

Criminal History Improvement Workshop Proceedings
Albuquerque, New Mexico
April 4-5, 2019

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, pre-trial 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 to 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, in partnership with the Bureau of Justice Statistics (BJS), the Federal Bureau of Investigation (FBI) and the National Center for State Courts (NCSC) hosted a Criminal History Improvement Workshop in Albuquerque, New Mexico on April 4-5, 2019. The purpose of the workshop was to bring together multidisciplinary teams from the broad spectrum of agencies that contribute records to state criminal history record (CHR) repositories in the six states that were invited to the workshop to discuss their challenges and solutions relative to making criminal records available nationally. The states in attendance were Arizona, Idaho, Montana, New Mexico, North Dakota and Wyoming. Representatives included: state CHR repository staff, courts, state bureaus of investigation and state police. 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 is intended to document 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. The primary reasons cited for not fingerprinting were:
 - In large, Western states, it is common for the nearest booking station (where fingerprints could be captured) to be over 100 miles from where the arrest takes place. Officers in rural areas cannot afford to spend hours away from patrol and other duties to transport arrested individuals to be fingerprinted. As a result, cite and release events are very common. Even in urban areas, officers may cite and release offenders in lieu of making arrests to save time and conserve jail space for more serious offenders.
 - States reported that there is an overall lack of awareness regarding the importance of fingerprinting to establish the CHR.
- Court personnel do not include (or in some cases even 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. Courts do not always enter other crucial information that allows arrests to be linked to dispositions such as an individual's correct name, date of birth or the arresting agency.
- Prosecutors are unaware that they should report final dispositions resulting from declinations to prosecute when the charges have not been filed with the court.
- 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.

Promising Practices for Improving Disposition Reporting

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

Arizona

Unlike most states, Arizona provides a centralized case management system (CMS) that is used by all state prosecutors. They also have a unified court CMS which is more common. The state criminal history repository receives electronic disposition reports from both prosecutors and courts. What is noteworthy is that Arizona's CHR routinely receives notice when prosecutors decline to prosecute which often does not occur in most other states.

The Arizona Department of Public safety issued portable fingerprint kits to their state troopers which allow them to capture fingerprints when a citation is issued. This not only allows these records to be submitted to the state CHR, but also enhances officer safety by allowing them to positively identify individuals in the field.

Idaho

Idaho has a Criminal History Auditor/Trainer who reviews record completeness as part of the rotating triennial criminal history review of all criminal justice agencies in the state wherein every agency is reviewed once every three years. These compliance reviews compare what information is held by contributing agencies to what is in the state criminal history repository. These reviews are designed to: ensure compliance with state statutes regarding information reporting requirements including time standards; and, evaluate the accuracy and completeness of records submitted to the state repository. Following each review, she provides the results to contributing agencies to make them aware of any discrepancies found between their records and the central state repository.

Montana

Recognizing the need to increase awareness among prosecutors to report dispositions, the Montana Department of Justice (MDOJ) now conducts regular outreach to prosecutors to explain their role in contributing disposition records. MDOJ staff also attends both semi-annual conferences held by the state District Attorneys' Association to provide information on the importance of prosecutors in disposition reporting.

Additionally, in 2017 the Montana Legislature passed a law requiring fingerprints for all misdemeanors. (Previously, agencies were only required to obtain fingerprints for felonies.) While training for police and trainings on the new requirements is ongoing, implementation of the new law has gone smoothly and has greatly improved the availability of misdemeanor records.

New Mexico

New Mexico's larger counties are working to implement an eFiling system to allow local law enforcement agencies to electronically refer arrests for prosecution. Since the arrest transaction number is a part of the payload that comes from the arresting agency, it can be populated in the electronic case that is filed with the courts which allows any subsequent disposition to be matched back to the arrest. New Mexico also has a Justice Information Sharing Council that brings together courts, law enforcement, prosecutors and other criminal justice entities the meet regularly to discuss how to work together to improve CHR reporting.

Funding Opportunities

BJJ 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, BJJ has not awarded all 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. Congress maintained 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, BJJ 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. BJJ also reiterated that states are encouraged to reach out to BJJ 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.