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# Attorney General's Program for Improving the Nation's Criminal History Records and Identifying Felons Who Attempt to Purchase Firearms

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## Overview

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**U.S. Department of Justice  
Office of Justice Programs  
Bureau of Justice Statistics**

**Steven D. Dillingham, Ph.D.  
Director**

**The Assistant Attorney General,  
Office of Justice Programs, coordinates  
the activities of the following program  
offices and bureaus: Bureau of Justice  
Statistics, National Institute of Justice,  
Bureau of Justice Assistance, Office  
of Juvenile Justice and Delinquency  
Prevention, and Office for Victims  
of Crime.**

## Foreword

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Improving the quality of the Nation's criminal history records is one of the most important challenges facing the criminal justice community today. The increased reliance on criminal history records — to identify persons ineligible to purchase firearms, to identify individuals as habitual or repeat offenders, to make appropriate bail release and sentencing decisions, and to impose correctional supervision requirements — highlights the importance of accurate information for effective crime control. Similarly, the increased use of criminal history information for such authorized purposes as licensing, pre-employment screening, and other sensitive matters mandates that criminal history records be complete, accurate, timely and rapidly available to authorized users.

Recent findings indicate that, despite significant advances, making the Nation's records systems fully capable of meeting law enforcement demands and other pressing needs will be a significant task. Further improvements remain to be made in systems automation, in information retrieval and transmission, and in updating records with complete arrest and disposition information. Felony convictions must be identified in order to ensure compliance with statutory requirements and to assist State programs restricting firearms sales. Policy and implementation issues must be resolved to ensure rapid information exchange among States. More advanced identification techniques must be developed to facilitate immediate and improved identification capabilities nationwide. For these reasons, I have established a comprehensive program to improve the Nation's criminal history information systems and to identify felons who attempt to purchase firearms. The Department of Justice is proceeding with full implementation of this ambitious program.

This program will serve the entire Nation — Federal, State and local governments. This initiative responds to the interests of the Administration and Congress by establishing a program to assist States in enforcing firearms sales laws. Section 6213 of the Anti-Drug Abuse Act

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of 1988 required that the Attorney General report on the system for the immediate and accurate identification of felons who attempt to purchase firearms. I created a Task Force to investigate these issues. The Task Force examined two basic approaches for responding to this challenge: "point-of-sale" systems, in which immediate approval or denial is made at the time of an attempted purchase, and "pre-approval" systems, which require that potential purchasers be checked and provided with evidence of approval prior to the time of actual purchase. The Task Force's report was submitted to the Congress in November 1989. I have determined that improving the Nation's criminal history records is the necessary first step and the underpinning for all meaningful firearms control systems. The establishment of a system that permits States to implement a "point-of-sale" option at their initiative best achieves the goal of immediate and accurate identification of felons. It also imposes the least burden on law-abiding citizens seeking to purchase firearms legally.

The efforts underway at the Department to improve criminal history record systems will serve to meet the law enforcement needs of all levels of government by establishing an effective and fair system for identifying felons who attempt to purchase firearms. Furthermore, the benefits of this comprehensive program will extend to virtually every stage of the criminal justice process, including investigation, arrest, conviction, sentencing, and supervision and monitoring upon release to the community.

Dick Thornburgh  
Attorney General  
of the United States

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## Background

Section 6213 of the Anti-Drug Abuse Act of 1988 required the Attorney General to report to Congress on a system for the immediate and accurate identification of felons who attempt to purchase firearms. A Task Force on Felon Identification in Firearms Sales was established to develop a range of options that would comply with the statute. In October 1989, the Task Force completed its final report. The report discussed both point-of-sale and prior-approval systems and outlined examples of possible modifications of the basic options. The report also identified major problems in the timeliness, quality and completeness of criminal history records and in the ability to identify individuals convicted of felony offenses.

## The Attorney General's Recommended Program

In his letter of November 20, 1989, forwarding the report to Congress, the Attorney General recommended a program to enhance efforts to improve criminal history record information and to stop the sale of firearms to convicted felons.

The first recommendation was the implementation of a point-of-sale system with a preference, based upon available technology, for touch-tone telephone access by gun dealers to disqualifying information (Option A2). The Attorney General, in recommending such a system, emphasized the need to "take steps to protect the integrity of criminal records and to prevent abuse of these records." (See "Clarification of Point-of-Sale Approval," page 3.)

Second, the Attorney General directed the Federal Bureau of Investigation (FBI) to establish a complete and automated database of felons who are prohibited from purchasing firearms. The Attorney General recognized that this database could not be created overnight and that

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significant efforts and expenditures on the part of both the States and the FBI would be needed. To facilitate this effort, the FBI and the Bureau of Justice Statistics (BJS) were directed to develop voluntary reporting standards for State and local law enforcement. These standards emphasize enhanced recordkeeping for all arrests within the last 5 years and for the identification of convicted felons. BJS also was directed to undertake a comprehensive study of the status of State criminal history reporting systems.

Additionally, the Bureau of Justice Assistance (BJA) was directed to devote \$9 million in each of the next 3 years to fund grants to States to improve criminal history record information, to identify convicted felons, and to comply with the voluntary reporting standards. BJS is administering this program in collaboration with the funding agency, BJA.

Third, the Department has initiated a program to enhance FBI criminal history files by eliminating significant current arrest and disposition backlogs and by automating the records of active criminals, who are part of the 8.8 million individuals whose records are currently being maintained manually. The FBI has established a plan for recruiting, hiring, and training additional personnel to staff a satellite office in March 1991 to begin the manual record automation project. The Administration has endorsed and supported this effort by approving an FBI budget request in Fiscal Year 1992 for additional resources.

Finally, the Attorney General directed the FBI to continue to monitor the advances being made in biometric identification technology which will permit more accurate identification of individuals based upon unique characteristics, such as the live scanning of fingerprints and digitizing the data for transmission.



## Clarification of Point-of-Sale Approval

As noted in the *Report to the Attorney General on Systems for Identifying Felons Who Attempt to Purchase Firearms* prepared by the Task Force on Felon Identification in Firearms Sales, Option A2 represented a "higher-technological variant" of the basic Option A, which requires a point-of-sale approval through a telephone check. The Attorney General's recommendation to Congress was a commitment to a point-of-sale system and a stated preference for Option A2, based on envisioned future cost efficiencies and evolving technologies. The point-of-sale approval was the essential element of the Attorney General's recommendation. The eventual implementation of Option A2 was a goal that was not expected to be achieved in the short term. For this reason, the Attorney General has determined that practical and reasonable variations of Option A are acceptable and compatible with his recommendation, particularly in light of the rapidly changing technologies and the technical and policy issues that presently exist. Such a variation might follow the model of the system implemented by Virginia in 1989. Under that system, telephone inquiries are made by the dealer to the State police agency which verifies the eligibility of the caller on the basis of specialized identification codes. Dealers are notified of "approval" or "rejection" only, and all database inquiries against State and FBI records are initiated by law enforcement personnel.

It is anticipated that as technological advances are made and as technical and policy issues are resolved, alternative methods for identifying gun purchasers, for transmitting the data, and for protecting record system integrity will be considered.

### Activities to Date

**Voluntary Reporting Standards.** Voluntary reporting standards, which are designed to enhance the quality of State records, to facilitate the interstate exchange of information and to permit the identification of felony offenders, were developed by the FBI and BJS. The standards were initially released in May 1990 for public comment and incorporated input from Federal and State representatives. The final standards were published in the *Federal Register* of February 13, 1991, Volume 56, Number 30, pp. 5849-5850. Copies are available to all State repositories and other interested organizations from the FBI.

**Comprehensive Survey of State Criminal History Records Systems.** A major comprehensive survey of all State criminal history record systems has just been completed. The survey, which includes data from all 50 States and the District of Columbia, reviewed the extent to which criminal history records are complete, automated and available, the frequency of data audits, and other relevant information. Among its findings, the survey noted that:

- 60 percent of the criminal history records maintained by State repositories are automated.
- 41 States and the District of Columbia require courts to report felony dispositions to the repository.
- 23 States, representing over half of the Nation's population, report that at least 70 percent of records of arrests within the past 5 years have dispositions recorded.

In addition to providing valuable information on the current status of criminal history record systems, the survey provides baseline data that will allow the follow-on 1992 survey to measure the progress of the program for improving criminal history records.

**Current Criminal History Record Improvement Grant Program.** BJS has been assigned responsibility for implementing the Attorney General's program for Criminal History Record Improvement (CHRI). As of February 1991, 23 States had received funds, and applications from five more were being processed. More than \$9 million will be awarded to these States by March 1991. Additional applications are expected during Fiscal Years 1991 and 1992. It is envisioned that most States will participate in the program. As part of the CHRI program, States receiving funds must either have initiated or have in place procedures to identify convicted felons in existing and future criminal history records. This information is to be made available for State criminal justice purposes. Several major activities are being undertaken by the States as part of the CHRI program. Many States such as Arkansas, Florida, and Georgia are using Federal funds to enter case dispositions while developing new systems and procedures to prevent future backlogs. Other States are developing electronic interfaces between State criminal record systems and State or county courts to automatically exchange information. These systems are designed to increase data quality and timeliness and to prevent duplicate data entry. Iowa, for example, plans to interface computerized criminal history records with both court and corrections data. Two States, Maryland and Massachusetts, are developing a strategy to tie automated fingerprint systems to the central repository. All CHRI participants will conduct a data quality assessment or audit to identify limitations or improvements in their systems.

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**Future Criminal History Record Improvement Activities.** BJA will fund an evaluation of the CHRI program beginning in Fiscal Year 1991. Beginning in Fiscal Year 1992, BJA (in consultation with BJS) will implement the new statutory requirement of ensuring that 5 percent of the formula grant monies awarded to each State under the Edward Byrne Memorial State and Local Law Enforcement Assistance Programs will be made available for the purpose of improving State and local criminal justice record systems, unless no such need is demonstrated and a waiver is granted. At current levels of funding, this will total approximately \$20 million per year. This funding will complement the current CHRI program.

### **Design Considerations**

Further analysis has shown that it may not be necessary for the FBI to establish a separate national database of convicted felons. As an alternative, a "pointer" system may be established at the Federal level. Such a system could employ the existing Interstate Identification Index (III) maintained by the FBI and could utilize existing State criminal history record systems.

The FBI has concluded that by utilizing existing procedures and communication systems, such as the National Crime Information Center (NCIC), the National Law Enforcement Telecommunications System (NLETS), and the FBI's III database, significant costs and time savings will be realized in implementing this system. A plan for implementing this system, which addresses interim and long-term requirements for interfacing with State record systems, will be finalized by the FBI in coordination with the States and BJS.

A goal of the Attorney General's program is to establish a system that permits any State to implement a point-of-sale approach for identifying felons who attempt to purchase firearms. To achieve this goal,

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States must be able to provide accurate, complete and timely information regarding convicted felons in response to appropriate Federal and State requests through the FBI's "pointer" or index system. Both point-of-sale and prior-approval systems have been implemented successfully by States and are not mutually exclusive. States with prior-approval systems can continue such procedures. For those States which do not currently check for felons purchasing firearms, a decision to implement a point-of-sale system is encouraged.

## Benefits

Criminal history records are the most widely used records within the criminal justice process; they are the linchpins for major reforms and improvements in criminal justice administration. State participation in the CHRI program will benefit both point-of-sale and prior-approval approaches by improving the quality, accuracy and timeliness of criminal history information. Criminal history records are a primary source of information vital to making decisions concerning criminal defendants and convicted offenders. Law enforcement officials use this information for a variety of investigative purposes; prosecutors use these data in making decisions about appropriate charges, in categorizing the offender as a serious or habitual criminal, in plea-bargaining and in making bail recommendations; judges use criminal history records in making bail and sentencing determinations; probation, parole and corrections officials use the information in making their recommendations about incarceration, supervision, monitoring or release.

There is also a growing use of criminal history information for authorized non-criminal-justice purposes. Information contained in these records is made available for Federal employment and security clearances; for State licensing and employment decisions; and for other appropriate purposes authorized by law.

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The Attorney General has initiated a program that will serve the goals of improving the quality and timeliness of criminal history records and helping to keep firearms out of the hands of felons. This initiative, representing a cooperative effort of Federal, State and local governments, is the most significant and comprehensive program ever undertaken to accomplish these goals.

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