

Post-Trial Gun Control Act of 1968 Reporting Requirements ¹

	Actions by Trial Counsel
<p>Post-trial method of notification to NCIS</p> <p>NAVADMIN 076/18 (Navy) MCBUL 5810 (USMC)</p> <p>18 U.S.C. § 922(g)</p>	<ul style="list-style-type: none"> – As outlined in NAVADMIN 076/18, MCBul 5810, and below, trial counsel shall submit the Statement of Trial Results (STR) and the accused’s full name, including middle name, and date of birth to NCIS via email at nicssubmission@ncis.navy.mil (for Navy cases) or usmccid@ncis.navy.mil (for Marine Corps cases) to effectuate entry of trial results into NICS for all service members who have been: <ul style="list-style-type: none"> – Convicted at a GCM for any offense punishable by more than one year of confinement (regardless of actual confinement awarded); – Convicted for unlawful drug use; – Found incompetent to stand trial or found not guilty by reason of lack of mental responsibility pursuant to Articles 50a and 76b of the UCMJ; or – Convicted by a SPCM or GCM of a crime of domestic violence. – Acquitted of any offense that was referred to GCM or SPCM.² – Note that OJAG, OPNAV N17, NPC, and CO share separate criminal justice reporting requirements, as delineated in NAVADMIN 076/18.
<p>Conviction of offense punishable by more than one year of confinement (GCM only)</p> <p>18 U.S.C. § 922(g)(1)</p>	<ul style="list-style-type: none"> – Trial counsel will mark the applicable section in the STR that the conviction triggers firearm possession prohibition in accordance with 18 U.S.C. § 922(g)(1). – Trial counsel will make the following entry in the STR: “The accused was convicted of an offense punishable by more than one year of confinement and is prohibited to receive, possess, ship, or transport firearms or ammunition pursuant to 18 U.S.C. § 922(g)(1) and 922(n).” – Trial counsel will submit STR and the accused’s full name, including full middle name, and date of birth to NCIS via email at nicssubmission@ncis.navy.mil (for Navy cases) or usmccid@ncis.navy.mil (for Marine Corps cases) – Ensure NCIS or USMC CID, the convening authority, and defense counsel are served with the STR containing the appropriate notice.
<p>Fugitive from justice (GCM/SPCM)</p> <p>18 U.S.C. § 922(g)(2)</p>	<ul style="list-style-type: none"> – Trial counsel will ensure commands notify NCIS or USMC CID in cases where after charges have been preferred, the accused has left the state in order to avoid prosecution.

¹ This checklist only outlines post-trial reporting requirements necessary to comply with the GCA. It does not include GCA reporting requirements during the investigation, pre-referral, and post-referral stage of trial. For a complete list of all GCA reporting requirements, see NAVADMIN 076/18, or the Code 20 Sidebar, “Update: Reporting Criminal Justice Information,” dated 26 July 2018 for Navy cases, and MCBul 5810 for Marine Corps cases.

² This is particularly important for GCM cases, as criminal justice information about the accused was previously reported to NCIS and entered into NICS after charges were referred, per 18 U.S.C. § 922(n). If acquitted, NCIS needs to ensure the accused is removed from NICS.

<p>Unlawful user of a controlled substance (GCM/SPCM)</p> <p>18 U.S.C. § 922(g)(1) 18 U.S.C. § 922(g)(3)</p>	<ul style="list-style-type: none"> – For GCMs, make the following entry in the STR: “The accused was convicted of an offense punishable by more than one year of confinement and was found to be an unlawful user of a controlled substance. He/She is prohibited to receive, possess, ship, or transport firearms or ammunition pursuant to 18 U.S.C. § 922(g)(1).” <ul style="list-style-type: none"> • If the maximum punishment for the offense of which the accused was found guilty is punishable by one year or less of confinement, the notification process is the same as SPCM below. – For SPCMs, make the following entry in the STR: “The accused was found to be an unlawful user of a controlled substance. He/She is prohibited to receive, possess, ship, or transport firearms or ammunition for a period of 12 months following this conviction pursuant to 18 U.S.C. § 922(g)(3).” – Ensure NCIS or UCMC CID, the convening authority, and defense counsel are served with the STR containing the appropriate notice. – Trial counsel will send the STR and the accused’s full name, including full middle name, and date of birth to NCIS via email at nicssubmission@ncis.navy.mil (for Navy cases) or usmccid@ncis.navy.mil (for Marine Corps cases).
<p>Mental incompetence (GCM/SPCM)</p> <p>18 U.S.C. § 922(g)(4)</p>	<ul style="list-style-type: none"> – Where an accused is found incompetent to stand trial or not guilty by reason of lack of mental responsibility, trial counsel will email NCIS or USMC CID at nicssubmission@ncis.navy.mil (for Navy cases) or usmccid@ncis.navy.mil (for Marine Corps cases) the accused’s full name, including full middle name, date of birth, and a copy of any written findings of the military judge or, in acquittals, a signed copy of the STR. – Trial Counsel will mark the applicable section in the STR that the findings trigger firearm possession prohibition in accordance with 18 U.S.C. § 922(g)(4). – Ensure the convening authority, and defense counsel are served with the STR containing the appropriate notice. – Trial counsel will take any other necessary action to ensure compliance with Article 76b.
<p>Dishonorable discharge or dismissal</p> <p>18 U.S.C. § 922(g)(6)</p>	<ul style="list-style-type: none"> – Trial counsel will send the STR and the accused’s full name, including full middle name, and date of birth to NCIS via email at nicssubmission@ncis.navy.mil (for Navy cases) or usmccid@ncis.navy.mil (for Marine Corps cases). – Prior to forwarding the STR, the trial counsel will make the following entry in the STR: “The accused was convicted of an offense punishable by more than one year of confinement and is prohibited to receive, possess, ship, or transport firearms or ammunition pursuant to 18 U.S.C. § 922(g)(1) and 922(n).” – Ensure the convening authority, and defense counsel are served with the STR containing the appropriate notice.

<p>Domestic violence conviction (GCM/SPCM)</p> <p>18 U.S.C. § 922(g)(1) 18 U.S.C. § 922(g)(9)</p>	<ul style="list-style-type: none"> - Crimes of domestic violence are defined in DoDI 6400.06, Domestic Abuse Involving DOD Military and Certain Affiliated Personnel. - Trial Counsel will mark the appropriate entry in the STR for cases involving a conviction of a crime of domestic violence as follows: <ul style="list-style-type: none"> • For SPCMs: “The accused was convicted of a misdemeanor crime of domestic violence. He/She is prohibited to receive, possess, ship, or transport firearms or ammunition pursuant to 18 U.S.C. § 922(g)(9).” • For GCMs: <ul style="list-style-type: none"> • If the maximum punishment for the offense of which the accused was found guilty is punishable by one year or less of confinement, notify as above (same as SPCM) • If the maximum punishment for the offense of which the accused is punishable by more than one year: “The accused was convicted of a crime of domestic violence. He/She is prohibited to receive, possess, ship, or transport firearms or ammunition pursuant to 18 U.S.C. § 922(g)(1). - Trial counsel will include the specific relationship to the accused is noted in the STR, as defined by DoDI 6400.06, per 27 CFR § 478.11. - Trial counsel will send the STR and the accused’s full name, including full middle name, and date of birth to NCIS via email at nicssubmission@ncis.navy.mil (for Navy cases) or usmccid@ncis.navy.mil (for Marine Corps cases). - Ensure the convening authority, and defense counsel are served with the STR containing the appropriate notice. - Trial counsel will notify defense counsel in writing that receipt, possession, shipment, and transport of firearms by the accused for <i>any</i> purpose is unlawful.
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