#2: Findings and Emerging Trends from the 2016 State Survey

By Becki Goggins

This is the second in a series of blogs that explore the results of the Survey of State Criminal History Information Systems, 2016, a biennial national survey that represents the most current and detailed snapshot of the data, trends, policies, practices, and operations of criminal history records repositories nationwide. SEARCH, with support of the Bureau of Justice Statistics (BJS), U.S. Department of Justice, has conducted these surveys since 1989. BJS published the most recent edition of the survey in February 2018; it provides a snapshot of these systems as of December 31, 2016.

For the 2016 survey, SEARCH added new questions, or slightly modified existing questions, to gather information on emerging information sharing practices. Some of the changes reflected suggestions by users, respondents, and readers. New or modified questions focused on:

- business process workflow measurements;
- flagging of misdemeanor domestic violence convictions and active protection orders;
- the use of livescan and cardscan fingerprint automation technologies; and
- state plans to refresh and/or replace aging criminal history systems and automated fingerprint identification systems.

The following is a summary of some of the latest survey findings, including a look at protection orders and warrants in state databases and the National Crime Information Center (NCIC).

**Backlogs in Processing Arrest Fingerprint Cards**

Technological advances in fingerprint processing supported by livescan devices continue to produce significant improvements in the quality and availability of information critical to making sound decisions regarding an individual’s eligibility for:

Editor’s Note:
Learn more about the biennial national survey of state criminal history information systems, conducted by SEARCH and published by BJS

See our blog announcing the release of the 2016 survey
Access the 2016 survey
See other blogs in this series, which highlight key survey findings
• employment
• licensing
• gun purchases
• certain volunteer positions that work with the elderly, children, and other vulnerable populations.

The volume and speed with which fingerprints are transmitted from booking stations in local jails and detention centers and from applicant agencies to a state criminal history records repository enables rapid updating and reporting of criminal record information.

Given the importance of exchanging fingerprint data electronically, SEARCH queries states on their number of backlogged hardcopy arrest fingerprint cards. SEARCH first began asking this question with the 1992 survey. In 1992, 29 states reported a backlog, compared to only 8 states in the 2016 survey—showing substantial progress in reducing backlogs. This progress is largely due to the widespread implementation of livescan devices throughout the country.¹

The term “livescan” refers to both the technique and technology used to electronically capture fingerprint and palm print images without the need for the more traditional ink-and-paper methods. Livescan techniques refer to the way in which operators properly roll fingerprint images to ensure they are of sufficient quality to be accepted by the state repositories and the FBI. Livescan devices are the underlying technology used to collect and electronically transmit digitized images and accompanying textual information to post to a criminal history repository.

¹ 2014 data are missing because this question was not asked in that year’s survey.
Protection Orders and Warrants

— Entry into State Databases and the NCIC

SEARCH collects information on protection orders and warrants entered into state databases and the National Crime Information Center as a part of its biennial survey. SEARCH has worked diligently with states to encourage them to place protection orders in the NCIC, which makes them available nationally to law enforcement to better protect victims who have been granted protection orders. Placing these records in NCIC also ensures that they are available to support suitability determinations regarding firearm transfers through the National Instant Criminal Background Check System (NICS). As of December 31, 2016, states reported that 91 percent of all protection orders were included in NCIC.

It should be noted that entering warrants into NCIC also enables law enforcement agencies nationwide to discover outstanding warrants for an individual, but there are legal and policy limitations that govern whether a warrant should be entered into NCIC, which impacts the numbers reported by respondents. For instance, every time a law enforcement officer is notified of an outstanding warrant via NCIC, they are required to contact the originating agency to confirm the validity and currency of the warrant. Warrant confirmation requires the originating agency to confirm that the warrant is still outstanding and the person in the entry is identical with the subject in question. The originating agency must also affirm a willingness to extradite. If the originating agency declines, then the warrant must be removed from NCIC. As a result, many warrants for low-level offenses are only recorded in state warrant files if they are not subject to extradition.

As of December 31, 2016, states reported that 33 percent of all warrants were included in NCIC. The percentage of warrants recorded in NCIC may seem relatively low compared to those housed at the state level. However, it is important to recognize that many of these warrants are for individuals with citations for failing to appear in court or failing to pay fines on non-serious misdemeanor offenses. These offenses are effectively non-extraditable—consequently, they should remain at the state level. This practice of retaining warrants only in state files:

- prevents confusion
- avoids unnecessary hit confirmations
- eliminates the need to periodically update and validate warrant entries surrounding individuals who generally do not pose a risk to officer safety.
— Timeliness of Entry into State and NCIC Databases

Timely entry of protection orders and warrants into state files and NCIC is important to ensure that the most accurate information is available to law enforcement and other criminal justice officials. Active protection orders also serve as a disqualifier for firearms purchases; accordingly, timely entry of these records is crucial because it helps prevent unauthorized purchases.

As illustrated below, most jurisdictions that track transaction dates report entry of protection orders in both state and NCIC files within 24 hours of receipt, and over 90 percent within 7 days.²

![Data Entry Timeliness for Protection Orders and Warrants State and NCIC Files (December 31, 2016)](image)

### Timeliness of Felony Disposition Data

Two key components used to measure the data quality of criminal history records are completeness and timeliness of the information. Given the central importance of criminal history record information (CHRI) in both criminal justice and noncriminal justice domains, the 2016 survey was augmented to capture information on the timeliness of felony dispositions. The survey asked about the time elapsed between:

1) the occurrence of a final felony disposition and its receipt by the repository, and

2) receipt of the final felony disposition and its entry into the repository database.

Criminal history records—and felony convictions in particular—are used in a host of criminal justice decisions (e.g., investigations, risk assessments, sentencing) and to determine an individual’s eligibility for certain employment and/or professional licenses. They are also an important element

² For more information, see tables 4a and 5b in the 2016 survey.
in determining suitability for firearms purchases. Thus, ensuring timely submission of felony dispositions by courts is crucial to having timely and complete information for decisionmaking.

Similarly, it is important that repositories are able to enter felony dispositions into their computerized criminal history (CCH) database and the Interstate Identification Index (III) as soon as possible to ensure that these records are available for both criminal justice and noncriminal justice background checks. As shown in the graph below:

- One-third of responding jurisdictions (14, or 33.4 percent) receive felony court disposition data within 24 hours of the court taking action, and nearly half (20, or 47.7 percent) within 1 week.
- Nearly half of responding jurisdictions post these felony dispositions into their state’s criminal history records repository database within 24 hours of receipt (20, or 46.6 percent), and two-thirds (28, or 65.2 percent) within 1 week.

Currency of Felony Dispositions in State CCH Repository
(as of December 31, 2016)

Automating court disposition reporting, not surprisingly, seems to be an important factor in expediting felony disposition reporting within the repositories. Analysis of additional questions in the 2016 Survey indicate that in 10 jurisdictions in which court disposition is entirely automated (i.e., where 90–100 percent of dispositions are reported by automated means), the state criminal history records repositories report that they received the felony dispositions from courts within 24 hours. By the same token, those same jurisdictions report that they enter felony dispositions into their state criminal history repository database within 24 hours.3

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3 For more information, see Tables 8 and 8b of the 2016 survey.
Record Flagging Practices

— **Felonies**

Since 1992, SEARCH has queried states about their ability to flag criminal history records to indicate subjects who have been convicted of a felony. It is not always apparent based on an NCIC code or state statute whether a criminal offense is a felony. Therefore, flagging felony records helps avoid unnecessary delays and follow-up research when deciding an individual’s suitability for employment, firearms purchases, licensing, or certain volunteer positions. In 1992, 30 states had the ability to flag some or all felony records; by 2016 this number had grown to 41 states.4

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**State Criminal History Records Flagging Capabilities**

*(as of December 31, 2016)*

- Ineligible to purchase firearm under state law: 13
- Ineligible to purchase firearm under federal law: 18
- DNA availability: 29
- Mental health adjudication: 7
- Active state/NCIC warrant: 10
- Active state/NCIC protection order: 5
- MCDV conviction: 16
- Violent offenders: 14
- Sex offender registrants: 10
- Some felony subjects: 31
- All felony subjects: 40

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— **Firearms Purchase Prohibitions**

In addition to highlighting felonies, states are also increasingly able to flag other factors in their CCH databases to make it easier for end users to readily identify certain key pieces of information about a record’s subject without having to read an individual’s complete criminal history record. Many such flags can be used by the FBI NICS Section or state points-of-contact to instantly determine whether a person is prohibited from purchasing a firearm.5 These include flags to indicate:

- felony convictions
- misdemeanor crimes of domestic violence (MCDV)

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4 For more information, see Table 6 of the 2016 survey.
5 Point of contact (POC) states conduct background checks for some or all firearms transactions rather than relying on the NICS Section of the FBI’s Criminal Justice Information Services (CJIS) Division. See https://www.atf.gov/rules-and-regulations/permanent-brady-state-lists.
• active protection orders
• certain mental health adjudications
• other persons ineligible to purchase firearms under state or federal law.

— **DNA Availability**
Numerous states require persons arrested for felonies (and in some cases, serious misdemeanors) to provide a DNA sample for forensic analysis. DNA samples, however, can be expensive to collect and analyze and as a result, many states now employ flags to indicate that a subject’s DNA is available, thereby avoiding the collection of duplicate samples. As the chart above illustrates, by 2016 a total of 29 states have flags to indicate whether a DNA sample is available for record subjects.

— **Sex Offender Registries**
For many years the U.S. Department of Justice has awarded millions of dollars to states to implement the provisions of the Sex Offender Registration and Notification Act (SORNA). Since all states now have sex offender registries, it is quite easy to set flags in the CCH to identify convicted sex offenders, which likely accounts for why it is the most common flag reported by 40 states.

**State Plans to Replace Repository Systems**

— **AFIS**
Repositories rely heavily on local agencies contributing fingerprints electronically via livescan to the state’s Automated Fingerprint Identification System (AFIS). Because of this, states must periodically replace these systems as they approach the end of their lifecycle.

In 2016, for the first time since the survey effort began in 1989, SEARCH queried states about plans to replace their AFIS.  

- Nineteen states plan to replace their AFIS (blue-shaded states).
- Nine states plan replace their AFIS by the end of 2018.

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6 For more information, see Table 10a in the 2016 Survey.
For the 14 states that provided cost estimates, the average AFIS replacement cost was around $6.5 million, though cost estimates varied widely:

- One jurisdiction provided an estimate of $850,000
- In 11 states, cost estimates ranged from $2.5–$8.2 million (with an average of $4.6 million)
- In two other jurisdictions, the cost estimates ranged from $12 million to $27 million.

— **CCH System**

CCH system replacements are major information technology initiatives that require significant planning and effort to implement, and typically cost millions of dollars and several years of development, testing, and data migration before launching a production system. As a part of the 2016 survey and for the first time, SEARCH queried states about their plans to replace their CCH system.

A total of 21 states reported that they planned to replace their CCH system in coming years (blue-shaded states), including 11 states that indicated their intent to begin replacement efforts within the year of the survey or the following year, illustrating perhaps how acute their needs are. (See chart on page 9.)

Cost estimates provided by 13 responding states for replacement of their CCH systems varied substantially, ranging from $150,000 in one state, to two states projecting over $18 million. Three states projected between $500,000 to $1 million and seven states estimated between $1.7 million and $10.3 million.⁷

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⁷ For more information, see Table 10 in the 2016 Survey.
Search staff continue to analyze the results of the 2016 survey with the intention of making the data more accessible by creating dashboards and interactive displays. If you have suggestions for topics you would like to see highlighted, or if you have specific questions about survey findings, please contact Becki Goggins (becki@search.org) or Dennis DeBacco (dennis@search.org).

About the Author
Ms. Becki Goggins is Director of Law and Policy at Search. She oversees our work in the areas of criminal history records, development of laws and policies concerning the use of justice information and protection of privacy, implementation of evidence-based practices, and the use of technology to improve justice information sharing. As an organization, Search was originally founded to facilitate the exchange of criminal history record information (CHRI) between the states. Learn more about Search's work with criminal history records and the surveys we conduct on CHRI issues.