

Workshop Proceedings: Criminal History Records Improvement

Little Rock, Arkansas ■ May 31–June 1, 2018

*A SEARCH
Law and Policy
Report*

Background

Criminal history records are intended to provide a complete and accurate portrayal of a person's involvement in the criminal justice system, including arrests, indictments, prosecutions, court dispositions, probation or other community supervision details, jail or prison commitments, releases from supervision, and more. They are used in the criminal justice system to make determinations concerning bail, pretrial diversion, sentencing, parole eligibility and a host of other decisions affecting those who have committed a crime. Increasingly, criminal history records are also used by employers, volunteer organizations, licensing boards and a wide array of regulatory agencies when making suitability determinations and/or hiring decisions. Criminal history records are also used to determine eligibility to possess, carry concealed, and purchase firearms—the absence of which have led to recent criticism of the national system designed to make such records available. Despite their importance, many local agencies are not submitting (or are unable to submit) all relevant records to their respective state criminal history repositories in a timely way.

To help solve this problem, SEARCH, The National Consortium for Justice Information and Statistics, partnered with the Bureau of Justice Statistics (BJS), the Federal Bureau of Investigation (FBI), and the National Center for State Courts (NCSC) to host a Criminal History Improvement Workshop in Little Rock, Arkansas on May 31–June 1, 2018. The workshop partners invited eight states to participate and discuss their challenges and solutions relative to making criminal records available nationally. The workshop brought

together multidisciplinary teams from the broad spectrum of agencies that contribute records to state criminal history record (CHR) repositories in those eight states: Alabama, Arkansas, Georgia, Louisiana, Mississippi, Oklahoma, Tennessee, and Texas. Representatives included state CHR staff, courts, state bureaus of investigation, state police, local law enforcement, prosecutors, and crime information centers. Specific agenda items included:

- How criminal history records are created and maintained
- How criminal history records are used for both criminal and noncriminal justice purposes
- Respective roles of law enforcement, prosecutors, courts, jails, prisons, and community supervision agencies in contributing data to the criminal history record
- Challenges and promising practices for disposition reporting
- State and federal disqualifiers for purchasing firearms
- The FBI's National Instant Criminal Background Check System (NICS)
- Funding opportunities to support criminal history records improvement projects
- Identification and discussion of grant application areas of interest and requirements

This paper documents the major findings that surfaced during the workshop.

Challenges to Disposition Reporting

Based on the state comments during the workshop, several common challenges surfaced.

- Offenders are not fingerprinted at the time of arrest. This means that subsequent dispositions cannot be matched to an arrest record in the state repository, because arrests must be biometrically supported to be included in CHR systems.
- Court personnel do not include (or in some cases do not have access to) tracking/process control numbers assigned at the time of arrest on disposition records, which often makes it difficult to match them to arrests maintained by the state repository.
- Many records—especially DUI records—are created and maintained at the municipal level and not forwarded to the state repository.
- High turnover among staff at contributing agencies. Each state noted that there is a need for constant training to ensure that agency staff responsible for contributing records to the state repository is aware of their obligations and job duties. When personnel leave a position, they often do not fully train their replacements on how to submit records to the state repository and why it is so important.
- More automation is needed to increase the ability of courts and prosecutors to electronically submit information to the state repositories.

States do not provide adequate funding to support criminal history repositories. While technological improvements can make more records available, repositories and contributing agencies still need adequate staffing to process records, respond to inquiries, etc.

Promising Practices for Improving Disposition Reporting

In addition to discussing common challenges, attendees also provided examples of promising practices they have implemented.

—Alabama

By statute, the Alabama Legislature created the Criminal Justice Information Center Advisory Commission, which allows all contributing agencies (and consumers of CCH data) to have input into how the state maintains its CCH operations. Members of the Commission include: the State attorney general, the chair of the Pardons and Paroles Board, the commissioner of the Department of Corrections, the president of the Alabama Sheriffs' Association, the director of the Department of Public Safety, the president of the Alabama Association of Chiefs of Police, the director of the Alabama Department of Economic and Community Affairs, the president of the District Attorneys' Association, the president of the Circuit Clerks' Association, the Chief Justice of the Alabama Supreme Court, the president of the Alabama Association of District Judges, the president of the Alabama Association of Circuit Judges, the Governor's coordinator of Alabama Highway and Traffic Safety, and the director of the Information Services Division of the Alabama Department of Finance.

The Commission also has an advisory section made up of: the presiding officer of the Alabama Senate, the speaker of the House of Representatives, the president of the Association of County Commissions of Alabama, the president of the Alabama League of Municipalities, the director of the Administrative Office of Courts, and a citizen of the State of Alabama to be appointed by the Governor. The advisory members are also encouraged to actively participate to express their needs related to CHR information. By having broad input into how criminal history records are created and maintained, the Commission creates buy-in from stakeholders across the criminal justice enterprise and those who rely on their records.

—Arkansas

Using National Criminal History Improvement Program (NCHIP) funds, Arkansas hired additional staff to focus on researching felony case dispositions. As a result of this multiyear project, the Arkansas Crime Information Center (ACIC) has achieved a disposition reporting rate of nearly 100% of its felony arrests. Now that the felony disposition project is nearly complete, ACIC officials are turning their attention to misdemeanors and records held by courts of limited jurisdiction.

Arkansas law also requires court clerks to place arrest tracking control numbers on disposition records, which is extremely important in being able to easily match cases. While the courts are not completely compliant with the law, it makes it easier for ACIC to reach out to clerks' offices where the numbers appear to be missing a significant amount of time.

—Georgia

The Georgia Crime Information Center (GCIC) recently began producing scorecards for all court clerks that allow them to view their missing dispositions at the county level to see how they compare to other jurisdictions. Since online scorecards were made available through a portal that is available to all courts, there has been a significant uptick in the number of dispositions contributed to the state CCH repository. Many clerks have requested training from GCIC, which makes training available at no cost to the courts, and many clerks now have "friendly rivalries" to see who can maintain the most complete disposition rates throughout the state.

GCIC has also worked with court clerks to identify any barriers to reporting caused by their organization. Because of this process, GCIC has streamlined many of its internal processes to make it easier for the courts to contribute records. This outreach has also led to closer working relationships with the courts, which have also been beneficial in terms of making the courts aware of the critical importance of criminal history records and more willing to do their part in contributing data.

—Louisiana

Like Georgia, Louisiana provides monthly reports to court clerks to show how they compare in terms of the number of missing dispositions. The state also recently implemented a pilot program where, at the request of the presiding judge, they now provide a report showing the arrests that do not have fingerprints and other missing data elements from the criminal history record. Judges then work with their staff to research the issues, provide information available from the courts, and contact appropriate law enforcement personnel to ensure that fingerprints are obtained where they were not previously and to make sure all fingerprint records are sent to the state repository. Based on the success of this pilot project, Louisiana anticipates expanding this service to other judges who are willing to participate in a similar effort. Louisiana also anticipates appointing a representative to the SEARCH Membership Group to learn more from peers throughout the country regarding successful strategies for increasing the accuracy, timeliness, and completeness of criminal history records. Louisiana also expressed an interest in completing the SEARCH/BJIS Quality Assurance Program (QAP) self-assessment checklist.

—Mississippi

Based on information learned at the workshop, the Mississippi Judicial College plans to hold similar multidisciplinary meetings in their state to promote the importance of criminal history records and to encourage all criminal justice agencies to do their part in contributing records. Mississippi indicated that they may request technical assistance from SEARCH to facilitate the meeting, and the state delegation intends to ask the Governor to appoint a Mississippi representative to the SEARCH Membership to keep apprised of ways states strive to continuously improve criminal history records. Mississippi also expressed an interest in completing the SEARCH/BJIS QAP self-assessment checklist.

—Texas

Texas legislation specifies which agencies must submit criminal history records and timeframes for submissions. This statutory mandate is very helpful in ensuring full participation. In addition, the State Administering Agency (SAA) in Texas, which awards all federal subawards to other state and local agencies, created a policy whereby it will not award any federal awards—whether they are related to NCHIP or not—to counties in which dispositions are incomplete. Since this policy was implemented, local agencies have dramatically improved disposition reporting—partly in response to “sister” agencies (e.g., victims service organizations) that rely on funds administered through the SAA.

State Criminal History Improvement Plans

The FBI and BJS reminded attendees that the Fix NICS Act, which was passed by Congress in March of 2018, requires that states—in cooperation with the U.S. Attorney General—create implementation plans to improve criminal history records made available for firearms background checks. As a part of the plan, each state will be asked to provide: 1) baseline data regarding CCH record completeness; 2) a needs assessment, including estimated costs to implement the plan; and 3) annual benchmarks for improvement. States that substantially reach their benchmarks and are otherwise in compliance with their implementation plans will receive preferential consideration for NCHIP funds administered by the U.S. Department of Justice. States in substantial compliance with implementation plans may also request a waiver of the state matching fund requirements set forth in the NICS Act Records Improvement Program (NARIP). The state implementation plans are due in 2019, and further guidance from the FBI and BJS on creating the plans will be forthcoming.

Funding Opportunities

BJS reminded states that for the past several years, Congress has appropriated significant funding to the NCHIP and NARIP cooperative agreement programs that make awards to states to make improvements to their CHR systems. For several years, BJS has not awarded all of the funding available to states (which reverts to the Federal government), and they encouraged states to start thinking about and planning for the 2019 solicitations that will be released next spring. The Bureau anticipates that Congress will maintain funding at ~ \$75 million for FY19; however, there is a fear that appropriations may be reduced if states do not use all the money made available through these important grant programs. Additionally, BJS encouraged state repository staff to work closely with their partner agencies to ensure that funds requested provide the maximum value in terms of improving disposition completeness and ensuring that records related to domestic violence are reported and made available to the NICS. BJS also reiterated that states are encouraged to reach out to BJS to discuss project ideas in advance of application deadlines to get a sense of whether activities are aligned with the goals and objectives of the programs.

Questions?

Please contact SEARCH’s Director of Law and Policy, Becki Goggins (becki@search.org), if you have questions or need more information.

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