



2018 Report

The State of NICS in Ohio

OHIO OFFICE OF CRIMINAL JUSTICE SERVICES

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EXECUTIVE SUMMARY

On April 23, 2018, Governor John R. Kasich issued Executive Order 2018-03K, National Instant Criminal Background Check System (NICS) Compliance. The order directed the Office of Criminal Justice Services (OCJS) to accomplish three main tasks. First, OCJS was to survey the current status of NICS reporting in Ohio, and to identify barriers to complete, timely, and accurate reporting. Second, OCJS was to reconvene a 2015 Working Group that had previously addressed how data sharing could improve NICS compliance, and to expand the group to include local public officials or their respective associations who work most closely with NICS data. Third, with the data generated by the NICS survey, OCJS was to issue a report on the how to improve NICS reporting, including policy recommendations.

This report is the result of the survey data and the contributions of the Working Group. It outlines a framework in which the overall completeness of the information that Ohio provides to NICS can be improved. The Working Group consisted of outstanding individuals who were selected to serve as a result of their professional expertise and knowledge of the criminal background check system in Ohio and around the country. This report would not be possible without these partners and the organizations they represent.

This report is divided into sections representing law enforcement, courts (of record) and clerks, mayor's courts and mental health facilities. Each section contains an explanation of NICS reporting responsibilities, a summary of survey responses to assess NICS compliance, an identification of barriers and solutions to improve NICS compliance and recommendations on how to improve the NICS system.

The survey data and discussions of the Working Group resulted in three categories of recommendations:

1. Expanding training and education;
2. Reducing duplicative, unclear or lack of express reporting responsibility; and
3. Strategic planning and structured coordination.

If a NICS system was created in Ohio from scratch, it would only faintly resemble the system currently in place. While there are many people and organizations who are dedicated to enhancing the state's ability to improve NICS reporting, there are a number of challenges that inhibit the ability to have more complete reporting. But the result of the Working Group's efforts, and desire by all involved to continue to work together to make the current system better, shows there is a path forward from the existing structural problems. A consistent, dedicated focus on improvements in these categories would bring verifiable improvement to Ohio's system.

The first category of recommendations focuses on educating officials of their responsibility to report NICS data. Unfortunately, too many entities are unaware of their reporting responsibilities. This was revealed during the Working Group discussions and in the survey results. Along those same lines, some were unaware of the importance of submitting this information and the important role it plays in ensuring that firearms do not fall into the wrong hands. Many were not clear on the type of information they needed to provide and the mechanism used to transmit the information. If NICS is going to be improved, there must be continuous education and training efforts aimed at submitters to ensure they are aware of all NICS reporting requirements, the type of information that should be submitted, and the impact of the failure of submitting NICS information.

The second category of recommendations seeks to improve the reporting system by making it more streamlined and efficient. The NICS reporting process suffers from both duplicative and unclear reporting responsibilities, and in some instances information is not required to be reported at all. For example, mental health adjudications are required to be reported by both the probate courts and mental health facilities. This may result in double reporting or potentially no reporting at all. Similarly, individuals under felony indictment are disqualified from purchasing a weapon; however, no entity in Ohio is currently responsible by statute or practice for the timely submission of felony indictments. Felony indictments that are submitted are typically sent too late in the process to have any real effect and are not currently searchable by NICS. Further, submissions of warrants and protective orders, which are also NICS prohibitors, do not occur on a regular basis. As a result of the Governor's Executive Order and the positive first steps taken by members of the Working Group, possible solutions to these problems will be explored and proposed.

Finally, the third category of recommendations involve coordinated planning on how to improve the system moving forward. The NICS Working Group discussions and recommendations demonstrate an overall need for more strategic, comprehensive, and cooperative planning by all entities with NICS responsibilities. Certainly, many entities with NICS responsibilities already are engaged in education, training, and utilizing technology to improve NICS reporting. However, these efforts are not part of a system-wide strategic plan. This type of planning could result in better coordination and better outcomes. Agencies would be able to make long term investments and system improvements knowing that their investments will result in better outcomes for all. By keeping the Working Group together, instituting quarterly meetings, a unified approach to fixing the NICS system becomes possible.

The Working Group strongly feels that the recommendations contained in this report will go a long way in improving the way NICS operates in Ohio. Continued coordination will ensure that the progress that was made in 2015 and the progress that will occur if the recommendations contained herein are implemented will improve the system and reduce the likelihood of stagnation. An improved NICS system in Ohio and with our sister states will significantly reduce the likelihood of prohibited persons obtaining firearms, making a Safer Ohio.

INTRODUCTION

On April 23, 2018, Governor John Kasich issued Executive Order 2018-03K the National Instant Criminal Background Check System (“NICS”) Compliance. The order required the Office of Criminal Justice Services (OCJS) to do, among others, the following:

1. As soon as possible after issuing this order, OCJS shall report to me on the current status in Ohio of the reporting and uploading all relevant information required by NICS into CCH and/or LEADS and then in NICS. OCJS shall identify any remaining barriers in Ohio to the timely and completed reporting and uploading of all such information into NICS.
2. In order to do so, OCJS shall invite the 2015 Working Group to reconvene to assess what progress has been made in the last two years in addressing the NICS data reporting issues identified in their 2015 Report. In performing the actions specified in this Executive Order, OCJS and/or the 2015 Working Group may also consult with any local public officials, or their respective associations, who create or possess records or information that must be uploaded to CCH and/or LEADS for inclusion in the national NICS.
3. OCJS shall analyze the responses received and present that analysis to the 2015 Working Group. The 2015 Working Group shall then develop and send to me, no later than August 1, 2018, recommended steps, procedures, policies, or proposed legislation to eliminate any remaining barriers or hurdles to the timely and complete reporting and uploading of NICS data by local officials.

As a result of the executive order, OCJS reconvened the 2015 working group and added additional members from local law enforcement, municipal and county clerks of courts, LEADS and the sentencing commission. These entities along with the Ohio Supreme Court and the Ohio Attorney General’s Office Bureau of Criminal Investigation (BCI) joined with OCJS to examine issues related to the NICS reporting system.

NATIONAL INSTANT BACKGROUND CHECK SYSTEM

On March 30, 1981, a deeply disturbed man named John Hinckley Jr. attempted to assassinate President Ronald Reagan. During the assassination attempt, President Reagan was wounded along with his press secretary, James (Jim) Brady, and two other people. While Jim Brady survived, he was seriously wounded and suffered irreparable physical damage that impacted him for the rest of his life.¹ For nearly 7 years Mr. Brady and his wife sought to require effective background checks prior to purchasing a weapon. Finally, the Brady Handgun Violence Act (Brady Act) was signed by President Bill Clinton in 1993. As a result of the Brady Act, the National Instant Criminal Background Check System (NICS) was created. NICS is a national system that checks available records in the National Crime Information Center (NCIC), the Interstate Identification Index (III), and the NICS Indices to determine whether a person is disqualified from obtaining a firearm or explosives.

Using NICS, Federal Firearm Licensees (FFLs) are able to search databases and receive results almost immediately with information on whether the transfer of a firearm would be in violation of Section 922 (g) or (n) of Title 18, United States Code, or state law. There are several categories of disqualifying events that would prohibit an individual from purchasing or receiving a firearm. These federal prohibitions pertain to individuals who:

- Have been convicted in any court of a crime punishable by imprisonment for a term exceeding one year, and of any misdemeanor punishable by imprisonment for more than two years;
- Are fugitives of justice;
- Are unlawful users and/or addicts of any controlled substances;
- Adjudicated mental defective or involuntarily committed to a mental institution or incompetent to handle their own affairs, including dispositions to criminal charges of found not guilty by reason of insanity or found incompetent to stand trial;
- Are aliens illegally or unlawfully in the United States, or are aliens, except as provided in subsection (y) (2), who have been admitted to the United States under a non-immigrant visa;
- Have renounced their United States citizenship;
- Have been dishonorably discharged from the United States Armed Forces;
- Are the subject of a protective order which restrains them from harassing, stalking, or threatening an intimate partner or child of such partner;
- Have been convicted in any court of a misdemeanor crime of domestic violence;
- Are under indictment or information for a crime punishable by imprisonment for a term exceeding one year.

NICS examiners depend on the presence and quality of criminal history, mental illness adjudication, protection order and warrant entries made by federal, state, county and local agencies to make eligibility determinations on firearm transfers. It is of the utmost importance for agency administrators to understand the criticality of entering this data in a timely manner. The absence of information could result in a firearm

¹ Sadly, more than 33 years after the events of March 30, 1981, Jim Brady died as a result of the injuries he suffered that day. His death was ultimately ruled a homicide by the medical examiner.

transfer to a disqualified individual. NICS Examiners will contact agencies directly if records are incomplete or unclear to make a transfer determination.

FFLs are required to perform background checks prior to proceeding with a firearm sale. FFLs contact the NICS, and the NICS examiner will provide one of three responses:

1. PROCEED with the firearm transaction;
2. DENY the firearm transaction; or
3. DELAY the firearm transaction.

If delayed, the NICS examiner must provide the FFL with a final determination within three business days. If the FFL has not received a response in this time, it is up to the discretion of the FFL as to whether to continue with the transaction.

The purpose of NICS is to prevent individuals who are not legally permitted to purchase a weapon from being able to buy one. When NICS works well, this is precisely what happens. Since the creation of NICS, millions of people who are legally barred from purchasing firearms have been prevented from purchasing weapons. However, when NICS does not work the impact is devastating. Several high profile cases that occurred in the last year highlight the need for a robust, comprehensive, and functional NICS. Make no mistake, the safety and security of our communities our state and our nation are impacted for good or for ill by the completeness of NICS background checks.

HOW THE NATIONAL INSTANT BACKGROUND CHECK SYSTEM OPERATES IN OHIO

Entities at both the state and local level responsible for submitting and receiving NICS information have made progress, based upon the work done by the 2015 working group, in trying to create a more streamlined system that is more reliant on technology and based upon comprehensive strategic decision making. Having said that, there is still much work that needs to be done in order to move our state towards full compliance with NICS. While this report will outline concrete recommendations that can move us towards our goal, it will require the commitment of many people from across the justice system.

The completeness of NICS is wholly dependent upon the willingness of entities across Ohio to capture, organize and submit information that ultimately ends up as part of the NICS searchable database. In Ohio, only courts (dispositions and adjudications), mental health facilities (adjudications) and law enforcement (arrest) are required by statute to submit information that will ultimately find its way into NICS. All other state NICS information (warrants, protection orders, felony indictments) is currently voluntarily submitted or not submitted at all. In order for FFL searches to be effective, information must first be transmitted to LEADS or to BCI directly or through the Ohio Court Network (OCN) and then to BCI.

The reporting of Ohio data to be examined during a background check for a federal firearm purchase is dependent upon submissions from various levels of government: local, state and federal; ultimately resulting in the NICS decision.

Local agencies submit data to various state agencies.

- Local law enforcement is responsible for arrest, warrant and protection order information.
- Courts (Municipal and County Courts, Common Pleas) are responsible for reporting disposition, mental illness adjudication (probate), and protection order information.
- Private Psychiatric Hospitals or General Hospitals with a Psychiatric Ward are responsible for reporting mental illness adjudication information

Various state entities act as repositories and report the local information received (arrest, dispositions, mental illness adjudications, warrants and protection orders) to the FBI for NICS reporting.

- **Ohio Attorney General's Office - Ohio Bureau of Criminal Investigation**
The Identification Division provides up-to-date records and state of the art technology to law enforcement and other criminal justice agencies throughout Ohio. The division serves as the central repository for all criminal records for the state of Ohio and maintains fingerprints, palm prints, photographs, and other information related to arrests and dispositions within the Computerized Criminal History (CCH) and reports this information to the Federal Bureau of Investigation (FBI). BCI also serves as the conduit to report mental illness adjudication received from probate courts and hospitals to NICS.
- **Supreme Court of Ohio**
The Supreme Court of Ohio possesses constitutional and rulemaking authority to exercise general powers of superintendence over the courts of the state. The Supreme Court operates the Ohio Courts Network (OCN), which serves as a centralized warehouse of case-related data, enabling courts and justice system partners to share critical information and to support functions such as

criminal history reviews, warrant and protection order searches, pre-sentencing investigations, background checks, handgun pre-purchase reviews and pre-custody reviews. It also serves as a conduit to BCI for mental health records and disposition reporting.

- **Department of Public Safety, Ohio State Highway Patrol, Law Enforcement Automated Data System (LEADS)**

LEADS is the criminal justice information network for Ohio law enforcement. LEADS acts as a repository of data, which is accessed by law enforcement and available statewide. LEADS interfaces to the FBI's NCIC and NLETS systems. LEADS maintains the wants and warrants database, and protection orders.

During a NICS check, descriptive data such as name and date of birth are used to search three national databases that contain criminal history and other relevant records to determine if a person is disqualified from purchasing a firearm:

- **Interstate Identification Index (III).** Administered by the FBI, and participated in by all states, the III is a fingerprint-supported automated criminal history records exchange system that includes arrest and disposition information for individuals charged with felonies or misdemeanors. Information that may be available via III includes: convicted felons, persons who are fugitives from justice, persons found not guilty by reason of insanity or adjudicated to be incompetent to stand trial, persons found guilty of misdemeanor crimes of domestic violence, persons under indictment, and persons who unlawfully use controlled substances.
- **National Crime Information Center (NCIC).** The NCIC is an electronic database consisting of 21 files, 10 of which are queried for a NICS-related background check. This automated, nationally accessible database of criminal justice-related records includes information on wanted persons (fugitives), known and suspected terrorists, and persons subject to domestic violence protection orders.
- **NICS Indices.** The NICS Indices is a database, separate from NCIC and III, created specifically for the purpose of conducting a background check for a firearms-related purpose. The NICS Indices contains information contributed by local, state, tribal, and federal agencies pertaining to persons prohibited from receiving or possessing a firearm pursuant to state and/or federal law. While any disqualifying record may be entered into the NICS Indices, it is not intended to duplicate information entered into NCIC or III. Instead, the database was designed to house disqualifying information not otherwise available at the national level.

NICS COMPLIANCE SURVEY

In order to gather information and make accurate assessments of our NICS compliance, the Working Group sought compliance information from NICS providers. Specifically, the Working Group surveyed courts (courts of record), mental health facilities, law enforcement, county and municipal clerks of court and mayor's courts about their NICS compliance. The survey also sought to learn about how entities maintain and submit records, ways to improve reporting capacity, barriers to compliance and history of NICS submissions. Survey results are included in this report by contributor type.

It is important to note that although not all entities responded to the survey, failure to submit the survey does not mean an entity does not submit NICS information. Further, the core questions throughout the surveys sought estimations of the percentage of certain categories of submissions or notifications the responder made over the applicable specified years. Responders were able to select from five Likert scale options ranging from "All" to "None". Also included was an option to select "Not Applicable" to accommodate instances where a court or clerk simply could not select from the Likert scale options.

A review of the survey responses suggests that some responders may have confused the "None" option with the "Not Applicable" option. This is particularly evident in those topic areas encountered less frequently in some areas of Ohio.

In the questions pertaining to submissions to law enforcement agencies of findings of persons being not guilty by reason of insanity (NGRI) within the Common Pleas Administrative Judges and the Municipal and County Court Administrative Judges surveys, many of the responders who selected from the five Likert-scale options responded that "None" of their findings of NGRI were reported to law enforcement. A fair alternative reading of these findings may suggest that many, if not perhaps most, of those "None" responses should instead have been coded by the responders as "Not Applicable". Similar results are seen in response to the questions concerning findings of incompetency to stand trial.

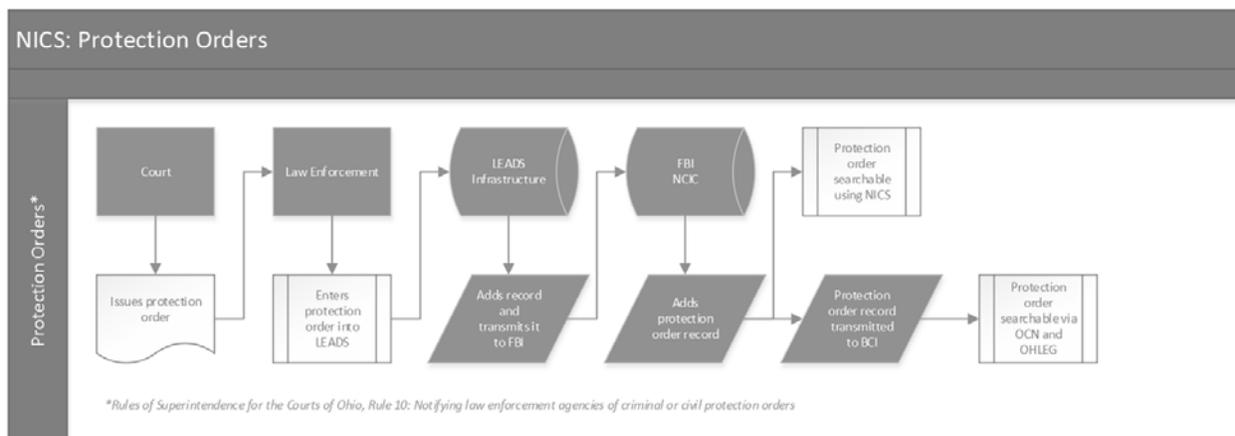
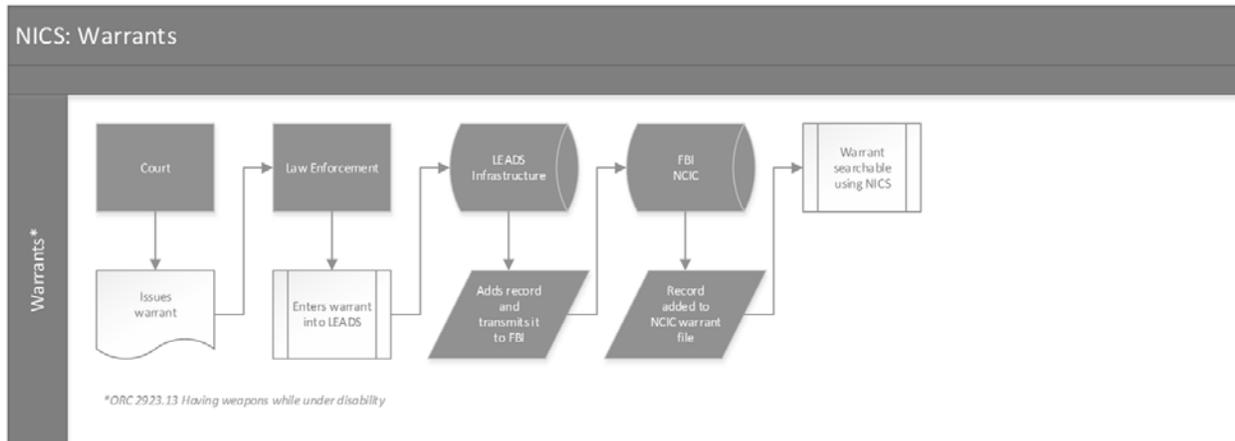
A similar issue can be seen in the juvenile section of the Common Pleas Administrative Judges survey. The responders were asked to estimate the percentage of delinquency disposition records their court had reported to BCI of dispositions. Ohio law only requires courts to report dispositions to BCI in delinquency cases where the juvenile's disposition involved felony offenses or offenses which are misdemeanors on a first offense and a felony on any subsequent offense. In response to that question, 40 percent of the Likert-scale responders selected "A Few" or "None". It is reasonable to speculate that some of those responders were actually quantifying the relative proportion of all delinquency dispositions which entailed reportable offenses.

In the Mayor's Court survey, a similar issue may exist in the question concerning criminal dispositions being reported to BCI and in the question concerning the notification to law enforcement of the issuance of capiases.² A total of 48 percent of the responders indicated that "A Few" or "None" of their criminal dispositions were reported to BCI. Because only some misdemeanor cases are reportable to BCI, it is not unreasonable to conclude that some of those responses include the proportion of mayor's court cases which do not fall into the reportable category and should, therefore, instead have been coded as "Not Applicable".

² A writ ordering the arrest of a named person.

LAW ENFORCEMENT

Law enforcement plays an important role in capturing and submitting information critical to NICS. Cases frequently begin with an arrests by law enforcement and the taking of fingerprints. Law enforcement agencies are responsible for sending the ITNs, as a result of arrest or bookings, to BCI. Ohio Revised Code 109.60(A)(1) – Requires sheriffs and chiefs of police immediately upon the arrest of any person for each felony and certain misdemeanor cases to take and report to BCI that person’s fingerprints. Additionally, they are responsible for entering protection orders and warrants into the LEADS system. Once this information is entered into LEADS it can be accessed by NICS a search.



It is important to note that all of the warrant and protection orders that are entered into LEADS, and thus searchable by NICS, are done voluntarily. There is no legal requirement that agencies enter this information into LEADS. Further, the information that is submitted by agencies originates primarily from courts by court order. Even recognizing the role law enforcement would have to play in order to set pick-up radius and confirming warrant hits, it is probably not the most efficient method to have law enforcement agencies enter information that originates in other places.

We surveyed law enforcement in order to, among other things, better understand their current NICS compliance, and identify barriers and solutions to compliance. The survey results are included below.

LAW ENFORCEMENT SURVEY RESPONSES

Characteristics of respondents

Total number of surveys sent out to law enforcement: 957

Total number of respondents (partial and complete): 527

- Police Departments: 454
- Sheriff's Offices: 54
- State law enforcement agencies: 19

Number of respondents who submitted complete surveys: 507

- Police Departments: 436
- Sheriff's Offices: 53
- State law enforcement agencies: 18

Data from respondents who submitted complete surveys:

1. How are warrants and protection orders maintained by your law enforcement agency?

- Paper format: 153
- Electronic format: 3
- Both: 231
- Our agency does not maintain these records: 120

	Police Department	Sheriff's Office	State LE Agency	Total
Paper	137	14	2	153
Electronic	3	0	0	3
Both	186	37	8	231
Agency does not maintain records	110	2	8	120

2. Which of the following records does your law enforcement agency submit, either directly or through another agency, to LEADS for NICS reporting? Check all that apply.

- Warrants: 372
- Criminal protection orders: 233
- Civil protection orders: 149
- Have not submitted protection orders or warrants into LEADS: 136

	Police Department	Sheriff's Office	State LE Agency	Total
Warrants	316	49	7	372
Criminal Protection Orders	181	48	4	233
Civil Protection Orders	99	46	4	149
Have not submitted to LEADS	122	3	11	136

3. What barriers or challenges has your agency experienced in submitting protection orders and warrants to LEADS for NICS reporting? Check all that apply.

- Do not have access to LEADS: 70
- Limited staff: 6
- Too time consuming: 31
- Do not submit a protection order until the subject of the order has been served: 22
- Do not submit warrants because no ability to extradite the subjects of the warrants: 15
- Have not had any protection orders to submit: 64
- Do not experience any challenges submitting protection orders or warrants: 232
- Other: 147

Barrier	Police Department	Sheriff's Office	State LE Agency	Total
Do not have access to LEADS	64	1	5	70
Limited staff	50	10	0	60
Too time consuming	21	10	0	31
Do not submit PO until subject served	16	5	1	22
Do not submit warrants b/c cannot extradite	15	0	0	15
Have not had any POs to submit	56	0	8	64
Have no challenges submitting to LEADS	191	36	5	232

4. Does your agency own or have access to an AFIS for capturing and submitting booking fingerprints to BCI?

- Yes: 213
- No: 294

Access to/own AFIS?	Police Department	Sheriff's Office	State LE Agency	Total
Yes	161	48	4	213
No	275	5	14	294

5. Estimate the percentage of civil protection orders your agency* has reported to LEADS for submission into NICS.

In 2018, 21% of agencies reported all their civil protection orders to LEADS for submission into NICS.

Twenty-five percent of agencies reported at least a few civil protection orders to LEADS, while 75% did not report any civil protection orders to LEADS.

**The assumption for this question and all questions that follow is that 'agency' can refer to the originating agency or to a partner agency that provides the originating agency access to LEADS.*

	2014	2015	2016	2017	2018
All (100%)	103	105	106	105	107 (21%)
A majority (>50%)	5	4	4	7	6 (1%)
Some (25%-50%)	7	7	7	5	5 (1%)
A few (<25%)	10	10	9	9	9 (2%)
None (0%)	382	381	381	381	380 (75%)
Total	507	507	507	507	507

6. Estimate the percentage of criminal protection orders your agency has reported to LEADS for submission into NICS.

In 2018, over one-third of agencies reported all criminal protection orders to LEADS for submission into NICS. Fort-three percent reported submitting at least a few criminal protection orders to LEADS. Over half of agencies (57%) did not submit to criminal protection orders to LEADS.

	2014	2015	2016	2017	2018
All (100%)	184	184	185	185	187 (37%)
A majority (>50%)	8	9	8	10	9 (2%)
Some (25%-50%)	6	5	8	7	6 (1%)
A few (<25%)	14	14	13	11	16 (3%)
None (0%)	295	295	293	294	289 (57%)
Total	507	507	507	507	507

7. Estimate the percentage of felony warrants your agency has reported to LEADS for submission into NICS.

In 2018, nearly half of agencies reported all felony warrants to LEADS for submission into NICS, and 61% reported at least a few warrants into LEADS. Thirty-nine percent did not report any felony warrants to LEADS.

	2014	2015	2016	2017	2018
All (100%)	235	236	236	237	236 (47%)
A majority (>50%)	23	22	23	21	21 (4%)
Some (25%-50%)	15	15	15	16	16 (3%)
A few (<25%)	38	38	38	41	34 (7%)
None (0%)	196	196	195	192	200 (39%)
Total	507	507	507	507	507

8. Estimate the percentage of misdemeanor warrants your agency has reported to LEADS for submission into NICS.

In 2018, 40% of agencies reported all misdemeanor warrants to LEADS for NICS reporting, and 65% reported at least a few misdemeanor warrants to LEADS. Thirty-five percent of agencies did not report misdemeanor warrants to LEADS.

	2014	2015	2016	2017	2018
All (100%)	198	199	203	204	204 (40%)
A majority (>50%)	65	65	63	63	63 (12%)
Some (25%-50%)	30	29	28	26	26 (5%)
A few (<25%)	35	35	37	40	39 (8%)
None (0%)	179	179	176	174	175 (35%)
Total	507	507	507	507	507

RECOMMENDATIONS

The Working Group recommends the following:

1. Establish a means for ensuring that all warrant and protection orders are entered into LEADS by working with law enforcement organizations and leaders to establish protocols to improve the completeness of NICS.
2. Examine the feasibility of allowing courts to directly input information into LEADS that is currently submitted by law enforcement.
3. Work with BCI, courts, clerks of court and law enforcement to adopt common statewide protocols related to the handling of multiple ITNs related to a single case.
4. Work with law enforcement organizations and other relevant local and state entities to assist in ensuring agencies receive training about their responsibilities under NICS.
5. Urge the Ohio Collaborative Community Police Advisory Board to consider establishing a model policy or creating a standard for agencies related to NICS reporting.

COURTS AND CLERKS OF COURT

Courts are one of the few NICS submitters who are required by statute to submit information that becomes part of the NICS searchable database. Ohio Revised Code 109.57(A)(2) – Requires weekly reporting by every clerk of courts for each felony and certain misdemeanor cases to the Superintendent of the BCI. In fact, much of the information that ultimately ends up in NICS from other submitters in the justice system is initially generated by courts. Clerks of courts and courts work closely together and it is typically the clerk of court that is responsible for submitting court information. Courts submit case disposition data to BCI either directly or through the use of the OCN. While not all disposition data is a part of NICS, disposition information remains an integral element of NICS. Specifically, courts are responsible for submitting felony dispositions punishable by a year or more in prison, adjudications of mental defectiveness or involuntary commitments to mental institutions, not guilty by reason of insanity, domestic violence convictions and certain misdemeanor convictions.

Ohio law provides that the reporting of information which ultimately pertains to the various firearm purchase disqualifications specified in the United States Code are the obligation of either the “clerk” of a court or the “court” itself, based on the use of those terms throughout the relevant statutes, the Rules of Superintendence for the Courts of Ohio, and the Rules of Criminal Procedure.

As more fully explained below, this bifurcation between public officials and their roles in the courts necessitated essentially two classes of survey responders connected with Ohio’s courts under the judicial branch of government: (1) elected clerks, and (2) administrative judges, as representing the activities the “courts”.

In accordance with the Rules of Superintendence, the judges in each court or division of court, must elect one of their members to serve as the court’s administrative judge. In single-judge courts or divisions of court, the sole judge is automatically considered the court or division’s administrative judge. Under Sup.R. 4.01, the duties of a court’s administrative judge include responsibility over the administration, docket, and calendar of the court as well as responsibility over the court’s observance of the Rules of Superintendence. In order to implement the survey in the narrow timeframe provided, the survey was directed exclusively to each court’s

administrative judge to respond to questions related to the reporting requirements applicable to courts (as opposed to clerks).

Ohio law provides that clerks of some courts have certain obligations to report information which pertains to the various firearm purchase disqualifications specified in the United States Code. In order to identify which clerks should be surveyed, it was necessary to first identify clerks who are elected officials and would therefore be surveyed, and clerks who hold office under appointment by the judge or judges of their court. For appointed clerks, their court's administrative judge would be surveyed concerning the applicable reporting duties of the clerk.

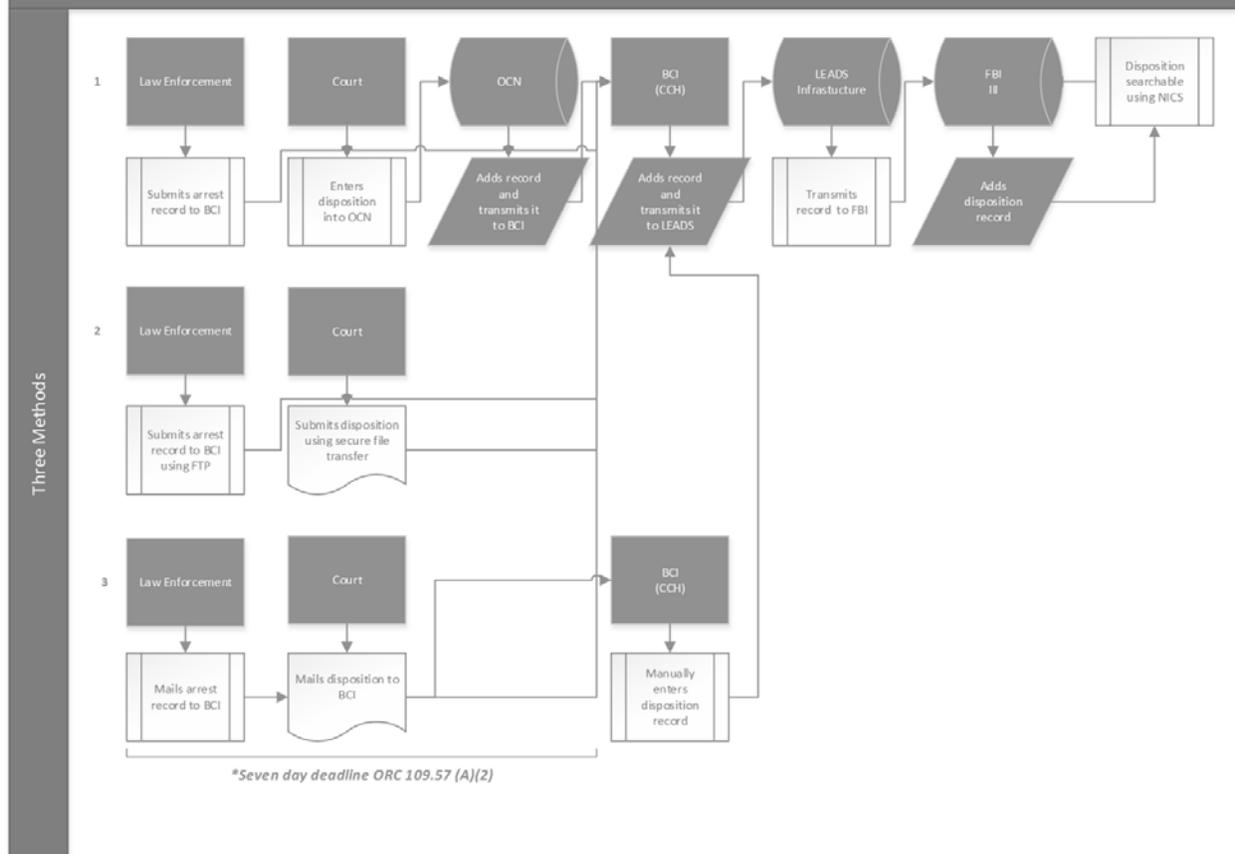
The specific roles of clerks in Ohio's Courts of Common Pleas is complex and depends on the subject matter jurisdiction of the courts and any divisions that exist within a given court of common pleas. There exists a single court of common pleas in each of Ohio's 88 counties, but the four broad areas of subject matter jurisdiction heard in the courts of common pleas—namely (1) civil and criminal cases (identified in common parlance as “general division” cases), (2) domestic relations cases, (3) juvenile cases, and (4) probate cases—are sorted by the General Assembly within the Revised Code into a variety of divisional configurations. For example, in five counties, all subject matter is combined and there are no divisions to the court of common pleas (e.g., Morgan County). On the other end of the spectrum, there are four divisions, one for each of those broad areas of subject matter jurisdiction (e.g., Cuyahoga County). For all counties except Cuyahoga, the county clerk of courts is an elected official. In Cuyahoga County, the county council appoints the county clerk of courts.

As a general rule, subject to some statutory exceptions, the county clerk of courts is the clerk over the civil, criminal, and domestic relations portions of the court's caseload, and the juvenile and probate judges serve as their own clerks over the juvenile and probate portions of the court's caseload. Again, depending on the specific statute, some county clerk of courts also serve as the clerk of their county's county court or as the clerk of municipal courts within their county.

In Ohio's municipal courts, under the applicable statutes the clerk may either be an elected municipal court clerk, an appointed municipal court clerk, or the county clerk of courts. Other than the obvious difference in how they assumed office—either by way of an election or by appointment—an important functional difference between elected clerks and appointed clerks in Ohio municipal and county courts is that the operations, management, and budget of an elected clerk's office are independent in most respects from the operations, management, and budget of the court itself. An appointed clerk is essentially an employee hired by the judge or judges of a court and the entire operations and management of the clerk's functions are under the control and authority of the judge or judges. In Ohio's county courts, under the applicable statutes, the clerk of the county court may either be an appointed county court clerk or the county clerk of courts.

In Ohio, NICS is dependent upon a completed criminal history information. A completed criminal history consist of an arrest, which must include a fingerprint, and a disposition. Once a fingerprint is taken as the result of an arrest, an incident tracking number (ITN) is generated. The arrest information is then sent to BCI. That same ITN becomes part of the case and follows it through the court process. Once the case is finished, the disposition information with the ITN is sent to BCI. The disposition information is then matched by the ITN with the original arrest record and after a few more steps will be searchable through NICS.

NICS: Criminal History Dispositions*



However, this process does not always work smoothly. If the defendant is brought to court by summons then no arrest information is sent to BCI, despite the requirement in ORC 109.60(A)(2). As a result, once the defendant’s case is complete and the disposition is sent to BCI, there is no corresponding arrest record and ITN. Consequently, the information will not be searchable by NICS and a person, who should be prohibited from buying a weapon, would be able to walk into an FFL and purchase a weapon they are legally prohibited from buying.

Even if a person is fingerprinted at the time of arrest or booking, it could impact the timeliness of the NICS search. Each time a fingerprint is taken an ITN is generated. This means a person who is arrested and booked into a jail and perhaps booked later if a warrant is issued based upon their failure to appear for trial, or if they had an initial appearance in municipal court prior to the case being transferred to common pleas court could have at least 4 distinct ITNs sent to BCI. However, only one of those numbers will ultimately correspond to the ITN that will be sent to BCI as part of the case disposition.

We surveyed courts and clerks of courts in order to, among other things, better understand their current NICS compliance, identify barriers and solutions to compliance. The level of response to the survey was very high. The survey results are included below and are separated by court type and type of clerk of court.

MUNICIPAL AND COUNTY COURT JUDGES SURVEY RESPONSES

Characteristics of respondents

Total number of surveys sent out to municipal/county courts: 147

Number of respondents who submitted complete surveys: 145

Percentage of all municipal/county courts responding to survey: 99%

Survey questions and responses

1. Types of clerk in municipal/county court:

- Elected: 43
- Appointed: 102

2. [Appointed clerk only] Estimate the percentage of records your court has reported to BCI on dispositions in criminal cases.

One percent of courts responded "Not applicable" to this question. Of the remaining applicable courts, in 2018, 49% of courts reported submitting all dispositions to BCI, and 97% of courts reported submitting at least a few dispositions. Three percent reported submitting no dispositions to BCI.

	2014	2015	2016	2017	2018*
All (100%)	37	40	40	43	49 (49%)
A majority (>50%)	44	41	42	41	36 (36%)
Some (25%-50%)	13	13	11	7	8 (8%)
A few (<25%)	4	4	5	5	5 (5%)
None (0%)	2	2	3	5	3 (3%)
Not Applicable	2	2	1	1	1
Total	102	102	102	102	102
Subtotal	100	100	101	101	101

*Percentages reflect only those courts that did not answer "Not applicable".

3. How are dispositions currently maintained by the court:

- Paper format: 21
- Electronic format: 24
- Both: 56

4. If your court has transmitted dispositions in criminal cases to BCI, describe how these cases are currently transmitted.

- Mail, fax, email: 36
- Electronic via FTP: 38
- Electronic via OCN: 29
- We have not submitted dispositions to BCI: 4

5. [Appointed clerk only] Estimate the percentage of submissions your court has provided to law enforcement regarding the issuance of capiases.

Seven percent of courts responded “Not applicable” to this question. Of the remaining applicable courts, in 2018, three-quarters (75%) of courts reported submitting all capiases to law enforcement, and 99% of courts reported submitting at least a few capiases to law enforcement. One percent reported submitting no capiases to law enforcement.

	2014	2015	2016	2017	2018*
All (100%)	68	68	68	68	71 (75%)
A majority (>50%)	17	17	17	16	16 (17%)
Some (25%-50%)	5	5	5	6	5 (5%)
A few (<25%)	3	3	3	3	2 (2%)
None (0%)	0	0	1	1	1 (1%)
Not Applicable	9	9	8	8	7
Total	102	102	102	102	102
Subtotal	93	93	94	94	95

*Percentages reflect only those courts that did not answer “Not applicable”.

6. How are capiases currently maintained by the court:

- Paper format: 38
- Electronic format: 6
- Both: 51

7. If your court has transmitted capiases to law enforcement, describe how these cases are currently transmitted.

- Mail, fax, email: 92
- Electronic via FTP: 6
- We have not submitted dispositions to law enforcement: 8

8. [both appointed and elected clerks] Estimate the percentage of submissions your court has provided to law enforcement following the issuance of Domestic Violence Temporary Protection Orders.

Eight percent of courts responded “Not applicable” to this question. Of the remaining applicable courts, in 2018, 89% of courts reported submitting all DVTPOs to law enforcement, and 98% of courts reported submitting at least a few DVTPOs to law enforcement. Two percent reported submitting no DVTPOs to law enforcement.

	2014	2015	2016	2017	2018*
All (100%)	119	119	120	119	119 (89%)
A majority (>50%)	6	6	7	7	6 (5%)
Some (25%-50%)	4	5	3	3	3 (2%)
A few (<25%)	2	2	3	3	3 (2%)
None (0%)	2	2	2	2	2 (2%)
Not Applicable	12	11	10	11	12
Total	145	145	145	145	145
Subtotal	133	134	135	134	133

*Percentages reflect only those courts that did not answer “Not applicable”.

9. How are DVTPOs currently maintained by the court:

- Paper format: 63
- Electronic format: 7
- Both: 65

10. Estimate the percentage of submissions your court has provided to law enforcement following findings of Not Guilty by Reason of Insanity.

Over half (51%) of courts responded “Not applicable” to this question. Of the remaining applicable courts, in 2018, 52% of courts reported submitting all NGRIs to law enforcement, and 68% of courts reported submitting at least a few NGRIs to law enforcement. Nearly one-third (32%) reported submitting no NGRIs to law enforcement.

	2014	2015	2016	2017	2018*
All (100%)	37	35	37	36	37 (52%)
A majority (>50%)	7	7	6	6	6 (8%)
Some (25%-50%)	1	2	1	1	1 (1%)
A few (<25%)	4	4	4	4	4 (6%)
None (0%)	22	22	22	22	23 (32%)
Not Applicable	74	75	75	76	74
Total	145	145	145	145	145
Subtotal	71	70	70	69	71

*Percentages reflect only those courts that did not answer “Not applicable”.

11. How are NGRIs currently maintained by the court:

- Paper format: 29
- Electronic format: 6
- Both: 26

12. Estimate the percentage of submissions your court has provided to law enforcement following findings of Incompetent to Stand Trial.

Thirty-six percent of courts responded “Not applicable” to this question. Of the remaining applicable courts, in 2018, 49% of courts reported submitting all ISTs to law enforcement, and 73% of courts reported submitting at least a few ISTs to law enforcement. Over one-quarter (27%) reported submitting no ISTs to law enforcement.

	2014	2015	2016	2017	2018 *
All (100%)	42	42	46	47	46 (49%)
A majority (>50%)	9	9	10	8	6 (6%)
Some (25%-50%)	2	3	2	2	3 (3%)
A few (<25%)	14	14	14	13	13 (14%)
None (0%)	25	25	25	27	25 (27%)
Not Applicable	53	52	48	48	52
Total	145	145	145	145	145
Subtotal	92	93	97	97	93

*Percentages reflect only those courts that did not answer “Not applicable”.

13. How are ISTs currently maintained by the court:

- Paper format: 34
- Electronic format: 7
- Both: 41

14. What would be most helpful for improving your ability to report the information discussed in this survey?

Select all that apply.

- Education and training on what needs to be reported: 96
- Education and training on the reporting process: 83
- Enhanced connection with the OCN for criminal disposition reporting: 53
- Improved technology to facilitate electronic reporting: 62
- Additional staff resources: 42
- Improved communication with BCI: 38
- Improved communication with local law enforcement agencies: 25
- Live scan fingerprinting equipment: 34
- Other: 22 (see below)

Open-ended responses:

- A better designed system that doesn't rely on ITN. This should include the ability to have the database accept disposition data from the courts regardless of an underlying law enforcement record. This should include a way for the court data to be held until the underlying law enforcement record reaches BCI.
- All the above would be helpful but specifically fingerprinting live scan
- Educate law enforcement agencies to file the fingerprint cards with the Court and what needs reported
- Further education is a must. I would suggest online CLE training would be helpful
- Grants to purchase necessary equipment and staff training
- Law Enforcement should have a bigger role in tracking and reporting their cases
- More consistent BCI cards provided by Law Enforcement
- No fees associated with hosting live scan fingerprinting equipment at a court facility
- Police Depts. timely fingerprinting upon arrest/charge of defendants and timely reporting of their arrest records to BCI
- The court does not do fingerprinting. The sheriff's office does all fingerprinting for our agencies and the county jail sends us the BCI cards after fingerprinting when available and we process accordingly when cases are finished.
- Staff shortage in the court delays some reporting like getting dispositions on fingerprint cards at times. We haven't been allowed to hire additional staff to help with all workload in the court.
- The County Sheriff's Department did not provide fingerprint cards to the court for 2017. Their machine was broken and never repaired. We are currently getting roughly 2-3 fingerprints a month. The court can't send in something we don't have.
- The only recommendation I would have is to make sure all courts are aware of the BCI form for reporting mental health. I have found some courts are not familiar with the not guilty by reason of insanity or incompetent restorable or unrestorable.

- We have BCI reporting through OCN, LiveScan, and access to a Mental Health Court in our County (where NGRI & Incompetent cases are transferred)
- We use LiveScan currently directly to BCI for most submissions and find it has helped our compliance. We faxed any after we do a verification process after the submission.

COMMON PLEAS ADMINISTRATIVE JUDGES SURVEY RESPONSES

Characteristics of respondents

Total number of surveys sent out to common pleas judges: 206

Number of respondents who submitted complete surveys: 206, representing all 88 counties

Percentage of all common pleas courts responding to survey: 100%

General Jurisdiction

1. Estimate the percentage of submissions your court has provided to law enforcement following the issuance of DVTPO.

Five percent of courts responded “Not applicable” and 50% of courts responded “Do not have jurisdiction” to this question. Of the remaining applicable courts, in 2018, 80% of courts reported submitting all DVTPOs to law enforcement, and 91% of courts reported submitting at least a few DVTPOs to law enforcement. Nine percent reported submitting no DVTPOs to law enforcement.

	2014	2015	2016	2017	2018*
All (100%)	71	72	75	75	74 (80%)
A majority (>50%)	7	6	6	6	8 (9%)
Some (25%-50%)	3	3	2	2	2 (2%)
A few (<25%)	1	1	0	1	0 (0%)
None (0%)	9	9	9	7	8 (9%)
Not Applicable	12	12	11	12	11
Do not have jurisdiction	103	103	103	103	103
Total	206	206	206	206	206
Subtotal	91	91	92	91	92

*Percentages reflect only those courts that did not answer “Not applicable” or “Do not have jurisdiction”

2. How are DVTPOs currently maintained by the court?
 - Paper format: 30
 - Electronic format: 5
 - Both: 49

3. Estimate the percentage of submissions your court has provided to law enforcement following findings of NGRI.

Eighteen percent of courts responded “Not applicable”, and 49% of courts responded “Do not have jurisdiction” to this question. Of the remaining applicable courts, in 2018, half (50%) of courts reported submitting all NGRIs to law enforcement, and 69% of courts reported submitting at least a few NGRIs to law enforcement. Nearly one-third (31%) reported submitting no NGRIs to law enforcement.

	2014	2015	2016	2017	2018*
All (100%)	33	32	31	34	34 (50%)
A majority (>50%)	12	12	13	11	10 (15%)
Some (25%-50%)	2	1	2	1	1 (1%)
A few (<25%)	2	4	2	2	2 (3%)
None (0%)	24	23	24	23	21 (31%)
Not Applicable	33	35	34	35	37
Do not have jurisdiction	100	99	100	100	101
Total	206	206	206	206	206
Subtotal	73	72	72	71	68

*Percentages reflect only those courts that did not answer "Not applicable" or "Do not have jurisdiction"

4. How are NGRIs currently maintained by the court?

- Paper format: 19
- Electronic format: 4
- Both: 32
- Do not have general jurisdiction: 109

5. Estimate the percentage of submissions your court has provided to law enforcement following findings of IST.

Fourteen percent of courts responded "Not applicable", and 48% of courts responded "Do not have jurisdiction" to this question. Of the remaining applicable courts, in 2018, 46% of courts reported submitting all ISTs to law enforcement, and 63% of courts reported submitting at least a few ISTs to law enforcement. Thirty-seven percent reported submitting no ISTs to law enforcement.

	2014	2015	2016	2017	2018*
All (100%)	33	31	34	37	36 (46%)
A majority (>50%)	12	10	11	9	8 (10%)
Some (25%-50%)	5	6	5	5	4 (5%)
A few (<25%)	3	2	0	1	2 (3%)
None (0%)	30	31	31	33	29 (37%)
Not Applicable	25	28	27	23	29
Do not have jurisdiction	98	98	98	98	98
Total	206	206	206	206	206
Subtotal	83	80	81	85	79

*Percentages reflect only those courts that did not answer "Not applicable" or "Do not have jurisdiction"

6. How are ISTs currently maintained by the court?

- Paper format: 22
- Electronic format: 5
- Both: 34
- Do not have general jurisdiction: 107

DOMESTIC RELATIONS JURISDICTION

1. Estimate the percentage of submissions your court has provided to law enforcement following the issuance of CPO.

Two percent of courts responded “Not applicable”, and 46% of courts responded “Do not have jurisdiction” to this question. Of the remaining applicable courts, in 2018, 90% of courts reported submitting all CPOs to law enforcement, and 94% of courts reported submitting at least a few CPOs to law enforcement. Six percent reported submitting no CPOs to law enforcement.

	2014	2015	2016	2017	2018*
All	94	93	99	100	96 (90%)
A majority (100%)	5	6	3	3	5 (5%)
Some (>50%)	1	1	0	0	0 (0%)
A few (25%-50%)	0	2	1	0	0 (0%)
None (<25%)	6	6	5	5	6 (6%)
Not Applicable	6	4	4	3	4
Do not have jurisdiction	94	94	94	95	95
Total	206	206	206	206	206
Subtotal	106	108	108	108	107

*Percentages reflect only those courts that did not answer “Not applicable” or “Do not have jurisdiction”

2. How are CPOs currently maintained by the court?

- Paper format: 32
- Electronic format: 6
- Both: 66

JUVENILE JURISDICTION

1. Estimate the percentage of records your court has reported to BCI of dispositions in delinquency cases.]
One percent of courts responded “Not applicable or Did not answer”, and 55% of courts responded “Do not have jurisdiction” to this question. Of the remaining applicable courts, in 2018, 44% of courts reported submitting all dispositions in delinquency cases to BCI, and 78% of courts reported submitting at least a few dispositions to BCI. Twenty-two percent reported submitting no dispositions to BCI.

	2014	2015	2016	2017	2018*
All (100%)	35	40	42	41	40 (44%)
A majority (>50%)	10	7	7	9	9 (10%)
Some (25%-50%)	8	7	7	6	5 (6%)
A few (<25%)	17	15	15	15	16 (18%)
None (0%)	20	21	19	19	20 (22%)
Not Applicable or Did Not Answer	2	2	2	2	2
Do not have jurisdiction	114	114	114	114	114
Total	206	206	206	206	206
Subtotal	90	90	90	90	90

*Percentages reflect only those courts that did not answer “Not applicable” or “Do not have jurisdiction”

2. How are dispositions currently maintained by the court?
 - Paper format: 14
 - Electronic format: 3
 - Both: 55

3. If your court has submitted dispositions in delinquency cases to BCI, describe how these records are currently transmitted.
 - Mail, email, fax: 54
 - Electronic via FTP: 13
 - Electronic via OCN: 15
 - We have not submitted dispositions to BCI: 17

4. Estimate the percentage of submissions your court has provided to law enforcement following the issuance of protection orders.

Ten percent of courts responded “Not applicable or Did not answer”, and 49% of courts responded “Do not have jurisdiction” to this question. Of the remaining applicable courts, in 2018, 84% of courts reported submitting all protection orders to law enforcement, and 88% of courts reported submitting at least a few protection orders to law enforcement. Twelve percent reported submitting no protection orders to law enforcement.

	2014	2015	2016	2017	2018*
All (100%)	70	73	74	74	72 (84%)
A majority (>50%)	4	4	3	1	2 (2%)
Some (25%-50%)	0	0	0	0	0 (0%)
A few (<25%)	2	1	1	2	2 (2%)
None (0%)	10	9	10	9	10 (12%)
Not Applicable or Did Not Answer	20	18	17	19	20
Do not have jurisdiction	100	101	101	101	100
Total	206	206	206	206	206
Subtotal	86	87	88	86	86

*Percentages reflect only those courts that did not answer “Not applicable” or “Do not have jurisdiction”

5. How are protection orders currently maintained by the court?
 - Paper format: 20
 - Electronic format: 2
 - Both: 61

PROBATE JURISDICTION

1. Estimate the percentage of records you have reported to BCI of civil commitments.

Fifteen percent of courts responded "Not applicable or Did not answer", and 56% of courts responded "Do not have jurisdiction" to this question. Of the remaining applicable courts, in 2018, 60% of courts reported submitting all civil commitments to BCI, and 70% of courts reported submitting at least a few civil commitments to BCI. Thirty percent reported submitting no civil commitments to BCI.

	2014	2015	2016	2017	2018*
All (100%)	31	34	36	37	36 (60%)
A majority (>50%)	3	1	1	2	1 (2%)
Some (25%-50%)	1	2	2	2	1 (2%)
A few (<25%)	5	4	5	3	4 (7%)
None (0%)	21	20	19	20	18 (30%)
Not Applicable or Did Not Answer	28	28	26	25	30
Do not have jurisdiction	117	117	117	117	116
Total	206	206	206	206	206
Subtotal	61	61	63	64	60

*Percentages reflect only those courts that did not answer "Not applicable" or "Do not have jurisdiction"

2. How are civil commitments currently maintained by the court?

- Paper format: 12
- Electronic format: 3
- Both: 35

3. If your court has civil commitments to BCI, describe how these records are currently transmitted.

- Mail, email, fax: 27
- Electronic via OCN: 23
- We have not submitted dispositions to BCI: 37

4. What would be most helpful for improving your ability to report the information discussed in this survey? Select all that apply.

- Education and training on what needs to be reported: 132
- Education and training on the reporting process: 112
- Improved technology to facilitate electronic reporting: 89
- Additional staff resources: 64
- Education and training on use of the MIAR module in the OCN portal: 57
- Improved communication with local law enforcement agencies: 34
- Improved communication with BCI: 41
- Other: 27 [see below]

ELECTED CLERKS SURVEY RESPONSES

Characteristics of respondents

Total number of surveys sent out to elected clerks: 133

Number of respondents who submitted complete surveys: 122

Percentage of all elected clerks responding to survey: 92%

Survey questions and responses

1. Estimate the percentage of records your court has reported to BCI on dispositions in criminal cases.
Less than one percent of courts responded "Not applicable" to this question. Of the remaining applicable courts, in 2018, 60% of courts reported submitting all dispositions, and 99% of courts reported submitting at least a few dispositions. Less than one percent reported submitting no dispositions to BCI.

	2014	2015	2016	2017	2018*
All (100%)	61	63	67	68	72 (60%)
A majority (>50%)	50	48	45	44	42 (35%)
Some (25%-50%)	5	6	6	7	5 (4%)
A few (<25%)	2	2	2	1	1 (<1%)
None (0%)	2	2	1	1	1 (<1%)
Not Applicable	2	1	1	1	1
Total	122	122	122	122	122
Subtotal	120	121	121	121	121

*Percentages reflect only those courts that did not answer "Not applicable".

2. How are dispositions currently maintained by the court:
 - Paper format: 36
 - Electronic format: 26
 - Both: 58
3. If your court has transmitted dispositions in criminal cases to BCI, describe how these cases are currently transmitted.
 - Mail, fax, email: 51
 - Electronic via FTP: 55
 - Electronic via OCN: 25
 - We have not submitted dispositions to BCI: 3
4. Estimate the percentage of submissions your court has provided to law enforcement regarding the issuance of capiases.
Twelve percent of courts responded "Not applicable" to this question. Of the remaining applicable courts, in 2018, 87% of courts reported submitting all capiases to law enforcement, and 100% of courts reported submitting at least a few capiases to law enforcement.

	2014	2015	2016	2017	2018*
All (100%)	94	92	93	93	93 (87%)
A majority (>50%)	10	12	11	11	11 (10%)
Some (25%-50%)	2	2	2	2	2 (2%)
A few (<25%)	1	1	1	1	1 (1%)
None (0%)	0	0	0	0	0 (0%)
Not Applicable	15	15	15	15	15
Total	122	122	122	122	122
Subtotal	107	107	107	107	107

*Percentages reflect only those courts that did not answer "Not applicable".

5. How are capiases currently maintained by the court: [n=107]
 - Paper format: 38
 - Electronic format: 7
 - Both: 62

6. If your court has transmitted capiases to law enforcement, describe how these cases are currently transmitted.
 - Mail, fax, email: 98
 - Electronic via FTP: 16
 - We have not submitted capiases to law enforcement: 16

7. What would be most helpful for improving your ability to report the information discussed in this survey? Select all that apply.
 - Education and training on what needs to be reported: 59
 - Education and training on the reporting process: 61
 - Enhanced connection with the OCN for criminal disposition reporting: 61
 - Improved technology to facilitate electronic reporting: 65
 - Education and training on use of the MIAR module in the OCN portal: 20
 - Additional staff resources: 25
 - Improved communication with BCI: 39
 - Improved communication with local law enforcement agencies: 30
 - Live scan fingerprinting equipment: 17
 - Other: 28 (see below)

Open-ended responses:

- BCI does a very good job of education and would like to see it continue.
- BCI needs to compare data submitted with the Supreme Court report data.
- BCI reporting is lacking the ability to report post-conviction actions --still have to do this process via paper; elected Clerks don't have access to Mental Illness information
- BCI website - would like to have a section for courts to have FAQs and changes in updates on reporting
- Direct terminal entry and/or batch submission for dispositions
- Education on the Law Enforcement and court side of things, so that they are fingerprinting individuals each time they have charges brought on them, even if it's with in the same day. Also, to

have the fingerprinting done, even when they are already in the system, or coming from a Prison and the person is pleading guilty at their arraignment and being sentenced immediately and returning back to the prison right away. .

- I don't have a problem reporting to BCI, however cases that have a "treatment in lieu of conviction" adjudication result in a fatal error when submitted through the Courtview software. Therefore it is not reported correctly.
- I would like to see the ITN number be assigned when the charges are entered into our CMS instead of waiting on the ITN number to come from our Sheriff's office.
- Immediate receipt of BCI prints from local law enforcement agencies
- Improved Communication between BCI and OCN
- Improvements in BCI data system to record and match all dispositions regardless of whether defendant information or fingerprint is missing.
- In the past, it has depended on Sheriff deputy on duty as to whether defendants were fingerprinted. We now have new policy in clerk's office. Cannot bond out until fingerprint card is presented to the clerk's office by Sheriff Department.
- Law enforcement to be aware the court needs the fingerprint disposition cards
- Live scan fingerprinting or in the alternative, requiring all law enforcement to provide ITN numbers and date of arrest information on all arrests
- Local law enforcement provide electronic fingerprint card
- Note: We currently have a much better reporting process with sheriff
- RECEIVING ITN CARDS FROM LAW ENFORCEMENT
- The Court does not always receive the fingerprint card from the sheriff's department.
- The Judges order finger printing, Law Enforcement does the finger printing, and the Clerks Offices send the dispositions to the BCI. The Clerks Offices have no control over which Defendants get finger printed. These 3 distinct responsibilities are not tied together in the law. Therefore, the Clerks Offices cannot be held accountable for person not being finger printed. The BCI rejects all dispositions without finger prints. The BCI should use multiple identifiers instead of just the ITN # = finger prints, (e.g., Name, DOB & SSN). The BCI rejecting submissions without finger prints causes the criminal record to be incomplete.
- TRAINING ON ELECTRONICALLY SUBMITTING CRIMINAL DISPOSITION
- We do not process capiases, we use warrants, if that is one in the same the answer would be different. Also we do not report to law enforcement they report to us, unless there is a need for clarification due to a mistake or with regard to rule 95 form.

RECOMMENDATIONS

The Working Group recommends the following:

1. Expand the availability and use of Livescans by courts and clerks of courts to ensure that fingerprints are always taken regardless of if a defendant is arrested or summoned.
2. Establish a protocol on the fingerprint process and the assignment of ITNs that will be implemented by both courts and law enforcement.
3. Examine the feasibility of allowing courts to enter information directly into LEADS.
4. Encourage and expand the use of the OCN for the submission of disposition data.

5. Continued education on the responsibilities of NICS for new court and clerk employees to ensure all personnel are aware of their reporting responsibilities and all protocols.
6. Work with courts and clerks of court, BCI and law enforcement to adopt common statewide protocols related to the handling of multiple ITNs related to a single case.
7. Designate clerks of courts as the appropriate entity to submit felony indictments for inclusion in NICS searches.
8. Establish a process for the submission of felony indictments.

MAYOR’S COURTS

In general, Ohio law allows mayors of municipal corporations not otherwise the site of a municipal court and populated by more than 200 people to operate a mayor’s court. Mayor’s courts, which are not courts of record, only hear cases involving violations of local ordinances and state traffic laws. A person convicted in a mayor’s court may appeal his or her conviction as a trial de novo to the municipal or county court having jurisdiction within the municipal corporation. Clerks in mayor’s courts are appointed by the mayor.

Although they are not part of the judicial branch of Ohio government, Mayor’s courts are required by statute to register annually with and submit caseload statistical reports quarterly to the Supreme Court. At the request of the General Assembly, the Supreme Court adopted rules providing court procedures and basic legal education for mayors. Mayors whose courts hear alcohol- and drug-related traffic offenses have additional educational requirements.

Regardless of the classification of mayor’s courts, they maintain NICS information that should be submitted to BCI. Ohio Revised Code 1905.033(B)(2) – Requires mayor’s courts to report to BCI a conviction for an offense that is a misdemeanor on a first offense and a felony on any subsequent offense. The difficulty with our analysis of mayor’s courts is grounded in the uniqueness of their operations. The types of cases they hear differs from jurisdiction to jurisdiction. As you will see from the survey results, some regularly submit disposition information that becomes part of NICS, while others do not submit or, by their own estimation, maintain any NICS information. Many indicated they only hear traffic cases, while others indicated they only hear very low level misdemeanors.

We surveyed mayor’s courts in order to, among other things, better understand their current NICS compliance, and identify barriers and solutions to compliance. The survey results are included below. At the end of each survey, are a few subjective responses to the last survey question.

MAYOR’S COURT SURVEY RESPONSES

Characteristics of respondents

Total number of surveys sent out to mayor’s courts: 312

Number of respondents who submitted complete surveys: 110

Percentage of all mayor’s courts responding to survey: 35%

Survey questions and responses

1. Estimate the percentage of records your court has reported to BCI on dispositions in criminal cases.
Thirty-nine percent of courts responded “Not applicable” or “Court not in operation” to this question. Of the remaining applicable courts, in 2018, one-third (33%) of courts reported submitting all dispositions,

and over two-thirds (70%) reported submitting at least a few dispositions. Thirty percent reported submitting no dispositions to BCI.

	2014	2015	2016	2017	2018*
All (100%)	17	19	20	23	22 (33%)
A majority (> 50%)	8	9	9	10	9 (13%)
Some (25%-50%)	10	8	8	4	4 (6%)
A few (<25%)	10	12	11	14	12 (18%)
None (0%)	23	20	20	19	20 (30%)
Not applicable	39	39	38	37	40
Court not in operation	3	3	4	3	3
Grand Total	110	110	110	110	110
Subtotal	68	68	68	70	67

*Percentages reflect only those courts that did not answer "Not applicable" or "Court not in operation".

2. How are dispositions currently maintained by the court: [n=76]
 - Paper format: 15
 - Electronic format: 4
 - Both: 57

3. If your court has transmitted dispositions in criminal cases to BCI, describe how these cases are currently transmitted.
 - Mail, fax, email: 43
 - Electronic via FTP: 11
 - We have not submitted dispositions to BCI: 59

4. Estimate the percentage of submissions your court has provided to law enforcement regarding the issuance of capiases.

Twenty-nine percent of courts responded "Not applicable" or "Court not in operation" to this question. Of the remaining applicable courts, in 2018, 56% of courts reported submitting all capiases to law enforcement, and over three-quarters (77%) reported submitting at least a few capiases to law enforcement. Twenty-three percent reported submitting no capiases to law enforcement.

	2014	2015	2016	2017	2018*
All (100%)	41	43	44	44	44 (56%)
A majority (> 50%)	5	4	4	4	4 (5%)
Some (25%-50%)	4	4	4	5	5 (6%)
A few (<25%)	7	7	8	8	7 (9%)
None (0%)	19	19	18	17	18 (23%)
Not Applicable	31	30	29	29	29
Court not in operation	3	3	3	3	3
Total	110	110	110	110	110
Subtotal	76	77	78	78	78

*Percentages reflect only those courts that did not answer "Not applicable" or "Court not in operation".

5. How are capiases currently maintained by the court: [n=82]
 - Paper format: 24

- Electronic format: 7
 - Both: 51
6. If your court has transmitted capias to law enforcement, describe how these cases are currently transmitted.
- Mail, fax, email: 48
 - Electronic: 20
 - We have not submitted dispositions to law enforcement: 48
7. What would be most helpful for improving your ability to report the information discussed in this survey? Select all that apply.
- Education and training on what needs to be reported: 72
 - Education and training on the reporting process: 58
 - Improved technology to facilitate electronic reporting: 49
 - Additional staff resources: 13
 - Improved communication with BCI: 26
 - Improved communication with local law enforcement agencies: 17
 - Live scan fingerprinting equipment: 26
 - Other: 25 (see below)

Open-ended responses:

- All courts need live scan even small departments
- All of the above
- An up-to-date list of escalating misdemeanors
- As a Mayors Court we do not handle to types of offenses you have listed to be reported.
- Have BCI attend Mayor's Clerk training
- How to report for mayor's courts
- Make Mayor's Court warrant enterable into LEADS
- Our Mayor's Court has reported all BCI Form 2-71 received by ORC regulations.
- No longer hold Mayor's Court--Handled thru County Court
- None - All criminal cases involving BCI are written into Pickaway County Municipal Court.
- Note: Our Mayor's Court does not hear criminal cases.
- Our court does not hear any arrestable offenses therefore this does not apply to our court
- Our court hears only traffic violation cases
- Our Mayor's Court handles almost all Traffic Cases. There are very few times a criminal offense is cited to Mayor's Court. Even then they are only the lowest Minor Misdemeanors.
- Our mayors court is only a minor misdemeanor traffic court
- Question 3 was not entirely clear. We submit 100% of offenses as listed on the Reportable Misdemeanor list. Not 100% of all misdemeanors. Was not sure how to answer.
- The Clerk at the Police Station calls me to get the dispositions to report to BCI, I only do the reporting when they give me the fingerprint card. On those occasions I have not had a problem with the procedure.

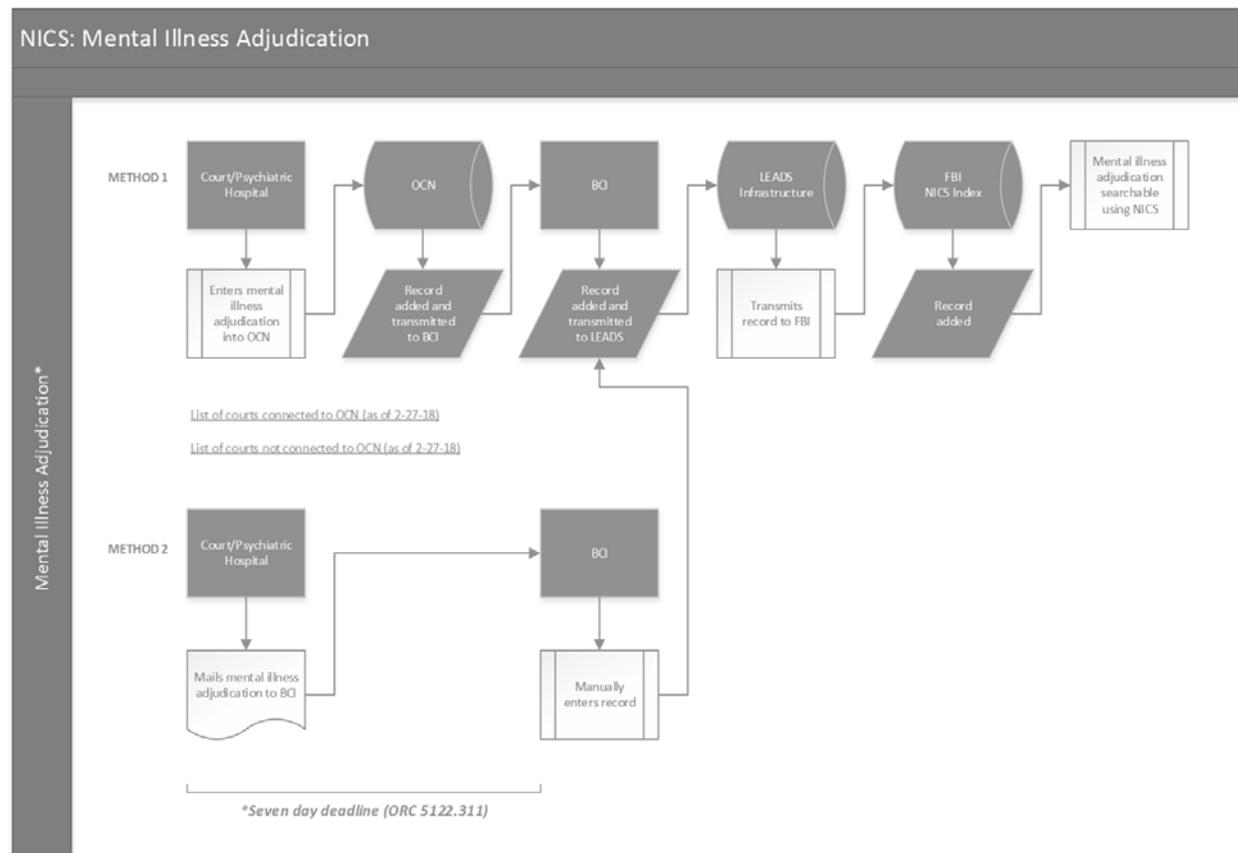
- The Mayor's Court does not report information to OCJS. We simply pull records for use in arraignments, pre-trials and trials.
- This Court operates as a Violations Bureau and only handles minor misdemeanor offenses
- This survey does not apply to our court
- We do not handle criminal cases
- We only see mm in court others sent to Hamilton County for Court

MENTAL HEALTH FACILITIES

Mental health facilities, like courts, are required by statute to submit adjudication information. The responsibilities and process for submission of information and the challenges they face are outlined below.

STATE REGIONAL PSYCHIATRIC HOSPITALS

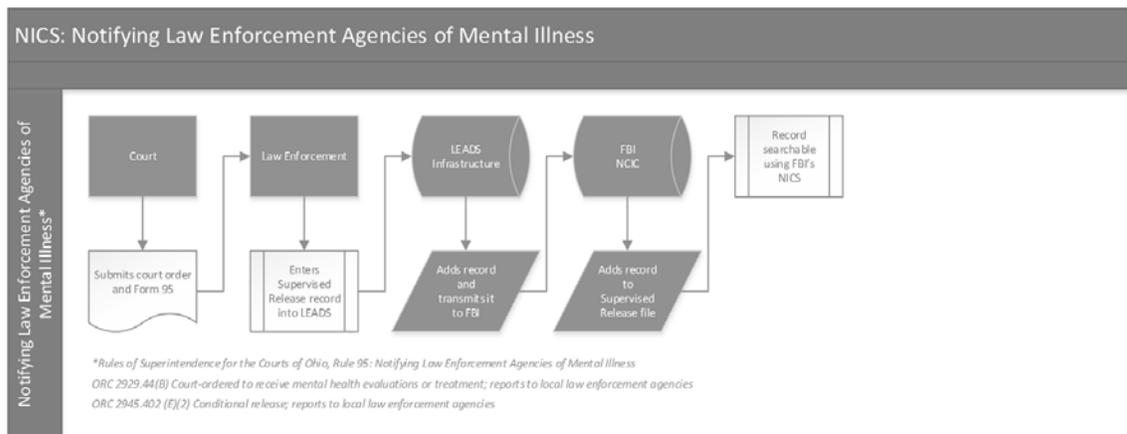
When a patient is admitted to a state hospital, a journal entry is received from the probate court or a criminal court. If the statutory basis for the admission meets the criteria noted in R.C. 5122.311, the person is flagged for entry into the Ohio Courts Network (OCN) Mental Illness Adjudication Report (MIAR). A designated hospital employee logs in to OCN and enters the required data. A copy of the journal entry that supports the reporting of that person is retained indefinitely in electronic form. Individuals who meet the criteria for reporting are committed pursuant to R.C. 2945.38, 2945.39, 2945.40, 2945.402, 5122.141, or 5122.15. Hospitals complete this report whether or not the probate court, which commits people under R.C. 5122.141 and 5122.15, also makes the report to BCI.



FORENSIC MONITORS

If a trial court grants a person conditional release pursuant to R.C. 2945.402 and the person was not first admitted to a state hospital, the Forensic Monitor will complete a paper version of the Attorney General's form (as described in R.C. 5122.311 [C]) and have that form signed by the chief clinical officer of the entity to which the person was committed. The Forensic Monitor mails the form to BCI in London, Ohio.

The Forensic Monitors are indirectly involved with the reporting requirements specified in R.C. 2945.402 (E). The courts are required to report to law enforcement information pertaining to any person who is granted conditional release pursuant to R.C. 2945.402 (A). Law enforcement then enters this information into LEADS. Although the Forensic Monitors do not have a reporting responsibility they are encouraged to remind the court of their responsibility under this statute and frequently do so.



PRIVATE PSYCHIATRIC HOSPITALS OR GENERAL HOSPITALS WITH A PSYCHIATRIC WARD

These entities are not operated by Ohio Mental Health and Addiction Services (OHIO MHAS) does not does not track the reporting procedures they use.

CHALLENGES AND OBSTACLES

State Regional Psychiatric Hospitals

The primary challenge is that the wording of the statute (5122.311) is confusing. The language indicates that the report shall be completed by the “. . . probate judge who made the adjudication or the chief clinical officer. . .” This has introduced confusion as to each entity's reporting responsibilities. To ensure that all appropriate individuals are reported, OhioMHAS hospitals made a decision to report all such commitments to the state hospitals and not attempt to determine whether the probate judge did or did not report a particular individual. This has resulted in duplicate reporting and inefficiencies.

Forensic Monitors

The primary challenge with this part of the reporting process is again due to the wording of R.C. 5122.311. The Forensic Monitors do not work with or report people committed by the probate court, but only those people who have been found by a criminal court judge to be Not Guilty by Reason of Insanity (R.C. 2945.40) or Incompetent to Stand Trial—Unrestorable—Under Criminal Court Jurisdiction (R.C. 2945.39), have been granted Conditional Release (R.C. 2945.402); and who have not been admitted to a state hospital first. Thus, the monitors need to have the chief clinical officer of the community mental health services provider or facility sign the BCI reporting form. However, some of these entities do not have a chief clinical officer and

the trial court judges will not sign the form because it specifies “probate judge.” In some cases, the Forensic Monitor has signed the form so that the report can be made.

MENTAL HEALTH SURVEY RESPONSES

Characteristics of respondents

Total number of respondents: 52

- State psychiatric hospital: 1 (representing all six hospitals)
- County ADAMH board: 26
- Private psychiatric hospital: 8
- Private hospital with psychiatric wing or unit: 1
- Community hospital with psychiatric wing or unit: 6
- Community mental health center: 10

Data from respondents who completed surveys

1. How does your agency/hospital currently maintain records on individuals found by a court to be mentally ill and subject to court order or on involuntary patients other than for the purposes of observation?
 - Electronic: 6
 - Paper: 17
 - Both: 29
2. Does your mental health agency/hospital notify BCI if an individual is found by the court to be a mentally ill person subject to court order or becomes an involuntary patient other than one who is a patient only for purposes for observation (ORC 5122.311)?
 - Yes: 25
 - No: 27
3. If “Yes” to #2, how are these mental illness adjudication records currently transmitted to BCI? Check all that apply.
 - Electronic via MIAR in OCN: 1
 - Electronic FTP: 1
 - Mail/email/fax: 18
 - Other: 7 (Note: most people described other entities that report on their behalf, such as the court or another behavioral health entity)
4. What barriers or challenges has your agency/hospital experienced in submitting these records to BCI for NICS reporting as required? Check all that apply.
 - Records are submitted in paper format rather than electronically: 7
 - We did not know of the requirement to submit to BCI: 6
 - Limited staff: 1
 - Submitting mental health records violates HIPAA: 8
 - The process for submitting records is confusing: 7
 - Submitting records to BCI is duplicative with the probate court: 10
 - We have no barriers/challenges submitting to BCI: 7
 - N/A—we have not had to submit because the situation has not arisen: 15
 - Other: 20 (see open-ended responses at end of report)

5. Estimate the percent of records your agency/hospital has reported to BCI on individuals found by a court to be mentally ill and subject to court order or on involuntary patients other than for the purposes of observation.

In 2018, 21% of mental health entities reported submitting all records to BCI, and 33% reported submitting at least a few records to BCI. Two-thirds reported submitting no records to BCI. This could be for a variety of reasons, including the possibility that the situation requiring a mental health entity to report has not yet arisen, which was identified as a reason by 15 entities in Question 4.

	2014	2015	2016	2017	2018
All (100%)	12	12	11	11	11 (21%)
A majority (>50%)	1	1	2	1	1 (2%)
Some (25%-50%)	0	0	0	1	2 (4%)
A few (<25%)	5	5	5	5	3 (6%)
None (0%)	34	34	34	34	35 (67%)
Total	52	52	52	52	52

RECOMMENDATIONS

The Working Group recommends the following:

1. Revise the language in R.C. 5122.311 and add similar language in R.C. Chapter 2945. The revision to 5122.311 should eliminate the word “or” in the phrase, “. . . probate judge who made the adjudication or the chief clinical officer . . . shall notify the office of the attorney general . . .” The language should clearly indicate the party that is responsible for reporting.
2. Chapter 5122 deals with probate court matters but many commitments are made by criminal courts. There is no language that gives the criminal court judges the authority to report people who meet the criteria in R.C. 5122.311(A), (i.e., “an individual is found by a court to be a mentally ill person subject to court order or becomes an involuntary patient other than one who is a patient only for purposes of observation.”) Thus the recommendation is to include language in R.C. 2945.39, 2945.40 and 2945.402 that grants the criminal court judge the authority and responsibility to report appropriate people to BCI.
3. Continue to provide training and education to make sure entities are aware of their reporting responsibilities and to create standard protocols to reduce the necessity of double reporting to BCI.

PROGRESS SINCE THE 2015 REPORT AND OUTLOOK FOR THE FUTURE

Since the 2015 NICS report was released, progress continues to be made in improving the completeness of records submitted to NICS. The most significant areas of improvement center on technology investments and continuation of the working group.

Submission of disposition records. Through the use of the Ohio Courts Network (OCN), over 40 courts have a mechanism to easily and electronically transfer disposition records directly to BCI. The OCN provides an option for courts that want to move away from paper submissions, thus improving the timeliness and accuracy of disposition reporting. Agencies still have the ability to submit dispositions electronically via FTP.

Submission of mental health adjudication records. Prior to 2015, BCI was receiving roughly 2,000 paper submissions of mental health adjudications every six months. Upon implementation of the electronic Mental Health Adjudication Reporting (MIAR) form, paper submissions have dropped by 67% while electronic submissions have more than doubled. In 2015, two-thirds of mental illness submissions were in paper format. In 2017, this percentage dropped to less than one-quarter, while over three-quarters of all mental illness submissions are now submitted electronically. In all, 112 entities (including courts, hospitals, and local health agencies) are signed up to be able to provide mental illness adjudication reporting.

NICS WORKING GROUP

Members of the NICS Working Group continue to meet to discuss and implement recommendations made in the 2015 report. BCI and the Supreme Court interact regularly to update the technology necessary to allow for courts to submit disposition information to BCI. Working group members have researched ways to clarify specific statutes regarding the reporting of records, including ORC 5122.311, Notification of BCI of adjudication of mental illness.

In order to ensure that many of the recommendations contained in this report are implemented, we recommend the following.

1. The working group continue to meet quarterly. This will allow us to develop the protocols that are the contained in the recommendations. Further, it will ensure that developments in the future are based upon a comprehensive strategic vision that is shared by all stakeholders.
2. The future of NICS in Ohio should continue to look at creating efficiencies and eliminating redundancies. We must examine the feasibility of direct submission of NICS information from the originator to either LEADS or BCI.
3. Entities who host, submit, house, or transfer NICS information should work with the working group when they make changes to processes, systems or other tools that will potentially impact NICS in Ohio.
4. Entities who host, submit, house or transfer NICS information should explore the feasibility of eliminating paper submissions in order to increase accuracy, consistency and efficiency to the NICS.

DEFINITIONS

Adjudicated Mental Health - Persons adjudicated as a mental defective or involuntarily committed to a mental institution for treatment are entered into the NICS Indices.

Computerized Criminal History (CCH) - Criminal history means a record of offenses for which a person has been found criminally liable and convicted.

Interstate Identification Index (III) - A national index of criminal histories in the United States, maintained by the FBI at the NCIC. Included in this index are individuals who have been arrested or indicted for a serious criminal offense.

Law Enforcement Automated Data System (LEADS) - The LEADS interface serves as the connection between BCI and the Interstate Identification Index (III), National Crime Information Center (NCIC), and National Instant Background Check System (NICS) Index.

National Crime Information Center (NCIC) – The central database for tracking crime-related information in the United States. NCIC is maintained by the Criminal Justice Information Services Division (CJIS) of the FBI and is interlinked with federal, tribal, state, and local agencies.

National Instant Criminal Background Check System (NICS) - A national system that checks available records on persons who may be disqualified from receiving firearms. The NICS is a computerized background check system designed to respond instantly on whether the transfer of a firearm would be in violation of Section 922 (g) or (n) of Title 18, United States Code, or state law.

Ohio Courts Network (OCN) - A statewide information exchange system that enables Ohio courts and justice system partners to share information necessary to make critical decisions regarding public safety.

Protection Orders - A court order, civil or criminal, that protects a victim from domestic abuse, sexual assault, dating violence, and stalking.

Warrant - A writ permitting or directing someone to take some action. Frequently, the term refers to a writ from a judge, permitting law enforcement personnel to take some action, such as make an arrest, search a location, or seize some piece of property.

Shapes Used in this Report



COMPREHENSIVE LIST OF RECOMMENDATIONS

1. Expanding training and education:

- Continued education on the responsibilities of NICS for new court and clerk employees to ensure all personnel are aware of their reporting responsibilities and all protocols.
- Work with law enforcement organizations and other relevant local and state entities to assist in ensuring agencies receive training about their responsibilities under NICS.
- Provide training and education to mayor's courts on the types of information they should submit and the reporting process.
- Continue to provide training and education to make sure entities are aware of their reporting responsibilities and to create standard protocols to reduce the necessity of double reporting to BCI.

2. Reducing duplicative, unclear or lack of express reporting responsibility:

- Designate clerks of court as the appropriate entity to submit felony indictments for inclusion in NICS searches.
- Establish a means for ensuring that all warrant and protection orders are entered into LEADS by working with law enforcement organizations and leaders to establish protocols to improve the completeness of NICS.
- Establish a process for the submission of felony indictments.
- Revise the language in R.C. 5122.311 and add similar language in R.C. Chapter 2945. The revision to 5122.311 should eliminate the word "or" in the phrase, ". . . probate judge who made the adjudication or the chief clinical officer . . . shall notify the office of the attorney general . . ." The language should clearly indicate the party that is responsible for reporting.
- Chapter 5122 deals with probate court matters but many commitments are made by criminal courts. There is no language that gives the criminal court judges the authority to report people who meet the criteria in R.C. 5122.311(A), (i.e., "an individual is found by a court to be a mentally ill person subject to court order or becomes an involuntary patient other than one who is a patient only for purposes of observation.") Thus the recommendation is to include language in R.C. 2945.39, 2945.40 and 2945.402 that grants the criminal court judge the authority and responsibility to report appropriate people to BCI.

3. Strategic planning and structured coordination

- Expand the availability and use of Livescans by courts and clerks of courts to ensure that fingerprints are always taken regardless of if a defendant is arrested or summoned.
- Establish a protocol on the fingerprint process and the assignment of ITNs that will be implemented by both courts and law enforcement.
- Examine the feasibility of allowing courts to enter information directly into LEADS.
- Encourage and expand the use of the OCN for the submission of disposition data.
- Work with courts and clerks of court, BCI and law enforcement to adopt common statewide protocols related to the handling of multiple ITNs related to a single case.
- Work with BCI, courts, clerks of court and law enforcement to adopt common statewide protocols related to the handling of multiple ITNs related to a single case.
- Urge the Ohio Collaborative Community Police Advisory Board to consider establishing a model policy or creating a standard for agencies related to NICS reporting.

- Add a mayor's court representative to the NICS working group.
- Survey mayor's courts to better understand the types of cases each court hears.
- The working group continue to meet periodically. This will allow us to develop the protocols that are contained in the recommendations. Further, it will ensure that developments in the future are based upon a comprehensive strategic vision that is shared by all stakeholders.
- The future of NICS in Ohio should continue to look at creating efficiencies and eliminating redundancies. We must examine the feasibility of direct submission of NICS information from the originator to either LEADS or BCI.
- Agencies who host, submit, house, or transfer NICS information should work with the working group when they make changes to processes, systems or other that will potentially impact NICS in Ohio.
- Entities who host, submit, house or transfer NICS information should explore the feasibility of eliminating paper submissions in order to increase accuracy, consistency and efficiency to the NICS.



JOHN R. KASICH
GOVERNOR
STATE OF OHIO

Executive Order 2018-03K

National Instant Criminal Background Check System ("NICS") Compliance

WHEREAS, the National Instant Criminal Background Check System ("NICS") was created by the Brady Handgun Violence Protection Act of 1993; and

WHEREAS, NICS was established to provide Federal Firearm Licensees (FFLs) (*i.e.*, persons licensed by the U.S. Bureau of Alcohol, Tobacco, Firearms and Explosives to sell firearms) with a process to determine whether a person who is attempting to purchase a firearm from a FFL is prohibited by law from purchasing a firearm under federal or applicable state law; and

WHEREAS, in that way, NICS is our first line of defense in preventing firearms from ending up in the hands of persons legally ineligible to purchase or have a firearm; and

WHEREAS, while NICS is a national system overseen by the Federal Bureau of Investigation, it is dependent upon data that is uploaded to it by the fifty states and federal territories;

WHEREAS, in Ohio, because of our decentralized local criminal justice system, a very large portion of the records and information that must flow up into NICS from Ohio must first be supplied and reported by local courts and other local government officials; and

WHEREAS, two databases in Ohio, the Computerized Criminal History ("CCH") created and maintained by the Superintendent of the Bureau of Criminal Investigations & Identification ("BCI") pursuant to section 109.57(A)(5) of the Revised Code and the Law Enforcement Automated Data System ("LEADS") created by the Ohio Department of Public Safety ("ODPS") and administered by the Superintendent of the Ohio State Highway Patrol pursuant to section 5503.10 of the Revised Code, supply the federal NICS databases with the local records and information necessary to identify which people are prohibited from purchasing a firearm under state or federal law; and

WHEREAS, whether the NICS background check system has complete, accurate, and timely records from the State of Ohio is contingent upon the public officials and public offices that create and maintain those records and information first uploading them to CCH and LEADS within the time frames established by law; and

WHEREAS, in November 2015, the Office of Criminal Justice Services (“OCJS”), a division within ODPS, in conjunction with BCI and the Supreme Court of Ohio (“the 2015 Working Group”), published a report entitled *“Improving the Completeness of Firearm Background Checks Through Enhanced State Data Sharing: Final Report”* (“the 2015 Report”). This report detailed some improvements in addressing problems at the local level which were hindering the accurate and timely reporting and uploading of NICS data to the state CCH and LEADS databases, and ultimately to the federal NICS. But the report also found that still more work needed to be done to get all local courts, clerks and other NICS data reporters to accurately and timely upload their data; and

WHEREAS, recent media reports have revealed that some public offices in Ohio responsible for uploading the necessary data to NICS are still failing to timely provide all the data necessary to ensure NICS has complete and accurate data; and

WHEREAS, the failure of even *one* public office, public official, or public employee to properly and timely upload the data required by the NICS databases can lead to a prohibited individual acquiring a firearm with tragic results, such as in the mass shootings in Charleston, South Carolina, on June 17, 2015, and in Sutherland Springs, Texas, on November 5, 2017.

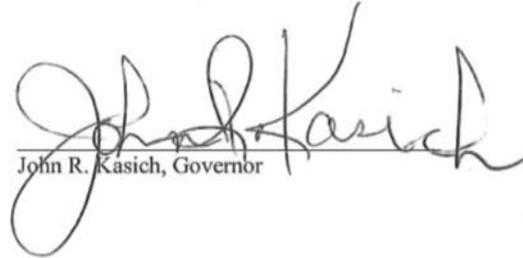
NOW THEREFORE, I, John R. Kasich, Governor of the State of Ohio, by virtue of the authority vested in me by the Constitution and laws of the State of Ohio do hereby order and direct that:

1. As soon as possible after the issuing of this Order, OCJS shall report to me on the current status in Ohio of the reporting and uploading all relevant information required by NICS into CCH and/or LEADS and then into NICS. OCJS shall also identify any remaining barriers in Ohio to the timely and complete reporting and uploading of all such information into NICS.
2. In order to do so, OCJS shall invite the 2015 Working Group to reconvene to assess what progress has been made in the last two years in addressing the NICS data reporting issues identified in their 2015 Report. In performing the actions specified in this Executive Order, OCJS and/or the 2015 Working Group may also consult with any local public officials, or their respective associations, who create or possess records or information that must be uploaded to CCH and/or LEADS for inclusion in the national NICS.
3. OCJS shall also request the history, over the last four years, of the reporting and uploading of NICS data by any public official or office that creates, maintains, submits, uploads, or receives records or information that must become part of NICS. Any public official or public office receiving such a request from OCJS shall provide OCJS the requested information within 30 days of the receipt of the request. OCJS shall publish on its website all responses it receives, including a list of any public official or office that fails to submit a complete response to OCJS within the required time frame.

4. In responding to any such request for information from OCJS, any public official or public office whose duty it is to report NICS data should identify, if applicable, any remaining barriers or hurdles that are hindering that local official or office from timely complying with their legal obligation to accurately report and upload all necessary NICS data.
5. OCJS shall analyze the responses received and present that analysis to the 2015 Working Group. The 2015 Working Group shall then develop and send to me, no later than August 1, 2018, recommended steps, procedures, policies, or proposed legislation to eliminate any remaining barriers or hurdles to the timely and complete reporting and uploading of NICS data by local officials.
6. The 2015 Working Group shall also develop and publish, no later than August 1, 2018, a NICS data reporting compliance manual to better educate local courts, public officials, and mental health providers on their duties to accurately and timely report NICS records and information as well as resources and advice on how to achieve this required duty.
7. In addition, I hereby request that effective immediately the Auditor of State:
 - a. Include in the Auditor's annual or biennial audits of any local public office that has a responsibility to report or upload NICS data a procedure to test that office's compliance with its obligation to accurately and timely report that data.
 - b. Annually publish the results of the Auditor's review of each such office on the Auditor's public web site.
 - c. Immediately initiate the NICS data reporting procedure for any public official or public office that fails to respond to any OCJS request for information described in paragraphs 3 and 4 above.

I signed this order on April 23, 2018, in Columbus, Ohio and it will not expire unless it is rescinded.




John R. Kasich, Governor

ATTEST:

John Husted, Secretary of State

IMPROVING THE COMPLETENESS OF FIREARM
BACKGROUND CHECKS THROUGH ENHANCED
STATE DATA SHARING: FINAL REPORT

A report of the Ohio Office of Criminal Justice Services, the Supreme Court of Ohio,
and the Bureau of Criminal Investigation

NOVEMBER 2015

**Improving the Completeness of Firearm Background Checks through Enhanced Data Sharing:
Final Report**

Contributors:

The Ohio Office of Criminal Justice Services, Ohio Department of Public Safety

The Supreme Court of Ohio

The Bureau of Criminal Investigation, Ohio Attorney General's Office

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Background

In 1968, President Lyndon Johnson signed The Gun Control Act in response to the assassinations of President John F. Kennedy, Malcolm X, Martin Luther King, and Robert F. Kennedy.³ An amendment to The Gun Control Act, called the Brady Handgun Violence Act (Brady Act) was signed by President Bill Clinton in 1993. As a result of the Brady Act, the National Instant Criminal Background Check System (NICS) was created. NICS is a national system that checks available records of persons to determine whether they are disqualified from obtaining a firearm or explosives.

Using NICS, Federal Firearm Licensees (FFLs) are able to be supplied almost immediately with information on whether the transfer of a firearm would be in violation of Section 922 (g) or (n) of Title 18, United States Code, or state law. There are several categories of disqualifying events that would prohibit an individual from purchasing or receiving a firearm⁴. These federal prohibitors pertain to individuals who:

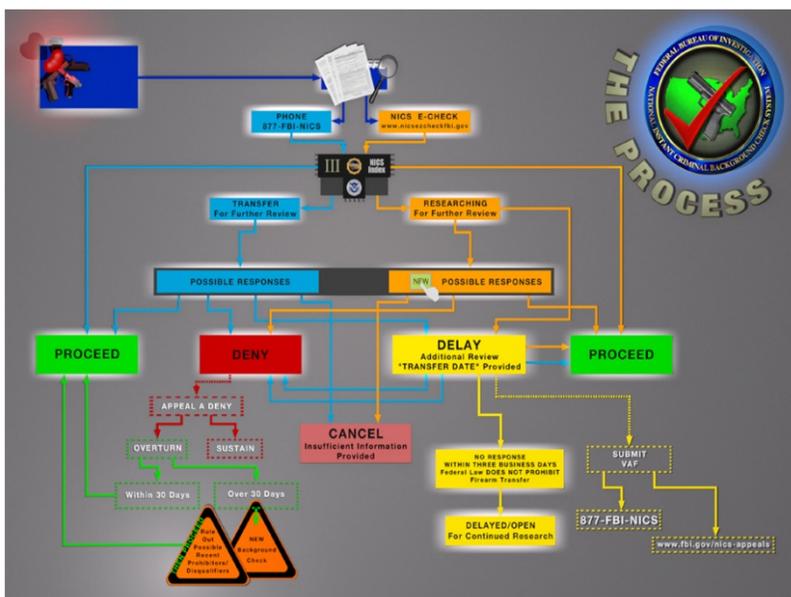
- Have been convicted in any court of a crime punishable by imprisonment for a term exceeding one year, and of any misdemeanor punishable by imprisonment for more than two years;
- Are fugitives of justice;
- Are unlawful users and/or addicts of any controlled substances;
- Adjudicated mental defective or involuntarily committed to a mental institution or incompetent to handle their own affairs, including dispositions to criminal charges of found not guilty by reason of insanity or found incompetent to stand trial;
- Are aliens illegally or unlawfully in the United States, or are aliens, except as provided in subsection (y) (2), who have been admitted to the United States under a non-immigrant visa;
- Have renounced their United States citizenship;
- Have been dishonorably discharged from the United States Armed Forces;
- Are the subject of a protective order which restrains them from harassing, stalking, or threatening an intimate partner or child of such partner;
- Have been convicted in any court of a misdemeanor crime of domestic violence;
- Are under indictment or information for a crime punishable by imprisonment for a term exceeding one year.

FFLs are required to perform background checks prior to proceeding with a firearm sale. FFLs contact the NICS, and the NICS examiner will provide one of three responses: 1) to PROCEED with the firearm transaction; 2) to DENY the firearm transaction; or 3) to DELAY the firearm transaction. If delayed, the NICS Examiner must provide the FFL with a final determination within three business days. If the FFL has not received a response in this time, it is up to the discretion of the FFL as to whether to continue with the transaction. See the NICS process flowchart in Figure 1.

³ Federal Bureau of Investigation. *NICS Process*. <https://www.fbi.gov/about-us/cjis/nics/nics-process-in-motion-for-the-gun-buyer-video-transcript>.

⁴ Federal Bureau of Investigation. *Fact Sheet*. <https://www.fbi.gov/about-us/cjis/nics/general-information/fact-sheet>.

Figure 1. NICS Process Flowchart⁵



Since the NICS program began in 1998, more than 202 million firearm background checks have been initiated through the NICS.⁶ In Ohio alone, the number of background checks initiated through NICS has increased 200% from 1999 to 2014, with 596,389 occurring in 2014.⁷

There have been over one million federal denials.⁸ For those states whose firearm applications are checked by the FBI (such as Ohio), the denial rate in the United States in 2012 was 1.2 percent.⁹ Based on this rate, it is estimated that there were 7,550 denials in Ohio in 2012. Nationwide, the majority of denials, 55 percent, are a result of a person being convicted of a felony crime. Mental health adjudications and commitments made up 1.6% percent of denials.

The NICS program has been a critical and highly utilized source to save lives and protect people from harm by not letting guns fall into the wrong hands. Advocating the value of making federal- and state-prohibiting records available at the national level has been a continuing goal of the NICS. But there are gaps in record availability at the national level, and recent acts of violence have focused attention on the urgent need to close these gaps. This report discusses how federal funding was used to close the gaps in Ohio.

⁵ Federal Bureau of Investigation. *NICS Flow Chart Graphic*. <https://www.fbi.gov/about-us/cjis/nics/federal-firearms-licensees/nics-flow-chart-graphic-1>.

⁶ Federal Bureau of Investigation. *Total NICS Background Checks*.

⁷ Federal Bureau of Investigation. *Total NICS Firearm Background Checks by State*.

⁸ Federal Bureau of Investigation. *Federal Denials*.

⁹ Bureau of Justice Statistics. *Background Checks for Firearm Transfers, 2012—Statistical Tables*.

Reporting Gaps in Ohio

Felony disposition records

Due to Ohio's decentralized court system, local courts are not required to submit case disposition information to the Supreme Court of Ohio. Therefore it is difficult to determine precisely the gap in disposition reporting. A few measures were undertaken to estimate this gap. A 2011 estimate showed 45,733 cases resulting in felony convictions in Ohio.^{10,11} In contrast, in 2011, BCI reported through the CCH repository 33,486 felony conviction disposition records to the FBI's Interstate Identification Index (III). This indicates at a minimum that roughly 27 percent of felony dispositions did not get transmitted to the CCH repository¹².

Per ORC 109.57 (A)(2)¹³, courts are required to submit all disposition data to the CCH on a weekly basis. Historically, this has not happened for a variety of reasons. For one, disposition data may be submitted by local courts, but rejected by the CCH repository for technical reasons. Also, prior to the start of this project, fewer than half of courts currently submitted electronically, impacting the timeliness and completeness of the records submitted. Additionally, if agencies do not report dispositions to BCI, there is no enforcement in the revised code. Thus, the CCH repository is only as good as the data received from courts and law enforcement.

These facts, along with the statistics highlighting that not all dispositions are reported to the CCH repository, clearly indicate that there is a need to provide courts with a mechanism for submitting disposition data in a timely, efficient, and accurate manner.

Mental health adjudication and commitment records

Federal and state statute specifies that those who are deemed mentally impaired to a degree that possession of firearms would be a danger to themselves or others, and/or who are involuntary committed to a state hospital are prohibited from obtaining a firearm. Up to now, the only way an Ohio probate court or a state hospital could submit such information on an individual to the mental incompetency database was through the use of an existing paper form. Not only is this submission format outdated, it is inefficient and prone to error. Additionally, anecdotal reports also suggested that judges and hospitals were unaware of the necessity of reporting these records. This combination of factors has historically led to low submission rates regarding prohibitions for mental impairment.

¹⁰ The Supreme Court's unit of count is cases, not charges or persons. A person could have more than one case. Each case may have more than one charge.

¹¹ Using a formula found in the BJS Publication, *Felony Defendants in Large Urban Counties 2006*, which indicated that roughly 16% of felony defendants plead down to a misdemeanor, it was estimated that of the 54,444 felony cases which pled guilty/no contest or which pled guilty to a lesser charge, 45,733 cases resulted in felony convictions.

¹² After 2011, a change was made to the system to require a mandatory field for reporting convictions as felonies.

¹³ ORC 109.57 (A)(2) specifies the reporting capabilities for every clerk of court of record in the state, other than the supreme court or a court of appeal. 109.60 speaks to requirements if a person or child hasn't been arrested and first appears before a court or magistrate who should take fingerprints. 1905.033 specifies the requirements to report every conviction in the mayor's court for an offense that is a misdemeanor on a first offense and a felony on any subsequent offense.

BCI reported that in 2011, 2,529 records were received into the mental incompetency database from probate courts on adjudications of mental defect and 1,612 records were received on formal involuntary commitments to a mental hospital. While the Supreme Court does not have a way to count the number of records probate courts have on this prohibitor, the Ohio Department of Mental Health indicated that there were 5,197 civil commitments to a state hospital from probate court in 2011. Assuming broadly that all those adjudicated mentally defective were also committed to a state hospital, this suggests that at least 20 percent of mental health records were not submitted to the NICS database in 2011.

These estimates, along with the lack of awareness of the need to report mental health adjudications and commitment records, indicate the value that an electronic mental illness reporting form could provide, along with training on the mental health adjudication reporting requirements.

Funding to Address Reporting Gaps in Ohio

There has been one primary source of funding to improve the completeness of firearms background checks in Ohio, the Bureau of Justice Statistics' National Criminal History Improvement Program (NCHIP). NCHIP provides direct awards and technical assistance to states and localities to improve the quality, timeliness, and immediate accessibility of criminal history records and related information. In 2013, BJA released a special solicitation called Improving the Completeness of Firearm Background Checks through Enhanced Data Sharing FY 2013 (hereafter referred to as NICS), which provided an opportunity to improve and expand the data accessible to NICS at the time of a firearm background check to ensure lawful purchases.

NCHIP funding

With the use of a portion of the state's NCHIP funds, the Supreme Court of Ohio and BCI began collaborating in October 2011 to develop an infrastructure in which felony and misdemeanor case dispositions can be electronically reported from a statewide electronic information exchange system known as the Ohio Courts Network (OCN) directly to the CCH repository so that they can be accessible for criminal history inquiries. Electronic submission has the advantage of increasing the number, accuracy, and timeliness of submissions, which are critical factors for FFLs when conducting background checks. In 2012, 73 percent of all Ohio courts, representing 83 percent of the total caseload, were linked to the OCN.

NICS funding

Through the Bureau of Justice Assistance, the Ohio Office of Criminal Justice Services (OCJS) received a NICS grant award for \$949,947 in October 2013. This grant had one large goal: to improve Ohio's transmittal of complete and accurate disposition and mental health records to the FBI's databases (III, NCIC, and NICS Index) to be searched by NICS. To achieve this goal, three objectives were identified: 1) To increase knowledge about Ohio's NICS reporting gaps; 2) To increase the submission of common pleas and municipal/county courts' disposition records to the state's CCH repository, and 3) To increase the submission of mental health adjudication and commitment records to the state's mental incompetency database. Leveraging the work already begun in 2011 through the NCHIP funding, the NICS funding expanded the reach of the program to achieve these goals.

This report focuses on the accomplishments made as a result of the NICS grant.

NICS Work Group

A NICS Work Group was created to formalize the process of improving Ohio's NICS reporting issues. Quantitative estimates supported by anecdotal reports indicate the extent and causes of the gaps in the reporting system in Ohio, particularly in the submission of felony disposition records and mental health records to the Attorney General's Bureau of Criminal Investigation (BCI). BCI houses the Computerized Criminal History (CCH) repository, which is the primary source of criminal history records maintained at the state.

The NICS Workgroup consists of several representatives from the Supreme Court of Ohio, the Attorney General's Office, the Bureau of Criminal Investigation (BCI), the Ohio Office of Criminal Justice Services, and the Ohio Department of Mental Health and Addiction Services (OMHAS). Additionally, a smaller workgroup, called the Mental Illness Adjudication Reporting user group (MIAR), was created to look at the mental health and adjudication commitments. This group consisted of representatives from the Supreme Court, BCI, Attorney General's Office, OMHAS, Delaware County Probate Court, Franklin County Probate Court, Twin Valley Behavioral Healthcare, and Trumbull County Probate Court.

The NICS Workgroup held its first formal meeting on September 30, 2013, which was the day before the start of the BJA grant. Meetings were held quarterly, generally on the third Tuesday of the month. All meetings were held at the Supreme Court, and generally lasted between one and two hours. In addition to the regularly-occurring meetings, the BJA technical assistance team conducted a site visit on February 27, 2014, and again on November 3-4, 2014. These visits took place at the Ohio Department of Public Safety. Meetings of the MIAR user group took place on an as-needed basis.

Goal and Objectives of the NICS Firearms Project

The ultimate goal of this project was to improve Ohio's transmittal of complete and accurate disposition and mental health records to the FBI's databases (III, NCIC, and NICS Index) by closing the gaps in disposition records and mental health adjudication and commitment records submitted to the state's CCH repository.

To this end, the following objectives were identified:

Objective 1: To increase knowledge about Ohio's NICS reporting gaps

As mentioned earlier, it has been difficult to precisely determine Ohio's reporting gaps due to the decentralized nature of our court system. For this reason, the NICS Workgroup was created prior to the start of the BJA grant to estimate the reporting gap and to formalize a process for closing the gap. They also helped to identify performance measures to measure success.

Objective 2: To increase the submission of common pleas and municipal/county courts' disposition records to the state's CCH repository

Funding from the NICS grant allowed the Supreme Court to increase the number of local courts it was able to connect to their electronic data exchange system known as the Ohio Courts Network, or OCN. While courts had been able to submit dispositions electronically prior to the start of this grant, more than half the courts were still sending their dispositions by paper. Being linked to the OCN offers local courts an additional tool to allow felony and misdemeanor disposition data to be electronically submitted from the local courts to the CCH repository.

In order to get disposition data from the local courts to the CCH repository, courts must enter into a formal agreement with the Supreme Court allowing their data to be submitted to BCI through the OCN. Courts are encouraged to do so for a few significant reasons: 1) Once set up, the data exchange takes place automatically, with no need for human intervention, freeing up resources; 2) the data exchange takes place weekly, allowing courts to come into compliance with statute; 3) the disposition records are checked for errors and for completeness, allowing local courts to identify and correct mistakes, and to learn from consistent errors they are making.

Objective 3: To increase the submission of mental health adjudication and commitment records to the state's mental incompetency database.

Funding from the NICS grant permitted the Supreme Court to create an electronic reporting form as an option to replace the paper forms BCI had provided. While the paper forms were always available for use by courts, some courts were simply not aware of their existence, and those that were aware still failed to use them. The new form provides a more efficient means of submitting mental health adjudication and commitment information, and allows for information to be submitted by probate courts as well as mental health facilities throughout the state.

Funding was also used to prepare and provide a training for judges on the electronic mental illness reporting form, to increase their awareness of the need for reporting.

Successes and Challenges in Disposition Reporting

Baseline and milestones

At the beginning of the project period, October 2013, there were 290 courts connected to the OCN. The Supreme Court identified courts that were unable to connect to the OCN due to their inability to upgrade their current case management systems because of lack of funding. Ultimately, NICS funding allowed for 14 courts to be connected to the OCN:¹⁴

- Perry County Probate Court
- Mercer County Probate Juvenile Court
- Paulding County Probate Juvenile Court
- Meigs County Probate Juvenile Court
- Fairfield County Juvenile Court
- Holmes County Probate Juvenile Court
- Homes County Common Pleas Court
- Sandusky Municipal Court
- Carroll County Probate Court
- Brown County Probate Court
- Vinton County Court
- Vinton County Probate Juvenile Court
- Preble County Juvenile Court
- Niles Municipal Court

See Appendix A for a map of all connected courts, and Appendix B for a list of remaining courts that are not connected to the OCN.

The Supreme Court's IT staff worked with each court and their case management system vendor to upgrade the system and establish connectivity to the OCN system. This was a relatively easy process, as most courts use one of two vendors (Courtview and Henschen). By March 2015, all 14 courts had completed their upgrades and were

¹⁴ An additional 11 courts were added to the OCN during the project period that did not receive funding from the NICS grant. In all, by the end of the project period, 315 courts were connected to the OCN, representing 88.3% of the total annual caseload. The Supreme Court anticipates to be over 90% by year end.

successfully connected to the OCN. Few problems were encountered. A monthly conference call with vendors also helped to avoid major complications. Most courts required little training to become familiar with the OCN, with only one county (Holmes) requiring more training due to experiencing a major overhaul of their system.

As courts were being connected to the OCN, work was being done by the Supreme Court's IT staff and BCI's IT staff to create and test an interface to send dispositions to the CCH repository from the local court information being sent to the OCN. This was a significant task, as the infrastructure was not in place initially to allow for connectivity. Internal testing of the interface began in October 2014, and external testing utilizing the MIAR user group began in early 2015.

In April 2015, pilot testing began with six courts to complete final testing of an interface to send dispositions to the CCH repository through the OCN. One court had to drop out because they were not entering adequate information into their system. Full rollout of the automation of disposition reporting began in June 2015. The Supreme Court sent notifications to courts to solicit participation. A priority list was developed by BCI for those courts expressing interest, with priority based on county size and on courts that were still submitting dispositions via mail. Initially, it took roughly three to four weeks to get the first five courts set up, with anticipation of accelerating this rate to five or more per month once all the bugs were worked out.

Final status on OCN BCI disposition reporting

Since June, the number of courts that have been accepted and are successfully reporting dispositions has grown from the five pilot courts to 28 courts. These weekly reports have resulted in over 20,000 dispositions to BCI. There are nine additional courts that are in various stages of configuration and testing, and 15 additional courts that have expressed interest in the program. All of the courts that have been accepted have been pleased with the results and have found that they are able to provide more timely dispositions with less effort. The Supreme Court will be reaching out to courts that have not yet expressed interest, and it is expected that with the successes of the early adopters, more courts will be interested in participating.

To assess the timeliness and accuracy of the dispositions being reported to the CCH, five courts were randomly selected to be evaluated. Data was gathered both pre-OCN implementation and post-OCN implementation to determine the number of days from the date of disposition by the court to the date the disposition was recorded in the CCH (i.e., timeliness). Additionally, data was gathered on the measuring number of errors/rejections by the CCH both pre- and post-OCN implementation. The findings are shown in a table in Appendix C, and discussion follows.

Timeliness. The average number of days from the disposition date to disposition recorded in the CCH decreased significantly across all five test sites from pre-OCN implementation to post-OCN implementation. Because some extreme data points (at times lasting well over a year) can impact the average, the median was also calculated across the five sites. The median number of days from disposition date to disposition recording in the CCH decreased substantially in three of the five sites. One court showed a 60% decrease (from 10 days to 4 days). Another court showed a 91.5% decrease (71 days to 6 days). A third court showed an 83% decrease (44 days to 7.5 days).

According to statute, dispositions are to be reported by the courts to BCI within seven days. Many courts have not adhered to this statute, and it was thought that using the OCN, which uploads dispositions to the CCH on a weekly basis, would allow more courts to adhere to this seven-day requirement. Three of the five courts—the same three courts that saw a substantial decrease in the median number of days from disposition date to disposition reporting in the CCH—saw an increase in the percentage of dispositions that were reported within seven days. Furthermore,

the percentage of dispositions taking longer than 31 days to go from the court to the CCH decreased across all five sites from pre-OCN to post-OCN implementation.

These findings are interesting for several reasons. As anticipated, the data suggest that courts can benefit hugely by the use of the OCN as a mechanism to transfer their disposition to the CCH. However, not all courts benefitted equally. Two of the five courts did not show substantial decreases when comparing median disposition reporting times pre-OCN and post-OCN. In fact, their reporting times increased a small amount. Additionally, the same two courts also saw a slight decrease in their percentage of dispositions reported within the seven-day window. These findings highlight the fact that some courts may have had a reporting process in place that allowed them to submit dispositions in a timely manner. It is important to note, however, that the percentage of extreme cases—those which took longer than 31 days (1 month) to go from the court to the CCH decreased across all five sites from pre-OCN to post-OCN, suggesting that extreme cases of disposition reporting might be minimized across most courts with the use of the OCN. In sum, for those courts that did not have a good disposition reporting mechanism in place, the OCN was extremely beneficial in decreasing the time it takes to get dispositions from the court to the CCH. For those courts that already had a good reporting mechanism in place, the primary advantage of the OCN was in lowering the amount of time it took in getting the disposition from the court to BCI for the extreme cases.

Accuracy. A comparison of the number of records loaded successfully into the CCH and the number records rejected due to error was performed pre-OCN implementation and post-OCN implementation for a sampling of cases within the five courts.¹⁵ The results showed an increase across all five courts pre-OCN to post-OCN. In other words, more errors were uncovered as courts began using the OCN to transfer their dispositions to the CCH. Admittedly, this result was initially surprising. However, review of the process of disposition transfer pre-OCN and post-OCN explains these findings. The processing of the dispositions at BCI, including error checking, has not changed. OCN files are processed and error checked in the same manner as non-OCN files. The increase in errors is a result of the automation and increased timeliness. Courts that are not participating in OCN have more control over what and when dispositions are submitted to BCI. If the disposition is incomplete, the court will not send it. Using OCN, dispositions are arriving at BCI prior to all the information being filled in, and in some cases, even prior to the arrest being received from the law enforcement agency (No Arrest on File).

There are still a number of dispositions that take longer than seven days to go from the court to the CCH, despite the use of the OCN. In our grant application, we projected that “even with a conservative five percent reject rate, the CCH repository will see over 95% of the dispositions within a week for the courts participating”. Clearly this is not (yet) the case. It is quite plausible that errors, and their resulting resubmissions, results in an increased number of days that it takes to get the disposition from the court to the CCH. It is likely that as common errors are identified and rectified, fewer resubmissions will result, and this will ultimately increase the percentage of dispositions being reported within the mandated seven-day period.

Challenges

A few challenges were encountered along the way. BCI experienced a slight delay in work production due to issues regarding the need to renew a developer’s contract. Also, BCI encountered some unanticipated problems regarding LEADS transmissions that required them to improve the LEADS interface by using a web service. Once testing began with external users, BCI noticed that some local ordinances sent by the courts in their disposition

¹⁵ It is important to note that attempting to measure accuracy based solely on the number of errors without clarification of the type/meaning of the errors can be a bit misleading, as not all errors reported in the transmissions to BCI are the result of inaccurate data. For instance, if a disposition is sent to BCI prior to the arrest being sent to BCI, this will result in an error. Discriminating between error types was not done in these analyses.

reports were being rejected. Additionally, a number of courts have had to make procedural changes in order to participate, which takes some time.

It is important to remember that participation in the OCN is voluntary. Without mandatory participation, Ohio will still not have a centralized method for courts to submit disposition data. In essence, courts may continue to submit dispositions directly to BCI the way they have historically done so (paper or electronic through FTP), or they may submit through the OCN.

Next steps

The Supreme Court plans to reach out to the courts that have not yet expressed an interest in using the OCN for their disposition reporting. The Court will provide periodic updates on the rollout to encourage interest in participation.

Successes and Challenges in Mental Health Reporting

Baseline and milestones

An initial assessment of Ohio's reporting gaps conducted by the NICS Workgroup indicated that there was a large discrepancy between the number of commitments to state hospitals and the numbers of notifications in the BCI database. The Mental Illness Adjudication Reporting (MIAR) user group was formed in October 2014 to study this issue and to discuss the need for increased reporting. Initial input from this workgroup indicated two primary needs: 1) An improved method of submitting mental health adjudication and commitment records to BCI; and 2) Increased awareness of probate judges and of state hospital administrators regarding the mental illness reporting requirements.

With funding from the NICS grant, several steps were taken to address these identified needs.

Mental Illness Adjudication Reporting. In October 2014, the MIAR user group assisted with the conversion of an existing paper-based mental health reporting form into an electronic form, and ensured that the resulting system met the needs of its users. The roles of this user group were to verify assumptions and requirements, to review and provide feedback on system design, to participate in hands-on testing of the system, and to serve as initial production users of the system.

The Supreme Court's IT department, with input from the user group, created a template of the electronic form based on the paper form, developed application screen designs, and established user roles for the form at the probate courts and hospitals. An initial demonstration of the wireframe screen designs for the form was presented to the user group in May 2014 in order to validate the design and get feedback from the group. In June 2014, a demonstration of the electronic form was given to probate court judges at their annual conference.

Testing of the web service began in the fall of 2014, with user group testing taking place in the winter of 2015. All testing was successfully completed by March 2015. Legal departments from the Supreme Court and OMHAS drafted an MOU for hospitals to have limited access to the OCN for reporting purposes. In addition, MOUs were created for probate courts that did not already have access to the OCN. It is notable that the OCN does not collect the reporting form; rather, BCI receives the information electronically by leveraging the benefits of the OCN authentication and security.

On June 3, 2015, Mental Illness Adjudication Reporting (MIAR) was rolled out. It allows probate courts and hospitals to submit mental illness adjudication and involuntary commitment reports to BCI pursuant to ORC 5122.311. See Appendix D for a sample MIAR form. On June 29, an announcement was released on the Court News Ohio website.

The users of the MIAR system are probate courts, state hospitals, and BCI. Not all probate courts currently adjudicate mental illness. The electronic reporting system has several advantages over paper submissions, including the ability to view, modify, or expire a form and to run queries. Additionally, a conversion of existing records allows visibility into notifications recorded prior the implementation of the new system.

Education of probate court judges. The MIAR user group found great inconsistencies between counties in the volume of mental health adjudications they reported to BCI, suggesting that not all probate judges are aware of, or understand, the requirement to submit such information to BCI. Therefore, on June 16, 2014, as part of their annual conference, 79 judges and magistrates with probate jurisdiction received training on mental health weapons disqualification and on the new electronic form. Approximately 54 counties had representatives in the audience to hear from administrators from OMHAS on topics of mental health adjudications and weapons disqualifications. The two-hour session included a presentation by the Supreme Court IT staff, who demonstrated the new electronic reporting tool. In addition to this one-time training, a user guide was created and made available online. See Appendix E for the user guide. The OCN Help Desk was also made available for questions about the MIAR system.

Final status on Mental Illness Adjudication Reporting

Since its launch on June 3, the Supreme Court has had 45 users sign up for access from 18 courts and the six state mental hospitals. One thousand eighteen reports have been submitted electronically. Although this program is voluntary, the Court is contacting local courts that continue to submit on paper to ensure they are aware of the electronic option. As a result, they are continuing to sign up users, and the percentage of reporting by paper continues to decline. On average, BCI was receiving roughly 2,000 paper forms every six months. As a direct result of electronic submissions, BCI has noticed a 78% decrease in paper submissions as of October 2015.

Conversely, the number of electronic mental health adjudications available at BCI should increase as more courts and hospitals submit reports using this method. In the six-month period prior to MIAR implementation, zero electronically submitted adjudication reports were available at BCI. In the first four months post-MIAR implementation, 1,018 adjudication reports were submitted electronically to BCI.

Timeliness improved as a result of MIAR implementation. The average number of days from the date the court issued the finding of mental incompetency to the date that the record was created was 10.36 days in 2014. This lag was due to the time required to complete the form, mail the form, and submit the form into the old database. After MIAR implementation, this average number of days was reduced to 5.76—a reduction of over 44%.

Submissions of the electronic form through OCN also guarantee a more expedient entry due to the presence of required data entry fields. Quantitative evidence of improved accuracy is shown by counting the average number of days between the finding of mental incompetency and acceptance of the form by the FBI. In the past, this time took longer (almost 10 days) because some forms were rejected by the FBI or data was missing and BCI had to call or wait for the court/agency to provide the corrected information. Because the online system does not allow for a record to be submitted with missing data, the quality of the records increased. So what took nearly two weeks to correct and finalize in 2014 only took a little over three days after implementation of the MIAR system because the data was accepted without error by the FBI. Additionally, given the small amount of paper submissions BCI

now receives, they have fewer manual corrections required for resubmission. The smaller number of resubmissions helps increase accuracy as well as timeliness.

Challenges

While the electronic form was being created, Senate Bill 43 passed into law. This bill clarified Ohio's court-ordered outpatient treatment of mentally ill persons. As a result, minor language changes in wording were made to the form.

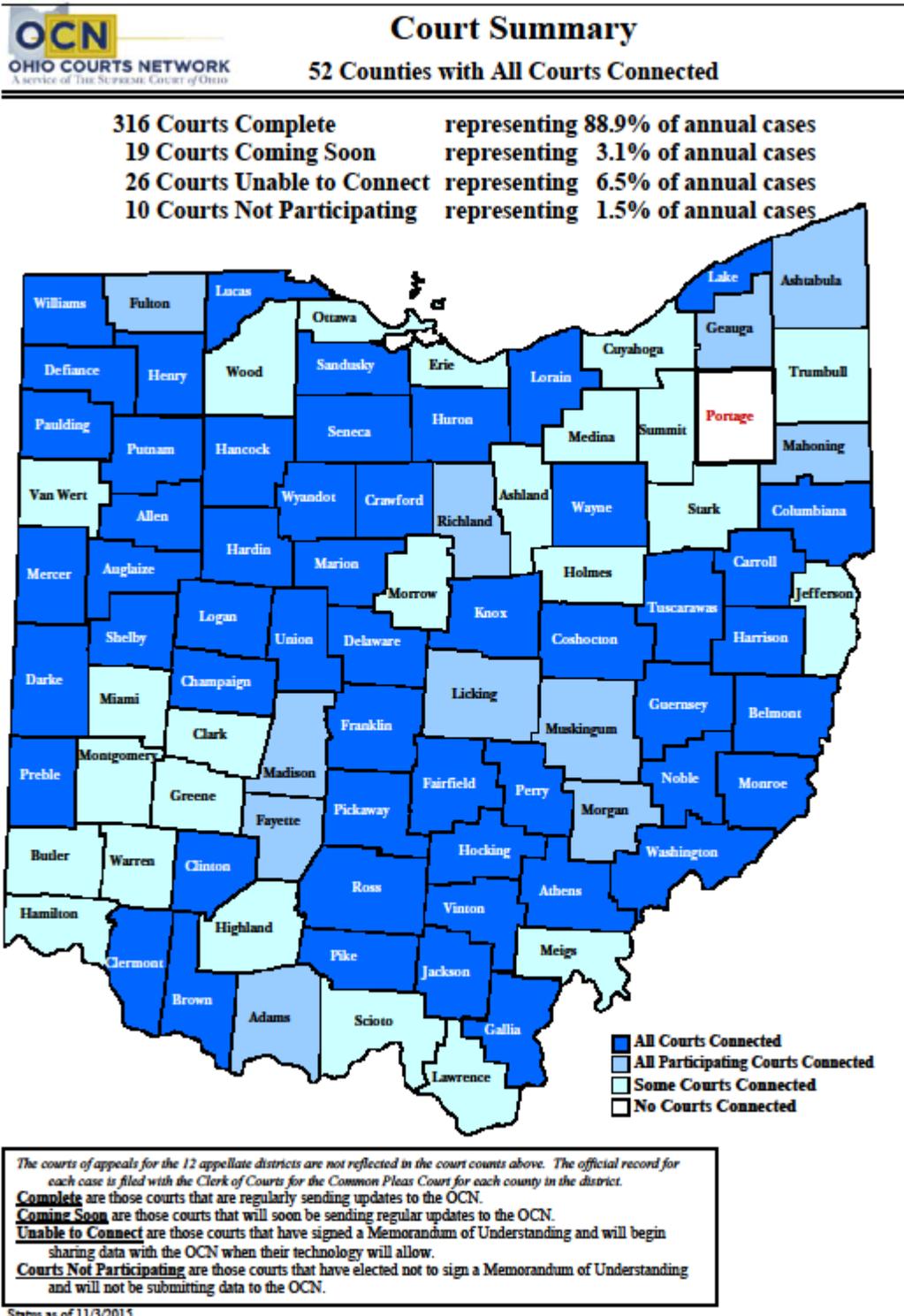
There is the potential for duplication of MIAR forms if both a judge and a hospital submit the form on the same person. While duplication will impact the count of the number of forms submitted, the consensus was that it is better to have duplicate forms on the same person than to not submit the forms at all. The only feasible way to avoid duplication is to specify through changes in the Ohio Revised Code who should take the lead in submitting the form.

Next steps

The Supreme Court is monitoring the paper forms entered each month and is contacting those probate courts to ensure they are aware of the electronic reporting option.

Appendices

Appendix A. Participating court summary.



Appendix B. List of non-participating courts.



Courts Not Participating

Courts Not Participating are those courts that have elected not to sign a Memorandum of Understanding and will not be submitting data to the OCN.

County	Court	Jurisdiction
Adams	Adams County Court	County
Ashtabula	Ashtabula County Court of Common Pleas, Probate and Juvenile Divisions	Probate
Fayette	Fayette County Court of Common Pleas, Probate and Juvenile Divisions	Juvenile
Fayette	Fayette County Court of Common Pleas, Probate and Juvenile Divisions	Probate
Fulton	Fulton County Court of Common Pleas, Probate and Juvenile Divisions	Probate
Geauga	Geauga County Court of Common Pleas, Probate and Juvenile Divisions	Juvenile
Geauga	Geauga County Court of Common Pleas, Probate and Juvenile Divisions	Probate
Hamilton	Hamilton County Court of Common Pleas, Domestic Relations Division	Domestic Relations
Licking	Licking County Court of Common Pleas, Probate and Juvenile Divisions	Juvenile
Madison	Madison County Municipal Court	Municipal
Mahoning	Campbell Municipal Court	Municipal
Morgan	Morgan County Court	County
Muskingum	Muskingum County Court of Common Pleas, General Division	General
Ottawa	Ottawa County Municipal Court	Municipal
Portage	Portage County Court of Common Pleas, Probate and Juvenile Divisions	Juvenile
Richland	Richland County Court of Common Pleas, Juvenile Division	Juvenile

Appendix C. Impact of OCN implementation on the timeliness and accuracy of disposition reporting.

Court	# of observations		Average # days since disposition		Median # days since disposition		Lowest # days since disposition (low end of range)		Highest # days since disposition (high end of range)		Percent within 7 days of disposition		Percent 32+ days		Errors	
	pre	post	pre	post	pre	post	pre	post	pre	post	pre	post	pre	post	pre	post
Chariton Muni	402	592	61.5	12.7	4.5	6	0	1	2923	88	59.7%	57.3%	12.4%	10.6%	2.1%	20.5%
Middletown Muni	1439	204	10.7	4.7	10	4	4	1	30	26	24.1%	93.6%	0.0%	0.0%	3.3%	11.7%
Gallipolis Muni	51	63	102	15.2	71	6	7	2	672	104	2.0%	36.5%	88.2%	14.3%	0.0%	53.6%
Barberton Muni	203	323	91	12.5	7	9	0	1	1414	53	56.2%	40.2%	40.9%	12.1%	0.0%	15.9%
Coshocton Muni	76	158	53.2	17.2	44	75	3	1	134	151	2.6%	50.0%	59.2%	15.8%	5.3%	46.4%

Appendix D. Mental Illness Adjudication Reporting (MIAR) sample form.



Mental Illness Notification Detail
Under O.R.C 5122.311



Date Recorded: 08/20/2015 **ARI (BCI):** 291013 **NRI (NICS):** 1508853875

MADGE ISTRATE

of ALLEN COUNTY PROBATE COURT

located at 301 NORTH MAIN STREET, LIMA, OH, 45805

reported the following regarding a mentally ill person subject to hospitalization by court order or involuntary patient other than one who is a patient only for purposes of observation, to the best of the knowledge and information available.

Court Case #:	
Name: WILLY W TESTER	Alias:
Gender: MALE	Race:
Social Security #:	MNU:
Date of Birth: 01/01/1980	Place of Birth:
Address (Residence):	
Address (Mailing):	

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2018 NICS WORKING GROUP

<i>Sara Andrews</i>	Supreme Court of Ohio, Ohio Criminal Sentencing Commission
<i>Robert Baker</i>	Ohio Department of Mental Health and Addiction Services
<i>Marc Baumgarten</i>	Ohio Department of Mental Health and Addiction Services
<i>Laura Black</i>	Cuyahoga County Clerk of Court's Office/Ohio Clerk of Courts Association
<i>Ed Burkhammer</i>	Ohio Department of Public Safety, Office of Criminal Justice Services
<i>Nailiah Byrd</i>	Clerk of Court, Cuyahoga County/Ohio Clerk of Courts Association
<i>Carol Ellensohn</i>	Ohio Department of Public Safety, Office of Criminal Justice Services
<i>Rickeya Franklin</i>	Ohio Attorney General's Office, Bureau of Criminal Investigation
<i>Jeremy Hansford</i>	Ohio State Highway Patrol, Law Enforcement Automated Data System
<i>Karen Huey</i>	Ohio Attorney General's Office, Bureau of Criminal Investigation
<i>Steven Longworth</i>	Clerk of Court, City of Middletown/Ohio Association of Municipal and County Court Clerks
<i>Jim Luebbers</i>	Ohio Department of Public Safety, Office of Criminal Justice Services
<i>Conchita Matson</i>	Ohio Attorney General's Office, Bureau of Criminal Investigation
<i>Cindy Mollenkopf</i>	Clerk of Court, Van Wert County/Ohio Clerk of Courts Association
<i>Karhlton Moore</i>	Ohio Department of Public Safety, Office of Criminal Justice Services
<i>Joseph Morbitzer</i>	Chief, Westerville Police Department
<i>Stephanie Nelson</i>	Supreme Court of Ohio
<i>Ronald O'Brien</i>	Prosecutor, Franklin County
<i>Lisa Shoaf</i>	Ohio Department of Public Safety, Office of Criminal Justice Services
<i>Michael Simpson</i>	Sheriff, Preble County/Buckeye State Sheriffs' Association
<i>Brandon Standley</i>	Chief, Bellefontaine Police Department/Ohio Association of Chiefs of Police
<i>Robert Stuart</i>	Supreme Court of Ohio