



# JUDICIAL COUNCIL OF CALIFORNIA

COURT EXECUTIVES  
ADVISORY COMMITTEE

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## COURT EXECUTIVES ADVISORY COMMITTEE JUDICIAL BRANCH STATISTICAL INFORMATION SYSTEM SUBCOMMITTEE

**MATERIALS FOR JANUARY 28, 2022**

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Request for ADA accommodations  
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## COURT EXECUTIVES ADVISORY COMMITTEE JUDICIAL BRANCH STATISTICAL INFORMATION SYSTEM SUBCOMMITTEE

### NOTICE AND AGENDA OF OPEN MEETING

Open to the Public (Cal. Rules of Court, rule 10.75(c)(1) and (e)(1))

THIS MEETING IS BEING CONDUCTED BY ELECTRONIC MEANS

THIS MEETING IS BEING RECORDED

**Date:** January 28, 2022  
**Time:** 1:00 PM - 2:30 PM  
**Public Call-in Number:** <https://primetime.bluejeans.com/a2m/live-event/gzsgjptw>

Meeting materials will be posted on the advisory body web page on the California Courts website at least three business days before the meeting.

Members of the public seeking to make an audio recording of the meeting must submit a written request at least two business days before the meeting. Requests can be e-mailed to [tcpjac\\_ceac@jud.ca.gov](mailto:tcpjac_ceac@jud.ca.gov).

Agenda items are numbered for identification purposes only and will not necessarily be considered in the indicated order.

#### I. OPEN MEETING (CAL. RULES OF COURT, RULE 10.75(C)(1))

##### Call to Order and Roll Call

##### Approval of Minutes

Approve minutes of the February 8, 2021, Judicial Branch Statistical Information System Subcommittee, Court Executives Advisory Committee meeting.

#### II. PUBLIC COMMENT (CAL. RULES OF COURT, RULE 10.75(K)(1))

This meeting will be conducted by electronic means with a listen only conference line available for the public. As such, the public may submit comments for this meeting only in writing. In accordance with California Rules of Court, rule 10.75(k)(1), written comments pertaining to any agenda item of a regularly noticed open meeting can be submitted up to one complete business day before the meeting. For this specific meeting, comments should be e-mailed to [tcpjac\\_ceac@jud.ca.gov](mailto:tcpjac_ceac@jud.ca.gov) or mailed or delivered to Judicial Council of California, 455 Golden Gate Avenue, San Francisco, California 94102, attention: Jackie Henke. Only written comments received by 1:00 p.m., January 27, 2022, will be provided to advisory body members prior to the start of the meeting.

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**III. INFORMATION ONLY ITEMS (NO ACTION REQUIRED)**

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**Info 1**

**JBSIS 4.0 Committee Presentations**

Update on presentations to JCC committees regarding plans for JBSIS 4.0.

Presenters: Mr. Jake Chatters, Chair, JBSIS Subcommittee  
Jackie Henke, Senior Analyst, Office of Court Research, Business  
Management Services

**Info 2**

**JBSIS 4.0 Timeline**

Update on the proposed timeline of the development and implementation of JBSIS 4.0.

Presenters: Mr. Jake Chatters, Chair, JBSIS Subcommittee  
Jackie Henke, Senior Analyst, Office of Court Research, Business  
Management Services

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**IV. DISCUSSION AND POSSIBLE ACTION ITEMS (ITEMS 1–4)**

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**Item 1**

**NGI Reporting (Action Required)**

Briefing on memo regarding Not Guilty by Reason of Insanity reporting in JBSIS 3.0.  
Subcommittee will consider potential edits to NGI reporting in JBSIS 4.0.

Presenter: Jackie Henke, Senior Analyst, Office of Court Research, Business  
Management Services

**Item 2**

**Petition Reporting (Action Required)**

Briefing on memo regarding initial, subsequent, and supplemental petition reporting in  
JBSIS 3.0. Subcommittee will consider options for providing additional guidance, edited  
guidance, or a reconceptualization of petitions in JBSIS 4.0.

Presenter: Jackie Henke, Senior Analyst, Office of Court Research, Business  
Management Services

**Item 3**

**JBSIS 3.1 (Action Required)**

Summary and discussion of potential reporting clarifications to the JBSIS 3.0 manual.  
Subcommittee will consider the development of JBSIS 3.1.

Presenter: Jackie Henke, Senior Analyst, Office of Court Research, Business  
Management Services

**Item 4**

**JBSIS Aging Calculations (Action Required)**

Summary and discussion of case aging calculations in JBSIS 3.0. Subcommittee will consider the utility of adding a time-to-disposition baseline calculation.

Presenter: Jackie Henke, Senior Analyst, Office of Court Research, Business Management Services

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**V. A D J O U R N M E N T**

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**Adjourn**



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## COURT EXECUTIVES ADVISORY COMMITTEE JUDICIAL BRANCH STATISTICAL INFORMATION SYSTEM SUBCOMMITTEE

### MINUTES OF OPEN MEETING

February 8, 2021

11:00 AM

Via Conference Call

**Advisory Body Members Present:** Mr. Jake Chatters, Chair; Ms. Sherri R. Carter, Ms. Rebecca Fleming; Mr. Kevin Harrigan; Mr. Michael D. Planet; Mr. Michael M. Roddy

**Advisory Body Members Absent:** Mr. Chad Finke, Ms. Kim Turner

**Others Present:** Ms. Leah Rose-Goodwin; Ms. Emily Chirk; Mr. David Kukesh, Ms. Savet Hong

#### OPEN MEETING

##### Call to Order and Roll Call

The chair called the meeting to order at 11:03 AM, and took roll call.

##### Approval of Minutes

The advisory body reviewed and approved the minutes of the January 27, 2021, Judicial Branch Statistics Information System Subcommittee meeting.

#### DISCUSSION AND ACTION ITEMS

##### Item 1

##### Misdemeanor/Infraction Reports (Action Required)

**Action:** The subcommittee reviewed a draft of the proposed JBSIS 4.0 mandated misdemeanor report. The subcommittee approved adding a "reduced to infraction" column on the misdemeanor report and using 0-60 days, 61-90 days, 91-180 days, and GE 181 days as aging categories for misdemeanor and infraction case types.

#### ADJOURNMENT

There being no further business, the meeting was adjourned at 11:41 AM.

Approved by the advisory body on enter date.

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**(Discussion Item)**

**Title:** Not Guilty by Reason of Insanity Reporting in JBSIS 3.0 and 4.0  
**Date:** 12/30/2021  
**Contact:** Jackie Henke, Senior Analyst  
415-865-8963 | [jackie.henke@jud.ca.gov](mailto:jackie.henke@jud.ca.gov)

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**Issue**

The Judicial Branch Statistical Information System (JBSIS) collects aggregate data from California trial courts on case filings and other court case processing data elements. In JBSIS 3.0, criminal cases that reach a not guilty by reason of insanity (NGI) verdict are reported in two filing categories: first as criminal case filings and second, once the verdict is reached, mental health case filings. The NGI verdict closes the criminal case and opens the mental health case in the category “Civil Commitment with underlying Criminal Case.” The JBSIS subcommittee was informed that some courts do not process NGI verdicts as new mental health filings. Instead, criminal judges continue to oversee these cases and their post-verdict caseflow more closely resembles post-disposition criminal workload. The cases only become a matter of civil commitment for the court if a petition to extend commitment is filed. The JBSIS subcommittee asked staff to evaluate 1) whether the current reporting under JBSIS 3.0 is accurate in categorizing NGI cases as a “Civil Commitment with underlying Criminal Case” at the NGI verdict or if the case remains in criminal jurisdiction until the filing of the petition to extend commitment and 2) whether the reporting rules for the case type should be revised in future iterations of JBSIS as a matter of practicality of the reporting.

**Analysis**

The first issue has been researched. In consultation with legal staff in Criminal Justice Services, it was found that the California Supreme Court has addressed the issue of when a defendant is subject to the criminal jurisdiction or civil jurisdiction.

The California Supreme Court has stated:

“Technically, once a defendant has been found not guilty by reason of insanity, he is no longer a criminal defendant, but a person subject to civil commitment.” (*People v. Lara* (2010) 48 Cal.4th 216, 222, fn. 5.)

“NGI's... are those who have committed criminal acts but have been civilly committed rather than criminally penalized because of their severe mental disorder. Under the current statutory scheme they may not be in civil custody longer than the maximum state

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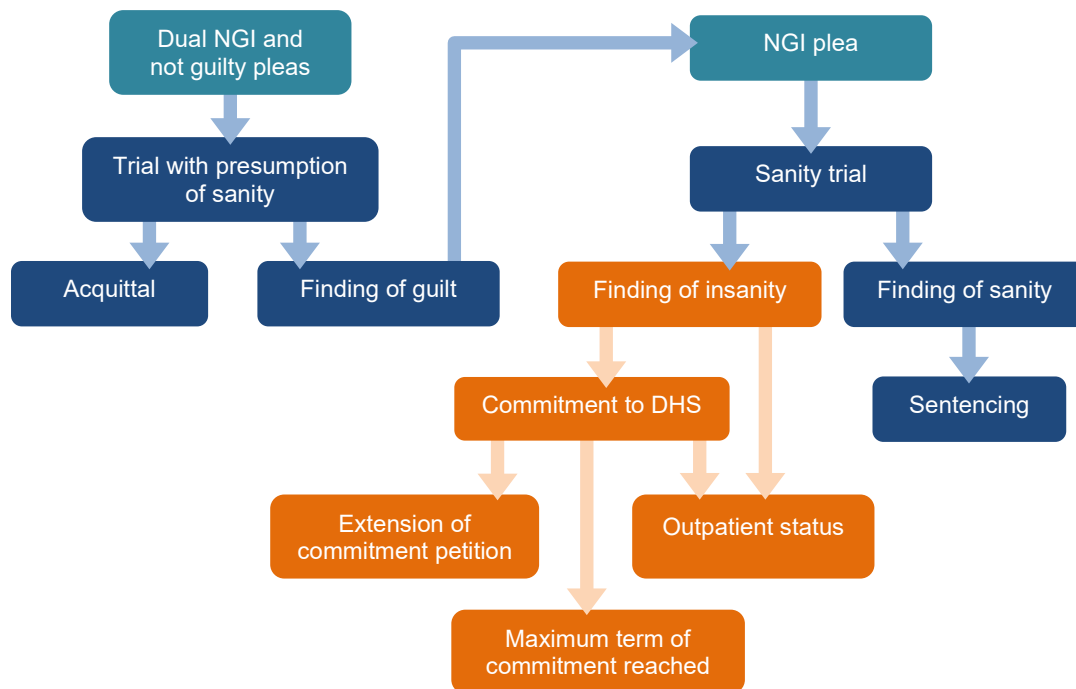
prison term to which they could have been sentenced for the underlying offense...”  
(*People v. McKee* (2010) 47 Cal.4th 1172, 1207.)

These statements indicate that the initial commitment to a state hospital or other facility following an NGI verdict is inherently “civil” in nature, even though it arises from an underlying criminal proceeding. This is true whether a 1026.5 petition is eventually filed to extend the commitment.

Based on these rulings, NGI cases are accurately categorized in JBSIS 3.0 as “Civil Commitment with underlying Criminal Case” at the NGI verdict. Moreover, the instructions of reporting to the JBSIS 10A Mental Health report at the verdict is acceptable. Whether courts have a criminal judge or mental health judge oversee the case at the different stages is a matter of court operations, which JBSIS does not have the authority to instruct courts on. JBSIS only instructs on reporting to JBSIS.

The second issue requires discussion by the JBSIS subcommittee. For context, an overview of NGI case processing is presented below in Figure 1.

*Figure 1: Processing of Not Guilty by Reason of Insanity Cases*



Defendants accused of felony or misdemeanor offenses may plead not guilty by reason of insanity in two ways: a single NGI plea or a dual NGI and not guilty plea. A defendant who enters only an NGI plea will be tried on whether they were sane at the time of the alleged offense. A defendant who enters an NGI and not guilty dual plea will be tried first with the

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presumption of sanity. If the jury finds the defendant to be guilty of the alleged offense, the defendant will subsequently be tried on whether they were sane at the time of the alleged offense.

If, at the conclusion of the sanity trial, the defendant is found to be sane at the time of the offense, the court will impose a criminal sentence. If the defendant is found to be insane at the time of the offense, the court will either commit the person to a state hospital or review the person's eligibility for outpatient status. Persons charged with a serious and/or violent offenses must be committed to a state hospital or treatment facility for a minimum of 180 days before being eligible for outpatient status review (PC §1601). Persons charged with offenses not specified in PC §1601 are immediately eligible for outpatient status review.

Given the California Supreme Court's characterization of defendants found not guilty by reason of insanity as subject to civil commitment in *People v. Lara* (2010), criminal case aging should cease after an NGI verdict. A verdict of not guilty by reason of insanity should serve as a final criminal case disposition. The JBSIS subcommittee will need to determine whether, for JBSIS 4.0, the case processing following the NGI verdict should be classified as post-disposition criminal case activity or new mental health case activity.

**Recommendation**

JBSIS 4.0 could utilize one of the following options for the reporting of case activity following a not guilty by reason of insanity verdict:

*Option 1: Continue reporting case activity after NGI verdicts as filings on 10a report*

Continue to report the case as a Civil commitment with underlying Criminal Case filing on JBSIS 10a Mental Health report. This option would reflect the shift of the case from criminal to civil jurisdiction. So too, it would allow courts a continuity of reporting from JBSIS 3.0 to JBSIS 4.0.

*Option 2: Reconceptualize case activity after NGI verdicts as criminal post-disposition activity*

Reconceptualize case activity after an NGI verdict as a form of criminal post-disposition activity. This option may more effectively assess the processing of NGI cases within the courts. If criminal judges are continuing to oversee NGI cases post-verdict, it could be logical to account for the work on a criminal report. With current JBSIS 4.0 plans, however, felony and misdemeanor/infracton post-disposition activity would not be captured on a mandated report. Rather, it would be tracked on the local management report. Reclassifying post-verdict NGI case activity, however, could simplify reporting for courts using different CMS for criminal and mental health cases. When compiling mental health case filings, these courts would not need to pull and combine data from two different CMS and potentially two different databases. As of FY19-20, 38 courts were reporting zero filings in the Civil Commitment with Underlying Criminal Case column of 10a Mental Health report (see Figure 2 on next page). Of those 38



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courts, 23 were reporting zero values for all rows of the Civil Commitment with underlying Criminal Case column. These 23 courts had annual values of zero for Civil Commitment with underlying Criminal Case filings, dispositions, inventory, and terminations. The zero values are not explained by the difference in JBSIS and Portal reporting. Civil Commitment with underlying Criminal Case is a required column in both types of reporting. It is unclear whether these values represent true zero caseloads or an inability to report this type of case processing.

*Figure 2: Filings reported for Civil Commitment with Underlying Criminal Case FY19-20*

Filing count	# of courts
0	38
1	8
2	4
3	3
4	2
55	1
39	1
195	1
212	1
557	1

For courts reporting zero Civil Commitment with Underlying Criminal Case filings, reclassifying post-verdict NGI case processing as criminal post-disposition activity would not impact their mental health filing counts. For other courts, especially the three courts reporting hundreds of Civil Commitment with underlying Criminal Case filings, this reclassification could cause a significant decrease in their filing counts.

The decision on which option to implement should consider the conceptualization of criminal and civil jurisdictions, practicality of data reporting, and potential effects of classifying NGI verdicts as filings or post-disposition activity in court workload estimates.

### **Summary**

Rulings by the California Supreme Court indicate that a not guilty by reason of insanity verdict represents the close of a criminal case. Following an NGI verdict, a case enters civil jurisdiction. Though the case is no longer a criminal case, it may still be overseen by a criminal judge. The JBSIS subcommittee should decide if, in JBSIS 4.0, NGI cases should still be counted as mental health case filings or criminal post-disposition work.

### **Attachments**

**Attachment A:** Full Footnote on NGI Verdicts from People v. Lara (2010)

**Attachment B:** Original Text on NGI Verdicts from People v. McKee (2010)

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**Attachment C:** California Penal Code § 1026.5

**Attachment D:** JBSIS 3.0 Civil Commitment with Underlying Criminal Case Description

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**Attachment A:** Full Footnote on NGI Verdicts from *People v. Lara* (2010)

Technically, once a defendant has been found not guilty by reason of insanity, he is no longer a criminal defendant, but a person subject to civil commitment. However, we will continue to use the word "defendant" to describe such a person, rather than the terms "committee" or "committed person." (*People v. Lara* (2010) 48 Cal.4th 216, 222, fn. 5.)

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**Attachment B:** Original Text on NGI Verdicts from *People v. McKee* (2010)

NGI's as discussed are those who have committed criminal acts but have been civilly committed rather than criminally penalized because of their severe mental disorder. Under the current statutory scheme they may not be in civil custody longer than the maximum state prison term to which they could have been sentenced for the underlying offense (Pen. Code, § 1026.5, subd. (a); *People v. Crosswhite* (2002) 101 Cal.App.4th 494 [124 Cal.Rptr.2d 3011]) unless at the end of that period the district attorney extends the commitment for two years by proving in a jury trial beyond a reasonable doubt that the person presents a substantial danger of physical harm to others because of a mental disease, defect, or disorder. (*People v. McKee* (2010) 47 Cal.4th 1172, 1207.)

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**Attachment C: California Penal Code § 1026.5**

(a)(1) In the case of any person committed to a state hospital or other treatment facility pursuant to Section 1026 or placed on outpatient status pursuant to Section 1604, who committed a felony on or after July 1, 1977, the court shall state in the commitment order the maximum term of commitment, and the person may not be kept in actual custody longer than the maximum term of commitment, except as provided in this section. For the purposes of this section, “maximum term of commitment” shall mean the longest term of imprisonment which could have been imposed for the offense or offenses of which the person was convicted, including the upper term of the base offense and any additional terms for enhancements and consecutive sentences which could have been imposed less any applicable credits as defined by Section 2900.5, and disregarding any credits which could have been earned pursuant to Article 2.5 (commencing with Section 2930) of Chapter 7 of Title 1 of Part 3.

(2) In the case of a person confined in a state hospital or other treatment facility pursuant to Section 1026 or placed on outpatient status pursuant to Section 1604, who committed a felony prior to July 1, 1977, and who could have been sentenced under Section 1168 or 1170 if the offense was committed after July 1, 1977, the Board of Prison Terms shall determine the maximum term of commitment which could have been imposed under paragraph (1), and the person may not be kept in actual custody longer than the maximum term of commitment, except as provided in subdivision (b). The time limits of this section are not jurisdictional.

In fixing a term under this section, the board shall utilize the upper term of imprisonment which could have been imposed for the offense or offenses of which the person was convicted, increased by any additional terms which could have been imposed based on matters which were found to be true in the committing court. However, if at least two of the members of the board after reviewing the person's file determine that a longer term should be imposed for the reasons specified in Section 1170.2, a longer term may be imposed following the procedures and guidelines set forth in Section 1170.2, except that any hearings deemed necessary by the board shall be held within 90 days of September 28, 1979. Within 90 days of the date the person is received by the state hospital or other treatment facility, or of September 28, 1979, whichever is later, the Board of Prison Terms shall provide each person with the determination of the person's maximum term of commitment or shall notify the person that a hearing will be scheduled to determine the term.

Within 20 days following the determination of the maximum term of commitment the board shall provide the person, the prosecuting attorney, the committing court, and the state hospital or other treatment facility with a written statement setting forth the maximum term of commitment, the calculations, and any materials considered in determining the maximum term.

(3) In the case of a person committed to a state hospital or other treatment facility pursuant to Section 1026 or placed on outpatient status pursuant to Section 1604 who committed a

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misdemeanor, the maximum term of commitment shall be the longest term of county jail confinement which could have been imposed for the offense or offenses which the person was found to have committed, and the person may not be kept in actual custody longer than this maximum term.

(4) Nothing in this subdivision limits the power of any state hospital or other treatment facility or of the committing court to release the person, conditionally or otherwise, for any period of time allowed by any other provision of law.

(b)(1) A person may be committed beyond the term prescribed by subdivision (a) only under the procedure set forth in this subdivision and only if the person has been committed under Section 1026 for a felony and by reason of a mental disease, defect, or disorder represents a substantial danger of physical harm to others.

(2) Not later than 180 days prior to the termination of the maximum term of commitment prescribed in subdivision (a), the medical director of a state hospital in which the person is being treated, or the medical director of the person's treatment facility or the local program director, if the person is being treated outside a state hospital setting, shall submit to the prosecuting attorney his or her opinion as to whether or not the patient is a person described in paragraph (1). If requested by the prosecuting attorney, the opinion shall be accompanied by supporting evaluations and relevant hospital records. The prosecuting attorney may then file a petition for extended commitment in the superior court which issued the original commitment. The petition shall be filed no later than 90 days before the expiration of the original commitment unless good cause is shown. The petition shall state the reasons for the extended commitment, with accompanying affidavits specifying the factual basis for believing that the person meets each of the requirements set forth in paragraph (1).

(3) When the petition is filed, the court shall advise the person named in the petition of the right to be represented by an attorney and of the right to a jury trial. The rules of discovery in criminal cases shall apply. If the person is being treated in a state hospital when the petition is filed, the court shall notify the community program director of the petition and the hearing date.

(4) The court shall conduct a hearing on the petition for extended commitment. The trial shall be by jury unless waived by both the person and the prosecuting attorney. The trial shall commence no later than 30 calendar days prior to the time the person would otherwise have been released, unless that time is waived by the person or unless good cause is shown.

(5) Pending the hearing, the medical director or person in charge of the facility in which the person is confined shall prepare a summary of the person's programs of treatment and shall forward the summary to the community program director or a designee, and to the court. The community program director or a designee shall review the summary and shall designate a facility within a reasonable distance from the court in which the person may be detained pending the hearing on the petition for extended commitment. The facility so designated shall continue

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the program of treatment, shall provide adequate security, and shall, to the greatest extent possible, minimize interference with the person's program of treatment.

(6) A designated facility need not be approved for 72-hour treatment and evaluation pursuant to the provisions of the Lanterman-Petris-Short Act (Part 1 (commencing with Section 5000) of Division 5 of the Welfare and Institutions Code). However, a county jail may not be designated unless the services specified in paragraph (5) are provided and accommodations are provided which ensure both the safety of the person and the safety of the general population of the jail. If there is evidence that the treatment program is not being complied with or accommodations have not been provided which ensure both the safety of the committed person and the safety of the general population of the jail, the court shall order the person transferred to an appropriate facility or make any other appropriate order, including continuance of the proceedings.

(7) The person shall be entitled to the rights guaranteed under the federal and State Constitutions for criminal proceedings. All proceedings shall be in accordance with applicable constitutional guarantees. The state shall be represented by the district attorney who shall notify the Attorney General in writing that a case has been referred under this section. If the person is indigent, the county public defender or State Public Defender shall be appointed. The State Public Defender may provide for representation of the person in any manner authorized by Section 15402 of the Government Code. Appointment of necessary psychologists or psychiatrists shall be made in accordance with this article and Penal Code and Evidence Code provisions applicable to criminal defendants who have entered pleas of not guilty by reason of insanity.

(8) If the court or jury finds that the patient is a person described in paragraph (1), the court shall order the patient recommitted to the facility in which the patient was confined at the time the petition was filed. This commitment shall be for an additional period of two years from the date of termination of the previous commitment, and the person may not be kept in actual custody longer than two years unless another extension of commitment is obtained in accordance with the provisions of this subdivision. Time spent on outpatient status, except when placed in a locked facility at the direction of the outpatient supervisor, shall not count as actual custody and shall not be credited toward the person's maximum term of commitment or toward the person's term of extended commitment.

(9) A person committed under this subdivision shall be eligible for release to outpatient status pursuant to the provisions of Title 15 (commencing with Section 1600) of Part 2.

(10) Prior to termination of a commitment under this subdivision, a petition for recommitment may be filed to determine whether the patient remains a person described in paragraph (1). The recommitment proceeding shall be conducted in accordance with the provisions of this subdivision.

(11) Any commitment under this subdivision places an affirmative obligation on the treatment facility to provide treatment for the underlying causes of the person's mental disorder.

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**Attachment D: JBSIS 3.0 Civil Commitment with Underlying Criminal Case Description**

Civil Commitment with underlying Criminal case	Portal	JBSIS
	235	240
<p>A petition filed seeking commitment or extended commitment of a defendant convicted of a crime or an individual with an underlying criminal case:</p> <ul style="list-style-type: none"><li>• A petition filed by a prisoner under PC § 2966 who disagrees with the decision of the Board of Prison Terms that he or she met the criteria of Pen. Code, § 2962 as of the date of the board’s hearing. Also include a petition filed under PC § 2970 by a hospital director or by the District Attorney for an extended commitment</li><li>• A mental health case in which a defendant was found not guilty of a crime by reason of insanity (PC § 1026).</li><li>• A petition filed by the District Attorney for the extended commitment of a defendant who was found not guilty of a crime by reason of mental insanity (PC § 1026.5(b))</li><li>• A petition filed by the district attorney for extended commitment of a person found to be a mentally disordered sex offender (W&amp;I § 6300). There should be no new filings because W&amp;I § 6300 was repealed, but existing cases should still be reported in the supervision and workload sections of the report.</li><li>• A petition filed by the district attorney or county counsel seeking to commit a person to the State Department of State Hospitals as a sexually violent predator (W&amp;I § 6600).</li><li>• A petition filed by the district attorney seeking an order directing that an individual remain under the control of the Department of Juvenile Justice beyond the time of discharge because the person would be physically dangerous to the public (W&amp;I § 1800).</li></ul>		



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**(Discussion Item)**

**Title:** Petition Reporting in JBSIS 3.0 and 4.0  
**Date:** 12/30/2021  
**Contact:** Jackie Henke, Senior Analyst  
415-865-8963 | [jackie.henke@jud.ca.gov](mailto:jackie.henke@jud.ca.gov)

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**Issue**

The Judicial Branch Statistical Information System (JBSIS) is a reporting system that collects and stores caseload, workload, and case characteristic information from California trial courts. The JBSIS manual serves as a guide for how trial courts should uniformly define and submit data. According to the JBSIS manual, a petition filing can, in some instances, count as a case filing. In other instances, it must be reported as post-disposition workload. Discerning how to count each petition requires evaluating the petition's type and relation to existing court cases. The JBSIS subcommittee was informed that the variation in how petitions are counted has caused confusion with court data contacts on how to accurately record and count petitions. In addition, courts have expressed that the JBSIS-recommended reporting of petitions may conflict with effective court operations, best practices recommendations by Trial Courts Records Management, and standards of legislation. The subcommittee directed staff to research why petitions are currently reported this way and what would the impact be if the definition was changed and to make a recommendation.

**Analysis**

In the JBSIS manual, petition reporting methods differ across reports. Figure 1 (next page) compares the guidance for reporting petitions across the 12 JBSIS reports. The figure shows which reports 1) specify that "independent action" petitions should be reported as filings; 2) have guidance on whether subsequent, supplementary, or successor petitions should be reported as filings; 3) include a list of petitions countable as filings; and 4) include a list of petitions not countable as filings.

Of the 12 JBSIS reports, six explicitly state that "independent action" petitions should be counted as filings. These reports define independent action petitions as petitions which are filed on their own, not within an existing case at the court. Independent action petitions are classified within these reports as other or miscellaneous petition filings. For example, a Petition to Remove Gang Injunction without an underlying criminal case would be counted as a miscellaneous criminal petition.

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A petition can have a related case in a different court and still be counted as an independent action. For example, if an initial complaint/petition was filed in one county's court and a related petition was filed in another county's court, the related petition would be considered an independent action. If the related petition was filed at the same court as the initial complaint/petition, though, the related petition would not be considered an independent action.

The JBSIS 7c Felony report's definition of independent action is slightly different from the definition of independent action in other reports; it includes a clause about new case opening. Courts are advised to count criminal petitions as filings when they require that new cases be opened. This guidance has led some court data contacts to question if new petitions filed on old cases at the same court can be classified as independent actions. These petitions may be related to cases which exist in old case management systems or paper files. They may not, however, be linkable to cases stored in current case management systems. In these instances, the petitions may be related to an existing case, but a new case will still be opened because of the age of the old case record.

*Figure 1: Petition Reporting Guidance across JBSIS 3.0 Reports*

Report	Independent action	Subsequent, supplementary, or successor petition	Petition from example list	Petition from exclusion list
4a Appellate court appeals	-	-	-	-
4b Appellate division appeals	-	-	-	-
5a Limited civil	●	■	●	■
5b Unlimited civil	-	-	●	-
6a Family law	●	■	●	■
7c Felony	●	■	●	■
8a Juvenile delinquency	●	◆	●	■
9a Juvenile dependency	-	◆	●	■
10a Mental health	●	◆	●	■
11a Misdemeanor and infraction	-	-	-	-
12a Probate	●	◆	●	■
13a Small claims	-	-	-	-

● = count as filing  
 ◆ = count as filing, in some cases  
 ■ = do not count as filing  
 - = no guidance

In addition to the independent action guidance, some reports also specify which categories and types of petitions may or may not be counted as filings.

Three JBSIS reports require that subsequent and supplemental petitions be excluded from filing counts. Subsequent and supplemental petitions are petitions filed within existing court cases after initial petition or complaint filings. Subsequent petitions allege new circumstances (new offense,

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grounds, facts, or status) in existing cases. Supplemental petitions request new action (review, amend, modify) on existing grounds. The JBSIS 7c Felony report advises courts not to count subsequent petitions as case filings. For this report, a petition to revoke probation following a violation of probation terms should not be counted as a miscellaneous criminal petition. Instead, it should be recorded as post-disposition case activity.

Contrastingly, four JBSIS reports require courts to count subsequent petitions as filings in certain circumstances. In the JBSIS 9a Juvenile Dependency report, subsequent petitions which allege new facts relating to a child who is a dependent of the court are counted as filings. So too, supplementary petitions which request a new placement of the child who is a dependent of the court are counted as filings. In the JBSIS 12a Probate report, successor petitions in the event of the death or resignation of a conservator are counted as conservatorship filings. Additional research could be conducted to determine if these specific subsequent, supplementary, and successor petitions are reported as filings based on their anticipated workload or resultant of a statutory reporting requirement.

Eight JBSIS reports include a list of which types of petitions can be counted as filings. Seven reports also include a list of which types of petitions cannot be counted as filings.

Across JBSIS 3.0 reports, petitions are reported in specific and different ways. This means that court data contacts must closely read available instructions about which petitions count as filings and which do not. Moreover, for reports that offer imprecise reporting guidance, data contacts must make inferences about which petitions are countable as filings. In the development of JBSIS 4.0, the JBSIS subcommittee should ensure that petition reporting guidance is as clear and complete as possible. In order for courts to be reporting filings consistently, it is important to reduce the ambiguity about which petitions are countable as filings and which are not.

**Recommendation**

The JBSIS subcommittee should carefully consider the way petitions are defined in JBSIS 4.0. Ideally, JBSIS 4.0 petition reporting guidance would provide clarity on the instances in which petitions should be counted as filings and the instances in which petitions should be considered post-disposition workload. There are three potential options for improving petition guidance in JBSIS 4.0:

*Option 1: Retain the current classification of petitions and provide addition reporting guidance*

JBSIS 4.0 could remain consistent with the current methods of classifying petitions. Each report could categorize petitions in a way that is as similar as possible to how the report categorizes petitions in JBSIS 3.0. This would allow courts that have already configured their petition counting procedures to continue utilizing their current reporting methods. In order to resolve reporting ambiguity, this option would require additional clarity be added to each report's guidance. The guidance should include specific definitions of petitions that count as filings and

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petitions that do not count as filings. Moreover, the distinction between countable and non-countable filings should be as concrete and automatable as possible.

*Option 2: Adopt a new procedure for distinguishing which types of petitions count as filings*

JBSIS 4.0 could adopt a new procedure for counting petitions. For instance, petitions could be classified as filings if they require a certain threshold of work. If a petition requires at least one hearing or review by a judicial officer, it could be counted as a specific type of filing.

Alternatively, JBSIS 4.0 could provide a supplementary mapping file defining which specific petition types are countable as filings and which are not. This option would require updating of supplementary materials if new petition types emerge (e.g., petitions created in response to legislative changes to the California code).

*Option 3: Reconceptualize petition filings as case filings or case reopening events*

JBSIS 4.0 could also align its reporting of petitions and workload with the National Center for State Courts. This change would be substantial. The National Center for State Courts (NCSC) considers petitions at the beginning of a case to be countable as filings. Petitions filed in later stages of a case are counted as case reopenings. Case reopenings factor into the National Center for State Courts' caseload reports. Reopened cases are added to the inventory which estimates court caseloads.

In JBSIS 3.0, most subsequent and supplemental petitions are not considered reopenings. Even if they were, reopenings are not factored into workload models for the courts. Workload assessments are generated from filings data. For this reason, the distinction between petitions countable as filings and not countable as filings is especially significant. If models of workload from JBSIS data factored in case reopenings and petitions could be reported as case reopenings, courts could potentially get workload credit more consistent to the work involved with each petition. Each court could determine if the petition marks the beginning of a case or the reopening of a case, depending on the court's existing case processing procedures. For example, a criminal petition on an older case may be more similar to a case filing at one court and more like a case reopening at another court. One court may need to enter all the case information into their CMS and digitize paper files in order to link the petition's related older case. Another court may have a more complete record of cases in their CMS and be able to link the older case information more easily. If JBSIS 4.0 workload models resemble NCSC's caseload models, these courts could report the same petition differently and still both receive workload credit.

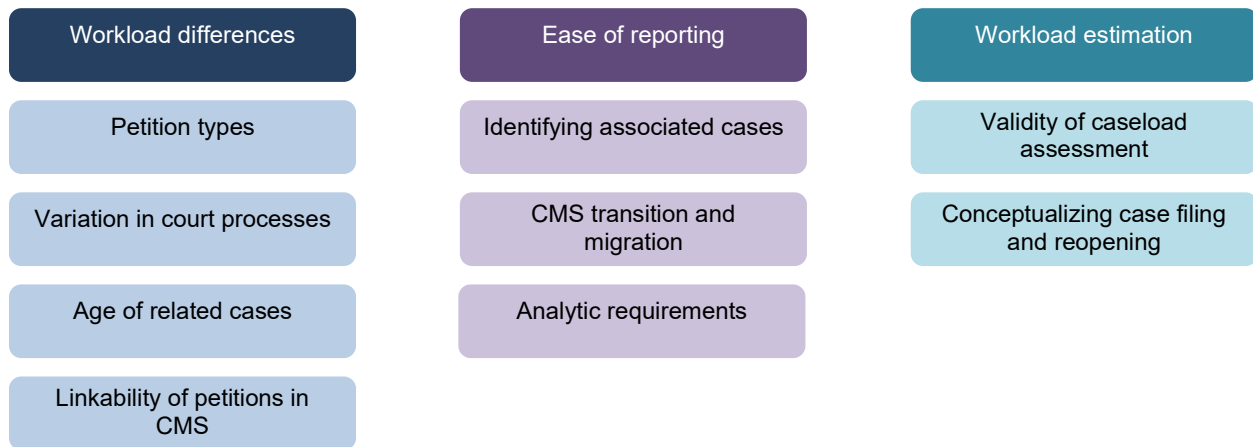
Additional consideration should be given to petitions which initiate subcases. NCSC currently does not include subcases in their caseload reports. So too, subcases are currently not reported in JBSIS. A reconceptualization of petition reporting could incorporate the counting of petitions which initiate subcases along with petitions which reopen cases. This could be accomplished by renaming the case reopening row to reopened/subcase initiated. A subcase count would allow

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courts to assess workload related to petitions which require notable pre-disposition work and resources.

Each option should be reviewed and discussed further. The subcommittee should consider the implications of each proposed change with regards to 1) the workload differences in processing different types of petitions within different courts which may be more or less linkable to related cases, 2) the analytic ability of courts to identify and report related case information, and 3) the implications of petition definitions on caseload and workload estimation. A summary of the considerations discussed in this report is outlined in Figure 2 (next page).

*Figure 2: Considerations for JBSIS 4.0 Petition Reporting*



### **Summary**

In JBSIS 3.0, guidance on how to report petitions across reports is complex and, in some cases, ambiguous. Petition reporting guidance in JBSIS 4.0 could be improved with clarification or redefinition. The JBSIS subcommittee should consider whether to 1) expand existing JBSIS 3.0 petition reporting guidance for JBSIS 4.0, 2) adopt a new procedure for definition petitions countable as filings in JBSIS 4.0, or 3) reconceptualize petition filings and case reopenings in JBSIS 4.0 to align with NSCS reporting.

### **Attachments**

**Appendix A:** JBSIS 3.0 Miscellaneous Criminal Petition Guidance

**Appendix B:** JBSIS 3.0 Other Civil Complaints and Petitions Guidance

**Appendix C:** JBSIS 3.0 Other Family Law Petitions Guidance

**Appendix D:** JBSIS 3.0 Juvenile Delinquency Filings Guidance

**Appendix E:** JBSIS 3.0 Juvenile Dependency Filings Guidance

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**Appendix F:** NCSC State Court Guide to Statistical Reporting Pending Caseload Calculation

**Appendix G:** NCSC State Court Guide to Statistical Reporting Criminal Case Reopening Guidance

**Appendix H:** NCSC State Court Guide to Statistical Reporting Juvenile Delinquency Case Reopening Guidance

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**Appendix A: JBSIS 3.0 Miscellaneous Criminal Petition Guidance**

Miscellaneous Criminal Petition	Portal	JBSIS
	95	100

Miscellaneous Criminal Petition is not included in the DOJ Offense Code Table. Below are some examples of Miscellaneous Criminal Petitions that should be counted as a filing ***only if it is filed as an independent action and not part of an existing criminal case for which a new case must be opened:***

- Petitions for Certificate of Rehabilitation and Pardon (Pen. Code, § 4852.01)
- Petition to Seal and Destroy Arrest Record
- Petition for Removal from Gang Injunction
- Petition for Return of Firearm (excludes the W&I 8102 that are reported in Mental Health)
- Petitions to Expunge DNA Profiles/Samples

**What/how to report:** A filing for a miscellaneous criminal petition should only be counted if the petition is not part of or filed within an existing criminal case.

Example: A petition to seal and destroy arrest record should be counted as a filing if this petition is filed as an independent action and not part of an existing criminal case.

- Petitions for revocation of postrelease community supervision and revocation of parole (i.e., AB 109 petitions) are not counted as filings.
- A defendant charged with a violation of probation is not considered a new filing. This is considered postdisposition activity on an existing criminal case and should be captured in the postdisposition section on the JBSIS report 07c or on Portal report 07c in the workload section.

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**Appendix B: JBSIS 3.0 Other Civil Complaints and Petitions Guidance**

Other Civil Complaints and Petitions	Portal	JBSIS
	05 *	110
<p><b>* Other Civil Complaints and Petitions</b> is one of the several case types reported in this category in the Portal</p> <p>Other civil complaints and civil petitions not defined in the other JBSIS or Portal case types. Includes Civil Case Cover Sheet codes:</p> <p style="padding-left: 40px;">Miscellaneous civil complaint 27 RICO 42 Other Miscellaneous civil petition 21 Partnership and corporate governance 43 Other</p> <p><i>Other examples of Other Civil Complaints and Petitions cases:</i></p> <p style="padding-left: 40px;">Petition to determine potentially dangerous or vicious dog Declaratory Relief Only Injunctive Relief Only Mechanics Lien Other Commercial Complaint Case (but non-tort/non-complex) Election Contest Petition for Name Change Petition for Relief from Late Claim</p>		
<ul style="list-style-type: none"><li>• If a petition/complaint falls under “Other Civil Complaints and Petitions,” report it as a filing only if it is filed as an independent action and not a subsequent petition/complaint within an existing civil case.</li></ul>		



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**Appendix C: JBSIS 3.0 Other Family Law Petitions Guidance**

Other Family Law Petitions and Complaints	Portal	JBSIS
	125 *	130

\* **Adoption** is also included in this category in the Portal.

Other family law petitions and complaints not specified in JBSIS case type columns 10–120, including but not limited to:

- Request for approval of minor’s contract (Fam. Code, § 6751)
- Request for approval of underage marriages (Fam. Code, §§ 302, 303) (form FL-910)
- Emancipation (Fam. Code, § 7000) (form MC-300)
- Independent action for custody (Fam. Code, § 3120) (form FL-260)
- Juvenile exit (custody) orders (Welf. & Inst. Code, § 362) (form JV-200)
- Family Law Habeas petitions (e.g., Petition to produce an unlawfully detained minor)
- Registration of California or out-of-state custody orders (Fam. Code, § 3445) (form FL-580)
- Registration of foreign, out-of-state, or tribal domestic violence restraining order (CLETS) (Fam. Code, § 6380) (form DV-600)
- Statement for Registration of California Support Order (form FL-440) filed by a private party (Fam. Code, § 5602)
- Termination of parental rights (Fam. Code, § 7505)
- Third-party visitation (Fam. Code, § 3100).
- Petition for Protective Orders (Elder or Dependent Adult Abuse) (form EA-100).
- Petition for Juvenile Restraining Order (form JV-245) only if the juvenile is not involved in a delinquency proceeding.

Note: These petitions in the Other Family Law Petitions and Complaints case type category should only be reported as a filing if they are filed as an independent action and not a subsequent petition/complaint within an existing case.

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**Appendix D: JBSIS 3.0 Juvenile Delinquency Filings Guidance**

**Filing**

The beginning of a court case by formal submission of an initial petition, a subsequent petition, or a notice of hearing alleging the facts and requesting relief, or the transfer-in of a case from another jurisdiction.

A juvenile delinquency filing is counted for the following case types upon the filing of:

- an initial petition or transfer in from another jurisdiction
- a subsequent petition alleging re-offenses by a minor who is still a ward of the court
- a W&I § 777 Notice of Hearing (formerly supplemental petition) requesting a change of a previous order for a ward that has violated a court order or probation. Most ask for change of placement; some just allege violation of court orders or probation without requesting change in placement
- a petition filed by a ward of the delinquency court to treat him or her as a non-minor dependent (AB 12)
- a miscellaneous juvenile petition, but only counted as a separate filing if the petition is not part of an existing juvenile case

JBSIS and Portal courts report filings in the following locations on the Juvenile Delinquency 08a report:

JBSIS: Filings are reported on row 200  
Portal: Filings are reported on row 200

The case type categories and rules for counting juvenile delinquency filings in JBSIS and the Portal should be the same.

Miscellaneous Juvenile Petition	Portal	JBSIS
	65	70

A petition filed in juvenile court where there is no existing delinquency case in which the petition can be filed. Other juvenile petitions not defined in case type columns 10–60. Below are some examples of Miscellaneous Juvenile Petitions that should be counted as a filing ***only if it is filed as an independent action and not part of an existing delinquency case:***

Petition to Seal and Destroy Juvenile Arrest Record  
Petition for Removal of Juvenile from Gang Injunction  
Habeas corpus petitions for juveniles

**What/how not to report:** If a petition listed under “miscellaneous juvenile petitions” is filed within an existing case, do not count it in inventory as a new filing, but capture related hearings and events in workload.

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**Appendix E: JBSIS 3.0 Juvenile Dependency Filings Guidance**

**Filing**

The beginning of a court case by formal submission of an initial petition, a subsequent petition, or a notice of hearing alleging the facts and requesting relief, or the transfer-in of a case from another jurisdiction.

A Juvenile dependency filing is counted for the following case types upon the filing of:

- an initial petition (W&I § 300) or transfer in from another jurisdiction
- a subsequent petition (W&I § 342) alleging new facts relating to a child who is a dependent of the court
- a supplemental petition (W&I § 387) requesting removal of the child from current home and recommending placement in foster care or some other institution
- a petition to adopt a child who is a dependent of the court
- a petition filed by a person to treat him or her as a non-minor dependent of the court (AB 12)

JBSIS and Portal courts report filings in the following locations on the Juvenile Dependency 09a report:

JBSIS: Filings are reported on row 200

Portal: Filings are reported on row 200

The case type categories and rules for counting juvenile dependency filings in JBSIS and the Portal should be the same.

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**Appendix F:** NCSC State Court Guide to Statistical Reporting Pending Caseload Calculation

**Calculating Pending Caseloads**

The calculation of pending caseloads is quite simple. The *End Pending-Active* caseload is calculated by adding the *Begin Pending-Active*, *New Filing*, *Reopened*, and *Reactivated* cases, then subtracting from that total the sum of *Entry of Judgment*, *Reopened Dispositions*, and *Placed on Inactive Status*.

Begin Pending-Active	80
+ New Filing	210
+ Reopened	40
+ <u>Reactivated</u>	<u>25</u>
	<b>355</b>
Entry of Judgment	240
+ Reopened Dispositions	40
+ <u>Placed on Inactive Status</u>	<u>55</u>
	<b>(335)</b>
<b>End Pending-Active</b>	<b>20</b>

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**Appendix G:** NCSC State Court Guide to Statistical Reporting Criminal Case Reopening Guidance

**Placed on Inactive Status:** Cases that are administratively classified as inactive should be reported in the Caseload Summary Matrix as Placed on Inactive Status. When the case is reactivated, report it in the Reactivated column.

*Example:*

A criminal case should be recorded as Placed on Inactive Status if the defendant has absconded, an arrest order has been issued, and the court has suspended activity until the defendant is apprehended and returned to court so that the court can resume proceedings in the case.

**Reopened:** Cases in which a judgment has previously been entered, but which

have been restored to the court's active pending caseload due to the filing of a request to modify or enforce that existing judgment should be reported in the Caseload Summary Matrix as Reopened. When the reopened case is disposed, report the case in the Caseload Summary Matrix in the column labeled Reopened Disposition.

*Example:*

A criminal case that was previously disposed, but then returned to the court's pending docket by an allegation that the offender has violated the terms of his or her probation, should be considered a reopened case.

**Expungements:**

- Report any expunged case as a filed case even if it was later expunged. Whether expunged or not, these cases were processed through the courts and have court activity associated with them. Since CSP looks at caseloads in the aggregate, it is more accurate to include the expunged cases and aggregate reports do not reveal any personally identifiable information.
- If expungements are automatic (all misdemeanor marijuana cases, for example, or all juvenile records after a certain period of time), they do not count as reopened cases as they do not require any action by a judicial officer.
- If expungements require the defendant to file a petition or other pleading with the court, it counts as a reopened case of the same case type as the original case. The disposition of that reopened case should also be reported.

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**Appendix H:** NCSC State Court Guide to Statistical Reporting Juvenile Delinquency Case  
Reopening Guidance

**Reopened:** Cases in which a judgment has previously been entered but which have been restored to the court's pending caseload due to the filing of a request to modify or enforce that existing judgment should be reported in the Caseload Summary Matrix as Reopened. When the Reopened case is disposed, report the case in the Reopened Dispositions column.

*Example:*

A juvenile case that was previously disposed but then returned to the court's pending docket by an allegation that the offender violated the terms of his or her probation should be considered a Reopened case.