

From: Violeta Navarro
To: TAC's
Date: February 22, 2023
Subject: RCW 7.105 Guidance and Clarification - NICS Indices Entry Good afternoon,

Good afternoon,

Recently we have been receiving a lot of questions relating to RCW 7.105 and what orders need to be entered into the NICS Indices. This email is to provide some clarification, however ultimately we recommend that your agency also reach out to your legal team for guidance. Below are some common questions we receive, hope this helps!

What orders should be entered into the NICS Indices? Please refer to [RCW 7.105.325](#)

RCW [7.105.325](#)

Entry of protection order data—Other than for extreme risk protection orders.

(1) The clerk of the court shall enter any protection order, including temporary protection orders, issued under this chapter into a statewide judicial information system on the same day such order is issued, if possible, but no later than the next judicial day.

(2) A copy of a protection order granted under this chapter, including temporary protection orders, must be forwarded immediately by the clerk of the court, by electronic means if possible, to the law enforcement agency specified in the order. Upon receipt of the order, the law enforcement agency shall immediately enter the order into any computer-based criminal intelligence information system available in this state used by law enforcement agencies to list outstanding warrants. The order must remain in the computer until the expiration date specified on the order. If the court has entered an order that prohibits the respondent from possessing or purchasing a firearm, the law enforcement agency shall also enter the order into the national instant criminal background check system and any other federal or state computer-based systems used by law enforcement or others to identify prohibited purchasers of firearms. The order must remain in each system for the period stated in the order, and the law enforcement agency shall only expunge orders from the systems that have expired or terminated. Entry into the computer-based criminal intelligence information system constitutes notice to all law enforcement agencies of the existence of the order. The order is fully enforceable in any county in the state.

(3) The information entered into the computer-based criminal intelligence information system must include notice to law enforcement on whether the order was personally served, served by electronic means, served by publication, or served by mail.

(4) If a law enforcement agency receives a protection order for entry or service, but the order falls outside the agency's jurisdiction, the agency may enter and serve the order or may immediately forward it to the appropriate law enforcement agency for entry and service, and shall provide documentation back to the court verifying which law enforcement agency has entered and will serve the order.

How do I know if a protection order was issued under RCW 7.105?

The Administrative Office of the Courts were required by law to update their protection order forms by 7/1/2022 with the purpose of streamlining and making it easier for all parties. AOC updated their protection order forms, see below:

- Protection Order – https://www.courts.wa.gov/forms/documents/PO_040_Protection_Order_2023_01.pdf

Screen shot of the top of the form:

Court of Washington, County of _____	
Petitioner, _____	Date of Birth _____
vs.	
Respondent _____	Date of Birth _____
No. _____	
Protection Order (OR-)	
<input type="checkbox"/> Domestic Violence (PRT)	
<input type="checkbox"/> Sexual Assault (SXP) <input type="checkbox"/> Harassment (AH)	
<input type="checkbox"/> Stalking (PSTK)	
<input type="checkbox"/> Vulnerable Adult (PRTVA)	
Clerk's action required: 5.B., 10, 11, 12, 14	

Screenshot of the bottom of the form (this protection order is issued under RCW 7.105, NICS Indices entry would be required if the respondent is prohibited from possessing or purchasing a firearm):

RCW 7.105.310, .315, .325
Mandatory (01/2023)
PO 040

Protection Order
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- No-Contact Order – <https://www.courts.wa.gov/forms/documents/NC 02.0100 No Contact Order 2022 07.pdf>

These orders *do not* apply for entry into the NICS Indices under RCW 7.105.325

Screen shot of the top of the form:

Court of Washington, County/City of _____

State of Washington, Plaintiff vs. _____ Defendant (First, Middle, Last Name) SID: _____	No. [] Pre-Trial [] Post Conviction No-Contact Order (clj = NOCON, Superior cts = ORNC, ORWPNP) Clerk's action required: Sec. 9, 10
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Screen shot of the bottom of the form: (notice it is not issued under RCW 7.105)

RCW 10.99.040, 9A.44.210,
9A.46.055, .040, 9A.40.106,
9A.88 (07/2022)
NC 02.100

No Contact Order
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- Extreme Risk Protection Orders – these orders are required to be entered into the NICS Indices per RCW 7.105.350

RCW [7.105.350](#)

Reporting of orders—Extreme risk protection orders.

(1) The clerk of the court shall enter any extreme risk protection order, including temporary extreme risk protection orders, issued under this chapter into a statewide judicial information system on the same day such order is issued, if possible, but no later than the next judicial day.

(2) A copy of an extreme risk protection order granted under this chapter, including temporary extreme risk protection orders, must be forwarded immediately by the clerk of the court, by electronic means if possible, to the law enforcement agency specified in the order. Upon receipt of the order, the law enforcement agency shall immediately enter the order into the national instant criminal background check system, any other federal or state computer-based systems used by law enforcement or others to identify prohibited purchasers of firearms, and any computer-based criminal intelligence information system available in this state used by law enforcement agencies to list outstanding warrants. The order must remain in each system for the period stated in the order, and the law enforcement agency shall only expunge orders from the systems that have expired or terminated. Entry into the computer-based criminal intelligence information system constitutes notice to all law enforcement agencies of the existence of the order. The order is fully enforceable in any county in the state.

(3) The information entered into the computer-based criminal intelligence information system must include notice to law enforcement whether the order was personally served, served by electronic means, served by publication, or served by mail.

(4) If a law enforcement agency receives a protection order for entry or service, but the order falls outside the agency's jurisdiction, the agency may enter and serve the order or may immediately forward it to the appropriate law enforcement agency for entry and service, and shall provide documentation back to the court verifying which law enforcement agency has entered and will serve the order.

(5) The issuing court shall, within three judicial days after the issuance of any extreme risk protection order, including a temporary extreme risk protection order, forward a copy of the respondent's driver's license or identicard, or comparable information, along with the date of order issuance, to the department of licensing. Upon receipt of the information, the department of licensing shall determine if the respondent has a concealed pistol license. If the respondent does have a concealed pistol license, the department of licensing shall immediately notify a law enforcement agency that the court has directed the revocation of the license. The law enforcement agency, upon receipt of such notification, shall immediately revoke the license.

(6) If an extreme risk protection order is terminated before its expiration date, the clerk of the court shall forward on the same day a copy of the termination order to the department of licensing and the law enforcement agency specified in the termination order. Upon receipt of the order, the law enforcement agency shall promptly remove the order from any computer-based system in which it was entered pursuant to subsection (2) of this section.

Are restraining orders (RO) required to be entered into the NICS Indices?

No, only orders that are issued under RCW 7.105 and prohibit the respondent from possessing or purchasing a firearm are required to be entered into the NICS Indices.

Restraining orders are issued under the below statutes:

RCW 26.09.060, .110, .120, .194, .300
Mandatory Form (07/2022)
FL All Family 150

Restraining Order
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How do I enter into the NICS Indices? What PCA/SPC Code do I use?

For record entry requirements please refer to the ACCESS Operations Manual – Chapter 19 NICS located on our [webpage](#).

What if my court isn't using the updated AOC forms?

AOC was mandated by law to provide these updated forms to courts in our state by 7/1/2022. If your court is not using these forms we recommend to communicate with the court personnel the importance of using the updated forms. The intent of AOC updating the protection order forms were to make it easier for all involved (petitioners, courts, and law enforcement). If your court refuses to use the updated forms we recommend contacting your legal department to assist in interpreting the old protection order forms to the new RCW 7.105 requirements.

Does RCW 7.105.325 (entry into the NICS Indices) apply to Civil or Criminal Protection Orders?

The statute does not include civil or criminal terminology. RCW 7.105.325 states “A copy of a protection order granted under this chapter, including temporary protection orders...” therefore, when trying to determine if an order meets entry into the NICS Indices under RCW 7.105.325 you will need to determine if the protection order was issued under this RCW.

I hope you all found this email useful. If you have any other questions please let me know.

Thank you,

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