,936	304,634,316
Total	79,361,958	96,610,871	128,661,487	304,634,316	

As of 2018,
 nearly
305 Million
 total background
 checks performed
 nationally since
 1998.





Nationally there were almost **7 Million** checks performed in 2018.





PTD Federal Denials Reasons Why the NICS Section Denies November 30, 1998—December 31, 2018	
Prohibited Category Description	Total
Convicted of a crime punishable by more than one year or a misdemeanor punishable by more than two years	841,084
Fugitive from Justice	184,988
Unlawful User/Addicted to a Controlled Substance	147,460
Misdemeanor Crime of Domestic Violence Conviction	145,826
State Prohibitor	88,119
Protection/Restraining Order for Domestic Violence	60,254
Under Indictment/Information	56,355
Adjudicated Mental Health	39,188
Illegal/Unlawful Alien	26,058
Federally Denied Persons File	6,332
Dishonorable Discharge	1,201
Renounced U.S. Citizenship	101
Total PTD Federal Denials	1,596,966

The largest number of denials are based on the finding of a Criminal Record.

For the complete NICS 2018 Operations Report go to:

<https://www.fbi.gov/file-repository/2018-nics-operations-report.pdf/view>



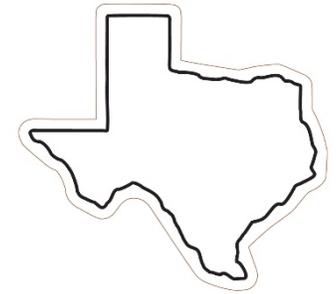


State Statistics- NICS Firearm Checks for 2019

South Carolina	23,546	29,811	33,312	24,607	24,977	23,186	21,886	27,354	23,280	26,707	31,593	37,962	328,221
South Dakota	6,803	6,992	8,174	6,581	5,792	5,566	5,323	6,971	6,932	8,783	8,510	8,999	85,426
Tennessee	58,167	62,785	66,433	48,624	44,913	44,802	43,647	46,533	40,468	45,015	58,890	75,036	635,313
Texas	119,902	135,931	141,056	106,112	107,763	101,762	91,183	133,647	121,718	121,299	140,598	166,241	1,487,212
Utah	25,082	27,648	82,398	77,263	77,058	69,438	76,002	74,699	73,084	76,361	76,354	87,883	823,270
Vermont	2,417	3,172	4,054	3,236	2,659	2,269	2,183	2,936	2,991	3,348	3,094	3,484	35,843
Virgin Islands	127	120	140	114	91	109	75	149	117	150	242	110	1,544
Virginia	37,857	41,532	48,527	35,052	30,515	33,543	32,513	41,457	37,059	40,490	57,662	76,559	512,766
Washington	56,051	47,674	61,812	53,377	53,125	83,436	37,439	40,144	38,130	42,984	40,764	52,234	607,170
West Virginia	15,320	18,810	21,859	15,583	13,173	12,841	12,289	16,501	17,740	18,239	20,851	22,990	206,196
Wisconsin	34,545	34,612	47,671	38,561	30,307	28,507	25,170	35,146	36,278	39,395	43,909	41,584	435,685

1.5 Million!





State Statistics

CASES ON DOCKET	Temporary Mental Health Services	Extended Mental Health Services	Inpatient to Outpatient	Outpatient to Inpatient	Totals
Intake					
New Applications Filed	48,190	298	111	133	48,732
Orders for Protective Custody Signed	45,697	---	---	---	45,697
Hearings					
Probable Cause Hearings Held	38,049	---	---	---	38,049
Release/Dismissal Prior to Final Hearing	33,596	25	8	16	33,645
Final Commitment Hearings Held	11,517	122	2	6	11,647
Other Information					
Disposition at Final Hearing					
<i>Denied (Release)</i>	4,509	20	0	0	4,529
<i>Granted (Commit)</i>					
<i>Inpatient</i>	7,191	182	6	---	7,379
<i>Outpatient</i>	377	23	---	18	418

ORDER TO AUTHORIZE PSYCHOACTIVE MEDICATIONS	Total
New Applications Filed	5,044
Dismissal Prior to Hearing	540
Hearings Held	4,007
Disposition at Hearing	
<i>Denied</i>	149
<i>Granted</i>	3,876



State Statistics

As of December 31, 2019 there were almost **309,000** active mental health records from Texas in the NICS.



Reporting

Effective 9/1/2009, Government Code sections 411.052 and 411.0521 and Health and Safety Code section 574.088 require compliance with, and implementation of, the federal NICS Improvement Amendments Act of 2007.

**Reporting Mental
Health Records to
the NICS Index**



The Act requires the retroactive reporting of all relevant orders issued by the courts from 9/1/1989 through 8/31/2009, and the continued reporting of all relevant court orders issued from that point forward.



https://www.dps.texas.gov/administration/crime_records/pages/cjisJJISReporting.htm

Select Language ▼

Search DPS



CJIS and JJIS

[CJIS & JJIS Home](#)

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[CJIS Site](#)

[DNA Supported Suspected Offender](#)

[Electronic Arrest Reporting \(EAR\)](#)

[Electronic Disposition Reporting
\(EDR\)](#)

[Mobile ID](#)

[NICS Indices Entry Reporting](#)

CJIS and JJIS Reporting

Here you will find all the details, explanations and user manuals to report criminal and juvenile justice information to DPS for inclusion in the Computerized Criminal History (CCH). You will find the CR-50A (Juvenile) and CR-50B (Adult) reporting manuals that give step-by-step instructions, including definitions, for how to fill out the CR-43, CR-44, CR-43J and CR-44J Criminal History Reporting Forms.

If you would like to receive training on these forms or the information that is required for reporting, please contact your CJIS Field Auditor. There is a map of the CJIS Regions as well as a list of the counties and their field auditors that includes contact information for all of the auditors. You can also contact the main CJIS Office by calling (512) 424-2478 or emailing: cjisjjis@dps.texas.gov.



Reporting

County and District clerks must report:

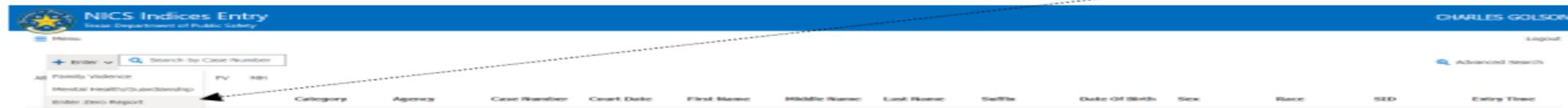
- Information on prohibiting mental health adjudications and commitments to the Texas Criminal Justice Information System (CJIS) **within 30 days** of the order/judgment being issued.
- If no activity for that month, a **Zero Activity Report** must be submitted to comply.



No Activity to Report? Zero Report Required

Zero Reports

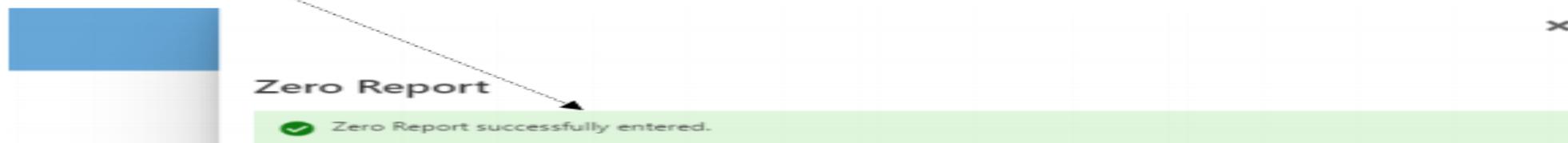
A Zero report is required for any month in which there were no NICS Indices Records to be entered. The requirement is by ORI. To enter a Zero Report, select *Enter Zero Report* from the Enter/Search page:



Enter your ORI , month, and year and click *Submit*.

A screenshot of the Zero Report entry form. The form has a title 'Zero Report' and a close button 'X'. It contains three input fields: 'Agency ORI *' (a text box), 'Month *' (a dropdown menu with 'MM' selected), and 'Year *' (a text box with 'YYYY' as a placeholder). A 'Submit' button is located below the fields. A 'Suffix' dropdown menu is visible on the left side of the form.

Successful entry message.





DO NOT REPORT



- Guardianships of **minors**;
- **Emergency** mental health detentions, admissions or warrants;
- Orders of protective custody;
- **Voluntary** commitments;

Continued on next slide



DO NOT REPORT



- Commitments for:
 - Court-ordered temporary or extended **outpatient** mental health services;
 - Applications for court-ordered inpatient mental health services that are forwarded to another county to re-file or to hear your original filing;
 - Court-ordered inpatient chemical dependency or alcohol services.

Orders to Report



- Orders issued on or after September 1, 2009 must be entered into NICS/CJIS **not later than 30 days** after the date of the court order.
- If an appellate court reverses an order previously reported, the entry in NICS/CJIS **must be cancelled by the clerk not later than 30 days after the clerk receives the mandate from the appellate court.**



Mental Health Orders to Report



- Commitments:
 - Orders for temporary or extended **inpatient** mental health services—this includes individuals committed to state hospitals, private hospitals, Veterans’ Affairs hospitals, etc.;
 - Orders for a person determined to have **intellectual disability** for long-term placement in a residential care facility under Chapter 593, Health and Safety Code.



Breaking Down Mental Health Commitment Orders to Report

- Commitments for **temporary or extended inpatient mental health services**:
 - If more than 1 commitment order, **all should be reported.**
 - If a court initially issues a **temporary** commitment order and then later issues an **extended** commitment order (or **another temporary** commitment order), **each commitment order is reported.**
 - Any initial commitment order for extended mental health services and a renewal order for services, **each are reported.**



Breaking Down Mental Health Commitment Orders to Report

- A new case is required for each application for court-ordered inpatient mental health services, regardless if the application is for temporary or extended mental health services.
- If multiple applications for commitment orders exist for the same individual under the same cause number, **report each** order in NICS by adding a numerical suffix, such as -1, -2,-3, etc. at the end of the cause number.



Guardianship Orders to Report



- **Adult Guardianship**

- Cases in which the court appoints a guardian of an incapacitated adult individual under Title 3, Estates Code, based on the determination that the person lacks the mental capacity to manage his/her affairs (**adult guardianships of the person, estate, or person and estate, including temporary guardianships**)



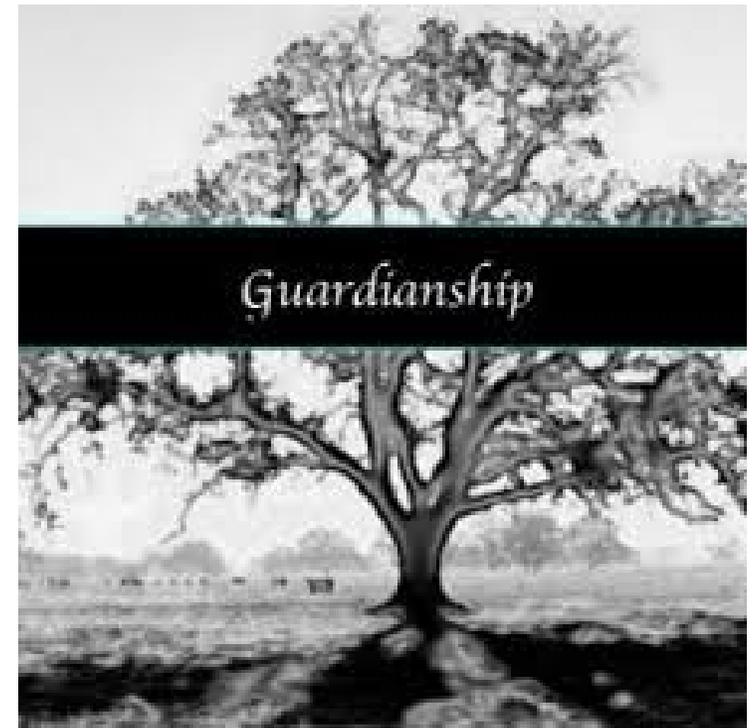
Breaking Down Guardianship Orders to Report

- **Report orders appointing guardians of the person, estate, or person and estate of mentally incapacitated adults, including:**
 - Temporary guardianships;
 - Cases in which Texas Health and Human Services is appointed as guardian;
 - Cases in which a guardian of the person or guardian of the person and estate is appointed for a person found to be partially incapacitated.



Breaking Down Guardianship Orders to Report *(continued)*

- Report cases in which an order previously reported is reversed by an order of any court within 30 days of receipt of the mandate from the appellate court.
- A person whose guardianship was terminated because their capacity was completely restored may file an application with the court that created the guardianship for an order requesting removal of their disability to purchase a firearm. *Estates Code §1202.201*



Criminal Orders to Report



- **Acquittals in criminal cases for reasons of insanity or lack of mental responsibility**, whether the person was ordered to receive inpatient treatment or residential care under Chapter 46C, Code of Criminal Procedure;
- Determination that a person is **incompetent to stand trial** under Chapter 46B, Code of Criminal Procedure.



Breaking Down Criminal Orders (Incompetent)

- **Incompetent to stand trial** under Chapter 46B, Code of Criminal Procedure
 - Original incompetency finding **is reported**
 - Any additional order(s) finding that the defendant *remains incompetent* **are not reported, however –**
 - Orders *continuing* a defendant's commitment **are reported** (Criminal Commitment Order)



Removing Records from NICS

- The NICS entry for a person remains in the database even if:
 - They are later found competent to stand trial
 - They are discharged from court ordered inpatient mental health services
 - Guardianship of the person is terminated and their capacity judicially restored

CANCELLED



Canceling a Record in the CJIS/NICS Database

- If a record was entered into the database in error (for example, a minor guardianship was entered), the incorrectly entered record can be cancelled through the CJIS record cancellation process.

CANCELLED



PETITION



Restoring Rights

- To regain rights to possess a firearm, the person must petition the court of jurisdiction and present evidence during a hearing demonstrating that he/she is no longer a danger to public safety.

Data to Report

- All records **must** contain the following information:
 - Court ORI
 - Case Number
 - Case Type
 - Court Date (*Date of order/judgment*)
 - First Name
 - Last Name
 - Date of Birth (*Note: you may enter this with only 2 of the 3 numbers in the birth date*)
 - Sex
 - Race (*Note: you may select “Unknown”*)



Data to Report

- The following fields are **optional**:
 - State Identification Number
 - Social Security Number
 - Driver License Number



Older Cases to Report

- HB 3352 requires clerks to submit records for cases in which an order was issued on or after **September 1, 1989** and before **September 1, 2009** by September 1, 2010.
- Although this deadline has passed, older cases must still be entered until all required reporting is completed.





Older Cases to Report

- Suggestions for researching older cases include:
 - Running reports from the case management system to identify cases that may need to be reported;
 - Reviewing docket books to find potentially reportable cases and preparing a list of those cases.
 - Clerk will need to review the actual case file to confirm that it is a reportable case.
-



How to Report Cases in CJIS

The DPS NICS Reporting Manuals are online here:

https://www.dps.texas.gov/administration/crime_records/pages/nics.htm

Texas NICS Mental Health Reporting Manual

July 2020

**NICS Indices Entry (NIE)
User Guide**

Version 1.1.0
February 26, 2020

Record Retention Requirements



- Currently, there is no record retention schedule specifically for mental health-related cases reported to CJIS/NICS. They fall under various case categories:
 - Criminal
 - Guardianship
 - Commitment
 - Admission to state care

Record Retention - Best Practice

- A recommended **best practice** is to maintain the NICS mental health related records separately from other records for quick access. This will assist in responding quickly to the FBI requests for additional or clarifying information during a background check.



Record Retention - Best Practice

- Maintain personal identifying information obtained from other databases or sources (such as case management system, jail, and skip tracing records) by making photocopies of the identifying information and retain those copies in the file for reference .



Resources

Office of Court Administration

- Texas NICS Mental Health Reporting Manual

<https://www.txcourts.gov/reporting-to-oca/other-reporting-resources/>

Texas Department of Public Safety

- The DPS Reporting Manuals are online here:

https://www.dps.texas.gov/administration/crime_records/pages/nics.htm

- For access to NICS, "How to" questions and record validation, contact your CJIS Field Auditor directly or the CJIS Field Audit Unit:

CJISJJIS@dps.texas.gov

Phone Number- 512-424-2478





Contact Information

- For questions about what type of cases to report, contact Research and Court Services, Office of Court Administration, at court.services@txcourts.gov or 512-463-2417.
- For Technical CJIS website issues, contact the Department of Public Safety — Cassandra Richey, EDR Coordinator, at cassandra.richey@dps.texas.gov or 512-424-2479.

