#3: A Closer Look at Reporting Interim Dispositions and Indictments; Cite and Release Policies; Livescan Use in Courts

By Becki Goggins

This is the third 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.

The criminal justice system is a loosely federated network of government and non-governmental agencies and processes designed to control crime and administer justice. As the well-known Criminal Justice System Flowchart first published by the President’s Commission on Law Enforcement and the Administration of Justice in 1967 illustrates, a great many decisions are made in criminal cases both before and following a court’s final adjudication and disposition.

As such, when SEARCH and BJS conducted our most recent biennial survey of state criminal records repositories, we queried states on formal arrests reported by contributing law enforcement agencies and final dispositions reported by courts. We also queried states on interim dispositions and alternative charging protocols that can impact a person’s suitability or eligibility for employment screening, professional licensing, firearms purchases, and other authorized transactions. In this blog, we take a closer look at how states responded to our questions on—

1. Survey Overview
2. New Findings/Protection Orders and Warrants
3. Arrest and Interim Disposition Reporting
4. Disposition Reporting: Courts/Prosecutors
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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

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1 The graphic on page 2 is the most recent Criminal Justice System Flowchart published by the Bureau of Justice Statistics, Office of Justice Programs, U.S. Department of Justice at https://www.bjs.gov/content/largechart.cfm. This flowchart was adapted from pp. 8–9 of The Challenge of Crime in a Free Society: https://www.ncjrs.gov/pdffiles1/nij/42.pdf.
2 See table 7b of the 2016 survey.
reporting interim dispositions and indictments

cite and release policies

the use of livescan fingerprinting devices in the courtroom to link positive identifications to dispositions.

Reporting Interim Dispositions

Interim dispositions indicate the status of arrest or prosecutor charges that are pending but have not reached a final adjudication by a court (e.g., conviction, acquittal, dismissed, etc.). Examples of interim dispositions are:

- charges filed, declined, deferred, or dismissed by prosecutors
- indictments
- arraignment
- adjournment in contemplation of dismissal
- pleas withdrawn or vacated
- guilty verdicts under appeal.
It is helpful to include interim dispositions on criminal history records to enable users who are making suitability determinations for employment, licensing, firearms transactions, and other authorized purposes to know if further research and/or a final disposition is required before deciding an individual’s fitness. A felony conviction, for example, categorically disqualifies someone from purchasing a firearm, while a felony charge does not.

**Point-of-contact** (POC)³ states and the FBI National Instant Criminal Background Check System (NICS) Section use criminal histories daily to authorize Federal Firearms Licensees (FFL)⁴ to proceed with firearms transactions. If a felony arrest charge is present without a disposition, the NICS transaction is placed on hold for up to 72 hours to allow staff to conduct additional research. Missing dispositions create an enormous burden for states and the FBI who are required to track them down—often involving multiple calls to local law enforcement and courts. If an interim disposition is posted, then a Proceed or Deny transaction notice quite often can be issued to the FFL immediately.

In 2016, 27 states and Puerto Rico posted interim dispositions to the criminal history record. (See blue-shaded states.)

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³ In states where the state government has agreed to serve as the POC for the system, the FFLs contact the NICS through the state POC for all firearm transfers. The state POC conducts the NICS check and determines whether or not the transfer would violate state or federal law.

⁴ A Federal Firearms License (FFL) is a license in the United States that enables an individual or a company (Licensee) to engage in a business pertaining to the manufacture or importation of firearms and ammunition, or the interstate and intrastate sale of firearms.
Reporting Indictments

Indictments can be very important interim dispositions, because an active indictment prohibits the subject from purchasing a firearm. As a part of the 2016 survey, SEARCH specifically asked states if they post indictment information to the criminal history record and 15 states and Guam responded that they incorporate indictments in their criminal history records.\(^5\) (See blue-shaded states.) By posting indictments, jurisdictions improve the efficiency of making firearms determination decisions.

Cite and Release Arrest Policies

Formal arrests typically require taking a person into custody and fingerprinting them. In many states, law enforcement agencies can cite an individual and notify them to appear in court without formally taking them into custody. These are known as “cite and release” arrests.

While cite and release policies can reduce workloads and jail populations (e.g., a police officer does not have to transport the offender to a jail or booking facility for fingerprinting and intake), they often result in missing arrests on criminal history records.

\(^5\) See table 7b in the 2016 survey.
For the 2016 survey, SEARCH queried states regarding when law enforcement (LE) agencies routinely cite and release individuals without fingerprinting.6

- A total of 8 states and Guam reported that LE agencies only cite and release for violations, which are minor offenses that do not typically involve jail time.
- Twenty-five states reported that LE agencies cite and release for violations and misdemeanors.
- Thirteen states reported that LE agencies cite and release for all criminal offenses, including felonies.
- Four states reported that LE agencies do not routinely cite and release for any offenses.

Livescan Use in the Courtroom

One way to ensure that fingerprints are eventually submitted to the criminal history records repository when a person is cited and released is to deploy livescan fingerprinting devices in the courtroom to link positive identifications with dispositions.

In response to SEARCH’s query, a total of nine states reported using livescans in courtrooms in 2016 for these very purposes.7 (See blue-shaded states on page 6.)

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6 See table 7b in the 2016 survey.

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Livescan devices in courtrooms have the potential for increasing the number of fingerprint-supported records in state criminal history repositories. SEARCH will continue to track the use of livescan devices in courtrooms in future surveys.

**States Where Livescans are Used in Courtrooms to Link Positive Identifications to Dispositions**

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).

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**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.

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7 See table 13 in the 2016 survey.