U.S. Department of Justice
Bureau of Justice Statistics

Criminal Justice Information Policy

Data Quality of Criminal History Records

U.S. DEPARTMENT OF JUSTICE
BUREAU OF JUSTICE STATISTICS

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Report of work performed under BJS Grant No. 82-BJ-CX-0010 awarded to SEARCH Group, Inc., 925 Secret River Drive, Sacramento, California 95831. Contents of this document do not necessarily reflect the views or policies of the Bureau of Justice Statistics or the U.S. Department of Justice.

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Information
Policy

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NCJ-98079
October 1985

For sale by the Superintendent of Documents, U.S. Government Printing Office
Washington, D.C. 20402

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ROSTER OF PARTICIPANTS

National Roundtable on
Data Quality of Criminal History Records

September 12-13, 1985
U.S. Supreme Court Building

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INTRODUCTION

The accuracy and completeness of criminal history record information[1]--the quality of data in those records--has emerged as perhaps the most significant information issue confronting the criminal justice community. Criminal history record information is vital to and used at virtually every stage of the criminal justice process. From an initial decision to arrest, to a final decision to release from the criminal justice system, criminal history record information plays a significant role in almost every criminal justice decision. Unfortunately, most of the available empirical data suggests that the quality of criminal history record information in many record systems is deficient, particularly with reference to court dispositions. As a consequence, criminal justice decision-making and criminal justice research and statistics, which rely upon criminal history data, may be compromised.

Approach and Organization

This report takes a close look at the nature and extent of the data quality problem and identifies and evaluates strategies which have been used to improve data quality. To put this discussion of strategies into a proper context, the report discusses other elements of the data quality issue-- why is data quality important; what is the extent and nature of the data quality problem; and, how has the law responded? The report is in five parts:

- Part One describes the way in which criminal history record information is used and identifies the kinds of problems caused by the use of inaccurate and incomplete data.

- Part Two reviews survey and other research findings concerning the extent of data quality deficiencies in criminal history record systems.

- Part Three describes the statutory, regulatory and judicial response to data quality problems.

- Part Four identifies strategies which have been used to improve data quality.

- Part Five concludes the report with an agenda for future actions designed to improve data quality.

An appendix includes tables that reference state statutes and regulations related to the completeness and accuracy of criminal history record information.

While the report addresses data quality issues in federal, state and local criminal history record systems, its principal focus is upon data quality as it relates to records maintained by central state repositories.

The report makes the following key points:

- **Significance of the criminal history record:** Criminal history record information is the most widely used type of record in the criminal justice process. Moreover, legislative trends toward openness of criminal history records and the increasing numbers of noncriminal justice agencies demanding and gaining access to criminal history records makes the quality of those records even more critical. In some states, central state repositories report that requests for access to criminal history record information from noncriminal justice agencies now exceed requests from criminal justice agencies.

- **Impact of the problem:** The accuracy and completeness of criminal history records have an impact upon: the effectiveness of the criminal justice system's response to crime; the extent to which record subjects are

treated fairly; and the extent to which criminal justice research and statistical efforts can extract usable data from criminal history records.

- **Nature and extent of the problem:** On a national basis, there is an increasing awareness that criminal history record information systems have significant data quality problems. While problems related to the accuracy of data are significant, by far the more serious problems are related to the completeness of records. In particular, disposition reporting rates seem to be too low and reporting too slow. In addition, there appears to be a wide disparity in the quality of criminal history records among state repositories and, within each state, among criminal justice agencies. Responsibility for improving the data quality of criminal history records has fallen to the state central repositories. However, the repositories seldom have adequate legal authority and financial resources to compel and assist agencies to report arrest or disposition data.

It is not yet certain whether the source of the data quality problem is primarily technical, and thus could be solved by implementing automated systems; or is primarily mechanical, and thus could be solved by implementing procedures such as delinquent disposition monitoring systems; or is primarily administrative, and thus could be solved by greater commitment and cooperation, especially from the courts; or is primarily legal, and thus could be solved by adopting better crafted laws and regulations; or is primarily financial and thus could be solved by an infusion of capital. The likelihood, of course, is that the data quality

problem has no single or even primary cause and thus is resistant to all but the most comprehensive and coordinated reform strategies.

- **Legislative and regulatory response:** The states have adopted legislative and regulatory standards for data quality. However, in most states these standards are not specific and their penalties are not creditable. The courts have recognized that criminal justice agencies have a duty to maintain systems which are reasonably designed to disseminate accurate and complete criminal history record information. However, the burden that must be met by record subjects in order to obtain court remedies is sufficiently weighty that court review is often not a realistic remedy.

- **Strategies to improve data quality:** Several types of strategies appear to have been effective in improving data quality. However, no one strategy appears to provide the total answer and no particular mix of strategies appears to be right for every agency or jurisdiction. Effective strategies include: prioritizing data quality so that it becomes an agency commitment; data entry standards, including tracking systems; data maintenance standards, including disposition monitoring systems; data dissemination standards, including requirements to query the central repository; automation; statutory and regulatory strategies which are reflective of good practice; requisite legal authority for state central repositories to obtain arrest and disposition reports; political strategies including, in particular, improving relationships between repositories and courts; and increased funding. Of these strategies, the most important appear to

be the prioritization of the data quality issue, improving relationships between repositories and courts, automation, and obtaining adequate funding levels.

- **Agenda for future action:** Much remains to be done to improve the quality of criminal history records in this nation's information systems. While this report documents data quality issues and strategies for improvement from the perspective of the managers of the records, there needs to be an examination of the issues by the users of the records--both criminal and noncriminal justice users. Cooperative strategies need to be developed among the courts, repositories and other components of the criminal justice system. Strategies for improving data quality in specific jurisdictions need to be documented in detail and made available nationally. In particular, state central repository efforts to improve data quality must be monitored to allow other states to emulate the successful efforts of specific repositories. State-of-the-art computer and telecommunications systems need to be given priority. Finally, funding needs to be addressed at the federal, state and local level. Without such a national commitment to data quality improvement, timely, systemwide progress will not take place.

Research Methodology

The research methodology for this report included a review of all literature on the accuracy and completeness of criminal history record information published in the United States in the last 20 years. Standard indexes containing citations to criminal justice, political science and legal materials were used to identify the literature, including:

- The National Criminal Justice Reference Service: a compilation of over 40,000 books and other documents covering all aspects of criminal justice operated by the National Institute of Justice.

- The Current Law Index and the Index to Legal Periodicals reaching over 660 legal periodicals.

- The PAIS: international coverage of public affairs and social science in over 1,400 periodicals, books, pamphlets and federal, state and local documents.

- Various automated indexes which reach virtually all of the periodicals published in the United States, plus several dozen major newspapers.

- Indexes maintained by the Department of Justice, the Library of Congress, the Congressional Research Service, and the Office of Technology Assessment in an effort to identify relevant governmental reports and documents.

Next, all case law reported in the last 20 years related to the accuracy and completeness of criminal history record information was identified and reviewed. Third, statutes and regulations adopted in each state relating to the handling of criminal history record information were reviewed. Included in the statutory review was the Privacy and Security of Criminal History Information: Compendium of State Legislation, 1985, which was prepared by SEARCH Group, Inc. for the U.S. Department of Justice.

Finally, on September 12 and 13, 1984, SEARCH Group, Inc., under a grant from the Bureau of Justice Statistics, convened a one and one-half day "Roundtable" conference at the United States Supreme Court, attended

by 31 criminal history record experts, listed on page iii (referred to throughout the report as "Roundtable participants"). The Roundtable examined the nature of the data quality problem and, in particular, the efficacy of various known strategies or initiatives for improving data quality. An attempt was made, insofar as possible, to invite criminal justice practitioners and other experts with hands-on experience. This weighted the group heavily toward managers of criminal history record systems at the federal, state and local levels and particularly at the state level. Prosecutors and correctional officials also participated in the Roundtable, as did a relatively large contingent of court officials. Also attending the Roundtable were scholars, staff members of the U.S. Congress, and officials from the Bureau of Justice Statistics, the Federal Bureau of Investigation, and from the Office of Technology Assessment.

Throughout the report, and particularly in the discussion in Part Four of strategies to improve data quality, the report makes reference to the views of the Roundtable participants. While this group does not speak officially for information system managers or other criminal justice officials throughout the nation, there is reason to believe that the Roundtable participants' views are representative--particularly when it comes to managers of criminal history systems in state repositories. Their views, in many respects, constitute informed and expert comment and, as such, the summary of the Roundtable discussion makes a significant contribution to the literature about data quality. In addition, the Roundtable participants' views serve to corroborate, or rebut, the research findings and policy analysis published in the literature on data quality.

To obtain the most informal and candid discussion possible, SEARCH assured Roundtable participants that there would be no personal attribution of their remarks.

PART ONE

THE IMPORTANCE OF DATA QUALITY IN CRIMINAL HISTORY RECORD SYSTEMS

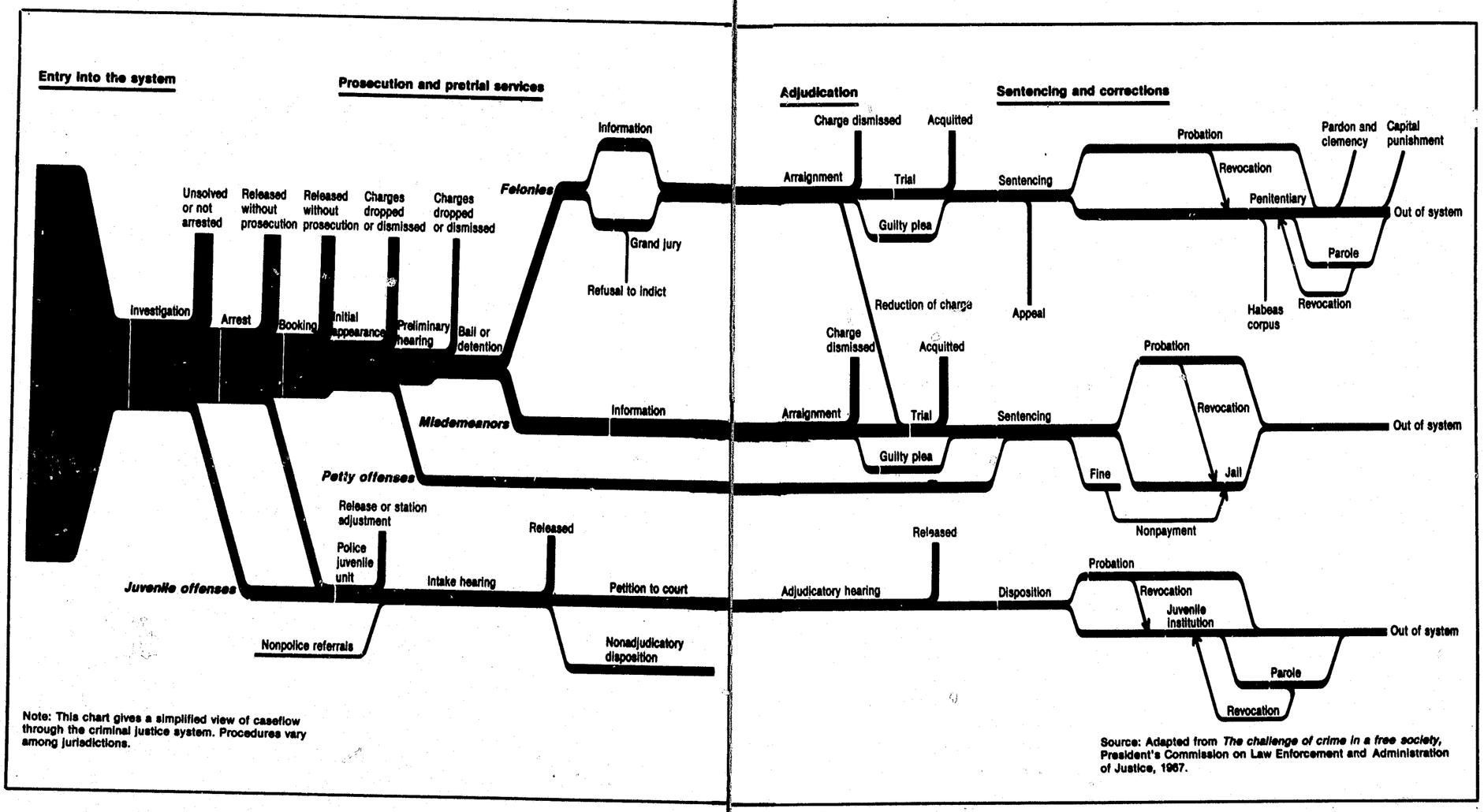
This part of the report describes the breadth and importance of the uses of criminal history record information. The discussion identifies numerous criminal justice and noncriminal justice uses for criminal history data. In addition, this part of the report identifies the public policy interests affected by the level of accuracy and completeness in criminal history record information systems. Those interests are broadly grouped under the following headings: (1) the effective operation of the criminal justice system; (2) fairness to record subjects; and (3) research and statistics.

Use of Criminal History Records

Criminal history records have been called "the most widely used records within the criminal justice process."[2] The chart on page 10 dramatically illustrates that throughout the criminal justice system, criminal history records are a primary source of information vital to exercising discretion and making decisions concerning criminal defendants.

Law enforcement officials, for example, use criminal history records for a variety of investigative purposes, as well as for assistance in deciding whether probable cause exists for an arrest. Prosecutors use criminal history data to assist them in making decisions about appropriate charges to be brought against an offender, in categorizing the offender as a serious or habitual criminal, in plea-bargaining negotiations and in making bail recommendations. Judges use criminal history record information in making bail and sentencing determinations. Probation officials, parole board members and corrections officials use this information in shaping their recommen-

Flow of Information Through the Criminal and Juvenile Justice Systems



Note: This chart gives a simplified view of caseflow through the criminal justice system. Procedures vary among jurisdictions.

Source: Adapted from *The challenge of crime in a free society*, President's Commission on Law Enforcement and Administration of Justice, 1967.

Reprinted from "The American Response to Crime," *Bureau of Justice Statistics Bulletin* (December 1983). Washington, D.C.: U.S. Department of Justice.

dations and decisions about incarceration or release.[3] Finally, statisticians and researchers depend upon criminal history information as a feedstock for statistics and analysis which, in turn, inform and guide policymakers and the public.[4]

In addition, criminal history records are widely used for noncriminal justice purposes. Information contained in these records, for example, may be available to federal agencies for federal employment and security clearance determinations; to federal and state agencies for licensing decisions; to public and private employers for employment decisions; and to a countless variety of private sector decisionmakers for use in insurance, credit, housing and other important decisions.[5]

In 1982, the Office of Technology Assessment (OTA) completed a study which included an examination of the extent to which noncriminal justice organizations use criminal history record information.[6] The study found that 53 percent of all requests for criminal history record information in the files of the Federal Bureau of Investigation's Identification Division were made by noncriminal justice users.[7] Federal noncriminal justice agencies, such as the Department of Defense and Office of Personnel Management, accounted for roughly 30 percent of such requests. This high usage rate reflects the fact that many applicants for federal positions or positions with certain federal contractors, as well as military recruits and individuals seeking security clearances, are given background investigations, including criminal history record checks.[8] State and local noncriminal justice agency requests for criminal history record information for employment and licensing purposes accounted for roughly 23 percent of the total requests made to the FBI's Identification Division.[9] In contrast, private organizations are far less likely to be criminal history record consumers--in part, no doubt, because in most jurisdictions they are not authorized to obtain most types of criminal history record data.

There can be little dispute, then, that criminal history record information is used widely by criminal

justice agencies, frequently by noncriminal justice government agencies, and occasionally by the private sector. Naturally, the frequent and important use of criminal history records raises legitimate concerns about the quality of criminal history record data.

Considerations Underlying Concern for Data Quality

As a policy matter, data quality differs from other criminal justice information issues. Other issues--dissemination policy, for example--provoke strong and fundamental disagreements about the content and direction of public policy. This is not the case with data quality. Virtually everyone agrees that criminal history record information ought to be as accurate and complete as possible.[10] Undoubtedly, the reason for this unanimity has much to do with the public policy interests which are advanced by the use of accurate and complete records. Those interests are (1) effective operation of the criminal justice system, (2) fairness to the record subject, and (3) research and statistics.

Effective Operation of the Criminal Justice System

Decisions concerning the apprehension, prosecution and incarceration of citizens should be based upon complete and accurate records in order for the criminal justice system to operate effectively. From the investigation of a suspect,[11] to the arrest and charging of an individual,[12] to the incarceration or release of a defendant,[13] the past record of an individual has a bearing upon criminal justice decisions. If information is incorrect or incomplete, the quality of those decisions is impaired.[14]

With respect to charging and plea bargaining, many commentators assert that criminal history record information affects prosecutors' decisions about whether to bring or to drop charges, the level and number of charges, and whether and to what extent to negotiate at trial for lower charges through plea bargaining.[15] In many in-

stances, conviction information is an especially key factor in charging decisions. Incomplete or inaccurate conviction information may undermine the charging process and cost prosecutors valuable time and resources to obtain or verify information. Conviction information is particularly important in programs which target violent or career offenders. While violent and career offender prosecutions often receive priority for investigation, case preparation and prosecution, inadequate conviction data can be a major stumbling block to the implementation of such programs.[16]

Similarly, arrest and conviction data can play a critical role in pretrial release and bail decisions. Release conditions are often more stringent for arrestees with extensive conviction records.[17] Thus, accurate and complete criminal history information assists courts and criminal justice officials in making difficult distinctions between offenders who should be detained prior to trial and those who can be released with reasonable confidence that they will not pose a threat to the community.[18]

Criminal history record information can also be a major factor in sentencing decisions. Both the decision to incarcerate and the length of sentence may be influenced by the prior criminal history of the offender.[19] Indeed, some states mandate that courts use prior conviction data to enhance sentences for some types of offenses or offenders. The objective of many of these programs is to take violent, high-rate and serious offenders off the street as early and for as long as possible. Obviously, efforts to identify violent and career offenders increase the need for accurate, complete and up-to-date criminal history records. Selective incapacitation decisions probably cannot be made unless criminal history records contain accurate and complete arrest and disposition information. One commentator noted the dilemma that this poses:

> Thus, while accurately recorded record variables may provide some helpful selectivity, these results suggest that the errors in the

> recording process--particularly errors in recording and retention of matters of record--probably militate against fair and effective use of such information until there is significant improvement in the quality of recorded information.[20]

Finally, probation and corrections officials may rely on criminal history record information when recommending probation, parole or release, or when ordering particular types of inmate supervision or correctional programs.[21]

Fairness to Record Subjects

Both as a matter of policy and of law, an issue of fairness arises when significant decisions are made about individuals on the basis of inaccurate or incomplete criminal history record information. As long ago as 1948 the Supreme Court declared that the use of erroneous criminal history record information for sentencing purposes violates an individual's Fifth Amendment due process rights.[22] Indeed, some commentators have argued that due process is denied whenever inaccurate or incomplete criminal history data is used to a defendant's detriment at any stage in the criminal justice process.[23]

One element of this problem is that inaccurate or incomplete criminal history data is thought to be more likely to give a "false negative" impression than a "false positive" impression.[24] The unfavorable impression created by incomplete or inaccurate criminal histories is allegedly due in part to missing favorable dispositions and in part to the likelihood that the criminal history record will contain the initial arrest charges, which are usually more severe than the formal charges and substantially more severe than the charges to which the individual eventually pleads or of which he is convicted.

When incomplete or inaccurate criminal history data falsely overstates a record subject's criminal activity, the record subject may be unfairly harmed in many respects.

As noted earlier, many criminal justice decisions, including charging, pretrial release and sentencing, are likely to be less favorable for offenders with significant prior records. Individuals, therefore, who are the subject of falsely negative records may also suffer inappropriate damage to their reputations and may be prevented from obtaining employment, licenses, government benefits, and a variety of other important statuses and benefits.

Statistics and Research

The information contained in criminal history records contributes to our understanding of the incidence and nature of crime.[25] Criminal history record information maintained in state central repositories may prove to be an important source for crime statistics. At present, state repositories maintain information concerning arrests, dispositions and correctional commitments of millions of individuals. Thus, the repositories represent an important potential source for the production of statistics about the incidence and nature of crime, and about efforts by the criminal justice system to combat crime. However, the accuracy and completeness of criminal history records must be improved to maximize the statistical and reseach payoffs of these records.

PART TWO

NATURE AND EXTENT OF THE PROBLEM

This part of the report begins by describing the events which caused data quality to emerge as a significant policy issue, focusing on two types of data quality problems: completeness (including disposition and arrest reporting) and accuracy. The report notes that disposition reporting problems evidently remain severe, but seem to be improving, and that there seem to be wide discrepancies in disposition reporting rates among central repositories and other criminal justice agencies. The report states that arrest reporting appears not to be as serious a problem as disposition reporting, but still represents a significant issue. The report also discusses research findings which indicate that incorrect entries and entries which are matched to the wrong record continue to be significant problems. Causes for these data quality problems are thought to vary widely and to run the gamut from technical data processing problems to political, legal and fiscal problems.

Data Quality as an Emerging Issue

Data quality emerged as an important public policy issue in the late 1960s and early 1970s, at a time when automated criminal history record systems were rapidly developing. The first significant discussion of data quality as an important public issue appeared in the 1967 report of the President's Commission on Law Enforcement and the Administration of Justice.[26] It noted that disposition reporting levels were inadequate in federal criminal history data systems.[27] The Commission found that the criminal justice system in the United States was overburdened and fragmented, and that criminal justice data was often inaccurate, incomplete and unavilable.[28] The Commission suggested use of a national computerized

repository to collect summary criminal history information about serious crimes, while state and local agencies would compile more detailed information concerning offenders. To address the problem of incomplete and inaccurate records, a task force report prepared for the Commission recommended that the "organization selected to manage the national computerized repository work closely with reporting agencies to ensure that correct, uniform and complete information is reported."[29]

During this period, the criminal justice information and statistics community emphasized the need to improve accuracy and, particularly, disposition reporting levels in criminal history record systems. The literature of this period called for improvements in data quality, recognizing that many records held by many agencies were not accurate or complete.[30] At the 1970 SEARCH National Symposium on Criminal Justice Information and Statistics Systems, numerous references were made to the poor quality of criminal history records. As one participant noted:

> The point is that criminal justice agencies at all levels of government maintain duplicative records and information. Some are necessary, but many of these records are bulky, outdated, inaccurate and not related to any meaningful utility.[31]

In 1973, the National Advisory Commission on Criminal Justice Standards and Goals also called attention to the data quality problem:

> . . . [E]very item of information should be checked for accuracy and completeness before entry into the system. In no event should inaccurate, incomplete, unclear, or ambiguous data be entered into a criminal justice information system.[32]

Also in 1973, the General Accounting Office (GAO) issued a report that was highly critical of reporting levels in state criminal history record systems.[33] The report noted that many arrests and dispositions were not reported to state central repositories. Specifically, the GAO study found a national average disposition reporting level of 52 percent.[34]

Completeness

Disposition Reporting

State and Local Level

Although there have been few audits and surveys of data quality in state central repository systems, virtually every one of them has pointed to the disposition reporting rate as a primary problem. For example, a 1977 audit of the criminal history record system operated by New York State's Division of Criminal Justice Services (DCJS) found significant disposition reporting rate problems. The audit compared a random sample of DCJS' records to those maintained by the Manhattan Criminal Court. According to the audit, only 27 percent of the 2,210 sample arrest entries in DCJS files were accompanied by complete disposition information found in the Manhattan Criminal Court files.[35] The audit also found significant delays in the reporting of disposition information. Although most disposition information was reported within a year, many dispositions trickled in as late as five years after the arrest entries.[36]

As a part of the New York audit, questionnaires were sent to a nationwide sample of prosecutors, defense attorneys and state central repository officials. District attorneys responding to this survey estimated that criminal history records failed to contain disposition information 42.9 percent of the time; defense attorneys estimated that criminal history records failed to contain disposition information 42.6 percent of the time; and state central repository officials estimated that criminal

history records failed to contain disposition information 38 percent of the time.[37]

New York State's data quality levels have improved since the 1977 audit. An audit conducted in 1980 by SEARCH to evaluate the level of compliance with the federal regulations found that DCJS was receiving 80% of dispositions for arrests in New York City, where reporting is by computer terminal, and 61% of dispositions for arrests in other areas of the state that report dispositions by mail.[38]

However, available surveys suggest that disposition reporting remains a serious problem in many states. For example, a 1977 study conducted by the MITRE Corporation surveyed 18 states and found, among other things, that "most states have not achieved a level of arrest and/or disposition reporting to support the completeness and accuracy requirement of the Regulations."[39] (The regulations adopted by LEAA in 1976 are discussed in Part Three of this report.) MITRE found that only seven states estimated that their disposition reporting levels were 75 percent or higher. All seven had implemented formal disposition monitoring systems. In the remaining 11 states--all of which were without formal systems for the reporting of dispositions--the level of reporting was estimated to be substantially lower-- from 10 percent to 70 percent.[40]

The 1982 report of the Office of Technology Assessment stated that, "with respect to the importance of record quality problems, there is general agreement that lack of dispositions is a--and perhaps the--problem."[41] OTA surveyed state repositories in 1979 and again in 1982 and found that the average disposition reporting level for arrest entries was about 65 percent for the 41 states that responded to the survey.[42] On the bright side, this statistic represented an improvement over the 52 percent disposition reporting level found by the General Accounting Office in its 1973 study.[43] Moreover, OTA found that the average disposition reporting rate was considerably higher for computerized systems than for manual systems-- 70.6 percent for automated systems versus 56.3 percent for manual systems.[44]

The OTA study also indicated a wide divergence among the states in levels of disposition reporting. In 14 of the 41 states responding in 1979, and in 13 of the 47 states responding in 1982, the disposition reporting rate was less than 50 percent. Indeed, in both 1979 and 1982, eight states indicated a reporting rate of less than 25 percent.[45] And yet, for that same period, 22 states reported disposition reporting rates in excess of 75 percent.[46] The OTA study indicated that as of 1982, state repository managers indicated that they were receiving, as a national average, 66 percent of all court dispositions.[47] The study concluded that significant improvements in average disposition reporting rates were achieved between 1970 and 1979, but that improvements after 1979 were minimal.[48]

In 1983, the Illinois Criminal Justice Information Authority conducted an audit to determine the quality of the computerized criminal history files maintained by the Illinois Department of Law Enforcement.[49] The auditors reviewed approximately 1.24 million arrest events and found that nearly 59 percent lacked any type of disposition information.[50] The audit report concluded that "missing disposition information continues to represent a serious problem for the CCH system."[51] The report attributed the low completeness rate to several factors. First, it is estimated that unreported decisions by law enforcement agencies to release arrestees without charging them may have accounted for missing dispositions for as many as 30,000 arrest events. Second, the failure of state's attorneys to report decisions not to file formal charges could have accounted for as many as 75,000 more missing dispositions. Finally, the report found that a substantial number of missing dispositions had been received by the repository but could not be entered into the system because they were received out of chronological sequence (arrest event--state's attorney's charges--court disposition--correctional data).[52]

Other studies have found that disposition reporting levels may differ widely by type of disposition. For example, a recent SEARCH survey of state criminal

record repository administrators found that, in most jurisdictions, trial court dispositions are reported at a much higher rate than are appellate court dispositions. Similarly, state correctional dispositions are reported at a much higher rate than are local correctional dispositions.[53]

Although, as these surveys and audits suggest, disposition reporting remains a very serious problem in many states, the picture is by no means uniformly bleak. In a few states very significant strides have been made, with repositories indicating disposition reporting rates of over 90 percent.[54] Many Roundtable participants felt that as a general matter disposition reporting is improving throughout the nation. This impression is supported by the responses to the SEARCH survey of criminal record repository administrators, which indicated that disposition reporting rates for 1983 and 1984 arrest entries are noticeably higher than reporting rates for 1981 and 1982 arrest entries.

However, according to Roundtable participants, even exemplary systems do not escape disposition reporting problems. Indeed, one of the apparent ironies of disposition reporting is that, in systems with excellent disposition reporting programs, reported dispositions may not have a corresponding arrest entry because of the underreporting of arrests.

Whatever the recent reporting rates for state central repositories, little is known about the reporting rates in local criminal history record systems. No comprehensive statistical information has been compiled about the extent to which local agency criminal history data lacks dispositions. Virtually the only information available is from the OTA Report. OTA surveyed three major urban criminal justice information systems and found disposition levels in those systems to be relatively high, reaching 58 and 60 percent in two of the systems and 85 percent in the third.[55]

Roundtable participants explain those relatively high rates by noting that local agencies may have better control over locally generated information than central repositories which must rely upon submittals from various

local agencies. Nevertheless, the costs associated with obtaining dispositions and the necessity of frequently checking with the central repository or with other local jurisdictions or out-of-state agencies to obtain dispositions probably means that most local agencies and, particularly, smaller rural agencies, do not achieve high disposition reporting rates. Finally, many Roundtable participants expressed the view that it may be difficult to generalize about the quality of data in local systems because data quality levels are likely to vary dramatically among local agencies.

Federal Level

Low disposition reporting rates have also been a problem at the federal level. While the FBI's National Crime Information Center/Computerized Criminal History (NCIC/CCH) files have been dismantled as part of an effort to test and implement the Interstate Identification Index (III), it is important here from a historical perspective to document federal efforts to maintain accurate and complete criminal history records. A 1979 analysis of the FBI's NCIC/CCH files found that 39.4 percent of arrest events were without dispositions.[56] A 1980 study conducted by the Jet Propulsion Laboratory found that the FBI's Identification Division received dispositions for about 45 percent of reported arrests.[57]

The OTA Report also found significant record quality problems in both the FBI's Identification Division files and NCIC/CCH files. Specifically, OTA found that approximately 30 percent of the Identification Division's arrest entries and about 27 percent of the arrest entries in NCIC/CCH files lacked court dispositions.[58] Some Roundtable participants suggested that the OTA Report may have understated the extent of the problem. They estimated that over 50 percent of available dispositions may not get reported to the FBI.

Roundtable participants did not fault the FBI for its disposition reporting problems. The Identification Division maintains records on over 22 million individuals and

it is estimated that to raise the disposition reporting rate by even one percent would require obtaining almost 850,000 dispositions which now go unreported. Moreover, to obtain dispositions the FBI is dependent upon the cooperation of literally thousands of state and local courts and criminal justice agencies.

In an effort to improve disposition reporting from states with automated systems, the FBI has developed a format to permit those states to report dispositions to the Identification Division by computer tape rather than by mail. However, the format has not yet been tested and it may be several years before this new approach can be implemented.

Arrest Reporting

State and Local Level

Arrest reporting, while by no means as acute a problem as disposition reporting, still merits concern. The OTA Report found that 18 percent of local arrests for 1982 were not reported to state central repositories.[59] Two recent audits of arrest reporting in Michigan and Missouri also indicate that underreporting of arrests is a problem. Both studies indicate that somewhere between 20 and 30 percent of arrests are not reported to central repositories.[60] Many Roundtable participants were surprised at these findings and were of the opinion that, notwithstanding these findings, arrest reporting to central repositories in most states runs to over 90 percent. To the extent that arrests are not reported, Roundtable participants speculate that it is attributable to a failure by some local agencies to fingerprint for minor arrests such as petty larceny.

In 1984, the Police Foundation, an independent organization concerned with law enforcement policy issues, examined the reporting of arrest events under the Uniform Crime Reporting (UCR) program in 41 states and 196 agencies.[61] The Police Foundation Report found widespread errors and inconsistencies in the methodologies used by police departments around the country to count arrests. These errors resulted in both overreporting and underreporting of arrests. Not surprisingly, the Report discovered wide differences in agency policies concerning what constitutes an arrest and when an arrest should be reported.[62]

The Police Foundation Report, however, looked at arrest reporting for UCR purposes and its findings may not be directly applicable to arrest reporting for criminal history record purposes. Many Roundtable participants argued that arrest reporting is generally reliable and presents only a modest data quality problem compared to disposition reporting. This view is supported by MITRE's 1977 survey which found that arrest reporting to central repositories was substantially higher than disposition reporting. According to MITRE, 12 states estimated that their repositories contained 90 percent or more of reportable arrest information.[63]

Roundtable participants noted that obtaining arrest information is in some respects more important than obtaining disposition information. If an arrest entry is on a rap sheet, even though a disposition entry is not, at least a question about the record subject's conduct is raised and followup is possible. Furthermore, law enforcement agencies are often more interested in obtaining arrest information than they are in obtaining disposition information. As one Roundtable participant put it, "the cop on the street doesn't care about dispositions--he cares about arrests."

Federal Level

UCR arrest reporting data is especially relevant to federal criminal history data. In many states the same law enforcement agencies responsible for counting arrests for UCR purposes also report arrests to the FBI for entry into the Identification Division's criminal files. If those agencies send arrest fingerprint cards to the FBI based on differing views of when an "arrest" has occurred, the FBI is faced with a problem of both underreporting and

overreporting of arrests for both criminal history purposes and UCR purposes.

Receipt of arrest information is linked to the issue of single-source submission versus multiple-source submission of arrest fingerprint cards to the FBI.[64] In single-source submission states (of which there are currently 30), the central repository serves as the sole conduit for the transmission of arrest fingerprint cards to the FBI, thus insuring that the central state repository has copies of all arrest fingerprint cards that are reported to the FBI. In multiple-source submission states, fingerprint cards are submitted to the FBI directly by local law enforcement agencies. Based on a tradition of close ties between the FBI and local law enforcement agencies, many local agencies have been more inclined to send fingerprint cards to the FBI than to their own state central repositories. However, as the state repositories have become more established in recent years, local law enforcement agencies have increasingly reported arrests at least as frequently to their state repositories as to the FBI. In fact, Illinois recently conducted an informal eight-week audit of arrests reported to the central repository and found that 27.6 percent of those arrests were not reported to the FBI.

One last factor affects the reporting of arrests to the FBI--the submission of fingerprints which are of such poor quality that they cannot be classified and filed. Approximately 11 percent of the fingerprints submitted to the FBI are rejected because of poor quality and are returned to the contributing agency with a request for submission of better quality prints. In a large percentage of these cases, resubmissions are not received. When this source of inadequate reporting is added to other sources of inadequate or incomplete reporting, the effect on the overall level of arrest reporting to the FBI is quite serious.

Accuracy

State and Local Level

Criminal justice officials generally agree that missing or incomplete arrests, and particularly dispositions, constitute the principal data quality problem afflicting criminal history record systems. However, inaccurate disposition and arrest data is also seen as a problem. The 1977 New York audit found that about 19 percent of New York's criminal history records were inaccurate or ambiguous.[65] In addition, the nationwide survey conducted as a part of the New York audit revealed that prosecutors estimated that 29.6 percent of all criminal history entries were ambiguous, defense attorneys estimated that 35.2 percent were ambiguous, and state planning agency officials estimated that 18.9 percent were ambiguous.[66] The 1983 Illinois audit found inaccuracies in approximately 19 percent of the CCH complete records in the state repository's entire CCH data base.[67]

Roundtable participants agreed that court dispositions are sometimes inaccurate. The cause of this problem was ascribed in part to misreporting by court clerks and in part to the failure of judges to accurately describe dispositions. One Roundtable participant characterized the problem as follows: "Clerks are forced to put round pegs--what the judge says--into square holes-- statutory disposition classifications--and it often gets mixed up."

In addition, Roundtable participants expressed concern about the incidence of entering arrest or disposition information onto the wrong criminal history record and the incidence of multiple rap sheets belonging to an offender using one or more aliases. While there is no data indicating how often these problems occur, their severity should be reduced significantly in the future by the use of state-of-the-art fingerprint identification and classification systems.

Finally, a few Roundtable participants noted that inaccuracy problems are exacerbated by growing pressures to include more information on rap sheets. They

made the point that as criminal history record systems get more ambitious, the risk of maintaining inaccurate data increases.

Federal Level

There have been few studies of the level of inaccuracies in federal criminal history records. However, the OTA study compared disposition and charge information in the FBI's files with local source data and found that approximately 20 percent of those files did not agree.[68] Roundtable participants generally agreed that federal criminal history files are at least as likely as state files to suffer from inaccuracies.

The FBI has recently made increased efforts to improve the accuracy of its criminal history files. It has sponsored a series of data quality workshops to assist state officials in implementing procedures to improve data quality. And it has conducted a series of audits of state data bases to compare FBI records with state and local source documents in order to pinpoint data quality problems and develop appropriate remedies. Results of these audits have not yet been released.

Summary

Two generalizations may be made about the nature and extent of data quality problems in criminal history records maintained in federal, state and local record systems. First, it appears that significant data quality problems still remain. According to most sources, disposition reporting levels, in particular, are too low and disposition reporting is too slow. In addition, there are questions about the level of reported arrests and the level of accuracy in criminal history records.[69]

Second, disposition reporting levels among criminal justice agencies vary markedly. While some jurisdictions have been able to design and operate systems with relatively high disposition reporting levels, others have not.

One last point should be made. While significant efforts have been made to understand the extent and nature of data quality problems, comparatively less effort has been made to understand the causes of data quality problems. In the view of many Roundtable participants, the causes of the data quality problem are diverse. One Roundtable participant suggested that perhaps too much data is collected in a criminal history record, thus increasing the opportunity for error, as well as consuming extensive agency resources. That participant noted that it has been over a decade since the last major effort was undertaken to create a model format for the criminal history record; that the needs for and uses of the criminal history record have changed significantly; and that it is time to reassess the need for the level of detail currently contained in a criminal history record.

Part Four of this report assesses various strategies which have successfully improved data quality, and as a part of that assessment the report necessarily considers the current thinking about the causes of data quality problems. However, before proceeding to that discussion the report turns to a discussion of the statutory, regulatory and judicial responses to data quality problems.

PART THREE

THE STATUTORY, REGULATORY AND JUDICIAL RESPONSE

Part Three begins by reviewing unsuccessful Congressional efforts in the mid-1970s to enact federal criminal history record legislation establishing data quality safeguards. It goes on to discuss the adoption of the Law Enforcement Assistance Administration (LEAA) regulations and identifies their data quality provisions.

Thereafter, Part Three describes, in some detail, the data quality provisions in state statutes and regulations. Supplementing this discussion are tables which identify data quality provisions in statute law and regulations for each state (see Appendix).

Finally, this part analyzes case law on data quality. It concludes that the courts generally require criminal justice agencies to maintain systems that are reasonably designed to ensure that agencies disseminate accurate and complete criminal history records. This duty is prescribed in various statutory provisions, the Constitution, and the common law. Included here is a discussion of the difficulties record subjects encounter when attempting to establish a breach of this duty, as well as the possible consequences of a court finding that an agency has breached its duty. Such consequences include the setting aside of arrests or searches, the setting aside of sentences, money relief under Section 1983 of the Civil Rights Act, or relief under tort law theories.

Federal Legislation

Concerns about data quality, as reflected in federal and state surveys, audits and other studies discussed in Part Two of this report, have prompted numerous legislative, regulatory and judicial responses. As early as 1973, the Congress amended the Omnibus Crime Control and Safe Streets Act of 1968 to require agencies using funds

received from the Law Enforcement Assistance Administration in support of their criminal history information systems to meet minimal data quality standards:

> All criminal history information collected, stored, or disseminated through support under this title shall contain, to the maximum extent feasible, disposition as well as arrest data, where arrest data is included therein. The collection, storage and dissemination of such information shall take place under procedures reasonably designed to ensure that all such information is kept current therein . . .[70]

Congress was, of course, aware that this vague standard could hardly resolve the difficult issues surrounding data quality. Indeed, the Conference Report admitted as much and promised future definitive legislation:

> The conferees accept the Senate version but only as an interim measure. It should not be viewed as dispositive of the unsettled and sensitive issues of the right of privacy and other individual rights affecting the maintenance and dissemination of criminal justice information. More comprehensive legislation in the future is contemplated.[71]

Thereafter, several attempts were made to pass comprehensive federal legislation. In late 1973 and early 1974, the House and the Senate held hearings on several criminal history record bills.[72] Similar legislation was introduced in 1975, but also failed to pass.[73] A number of witnesses appeared before Congress and expressed their concern about the quality of information maintained in criminal justice information systems. For example, Richard W. Velde, then Deputy Administrator for Policy Development of LEAA, stressed the need for complete and accurate records:

> It is necessary that all criminal justice agencies, including courts and corrections, assume responsibility for completeness and accuracy of criminal offender record information . . .. Complete and accurate records are essential, not only to protect individual rights, but also as a tool of criminal justice planning, management and evaluation.[74]

The LEAA Regulations

During this period, LEAA was able to accomplish what the Congress was not--the adoption of a comprehensive, regulatory scheme for criminal history records. The 1976 LEAA regulations (also referred to in this report as the "federal regulations") apply to all state and local criminal justice agencies that collect, store or disseminate criminal history record information, whether by manual or automated means, where that effort has been funded in whole or in part by LEAA.[75]

The regulations require these agencies to establish procedures and policies to ensure that criminal history record information is complete and accurate.[76] The regulations state that complete records should be maintained at a central state repository, and that to be complete, a record of an arrest must contain any disposition occurring within the state within 90 days after the disposition has occurred. To promote the dissemination of complete criminal history record information, the regulations require state and local agencies to establish procedures to query the central repository prior to disseminating criminal history information. These procedures are to be followed at all times unless the agency is assured that it is disseminating the most up-to-date disposition data, or unless time is of the essence and the repository is technically incapable of responding within the necessary time period.[77]

The regulations define accuracy literally to mean that, "no record containing criminal history record information shall contain erroneous information." To promote

accuracy, the regulations require two types of activities: "[(1)] a process of data collection, entry, storage and systematic audit that will minimize the possibility of recording and storing inaccurate information[;] and [(2)] upon a finding that there is inaccurate information of a material nature, [the agency] shall notify all criminal justice agencies known to have received such information."[78] As a practical matter, this latter provision requires agencies to create and maintain a dissemination or transaction log describing prior disseminations.

Finally, the regulations require agencies to give criminal record subjects an opportunity, upon request, to review their criminal history record information "for purposes of accuracy and completeness."[79]

Unfortunately, state and local agencies often lacked the financial, technical or administrative resources to comply fully with the LEAA regulations. MITRE's 1977 survey of 18 states (described in Part Two) identified four factors which had contributed to the generally low level of compliance with the accuracy and completeness requirements of the LEAA regulations:

1. An insufficient time frame within which to implement the regulations;

2. Lack of a clear and effective mandate, funds and/or technical ability needed for a repository to introduce or improve an arrest and disposition reporting system;

3. A reliance on yet-to-be-functioning automated systems; and

4. An insufficient level of care and commitment to improving or implementing a reporting system.[80]

MITRE also identified two factors thought to be responsible for high disposition reporting rates in certain states: a formal disposition reporting system, and a

formal tracking method to facilitate the linking of arrests and dispositions--in effect, some type of offender-based tracking system.

MITRE also polled local agencies in its 18 survey states and found that their level of compliance with the regulations' completeness and accuracy requirements, at least for the larger local agencies, exceeded compliance by the repositories. MITRE found that success at the local level depended largely on agency commitment, adequate resources and the quality of interagency relationships among local components of the criminal justice system. MITRE also found that few local agencies had implemented formal delinquent disposition monitoring procedures, quality control procedures or other kinds of formal disposition and tracking procedures.[81]

State Statutes and Regulations

Although it appears that compliance with the federal regulations has not been perfect, it is apparent that the regulations have strongly influenced the content of state law. By 1974, just prior to LEAA's publication of the regulations, only 14 states had adopted statutory data quality safeguards. By 1977, one year after the adoption of the LEAA regulations, 41 states had added data quality provisions, of one kind or another, to their criminal history record statutes. That number increased to 45 states by 1979 and to 49 states by 1981. The most recent research, including the SEARCH survey conducted in 1984, found that of the 50 states and 3 territories surveyed, all except the Virgin Islands have enacted some data quality provisions.[82]

Most statutory data quality provisions differ from provisions in the LEAA regulations because they do not require, as a general standard, that agencies maintain complete and accurate criminal history records. Instead, most stautes require state agencies to implement procedures which minimize the possibility of storing inaccurate or incomplete information. Connecticut's statute is a good example:

> All criminal justice agencies that collect, store or disseminate criminal history record information shall institute a process of data collection, entry, storage and systematic audit that will minimize the possibility of recording and storing inaccurate criminal history record information.[83]

Many state statutes also delineate a specific process, customarily including requirements for arrest reporting, disposition reporting, audits, and the maintenance of transaction or dissemination logs.

Arrest and Disposition Reporting

Most states have adopted criminal history record legislation which includes various forms of arrest and disposition reporting requirements. Arrest reporting requirements are most common. Forty-nine states require, by statute or regulation, that state and local law enforcement agencies report arrests for serious crimes to the central repository. (See Table 1.) Arrest reporting requirements almost always require the reporting of arrests for felonies and indictable offenses, but almost always exclude reporting for arrests for traffic offenses and/or other types of minor offenses. Statutes in 24 of these 49 states also impose time limitations within which the law enforcement agency must report the arrest. These time periods vary from as little as 24 hours after the arrest to as long as 35 days after the arrest. (See Table 7.)

Statutory disposition reporting requirements are also common, though not quite so common as arrest reporting requirements. For example, 42 states have adopted statutory provisions which require the courts-- typically the clerk of the court--to report dispositions to the central repository. (See Table 4.) In some of these states the reporting requirement expressly names the court or the clerk of the court, but in other states the reporting requirement applies generally to criminal justice agencies, which is defined to include the courts. In addition, in some of these states the reporting requirement does not expressly mention disposition information, but simply requires the court (or other criminal justice agencies) to report criminal justice information deemed necessary by the central repository.

Forty-four states impose disposition reporting requirements on correctional agencies--again, some in the form of express requirements and some in the form of requirements which apply to all criminal justice agencies, including correctional agencies. (See Table 5.) Thirty-four states require law enforcement agencies (generally police departments) to report dispositions to the central repository. (See Table 2.) Thirty-one states impose statutory or regulatory disposition reporting requirements on prosecutors, either expressly or as a part of a general reporting requirement. (See Table 3.)

Roundtable participants argued that statutory disposition reporting requirements in some states are too inclusive or too vague to be effective. In addition, they noted that statutory disposition reporting requirements should include express time periods to be effective. To date, 30 states impose express time periods for disposition reporting. (See Table 7.)

Twenty-nine states have adopted statutes or regulations which require central repositories to provide disposition reporting forms and instructions to contributing agencies to promote uniform reporting. (See Table 9.)

Transaction Logs

Statutes and regulations which impose transaction log requirements are a common type of data quality provision. Twenty-six states have adopted measures which require criminal justice agencies to maintain a log identifying the recipients of criminal history record information and, usually, the type of information disseminated. (See Table 16.)

Auditing

Statutes or regulations in 29 states require central repositories to conduct some type of audit. (See Table 12.) Statutes and regulations in eight of these states require the repositories to conduct an annual in-house audit of its own records and procedures and also to audit a random sample of information systems operated by state and local criminal justice agencies. The scope of both types of audit usually includes the following determinations: (1) adherence to federal and state regulations; (2) completeness and accuracy of criminal history record information; (3) adherence to dissemination standards; (4) implementation of appropriate security safeguards; and (5) compliance with mandated subject access and review provisions. In addition, some of the statutes and regulations expressly require that the in-house audit also attempt to identify dispositions which are likely to have occurred but which have not been reported. Statutes in two states require the repositories to conduct only an annual in-house audit and statutes in 13 states require only an audit of a representative sample of contributing agencies.

Other Data Quality Procedures

Statutory and regulatory provisions adopted by some of the states impose other kinds of data quality mechanisms. For example, 13 states have adopted measures which require state and local criminal justice agencies to query the central repository prior to disseminating criminal history record information in order to ensure that the most up-to-date disposition data is being released. (See Table 15.) Eleven states have provisions in their statutes or regulations which require repositories to use some kind of delinquent disposition monitoring system (e.g., a system designed to periodically identify arrest entries with no corresponding dispositions). (See Table 10.) Twenty states have adopted provisions that specifically impose training requirements on personnel involved in operating

criminal history record systems. (See Table 14.) Ten states are required to implement systematic editing procedures for the purpose of detecting missing or nonconforming data. (See Table 13.) Finally, five states have adopted provisions which require a "tracking number system" to link disposition information to charge information. (See Table 11.)

It should be noted that other states may have implemented data quality procedures of the types discussed above, although not expressly required to do so by statutory or regulatory provisions.

Penalties and Sanctions

Another often-cited problem is the absence of penalties in state legislation. Statutes in only 21 jurisdictions impose penalties for violation of data quality and other types of provisions in state criminal history record statutes. Customarily, statutes in these 21 jurisdictions make a willful failure to comply with provisions in the criminal history statute a misdemeanor. Also, a few statutes make failure to comply with statutory requirements grounds, including failure to report dispositions, for civil sanctions or dismissal. However, research for this report failed to find a single reported decision in which a criminal justice official was prosecuted under these statutes for failing to report a disposition.[84]

Judicial Response

Virtually every court which has addressed the data quality issue has found that criminal justice agencies have a duty to implement procedures reasonably designed to safeguard the accuracy and completeness of criminal history record information. However, these courts have not unanimously, or clearly, articulated the source of this duty, the standards to be met to establish a breach of this duty, or the consequences for a breach of this duty.

The courts generally do not require agencies to maintain or disseminate accurate records. Rather, the

courts require agencies to adopt policies and procedures which are reasonably calculated to result in accurate records. If a criminal justice agency fails to implement such procedures, and if that failure causes some tangible harm to a record subject (and this presumes use or dissemination and not mere maintenance), courts are likely to find a violation (be it based upon statute law, common law or the Constitution) and provide the record subject with a remedy.

The Basis for the Duty to Adopt Procedures to Ensure Accurate and Complete Records

Statutory Standards

Menard v. Saxbe, decided in 1974, was the first major opinion to articulate a duty of a criminal justice agency to maintain criminal history records in an accurate and reliable manner.[85] This case chronicled petitioner Menard's nine-year struggle to remove his arrest record from FBI files. Menard, who had been taken into custody by Los Angeles police and held for two days, was subsequently released without being formally charged after the complaint against him was determined to be groundless. Menard argued that because he had only been detained and not arrested under California law, the FBI was without authority to maintain a record of his encounter with the Los Angeles police.

The Federal Court of Appeals for the District of Columbia reviewed the FBI's recordkeeping operations in detail. The court stated that the FBI has a duty to be more than a "mere passive recipient" of records received from state and local law enforcement agencies. Further, the FBI has a duty to carry out its recordkeeping operations in a reliable and responsible manner. Although the Menard court declined to speculate on the extent to which the Constitution requires the FBI to maintain accurate and complete records, the court did find that the Department of Justice's statutory authority to "acquire, collect, classify and preserve" criminal justice records under 28

U.S.C. Section 534 carries with it the responsibility to discharge this recordkeeping function reliably and responsibly and without unnecessary harm to record subjects.[86]

Later that same year the District of Columbia Court of Appeals expanded its decision in Menard in an opinion entitled Tarlton v. Saxbe.[87] In Tarlton, the court strongly implied that any statutory authorization to collect and disseminate criminal history records inherently required the agency to collect and disseminate those records in an accurate manner:

> If the FBI has the authority to collect and disseminate inaccurate criminal information about private individuals without making reasonable efforts to safeguard the accuracy of the information, it would in effect have the authority to libel those individuals. However, we cannot, absent the clearest statement of Congressional policy, impute to Congress an intent to authorize the FBI to damage the reputations of innocent individuals in contravention of settled common law principles. Thus, we presume that Congress did not intend through Section 534 to authorize the FBI to disseminate inaccurate criminal information without taking reasonable precautions to prevent inaccuracy.[88]

Furthermore, the Tarlton court implied that even in the absence of a statutory obligation, agencies have constitutional and common law obligations to collect and disseminate criminal justice information using precautions that ensure accuracy:

> In the largest sense, both this Constitutional issue and the common law principle forbidding defamation of innocent individuals refer to the value of individual privacy. . . . This value finds its most direct expression in the Fourth

and Fifth Amendments; it also is reflected in certain aspects of the First Amendment: government collection and dissemination of inaccurate criminal information without reasonable precautions to ensure accuracy could induce a leveling conformity inconsistent with the diversity of ideas and manners which has traditionally characterized our national life and found legal protection in the First Amendment.[89]

Feeney v. Scott County is one of the very few published opinions that deals with a violation of a specific data quality procedure mandated by a state statute.[90] In Feeney, the subject of an intelligence file brought a civil action against a county police department for failing to maintain a dissemination log in conformance with the state statute. The court found that the Scott County Police Department had communicated intelligence data about the plaintiff to a sheriff's deputy who was conducting a background check of the plaintiff because the plaintiff had applied for a position in the sheriff's office. Although the disclosure to the sheriff's deputy was authorized by the statute, the agency had not complied with the requirement that each dissemination be logged. The court treated the failure to log the dissemination as a violation of the statute, rendering the dissemination illegal. The court awarded the plaintiff $500, the minimum damages required by the penalty provision, plus $500 in attorneys' fees. The court declined to award punitive damages because the plaintiff had failed to show that the police department had acted with malice or in bad faith.

Constitutional Standards

The tentative notion expressed in Tarlton that the Constitution provides a basis for requiring criminal justice agencies to adopt procedures to disseminate accurate and complete criminal history records suffered a setback two years later in a 1976 Supreme Court decision entitled Paul

v. Davis. In that decision, the Court held that a Louisville, Kentucky police chief could circulate a flyer to local merchants containing the names and photos of "active shoplifters" without running afoul of the record subject's constitutional rights.[91] The Court stated that the Constitution does not require criminal justice agencies to keep confidential matters which are recorded in official files such as arrest records. Moreover, the Court reasoned that even if dissemination of an official record under some circumstances could be of constitutional interest, tangible harm to the record subject must be demonstrated before the dissemination could violate any constitutionally protected interest.

Although Paul v. Davis did not address whether the Constitution requires agencies to maintain accurate or complete criminal history records, at least one federal court has cited the decision as authority for the proposition that record subjects do not have any type of constitutional interest in the handling of official records such as their criminal history records. In Rowlett v. Fairfax, a federal district court held that an arrestee whose charges were dropped shortly after his arrest had no constitutional interest that would support the purging of the arrest entry from the FBI's files.[92] Moreover, the opinion criticized Tarlton v. Saxbe on the grounds that Tarlton incorrectly implied that constitutional privacy and due process rights may give subjects certain data quality interests regarding their criminal history records.

Despite Paul v. Davis and Rowlett v. Fairfax, courts have continued to find that agencies have a duty to make reasonable efforts to ensure the accuracy and completeness of criminal history records. However, the courts are not always forthright in stating whether the legal basis for such a duty is Constitutional. For example, in the same year that the Supreme Court decided Paul v. Davis, a federal district court held that the FBI's failure to reflect an acquittal entered 27 months prior to the lawsuit constituted a breach of the FBI's duty to maintain accurate records.[93] However, the district court did not commit itself about whether the FBI's duty to maintain

accurate records derived from the Constitution or from the FBI's recordkeeping statute. The court said that it felt no need to identify the source or extent of the FBI's duty because the recordkeeping activity at issue violated "even a minimal definition of FBI responsibility."[94]

In Testa v. Winquist, a federal district court in Rhode Island looked to statutory law, the federal regulations, the Constitution and common law doctrines to support its determination that the administrator of the Rhode Island National Crime Information Center had a duty to establish reasonable administrative mechanisms designed to minimize the risk of inaccuracy.[95] In Testa, the plaintiffs were detained overnight by East Providence police officers and charged with possession of a stolen car, based upon information supplied by the FBI National Crime Information Center and its Rhode Island division. Although the car previously had been stolen, it had since been recovered and subsequently sold to the plaintiffs. However, the police record system had not been updated to reflect this fact.

The plaintiffs brought a civil damage action against the East Providence police officers for deprivation of constitutional rights (false imprisonment) under color of state law (42 U.S.C. § 1983) and for various state tort claims, including false imprisonment, libel and slander. The police officers, in turn, sued the regional administrator of the NCIC on the grounds that this official had breached his duty to implement a system to keep current and accurate records and had thereby supplied the police officers with erroneous information. The court decided that the arresting officers may, indeed, if found liable to the plaintiff, have a cause of action against the regional administrator of the NCIC for breach of a duty to implement a system to provide accurate information. Whether this duty was established by statute, regulation, the Constitution or common law, the court did not specify.

Common Law Standards

The courts have also based the duty to maintain accurate and complete records on common law principles of fairness and equity. In District of Columbia v. Hudson, for example, the Appellate Court for the District of Columbia upheld a lower court opinion ordering the expungement of inaccurate criminal history data. In one instance the record subject had been arrested for a murder that was later shown to be a suicide. In another instance the record subject had been arrested for failure to attend driving school when in fact it was later shown that he had attended the school. In a third instance, the record subject had been arrested for carrying a pistol although law enforcement officials later conceded that they had arrested the wrong person. The court stated that an arrest record which is admittedly wrong has no utility to law enforcement officials and, thus, as a matter of fairness and equity, the court can and should order the criminal justice agency to correct or expunge the record.[96]

Finally, the press has recently reported two decisions in which the courts have evidently blessed data quality settlements worked out by litigants. In those suits the plaintiffs charged that they had been falsely arrested, based on inaccurate warrant information, thereby violating their constitutional and civil rights. The settlement agreements reportedly set forth specific data quality procedures and criteria which the criminal justice agencies must follow in order to ensure the accuracy of warrant files.[97]

Establishing a Breach of Duty

In setting out the nature and extent of the duty of criminal justice agencies to disseminate accurate and complete records, the courts have pondered over the extent of the burden which criminal record subjects should carry in order to establish a breach of this duty. In White v. State,[98] a California court denied a criminal

record subject's damage suit against the state repository for negligent recordkeeping and dissemination. The court said that a criminal justice agency does not have a duty to correct a record on the basis of the subject's "unsubstantiated" claim that the record contains inaccurate or incomplete information. The record subject must be able to demonstrate on some objective basis that the information is incorrect or incomplete.

The courts have also considered the burden that a record subject should carry in order to compel the FBI to correct or amend state or local records held by the FBI. The Sixth Circuit held in Pruett v. Levi,[99] that a record subject did not have a basis to sue the FBI merely because the FBI had refused to act on his generalized claim that the FBI was holding an inaccurate, locally generated criminal history record. To have a cause of action against the FBI for maintenance of inaccurate information, a record subject must first direct his claim to the appropriate state or local law enforcement agency. If the record subject is still aggrieved after the state or local agency has had an opportunity to act, the record subject may then direct a specific claim to the FBI.

The Sixth Circuit also observed in Pruett that a simple claim that an agency is maintaining an inaccurate record, without alleging a specific, adverse effect from the use or dissemination of the record, does not, in light of the Supreme Court's decision in Paul v. Davis, create a cause of action. Other court decisions agree with Pruett that in the absence of a specific statutory command to maintain accurate and complete records, a record subject must demonstrate some harmful use or dissemination of his records in order to have much chance of obtaining judicial relief--under virtually any legal theory.

In McKnight v. Webster,[100] a federal district court set forth a slightly more detailed procedure for plaintiffs to follow in attempting to compel the FBI to correct allegedly inaccurate or incomplete criminal history records. In McKnight, the plaintiff, a federal prisoner, sought expungement of allegedly incomplete records maintained by the FBI and the local police. Although the

court recognized that the FBI has a limited duty to keep criminal history records in a reliable and responsible manner, the court found that this duty does not require the FBI to correct inaccuracies in state or locally created records unless the corrected information is supplied to it by the law enforcement agency which was the original contributor of the record. However, the court held that the FBI does have an obligation to forward a request for correction of records to the appropriate state or local law enforcement agency.[101]

Consequences of a Breach of the Duty Concerning Accurate and Complete Records

Setting Aside Illegal Arrests or Searches

Perhaps the consequence which results most frequently from a breach of an agency's duty to implement procedures reasonably designed to ensure the dissemination of only accurate and complete criminal history information is a finding by a court that an arrest or search based upon the erroneous information is illegal. Court opinions sometimes imply that the maintenance of inaccurate or incomplete information is, in and of itself, a violation of the Fourth Amendment interest in freedom from unreasonable searches or the Fifth Amendment interest in freedom from capricious arrest. However, upon closer analysis, virtually all of these decisions find that the constitutional violation occurs as part of the improper arrest or search and not as part of the improper maintenance or dissemination of inaccurate or incomplete records. In other words, an agency's breach of its duty to disseminate accurate and complete records may result in tainted and thus constitutionally improper arrests or searches.

In United States v. Mackey,[102] a record subject, indicted for the illegal possession of a shotgun, moved to suppress the shotgun as evidence on the basis that his arrest, made pursuant to an inaccurate NCIC arrest warrant entry, was illegal because it denied due process

under the Fifth Amendment. The court stated that an arrest made solely on the basis of an inaccurate NCIC entry, particularly an entry uncorrected for five months, was a deprivation of liberty without due process of law. Therefore, any evidence seized as a result of such an arrest had to be suppressed:

> The Court finds that a computer inaccuracy of this nature and duration, even if unintended, amounted to a capricious disregard of the rights of the defendant as a citizen of the United States. The evidence compels a finding that the government's action was equivalent to an arbitrary arrest, and that an arrest on this basis deprived defendant of his liberty without due process of law.[103]

Numerous other decisions have ordered the suppression of evidence obtained during the course of arrests based upon mistaken information in an outstanding warrant file or in other types of criminal justice files. For example, in People v. Lawson,[104] the defendant in a drug possession case moved to suppress evidence obtained during the course of an arrest because his name was mistakenly included in an outstanding warrants file. The court suppressed the evidence, stating that the police cannot rely on an error of their own making. The court said it was intolerable for a police agency to rely on a recordkeeping system which would not correct errors until a wrongful arrest occurred. The court distinguished this type of recordkeeping system from a system in which an error occurs because of a temporary administrative delay that would be routinely corrected in a short period of time.[105]

Inevitably, delays will exist between the occurrence of a given event and the time that the event can be incorporated into a criminal justice information system. The courts have not established definitive rules on the amount of lag time permissable for the police, relying on out-of-date and therefore inaccurate information, to es-

tablish probable cause for an arrest or search. However, the growing use of computers to operate criminal justice information systems seems to be encouraging courts to minimize allowable periods of delay.

In People v. Joseph, for example, an Illinois state court reversed a defendant's conviction for possession of a controlled substance which was discovered during a search incident to his arrest.[106] The arresting officers had relied on information from their mobile computer which indicated that the defendant was wanted on an outstanding warrant. However, the warrant had been recalled 11 days earlier. The court held that the lag time in updating the warrant information was more than mere ordinary administrative delay. The arrest thus lacked probable cause, was declared invalid and the evidence was ordered suppressed. The court emphasized that police reliance on automated information systems causes growing problems and that automated files must be kept up to date:

> [The] situation here reflects the growing problem evolving from police reliance on electronically recorded and disseminated criminal files. When these computerized records are not kept up to date, a citizen may be subject to a deprivation of his liberty without any legal basis.[107]

In Childress v. United States,[108] however, a local District of Columbia court upheld a police officer's good faith reliance on a radio report that valid traffic warrants were outstanding. The court found that this information provided probable cause for an arrest, despite the fact that one of the defendants had posted collateral for the warrants four days earlier. The court stated that a four-day delay, with two of those days attributable to the weekend, does not rise to the level of negligence that would be fatal to the government. The Childress court distinguished its decision from the decision in such cases as United States v. Mackey, in which the warrant had been satisfied some five months earlier. The court

implied that it would have ruled in the defendant's favor had the delay been significant enough to suggest a breach of the duty of the police to maintain a system which was reasonably designed to produce accurate, complete and timely records.[109]

In judging the validity of an arrest or a search, the courts have employed a good faith standard, taking into account the good faith of the officers operating the criminal justice information system, as well as the good faith of the officers in the field. In People v. Ramirez,[110] for example, a California court held that an arrest based solely on a recalled warrant was invalid and the fruits of a search incident to that arrest had to be suppressed. The court said that it is not enough for the officer in the field to rely, in good faith, on the information communicated to him through "official channels." The test is the good faith of the law enforcement agency of which the officer is a part, not merely the good faith of the individual officer in the field. As in Joseph, the court emphasized that law enforcement officials are collectively responsible for keeping the "official channels" free of outdated, incomplete or inaccurate information, and that this responsibility is accentuated by the use of elaborate, computerized data processing systems to catalog and dispatch relevant information.[111]

Setting Aside Sentences

It is a well established principle of law that a defendant cannot be sentenced on the basis of materially false information. This principle is applicable to criminal history record information, in that this information is material to many sentencing determinations. A number of courts have held that sentencing decisions based on materially false information from a defendant's criminal history record will result in the sentence being overturned and the defendant resentenced.

In United States v. Tucker, for example, the Supreme Court reviewed a conviction for armed robbery in which the trial judge explicitly relied on three previous

convictions in setting the sentence.[112] However, it was later determined that two of those previous convictions were constitutionally invalid.[113] The Supreme Court found that the defendant had been sentenced on the basis of assumptions concerning his criminal record which were materially untrue.[114] The Court observed that the sentence might have been different had the sentencing judge known of the unconstitutionality of two of the defendant's prior convictions. Therefore the Court remanded the case to the trial court for reconsideration of the defendant's sentence, stating that:

> Due process is violated if a sentencing court imposes a sentence based on extensive and materially false information. Reliance on false assumptions about prior convictions may be of constitutional magnitude if the assumptions are materially untrue. [Citations omitted].[115]

Injunctive Relief

If a record subject can demonstrate the dissemination or use of inaccurate or incomplete criminal history record information, another type of relief available is an injunction requiring the inaccurate or incomplete information to be corrected or expunged.

In Maney v. Ratcliff, the NCIC warrant file listed the plaintiff as a fugitive from justice following a 1973 narcotics arrest. He was arrested on three occasions over the next year, twice in Wisconsin and once in New York. Each time he was checked on the NCIC warrant file and held for extradition for periods of four weeks, thirty days, and two days, respectively. Furthermore, on each such occasion, Louisiana officials failed to respond to the arresting agency's extradition inquiry. The court ruled that repeated arrests without subsequent prosecution violated the Fourth Amendment guarantee to be free from arbitrary and unreasonable interference by the police,[116] and ordered Baton Rouge law enforcement officials to remove the plaintiff's name from the NCIC warrant file.

Relief Under the Civil Rights Act

When an agency breaches its duty to maintain a system designed to assure that disseminated records are accurate and complete, it may also be subject to an action under the Civil Rights Act (often called "Section 1983 Actions").[117] Section 1983 gives individuals the right to bring an action for deprivation of their federal constitutional rights caused by persons acting under color of state authority.

However, the subject of a criminal history record wishing to bring an action under Section 1983 must surmount several hurdles. First, the record subject must be able to demonstrate that the agency violated his constitutional rights. Mere maintenance of inaccurate or incomplete criminal history information may not amount to a violation of the Constitution. Second, the record subject must show that some tangible harm occurred to him as a result of the unconstitutional act. Third, even if the record subject can demonstrate that his constitutional rights were violated and some tangible harm resulted from the violation, he may still be unable to recover if the government can demonstrate that the state or local official acted reasonably and in good faith.

Indeed, the key question in many Section 1983 actions is whether the officer acted reasonably and in good faith in making an arrest or conducting a search if he relied upon what turned out to be inaccurate or incomplete criminal justice information. The courts have generally held that the answer to that question depends upon whether the agency made reasonable efforts to establish a recordkeeping system designed to safeguard against errors.

For example, in Bryan v. Jones,[118] the plaintiff brought a Section 1983 action against a county sheriff who mistakenly detained the plaintiff in jail because of an error in information provided to the sheriff by the county district attorney. The Fifth Circuit remanded the case to the trial court for a determination of whether the sheriff had "negligently established a recordkeeping system in which errors of this kind are likely."[119]

In a later decision, McCollan v. Tate, the same Circuit Court of Appeals reversed a trial court's decision to hold a sheriff not liable for false imprisonment resulting from allegedly improper identification practices in the county jail.[120] The sheriff's deputies had allegedly failed to compare photographs and fingerprints of the record subject with identification files in the sheriff's office. Had they done so, they would have discovered that the plaintiff was being detained for an offense committed by his brother. The Court of Appeals held that the sheriff's failure to implement a policy of checking photographs and fingerprints of detainees when they were booked could be considered by a jury as unreasonable, thus laying a basis for the sheriff's liability under Section 1983 for false imprisonment.[121]

On certiorari, the Supreme Court overturned the Fifth Circuit.[122] The Court ruled that the plaintiff's detention for three days on the basis of a facially valid warrant did not constitute an unconstitutional deprivation of the plaintiff's liberty. The opinion implied, but did not state, that failure to employ an adequate identification system does not rob law enforcement officials of the probable cause necessary to make a valid arrest, if the arrest is made on the basis of a facially valid warrant. Justice Stevens, joined by Justices Brennan and Marshall, dissented and argued that the individual's constitutional rights are affected when an individual is deprived of his liberty by an arrest which is the result of poor identification procedures:

> Certainly, occasional mistakes may be made by conscientious police officers operating under the strictest procedures. But this is hardly such a case. Here, there were no identification procedures. And the problems of mistaken identification are not, in my judgment, so insubstantial that the absence of such procedures, and the deprivation of individual liberty which results from their absence, should be lightly dismissed as of no constitu-

tional significance. The practice of making a radio check with a centralized data bank is now a routine policy, followed not only by every traffic cop in Potter County, but also in literally hundreds of thousands of cases per day nationwide. The risk of misidentification based on coincidental similarity of names, birthdays, and descriptions is unquestionably substantial; it is reflected not only in cases processed by this Court, but also in the emphasis placed on securing fingerprint identification by those responsible for the national computer system. The societal interests in apprehending the guilty as well as the interests in avoiding the incarceration of the innocent equally demand that the identification of arrested persons conform to standards designed to minimize the risk of error. I am not prepared or qualified to define the standards that should govern this aspect of the law enforcement profession's work, but I have no hesitation in concluding that a 3-day imprisonment resulting from a total absence of any regular identification procedures in Potter County was a deprivation of liberty without the due process of law that the Constitution commands.[123]

McCollan calls into question the use of Section 1983 as a remedy for failing to implement proper recordkeeping procedures. However, it is important to note that in McCollan the basis for the warrant, and thus the basis for the probable cause to arrest, was not tainted by improper recordkeeping. The only effect of the improper recordkeeping was to deprive the individual of an opportunity for quick release. Had the warrant been tainted by inaccurate information the Supreme Court may well have reached a different opinion.

In Sadiqq v. Bramlett,[124] a federal district court considered whether a local official's dissemination of

inaccurate criminal history information to the FBI could constitute a constitutional violation providing a basis for recovery under Section 1983. The plaintiff, a federal prisoner, sought money damages from local police department recordkeeping officials for transmitting misinformation to the FBI. Sadiqq argued that his FBI rap sheet showed, or at least implied, that he had been convicted of both murder and armed robbery rather than murder alone. He alleged that this error had harmed his reputation and caused him to be denied parole.

The court said that in order to recover, Sadiqq would have to introduce evidence which demonstrated the following three elements: (1) that the official's misconduct had breached a constitutional duty owed to the plaintiff; (2) that the officials' actions were intentional, not merely negligent; and (3) that some tangible harm had been done to Sadiqq. The test adopted by the Sadiqq court is especially difficult because it places the burden on plaintiffs to demonstrate that the agencies' recordkeeping failures were intentional. The Sadiqq court also stated that in considering whether the plaintiff had suffered any cognizable injury, mere damage to reputation alone would not be enough to constitute a violation of the Constitution. However, denial of parole based on inaccurate criminal history data might constitute a deprivation of due process in violation of the Fifth and Fourteenth Amendments, if the plaintiff could establish that the parole board actually relied upon the inaccurate FBI record.

Furthermore, the court explained that even if the inaccurate information resulted in a cognizable harm to the record subject, it may not constitute a breach of a duty owed to the plaintiff by law enforcement officials. On the other hand, the court conceded that the plaintiff, "may have a constitutionally protected right to prevent local law enforcement agencies from disseminating some kinds of inaccurate information about his prior criminal involvement to the FBI for ultimate inclusion in his master rap sheet.[125]

Relief Under Tort Theories

A criminal justice agency's duty to maintain or disseminate accurate and complete criminal justice information has also been litigated in tort actions. For example, in Doe v. United States,[126] a record subject sentenced under the Federal Youth Corrections Act sued the FBI under the Federal Tort Claims Act. The plaintiff claimed that the New York City Probation Department had negligently failed to inform the Federal Bureau of Investigation of a court order setting aside his conviction. The court held that the plaintiff might have a cause of action under the Federal Tort Claims Act against the FBI for breach of a duty owed to him if the Probation Department negligently failed to inform the FBI of the set-aside order.

The conviction at issue in Doe was for mail theft. The plaintiff was unconditionally discharged from probation and his conviction was subsequently set aside. In the following year the plaintiff advised his employer, a bank, of the conviction, but was assured that he would not be barred from permanent employment if a routine FBI check confirmed the plaintiff's allegation that the conviction had been set aside. However, because the FBI's record contained no indication of the set-aside, the bank fired the plaintiff.

The holding in Doe is surprising in that it does not appear that the FBI engaged in negligent recordkeeping activity, but rather that the FBI was merely the recipient of inaccurate information from New York City's Probation Department. Although the "passive recipient" theory has long been dead, the opinion in Doe, if followed, would hold the FBI to a standard of near absolute liability under the Federal Tort Claims Act for dissemination of inaccurate information.

Bradford v. Mahan[127] is another example of a case in which a criminal justice agency was exposed to tort liability for allegedly improper recordkeeping. The record subject sued the arresting officer and the city for defamation after being arrested for careless driving. The

arrestee claimed that the officer had falsely and maliciously stated in the accident report that the arrestee's alcohol intake had contributed to the accident. The record subject sought correction or expungement of the allegedly libelous portion of the accident report, plus money damages. The court held that it woud have power to order correction or expungement of inaccurate police records, but only in exceptional circumstances where the arrest had been made without probable cause.

Summary

Several points emerge from the discussion in Part Three. First, federal data quality legislation is more hortatory than prescriptive. At the federal level it is left to the federal regulations to set forth operational data quality standards. However, the federal regulations do not prescribe the use of comprehensive data quality safeguards and, in addition, it appears that many state and local agencies have not been able to comply fully with these regulations.

Second, at the state level many state criminal history record statutes mandate the use of at least some data quality procedures. The most common such procedures are arrest and disposition reporting and auditing. However, few states require agencies to implement a comprehensive strategy for improving data quality.

Third, a fair reading of the case law suggests that as of the mid-1980s criminal justice agencies are not held to a duty to guarantee or ensure record accuracy, but merely a duty to have in place a system which is reasonably designed to produce accurate and complete criminal justice information. The courts, while more or less convinced of the existence of this duty, have been less than forthcoming in identifying its jurisprudential source. Moreover, the courts require record subjects to shoulder much of the burden of establishing a breach of the duty. Finally, the consequences of a breach of the duty may range from an order overturning an arrest or conviction to injunctive relief or money damages.

PART FOUR

STRATEGIES FOR IMPROVING DATA QUALITY

This part of the report examines strategies of proven usefulness in upgrading the accuracy and completeness of criminal history record information, reviews the extent to which they have been implemented in repositories and other recordkeeping settings, and discusses the policy issues relating to their use. These strategies include:

- the recognition of data quality as an important agency commitment;
- data entry standards, particularly tracking and linking systems;
- data maintenance standards, particularly disposition monitoring systems and audits;
- dissemination standards, particularly query-before-dissemination strategies;
- automation initiatives;
- political strategies, particularly strategies to improve the relationship between repositories and courts;
- statutory and regulatory initiatives; and,
- funding initiatives.

Making Data Quality a Priority

Widespread agreement existed among Roundtable participants that a criminal justice agency is unlikely to

make much progress without a commitment to improve data quality by its criminal justice executives and, in particular, its criminal history record system managers. While this notion is hardly surprising, the extent to which Roundtable participants emphasized this factor is noteworthy. Virtually every Roundtable participant stated that to improve data quality, it has to be made a priority and that every phase of an agency's operations must reflect a commitment to accuracy and completeness. For example, training agency personnel in the handling of criminal history record information can reflect a concern for the accuracy and completeness of the information--in which case the chances for improving data quality are increased; or the training can ignore or downplay such concerns--in which case no amount of effort in adopting other kinds of data quality safeguards is likely to be effective.

Most Roundtable participants felt that many agencies have not made an adequate commitment to data quality and that national efforts to highlight and prioritize data quality concerns were perhaps the most effective way to encourage agency commitment to the effort.

Data Entry Standards

An old maxim among information system operators is that the data maintained in a system are only as good as the data entered into the system. "Garbage in/garbage out" is the vernacular phrase often used to express this idea. It is possible, of course, to identify poor quality data after entry and upgrade the data at that time. However, such efforts are likely to be expensive and only partly successful. Accordingly, many agencies have adopted strategies for policing the quality of criminal history record data as it is entered into their systems, including uniform documentation, review and verification, and tracking systems.

Uniform Documentation

The use of uniform documents and forms is an often overlooked but nonetheless important strategy for improving the quality of data entered into criminal history record systems. Recognizing the critical role central repositories play as holders of the criminal history record, Roundtable participants suggested that the state repository should design all forms to be used by other state and local agencies and the courts to report data to the repository. According to these criminal history system managers, this policy promotes the collection of uniform data, makes it easier for the repository to verify data, and helps to ensure that the repository will receive appropriate data. Experts also emphasize that the repository must design its forms and documents to make them as clear, simple and easy to use as possible.

To date, 29 states have adopted statutes or regulations which prescribe the use of uniform documents and forms for reporting disposition data to the central repository. (See Table 9.) Idaho's statute is a good example. It provides that the central repository shall:

> Furnish all reporting officials with forms and instructions which specify in detail the nature of the information required . . ., the time it is to be forwarded, the method of classifying and such other matters as shall facilitate collection and compilation.[128]

The mere fact that a statute directs the central repository to develop and distribute forms for collecting criminal history information, however, does not guarantee that appropriate or uniform information will be obtained. One criminal justice official who participated in the Roundtable meeting expressed the problem as follows:

> It isn't enough to send out documents. The agencies concerned need to sit down together and discuss these things in detail. They may

then better understand why things are the way they are, how they can work, and what they can do. They get across their needs for information and understand other agencies' needs.[129]

According to some criminal history system operators, the real benefit of uniform documentation is the cooperative effort that is generally required to produce that documentation. In that sense the development of uniform documentation becomes a method for improving communication among law enforcement, judicial and correctional authorities.

Review and Verification

Roundtable participants emphasized that even in jurisdictions which use effective, uniform documentation, a relatively rigorous system of edit checking and verification should be used to screen out questionable data prior to its entry into the system. In automated systems this task can be done relatively easily through edit check programs that identify "suspicious" entries. In manual systems the task is more difficult, but still feasible and perhaps even more important. According to Roundtable participants, some repositories use two record clerks to check each incoming entry. Ten states have adopted statutes or regulations which require the repository to employ systematic edit check procedures. (See Table 13.)

Because positive identification is a subject which merits and has received considerable attention as a separate topic, neither the Roundtable discussion nor the report gives much attention to this issue. However, Roundtable participants emphasized that the use of fingerprints to positively identify offenders is a critical data entry safeguard. Positive identification techniques help to ensure that incoming information is entered onto appropriate rap sheets and that the repository does not maintain multiple rap sheets for the same offenders under various aliases.[130]

Tracking Systems

Roundtable participants emphasized that a critical data quality problem is the inability to match disposition entries with charge entries on many rap sheets. Criminal history records may contain only the original arrest charges entered by the police or both the arrest and formal charges entered by the prosecutor. The formal charges often differ substantially from the original arrest charges and thus it is important to be able to identify the charges to which a disposition applies.

Several Roundtable participants endorsed the use of tracking-number systems to link arrests and dispositions. Under such systems, each reported charge is assigned a number that accompanies that charge through each step in the process. In this manner dismissals, acquittals, convictions and other dispositions can be linked by number to the original charges.

To date, only five states have adopted statutory or regulatory provisions which require the use of tracking-number systems. (See Table 11.) Information is not available on the number of repositories or other agencies which have voluntarily implemented tracking systems, but it is known that unique-number tracking systems are frequently employed--though they sometimes are keyed to arrest events and do not have the capability to track individual arrest charges.

A question about the use of tracking systems is the point at which a charge should be tracked. Some officials suggest that entries be tracked from the time that a complaint is issued or fingerprints are generated. Other officials suggest tracking begin when formal charges are filed, thereby excluding arrest charges and making it simpler to link dispositions to formal charges.

Data Maintenance Standards

At least three data maintenance strategies are thought to be helpful in ensuring accurate and complete criminal history record information: delinquent disposi-

tion monitoring systems; auditing; and error notification procedures.

Disposition Monitoring Systems

Delinquent disposition monitoring systems were often cited by Roundtable experts as one of the most useful and important methods for improving completeness in criminal history records. These systems flag arrest entries which, after a reasonable period of time, still lack dispositions. The time period that must elapse before an arrest is cited for a delinquent disposition varies among agencies, but is generally not less than three months from the time of the original entry.

Disposition monitoring systems are used daily or periodically to generate a list of aged arrests. Agency officials then update the list, obtaining information from the appropriate court or other criminal justice agency. To date, 11 states have adopted statutory or regulatory provisions which require repositories to use some kind of delinquent disposition monitoring system. (See Table 10.) Roundtable participants suggested that a significant number of other repositories have adopted such systems voluntarily.

Roundtable participants noted that delinquent disposition monitoring systems operate far more economically in automated systems than in manual systems. It is a relatively simple matter to program most automated systems to generate a list of aged arrests. By contrast, generating such a list manually can be a time-consuming and sometimes error-prone process. Regardless of whether an automated or a manual system is used, Roundtable participants cited delinquent disposition monitoring systems as one of the more effective methods for obtaining complete disposition information.

Auditing

Auditing is a relatively common method used by agencies, and particularly state central repositories, to

police the quality of data in their systems as well as in local systems. Audits provide a valuable tool for determining if an agency is receiving accurate and complete data. Unless a state central repository compares its records with the records held by local agencies, it has no way of knowing if the contributed information is accurate and complete. Some Roundtable participants noted that audits improve data quality by creating a better relationship between state and local agencies. In addition to identifying and documenting data quality problems, audits are an effective tool for measuring improvements in data quality. Statutes in 29 states require central repositories to conduct audits. (See Table 12.) In eight of those states the repository is required to conduct an annual audit of its own system as well as an annual audit of a random sample of information systems operated by other state and local criminal justice agencies. Thirteen of the 29 states require the central repository to conduct only an annual audit of local criminal history systems, and two states require the repository to conduct only an annual audit of its own records and practices.

For example, Kentucky's statute and regulations require the central repository to conduct both an in-house audit and field audits of user agencies:

> The [central repository] shall conduct annually an in-house audit of a random representative sample of hard copy data contained in the centralized criminal history record information system. The scope of the audit shall include, but is not limited to: (1) adherence to federal and state regulations; (2) completeness and accuracy of CHRI; (3) CHRI dissemination procedures; (4) security; (5) compliance with mandated access and review procedures.
>
> The [central repository] shall conduct, on an annual basis, audits of at least four law enforcement or criminal justice agencies, submitting or receiving data from or to the

> centralized criminal history record information system. Said agencies shall be picked at random . . . the scope of the audit shall include, but is not limited to, [same as in-house audit].[131]

Given the existence of state and federal law, most Roundtable participants felt that auditing was a relatively common practice. However, while Roundtable participants viewed audits as an essential tool for identifying problems and improvements in data quality, many participants expressed concern that from an operational perspective, audits are a drain on resources. One participant suggested that audits can also disrupt relations between the repository and the local agencies. Other Roundtable participants asserted that auditing seldom receives a high priority and thus the agency personnel who conduct audits are seldom skilled in auditing techniques. Roundtable participants also noted that auditing is not an operational procedure integral to the operation of an information system. These criminal history record system managers believed that there are other data quality safeguards that are more effective and economical than audits in attacking data quality, such as efforts targeted at the data entry or dissemination process.

Error Notification

The federal regulations provide that, "upon finding inaccurate information of a material nature, [criminal justice agencies] shall notify all criminal justice agencies known to have received such information."[132] The regulations also state that when a criminal history record is corrected because of a record subject's challenge, "the correcting agency shall notify all criminal justice recipients of the corrected information."[133] These two notification requirements have the effect of encouraging criminal justice agencies to exchange information to improve the accuracy and completeness of criminal history records. Thirty-one states have adopted statutes or regulations requiring procedures for error notification. (See Table 17.)

However, according to Roundtable participants, error notification procedures often are of little practical value because they are not implemented effectively. They report that record subjects not only seldom challenge the accuracy or completeness of information in their files, but that such challenges seldom lead to a finding of incorrect information. Moreover, experts believe that, despite express requirements, agencies seldom notify prior criminal justice recipients even when agencies do discover inaccurate information through record challenge or audits. Since error notification is not viewed as an effective tool for improving data quality, most agencies, according to Roundtable participants, have not adopted procedures for the implementation of notification requirements.

Dissemination Standards

Dissemination of criminal history information--like entry of information into a system--is viewed as an appropriate point in the recordkeeping process for the introduction of data quality safeguards. Three data quality safeguards are used at the time of dissemination: procedures for querying the central repository, procedures for edit checking and querying of source agencies, and transaction logs.

Querying the Central Repository

The federal regulations require agencies to establish procedures to query the central repository prior to the dissemination of criminal history information to assure that the most up-to-date information is used. An exception is made where time is of the essence and the repository is technically incapable of responding within the necessary time.[134] In addition, statutes or regulations in 13 states require state and local criminal justice agencies to query the central repository prior to disseminating criminal history record information. (See Table 15.)

Roundtable participants generally endorsed requirements for querying the repository. However, some participants noted that in many states local agencies serving large urban areas are more likely to have up-to-date and complete data than the repository. No data is available concerning the extent to which local criminal justice agencies comply with the query-the-repository standards.

Querying Source Agencies

Some experts have suggested that central repositories should review the accuracy and completeness of data prior to its dissemination and that, when missing or suspicious data is encountered, the source agency should be queried. They argue that imposing a query requirement upon repositories would be just as important, if not more important, than imposing query obligations upon local agencies.

Roundtable participants suggested that this procedure would serve as a combination edit check procedure and a delinquent disposition monitoring system. Prior to disseminating rap sheet information, repository officials would review the information, and if it appeared that a disposition was missing or other material information was inaccurate or incomplete, the repository would query the appropriate court or appropriate arresting agency for additional information.

Roundtable participants were not aware of any repository currently employing a "query-the-source-agency" approach. Some participants cautioned that such an approach might be impractical because of the cost. Moreover, some participants worried that such a procedure would unnecessarily question the validity of data in those cases where an adequate response to a query was not received. Furthermore, some Roundtable participants questioned whether such a procedure would undermine arrest and disposition reporting to the repository. If repositories had a responsibility or even a practice of checking with source agencies prior to disseminating information, these agencies might be more inclined to

wait for a call than to affirmatively report data. Thus, such a procedure might have the unintended effect of reducing the quality of information in repository systems.

Transaction Logs

Criminal justice agencies maintain transaction logs because the federal regulations require them to notify prior criminal justice recipients of rap sheet information when a material inaccuracy in the information is found. Furthermore, statutes in 26 states require criminal justice agencies to maintain transaction logs. (See Table 16.) Transaction logs customarily record the identity of the recipient of criminal history information, describe the data disseminated, and indicate the dissemination date. Some transaction logs also explain (often in coded form) the reason for the dissemination.

Roundtable participants disagreed about the value of transaction logs as a data quality mechanism. Some officials felt that the logs not only provide a means to notify criminal justice agencies of inaccurate information, but also create an audit trail and increase discipline in the handling of criminal history records. Other officials suggested that transaction logs are expensive and burdensome and fail to deliver commensurate data quality benefits. In automated systems, maintaining a transaction log appears to be far less expensive and burdensome and, for those systems, Roundtable participants were more apt to agree that cost-benefit factors weigh in favor of the maintenance of the logs.

Automation

According to much of the data quality literature, automation is the most important tool in achieving data quality. Moreover, SEARCH's 1985 survey, State Criminal Records Repositories, found that automation was one of the most frequently cited reasons for improvements in data quality. Most of the Roundtable participants, however, viewed automation as a significant, but

perhaps not the most significant, factor in achieving data quality. Automation contributes to achieving data quality in that it generally makes it easier to implement data quality safeguards. Automated systems make it more practical and economical to implement tracking systems, editing systems, disposition monitoring systems, transaction logs and other data quality safeguards. Furthermore, the telecommunications components of automated systems make the reporting of arrests and dispositions easy, economical and reliable.

The Office of Technology Assessment's 1982 survey found that automated state repositories achieved a significantly higher average arrest reporting rate (81.6 percent) than did non-automated systems (71.8 percent). A similar disparity existed for disposition reporting. Repositories using automated systems had a 70.6 percent average disposition reporting rate, while repositories using manual systems had a rate of 56.3 percent. The OTA Report states:

> Given that in 1970 only one state (New York) had a CCH system, the results indicate that most of the improvement in disposition reporting over the 1970-79 period was in states with computerized systems.[135]

Automated systems can include facsimile equipment capable of transmitting fingerprint impressions of adequate quality over telecommunications lines, thereby making it easier to positively identify record subjects. Some very advanced automated systems also possess an automated fingerprint identification capacity which vastly improves the speed and reliability with which such systems process fingerprint information.

However, despite these impressive benefits, many Roundtable participants cautioned that automation is by no means a panacea for data quality problems. They emphasized that automated systems ultimately are only as good as the underlying manual data bases. In other words, agencies whose manual data bases contain inaccurate and incomplete information will continue to maintain that information even after the systems are automated. Several officials at the Roundtable conference complained that "an awful lot of money" has been wasted automating poor data bases.

Many Roundtable officials also stated that every major criminal history record system in the country ultimately will need to be automated in order to handle rapidly increasing workloads. They believe that, as more and more agencies automate their systems, there is a risk that agencies with manual systems will find it increasingly difficult to communicate with state and federal systems and even with other local systems.

Political Initiatives

In the view of many experts, the collection, maintenance and dissemination of high quality criminal history record information is a complex task that requires cooperation among the various components of the criminal justice system, including the police, prosecutors, courts and correctional officials. Several Roundtable participants proposed statewide working groups or task forces which consist of representatives from each part of the criminal justice system. Several states, including New York and Delaware, have established information systems task forces.

Roundtable participants particularly emphasized the need for cooperation among the courts and central repositories. It is generally agreed that courts are the best source of disposition information and that the best and perhaps the only way for the repositories to obtain information from the courts is to establish a cooperative relationship with them. Roundtable participants, particularly those representing the courts, noted that the judiciary's willingness to cooperate with repositories is limited by: (1) judicial concerns about autonomy; (2) the variety and diversity of court systems; and (3) judicial concern about the potential misuse of court records by repositories. Court officials noted that the judiciary's

concern about preserving their autonomy may account for the courts' tacit resistance to legal obligations which require them to report dispositions to repositories. By contrast, they believe that cooperative and voluntary approaches by courts and repositories have a potential for success, emphasizing that here, too, a task force approach may be useful.

Task forces can also be helpful in identifying and resolving recordkeeping problems caused by the existence in many states of numerous and disparate court information systems---many of which use different classification schemes and different recordkeeping protocols. According to some court officials, a task force approach creates a forum in which to discuss, and hopefully alleviate, the court's concerns about court information sent to the repositories. Court officials fear that such information might be used to construct profiles of particular judges' sentencing patterns or workload patterns or that it otherwise might be misused.

A couple of Roundtable participants suggested that the best way to obtain cooperation from the courts is to demonstrate the benefits the courts will receive from improvements in the accuracy and completeness of repository rap sheets. As courts increase the use of rap sheet data--for example, in special sentencing programs, bail determinations and other judicial decisions--the courts' stake in the accuracy and completeness of repository records increases. Information systems which not only provide repositories with court disposition data, but also provide the courts with more responsive and timely criminal history record data are likely to elicit the best response from courts. Interestingly, as early as 1967, the President's Commission on Law Enforcement and the Administration of Justice proposed that, "some system of incentives should be developed to insure court dispositions are recorded."[136]

Statutory and Regulatory Initiatives

Part Three of this report described the statutory and regulatory standards applicable to the handling of criminal history record information. That discussion demonstrates that criminal history recordkeeping is a highly regulated activity, and that this high degree of regulation extends to data quality safeguards. What is generally unknown is the extent to which these statutory and regulatory data quality requirements have actually assisted agencies in improving data quality levels in their systems. SEARCH's 1985 survey--State Criminal Records Repositories--found substantially higher average disposition reporting percentages in states with mandatory reporting. However, most Roundtable participants felt that statutory and regulatory provisions are helpful, but by no means the complete answer.

Many Roundtable participants agreed that statutory and regulatory standards are most effective when reflective of good practice in criminal justice agencies. In other words, statutes and regulations should reinforce agency practice--not coerce agency practice.

The scope and content of data quality legislation is controversial in many respects. One such controversy concerns the threshold issue of whether legal standards should express only broad data quality goals--"all criminal history record information should be accurate"--or should mandate the use of specific data quality safeguards--"agencies shall implement disposition monitoring systems, tracking and linking systems, etc." Some Roundtable participants argued that legislation should merely set broad data quality goals, allowing operational officials the appropriate flexibility to design and implement solutions to data quality problems. These officials note that data quality problems are diverse and change rapidly, that agencies operate under varied conditions, and that resources differ substantially among agencies. They also argue that even when legislation mandates the use of specific data quality techniques, such as disposition monitoring systems or tracking systems, there is no guarantee

that implementation of these techniques will produce high quality data.

Other Roundtable participants disagreed, and asserted that legislation ought to mandate the use of specific techniques which have proven to be successful in improving data quality. They note that a broad, goal-oriented approach has already been tried in the federal regulations and in most state legislation and has not proved effective. One participant characterized broad data quality requirements as amounting to "little more than saying to agency officials that they should try as hard as they can to have accurate and complete data." These officials believe data quality is more effectively improved when legislatures mandate the use of specific techniques. Another approach, perhaps the most acceptable, is to combine a broad, goal-oriented approach with a specific, technique-oriented approach.

A second issue which has bedeviled data quality legislation is the question of penalties. At present, only 21 states impose penalties for non-compliance with reporting standards or other data quality standards. (See Table 8.) Minnesota's statute imposes a very specific penalty:

> If any public official who is charged with the duty of furnishing to the Bureau fingerprint records, reports or other information required by [the Bureau], shall neglect or refuse to comply with such requirement, the [Bureau] in writing shall notify the state, county or city officer charged with the issuance of a warrant for the payment of the salary of such official. Upon the receipt of the notice, the state, county or city official shall withhold the issuance of a warrant for the payment of the salary or other compensation accruing to such officer for the period of thirty days thereafter until notified by the [Bureau] that suspension has been released by the performance of the required duty.[137]

A few Roundtable participants suggested that state codes should include specific penalties for failure to comply with data quality standards. Other officials argued that the legislation should include penalties for extreme cases but that, in general, the "carrot"--in the form of additional funding for implementing data quality safeguards--works better than the stick. As one Roundtable participant put it, "You like somebody better when you know they can beat you up, but instead they are serving you cocktails." Some Roundtable participants proposed that criminal history record statutes expressly authorize a cause of action by record subjects against agencies and officials for failing to comply with data quality standards.

A third controversial issue is the extent to which reporting responsibilities should be imposed upon the courts. Several Roundtable participants called for the imposition of express statutory requirements that court clerks report disposition information to repositories. Many states have already adopted such requirements. (See Table 4.) However, in many states the court's reporting requirement is merely implicit in a general reporting obligation imposed on all criminal justice agencies, and in still other states there is no reporting requirement of any kind. A few Roundtable participants expressed the contrary view that statutes should not impose reporting requirements on the court. In their view such laws inappropriately shift data quality responsibilities from repositories to the courts. These officials contend that the exclusive responsibility for data quality rests on the repositories and that it is the repositories' responsibility to induce other agencies, including courts, to cooperate.

Certainly the courts, as noted in Part Three, have shown little hesitancy in imposing data quality responsibilities on central repositories. The courts have generally held that the repositories have a responsibility to implement protocols and procedures that are reasonably calculated to ensure that the information which they disclose is accurate and complete. The courts have attributed this

duty to statute law, the common law and, to a limited extent, the Constitution.

However, what is usually left unsaid is that while the law imposes data quality responsibilities on repositories, the law seldom, if ever, cloaks repositories with the requisite legal authority to meet these responsibilities. For example, in more than half of the states, repositories do not have authority to compel agencies to report arrests or dispositions. Moreover, as discussed in the following section, inadequate funding of repositories also restricts their ability to discharge their data quality responsibilities.

Funding

Most experts attending the Roundtable conference believe state and local criminal justice agencies should receive additional funding to improve the quality of their criminal history record information. However, in their view, funding initiatives must be carefully targeted. Money should be spent to implement strategies which have proven to be effective in other jurisdictions, after taking into account each agency's needs, strengths and priorities.

Regarding funding decisions, many Roundtable participants urged that cost/benefit factors be taken into account. Many criminal history repository managers are also responsible for the operation of the state's outstanding warrant file, stolen auto file, and other "hot files." When resources are limited these managers are forced to set fiscal priorities for record system spending. In that kind of environment, hot files often command a higher fiscal priority than criminal history files.

In addition, when fiscal resources are scarce, agencies must choose between prospective or retroactive application of data quality safeguards. Most Roundtable participants felt that it was seldom wise to expend funds to upgrade the quality of historical criminal history records. They pointed out that identifying missing dispositions in old criminal history records and updating those

dispositions would be expensive, difficult and of questionable utility. By contrast, updating dispositions in current arrest entries is far less expensive and usually far more useful.

Roundtable participants pointed out that agencies should be selective in expending funds to obtain dispositions, since all dispositions are not of equal value. For example, correctional dispositions are seldom as important to criminal history record users as are judicial dispositions. Similarly, for many criminal history record users, dispositions are not as important as arrest information.

PART FIVE

CONCLUSION

This examination of data quality and criminal history records has identified the interests protected by data quality, examined the extent and nature of the data quality problem, identified legal responses to the problem, and described strategies which have proven to be effective in improving data quality in some jurisdictions. For those involved in trying to improve data quality, there is an attendant sense of frustration in knowing that there is neither a single source of the problem, nor a single magical formula for its resolution. Neither a massive infusion of money, nor installation of the most sophisticated computer system would, alone, resolve all data quality deficiencies. There is simply no guarantee that a set of strategies that has worked in one jurisdiction, within a particular set of circumstances, will work in another jurisdiction within a different set of circumstances.

What can be said with some assurance is that the problems of data quality are systemic: the data necessary for the creation of complete and accurate criminal history records must be developed and transmitted through the criminal justice system--from entry of offenders into the system through prosecution and pretrial service, adjudication, and sentencing and corrections. At any juncture in this complex system the data flow necessary to the creation of quality records can be broken. Moreover, this nation's criminal justice system is, realistically, not one system, but a number of discrete and relatively autonomous systems. Each of those systems may have data quality problems that are financial, administrative, technical or legal in nature, and that obstruct the development and communication of data throughout the system.

In the last few years data quality has emerged as an urgent issue. A SEARCH survey of criminal justice information practitioners conducted in January 1985 identified data quality as one of the two most critical priorities of the criminal justice information system.[138] And according to Roundtable participants, a recognition of the vital need for quality criminal history data and the attendant commitment to improving that data are perhaps the most important elements necessary to effect progress.

There remains, of course, much to be done. To that end the report concludes by identifying several proposals which emerged from the Roundtable or from the research for the report. Taken together these proposals represent an agenda for further research and action to improve the quality of criminal history records in the nation's information systems.

- **Further study of the nature and extent of the problem:** This report has discussed data quality issues largely from the perspective of the managers of criminal history record systems. There is a need to consider this issue from the perspective of the users of criminal history record information. The criminal justice literature is virtually silent about data quality from a user's perspective. Thus, there is a pressing need for an assessment of the needs which users have for high quality criminal history record information. Further, there is a need for an identification of the effects that inaccurate or incomplete records have upon criminal history record users and the steps, if any, which they take to adjust to inaccurate or incomplete data. There is also a need to obtain users' recommendations for improving data quality. Finally, defining and stressing users' concerns about data quality may encourage criminal justice agencies to give data quality an even higher priority.

- **Address data quality impact on the users of criminal history record information:** Both criminal and noncriminal justice users of criminal history record information face the problem of relying upon criminal history records which they may fear are inaccurate or incomplete. The use of criminal history record data to identify and make sentencing and bail determinations about career criminals, for example, makes it imperative that criminal history records be complete and accurate. Similarly, the use of criminal history records for child care employment determinations, security clearance determinations, firearms licensing determinations, and for a growing list of other sensitive noncriminal justice determinations, also makes it imperative that criminal history records be accurate and complete. Because the users of criminal history record information make vital decisions on record subjects, there is a critical need to address the impact that inaccurate and incomplete records can have on the users, both criminal justice and noncriminal justice users.

- **Develop cooperation among components of the justice system:** The courts have received a good deal of the criticism for poor quality data because of their alleged failure to report dispositions to repositories. However, more than ever before, the courts are becoming users of criminal history records. Career criminal programs and selective incapacitation programs, for instance, are heavily dependent upon timely access to accurate and complete criminal history data. Thus, the need is greater than ever in many states for repository officials, court officials, and other interested criminal justice officials to develop cooperative strategies for improving data qual-

ity. At the national level, it is imperative that repository representatives and representatives of the major judicial organizations jointly address problems of data quality.

- **Emulate strategies of proven effectiveness:** A number of jurisdictions have achieved high levels of completeness and accuracy in their criminal history records. While a success in one jurisdiction cannot always be replicated in another, there is certainly good reason to examine these success stories as a basis for the continued development of strategies for improving data quality in problem jurisdictions. In particular, successful efforts to improve data quality by repositories, courts and other components of the justice system should be documented and made available nationally.

The 1985 survey of SEARCH's Criminal Justice Information Network indicated overwhelmingly that automation has resulted in the greatest improvement in information management. While this is not surprising, it confirms the fact that computers and telecommunications have had a major impact upon information management. Priority should be given to the design and implementation of automated systems specifically configured for criminal justice recordhandling applications.

- **Funding for data quality efforts:** While money is not the only answer to improving data quality, without a national commitment at the state and federal level to adequate funding for data quality, it is not likely that significant progress will be made. The states and the federal government will have to make the commitment to take the actions necessary to

bring each state up to a standard of data quality to ensure the usefulness and reliability of the records.

The nation's repositories of criminal history record information are a critical resource to the nation and serve a variety of criminal justice purposes a growing list of noncriminal justice purposes, and research and statistical purposes. However, ensuring a high level of quality in the nation's criminal history record data bases is a prerequisite to the effective use of these data bases.

The data quality issue does not involve a conflict over public policy principles or goals. There is no disagreement that criminal history data bases should be as accurate and complete as possible. Rather, the data quality problem involves the more practical issues of how to measure the extent and nature of the problem and how to remedy the problem in an efficient, economical manner.

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1 OF 2

FOOTNOTES

[1] Criminal history record information means information collected by criminal justice agencies on individuals consisting of identifiable descriptions and notations of arrests, detentions, indictments, informations, or other forms of criminal charges, and any disposition arising therefrom, sentencing, correctional supervision, and release." 28 C.F.R. § 20.3(b). The definition of criminal history record does not include intelligence or investigative records. Nor does it include court records, records of traffic offenses, or original records of entry, such as police blotters maintained by criminal justice agencies. See, 28 C.F.R. § 20.20(b).

[2] Donald L. Doernberg & Donald H. Zeigler, "Due Process v. Data Processing: An Analysis of Computerized Criminal History Information Systems," 55 New York University Law Review (Dec. 1980), p. 1173 (hereafter "Doernberg & Zeigler").

[3] Ibid., pp. 1173-1174.

[4] Coordination of Statistics Program Development Under the Justice System Improvement Act Advisory Bulletin No. 7 (Sacramento, CA: SEARCH Group, Inc., February 1980).

[5] Privacy and the Private Employer, Bureau of Justice Statistics Criminal Justice Information Policy Series (Washington, D.C.: U.S. Dept. of Justice, 1981), pp. 8-12; Study to Identify Criminal Justice Information Law, Policy and Administrative Practices Needed to Accommodate Access to and Use of III for Noncriminal Justice Purposes, prepared for the Federal Bureau

of Investigation by SEARCH Group, Inc., September 28, 1984.

[6] Office of Technology Assessment, An Assessment of Alternatives for a National Computerized Criminal History System (Washington, D.C.: U.S. Government Printing Office, 1982), pp. 12-13 (hereafter "OTA Report").

[7] Ibid., p. 77.

[8] Ibid.

[9] Ibid., p. 78.

[10] "Survey of State Laws: Criminal Justice Information Policies," Bureau of Justice Statistics Bulletin (Washington, D.C.: U.S. Department of Justice, June 1982), pp. 1-4.

[11] Peter Greenwood, et al., The Criminal Investigation Process (Lexington, Mass.: D.C. Heath and Co., 1977), pp. 125, 135.

[12] Wayne R. Lafave, Arrest: The Decision to Take a Suspect into Custody (Chicago, Illinois: American Bar Foundation, 1965), pp. 287-88; Larry J. Siegel, Dennis C. Sullivan, and Jack R. Greene, "Decision Games Applied to Police Decision Making - An Exploratory Study of Information Usage," Journal of Criminal Justice 2 (Summer 1982), p. 131; Richard C. Smith, William G. Wehmeyer, John P. Keating and John P. Berberich, "Background Information: Does it Affect the Misdemeanor or Arrest?" Journal of Police Science and Administration 4 (March 1976), pp. 111-113.

[13] OTA Report, p. 129.

[14]Annual Audit Report for 1982-83: Data Quality of Computerized Criminal Histories (Chicago, Illinois: Illinois Criminal Justice Information Authority, October 1983), p. 21. As an example, inaccuracies in the search elements of criminal history records or outstanding warrant records may frustrate a "hit" when a law enforcement inquiry is made. Of course, even when a "hit" is not possible the inaccurate or incomplete information may be of value to criminal justice agencies as a "pointer" to more complete and accurate information.

[15]Vera Institute of Justice, Felony Arrests: Their Prosecution and Disposition in New York City's Courts (New York: Vera Institute of Justice, 1977); see also, Arthur Rosett and Donald R. Cressey, Justice by Consent: Plea Bargains in the American Courthouse (Philadelphia, Pa.: J.B. Lippincott and Co., 1976).

[16]OTA Report, p. 130.

[17]Jeffrey Roth and Paul Wice, Pretrial Release and Misconduct in the District of Columbia, Executive Summary (Washington, D.C.; Institute of Law and Social Research, 1978).

[18]OTA Report, p. 131.

[19]Terrence Dungworth, "An Empirical Assessment of Sentencing Practices in the Superior Court of the District of Columbia," Institute for Law and Social Research, Washington, D.C., 1978 (draft monograph), pp. VI-7 through VI-25. See also, Sentencing Practices in 13 States," Bureau of Justice Statistics Special Report (Washington, D.C.: U.S. Department of Justice, October 1984), pp. 3 and 5.

[20]Alfred Blumstein, "Violent and Career Offender Programs," Information Policy and Crime Control Strategies (Washington, D.C.: U.S. Department of Justice, 1983), p. 80.

[21]Leslie T. Wilkins, D.M. Gottfredson, A.M. Gelman, J.M. Kress, J.G. Calpin, and S. Werner, Sentencing Guidelines - Structuring Judicial Discretion - Final Report of the Feasibility Study (Washington, D.C.: Government Printing Office, 1976), pp. 13-19.

[22]Townsend v. Burke, 334 U.S. 736, 739-741 (1948).

[23]Doernberg & Zeigler, pp. 1110-1230.

[24]Ibid., pp. 1113 and 1161.

[25]"Measuring Crime," Bureau of Justice Statistics Bulletin (Washington, D.C.: U.S. Department of Justice, February 1981).

[26]The Challenge of Crime in a Free Society, Report of the President's Commission on Law Enforcement and the Administration of Justice (1967).

[27]Ibid., p. 268. The Commission reported that up to 35 percent of the arrest entries in the FBI's Identification Division's rap sheets lacked disposition data.

[28]Ibid., pp. 7, 10, 266.

[29]The President's Commission on Law Enforcement and the Administration of Justice, Task Force Report: Science and Technology (1967), p. 75.

[30]See the following SEARCH publications: Technical Report No. 1, Standardized Data Elements for Criminal History Files (January 1970), p. 10; Technical Report No. 2, Security and Privacy Considerations in Criminal History Record Information Systems (July 1970), p. 46; Technical Memorandum No. 3, A Model State Act for Criminal Offender Record Information (May 1971), pp. 19-20 and 32-33; Technical Report No. 3, Designing Statewide Criminal Justice Statistical Systems - The Demonstration of a Prototype (November 1970), pp. 2-1 through 2-7; Technical Report No. 13, Standards for Security and Privacy of Criminal Justice Information (2d. Rev. ed. 1978), pp. 41-43; and Technical Report No. 14, The American Criminal History Record, Present Status and Future Requirements (September 1976), p. 1. Also see the following SEARCH Group proceedings: National Symposium on Criminal Justice Information and Statistics Systems (1970); Proceedings of the Second International Symposium on Criminal Justice Information and Statistics Systems (May 1974), pp. 507, 511; and Proceedings of the Third International SEARCH Symposium on Criminal Justice Information and Statistics Systems (May 1976), pp. 65, 110.

[31]William L. Reed, "Criminal Histories - a Management Perspective," National Symposium on Criminal Justice Information and Statistics Systems (Sacramento, CA: SEARCH Group, Inc., November 1970), p. 35.

[32]U.S. National Advisory Commission on Criminal Justice Standards and Goals, Report on the Criminal Justice System, p. 114 (1973). See also, Thomas J. Madden & Helen S. Lessin, "Privacy: A Case for Accurate and Complete Criminal History Records" 22 Villanova Law Review, pp. 1191, 1198.

[33]Comptroller General, General Accounting Office, Development of a Nationwide Criminal Data Exchange System - Need to Determine Cost and Improve Reporting (Washington, D.C.: United States Congress, 1973), pp. 9-11 (hereafter "GAO Report"). The GAO based its study on 1970 Law Enforcement Administration data.

[34]OTA Report, p. 93.

[35]Doernberg & Zeigler, p. 1158.

[36]Ibid., p. 1160.

[37]Ibid., pp. 1166-1167.

[38]Implementation of Federal Security and Privacy Regulations at the New York State Division of Criminal Justice Services, Audit Report (Sacramento, CA: SEARCH Group, Inc., 1980), p. 41 (hereafter, "SEARCH New York Audit Report").

[39]E.J. Albright, M.B. Fischel, F.C. Jordan, Jr. and L.A. Otten, Implementing the Federal Privacy and Security Regulations, 2 Vols: Vol. I: Findings and Recommendations of an Eighteen State Assessment (McLean, Virginia: The MITRE Corporation, December 1977), p. 31.

[40]Ibid.

[41]OTA Report, p. 92.

[42]Ibid., p. 94.

[43] Ibid., p. 93.

[44] Ibid., p. 101.

[45] Ibid., p. 95.

[46] Ibid., p. 101.

[47] Ibid., p. 100.

[48] Ibid., p. 101.

[49] Annual Audit Report for 1982-83: Data Quality of Computerized Criminal Histories (Chicago, Illinois: Illinois Criminal Justice Information Authority, October 1983) (hereafter "1983 Illinois Annual Audit Report").

[50] Ibid., p. 5.

[51] Ibid., p. 59.

[52] Ibid.

[53] State Criminal Records Repositories, Bureau of Justice Statistics, U.S. Department of Justice (forthcoming). This report, prepared by SEARCH Group, Inc. for BJS, presents the results of a survey of administrators of the central state repositories of criminal history records in 47 states.

[54] OTA Report, p. 102.

[55] OTA Report, p. 94.

[56] OTA Report, p. 91.

[57] FBI Fingerprint Identification Automation Study: AIDS III Evaluation Report, Vol. V: Environmental Analysis (Pasadena, CA: Jet Propulsion Laboratory, November 15, 1980), p. A-3.

[58] OTA Report, p. 91. (NCIC's Computerized Criminal History file has now been merged into the Bureau's Automated Identification Division System (AIDS) file.)

[59] Ibid., p. 100.

[60] The Michigan audit was conducted by the Michigan State Police Central Records Division. The auditors compared 1,138 felony arrests from a medium-volume court with individual arrest histories in the state files and found that 27 percent of arrests were not reported. A second audit of 491 arrests from five local police departments found that 34 percent of those arrests had not been reported to the state central repository.

For the Missouri audit, see Robert J. Bradley, "Status Report: Missouri's Central Criminal History Record System," (Missouri State Highway Patrol, Department of Public Safety, December 1983). Based on a comparison of central repository records with UCR reports for 1980, the auditors estimated that 22 percent of arrests were not reported to the repository.

[61] Lawrence W. Sherman and Berry D. Glick, "The Quality of Police Arrest Statistics," 2 Police Foundation Reports (August 1984).

[62] Ibid., pp. 2-5. According to the survey of 41 state agencies and 196 police departments, policies concern-

ing when an arrest report will be filed vary as follows: any restraint, 16 percent; subject driven to police station, 11 percent; over four hours detention at station, 29 percent; advising citizen that he is under arrest, 58 percent; charging and booking, 100 percent.

[63]Albright, et al., p. 31.

[64]Under a single-source submission policy, only one agency per state is authorized to submit fingerprint cards. See Essential Elements and Actions for Implementing a Nationwide Criminal History Program (Sacramento, CA: SEARCH Group, Inc., February 1979).

[65]Doernberg and Zeigler, p. 1159.

[66]Ibid., p. 1168.

[67]1983 Illinois Audit Report, p. 40.

[68]OTA Report, p. 91.

[69]Under a grant from the Bureau of Justice Statistics, SEARCH Group is presently conducting a survey of state criminal justice system experts. The purpose of this survey is to focus on the most pressing problems, needs and priorities in criminal justice information systems management. Initial responses to this survey indicate that arrest reporting and inaccuracy in criminal history data are considered to be important information issues to most state and local criminal justice officials.

[70]Omnibus Crime Control and Safe Streets Act of 1968, 42 U.S.C. §3789g(b) as amended by Section 524(b) of

the Crime Control Act of 1973, Pub. L. No. 93-83, 87 Stat. 197.

[71]Joint Explanatory Statement of the Committee of Conference on the Crime Control Act of 1973, on H.R. 2152 (1973), p. 32.

[72]U.S. Congress, Senate, Committee on the Judiciary, Criminal Justice Data Banks - 1974, Hearings before the Subcommittee on Constitutional Rights on S.2542, S.2810, S.2963, S.2964. 93rd Cong., 2d sess., 1974 (hereafter, "1974 Senate Hearings"); U.S. Congress, House, Committee on the Judiciary, Dissemination of Criminal Justice Information, Hearings before the Subcommittee on Civil and Constitutional Rights on H.R.188, H.R.9783, H.R.12574, H.R.12575. 93rd Cong., 2d sess., 1973-74.

[73]U.S. Congress, Senate, Committee on the Judiciary, Criminal Justice Information and Protection of Privacy Act of 1975, Hearings before the Subcommittee on Constitutional Rights on S.2008, S.1427, S.1428. 94th Cong., 1st sess., 1975.

[74]1974 Senate Hearings, vol. 1, pp. 293, 296-297.

[75]28 C.F.R. Part 20.

[76]28 C.F.R. § 20.21. Also see Privacy and Security of Criminal History Information: Summary of State Plans (Washington, D.C.: Law Enforcement Assistance Administration, National Criminal Justice Information and Statistics Service, U.S. Department of Justice, [1977]), p. 5ff.

[77]28 C.F.R. § 20.21(a)(1).

[78]28 C.F.R. § 20.21(a)(2).

[79]28 C.F.R. § 20.21(g).

[80]Albright, et al., p. 37.

[81]Ibid., p. 41.

[82]Privacy and Security of Criminal History Information: Compendium of State Legislation, 1985 (Washington, D.C.: U.S. Department of Justice, 1985), p. 25.

[83]Conn. Gen. Stat. Ann., P.A. 82-346, eff. July 1, 1982, section 54-142h, Part I, Criminal History Records. Also see the Appendix for tables highlighting the data quality provisions in each state's criminal history record statute or regulations.

[84]However, there are a couple of reported decisions penalizing officers for failing to file other types of police reports, and one decision penalizing an agency for failing to make a required entry in a dissemination log. Liability for Mishandling Criminal Records (Sacramento, CA: SEARCH Group, Inc., April 1984).

[85]498 F.2d 1017, 1026 (D.C. Cir. 1974) (Menard II).

[86]Ibid., p. 1020; see also, Louis F. Solimine, "Safeguarding the Accuracy of FBI Records: A Review of Menard v. Saxbe and Tarlton v. Saxbe" 44 University of Cincinnati Law Review (1975), pp. 325, 327.

[87]507 F.2d 1116, 1122, 1123 (D.C. Cir. 1974).

[88]507 F.2d at 1122, 1123 (citations omitted); see also, "Criminal Law - F.B.I. Retention of Criminal Identification Records - Tarlton v. Saxbe," 29 Rutgers Law Review (Fall 1975), pp. 151, 157.

[89]Ibid., p. 1124.

[90]290 N.W.2d 885, 886 (Iowa Sup. Ct. 1980).

[91]424 U.S. 693, 713 (1976); see also, M. Elizabeth Smith, "The Public Dissemination of Arrest Records and the Right to Reputation: The Effect of Paul v. Davis on Individual Rights," American Journal of Criminal Law 5 (January 1977), p. 72.

[92]446 F. Supp. 186, 188 (W.D. Mo. 1978).

[93]Shadd v. United States, 389 F. Supp. 721 (W.D. Pa. 1975), aff'd, 535 F.2d 1247 (3rd Cir. 1976), cert. denied, 431 U.S. 919 (1977).

[94]Ibid., p. 721.

[95]451 F. Supp. 388, 394 (D. R.I. 1978).

[96]404 A.2d 175, 182 (D.C. Ct. of apps. 1979). See also, Cantrell v. State 624 S.W.32d 495, 496 (Mo. Ct. App. 1981), a case involving FBI records which showed a burglary conviction although the conviction had been reversed by the Missouri Supreme Court. The court said that it had inherent authority to correct an erroneous record and acknowledged that agencies involved had a common law duty to maintain accurate records. However, because the plaintiff brought suit in the wrong court, the court dismissed the plaintiff's petition.

[97] David Olmos, "Civil Rights Issues Fuel L.A.'s Warrant System Changes," Computerworld, 29 October, 1984, p. 10; Donna Raimondi, "False Arrests Require Police to Monitor Systems Closely," Computerworld, 25 February, 1985, p. 23.

[98] 95 Cal. Rptr. 175, 181 (Ct. App. 1971).

[99] 622 F.2d 256, 258 (6th Cir. 1980).

[100] 499 F. Supp. 420, 422 (E.D. Pa. 1980).

[101] See also, Hollingsworth v. City of Pueblo, 494 F. Supp. 1039, 1040 (D. Colo. 1980), for the same result. In Hollingsworth an FBI criminal history record subject brought suit against the FBI seeking expungement of allegedly erroneous arrest records. The court dismissed the complaint, saying that although the FBI has a duty to act reliably and responsibly in maintaining and disseminating criminal history records, that duty is triggered only upon a request from the contributing state or local agency to expunge or correct or amend a record.

[102] 387 F. Supp. 1121, 1125 (D. Nev. 1975).

[103] Ibid., p. 1125 (citations omitted).

[104] 456 N.E.2d 170, 174 (Ill. App. Ct. 1983).

[105] Numerous other courts have struck down arrests, and evidence seized in arrests, where the arrest is based upon inaccurate criminal justice information. People v. Griffin, 456 N.Y.S.2d 334 (N.Y. Sup. Ct. 1982); People v. Jones, 443 N.Y.S.2d 298 (N.Y. Crim. Ct. 1981); People v. Jennings, 430 N.E.2d 1282 (N.Y. 1981); People v. Lent, 460 N.Y.S.2d 369 (N.Y. App. Div. 1983); Commonwealth v. Millings, 463 A.2d 1172 (Pa. Super. Ct. 1983); Martin v. State, 424 So.2d 994 (Fla. Dist. Ct. App. 1983); Smyth v. State, 634 S.W.2d 721 (Tex. Crim. App. 1982); Pesci v. State, 420 So.2d 380 (Fla. Dist. Ct. App. 1982); People v. Decuir, 405 N.W.2d 891 (Ill. App. Ct. 1980); and People v. Mitchell, 678 P.2d 990 (Colo. 1984).

[106] 470 N.E.2d 1303 (Ill. 1984).

[107] Ibid., p. 1306.

[108] 381 A.2d 614, 616 (D.C. 1977).

[109] In Patterson v. United States, 301 A.2d 67, (D.C. 1973), the court found that probable cause for an arrest existed when an officer relied upon a list of stolen cars provided by a police radio dispatcher, which was, in turn, based upon information from the National Crime Information Center's computer. The car at issue was reported stolen but had been recovered some 15 hours earlier, and the NCIC entry had not yet been updated to reflect the recovery.

[110] 194 Cal. Rptr. 454, 461 (1983).

[111] Ibid., p. 461. See also, People v. Dickens, 208 Cal. Rptr. 751, (1984) in which a defendant's lower court conviction was reversed. The court ruled that the police should have known that the defendant had already been arrested, booked and released pending his court appearance on the same charges. Evidence seized incident to the second arrest, declared unlawful by the court, was therefore excluded.

[112] The convictions were obtained in 1938 and 1946, and were declared invalid under Gideon v. Wainwright, 372 U.S. 335 (1963).

[113] 404 U.S. 443, 447 (1972).

[114] 404 U.S. at 447.

[115] Ibid., pp. 30-31; and see, United States ex rel. Welch v. Lane, 738 F.2d 863, 869 (7th Cir. 1984); United States v. Satterfield, 743 F.2d 827, 829 (11th Cir. 1984); United States v. Papajohn, 701 F.2d 760, 763 (8th Cir. 1983). While the courts are in accord as to a defendant's right to challenge and rebut criminal history information, courts are split as to whether a full evidentiary hearing is required to determine the data's accuracy.

[116] See also, Lawrence N. Mullman, "Maney v. Ratcliff; Constitutional Law; Fourth Amendment; Computerized Law Enforcement Records" 4 Hofstra Law Review (1976), pp. 881, 884.

[117] 42 U.S.C. § 1983. This section of the Civil Rights Act reads as follows: "Every person who, under color of any statute, ordinance, regulation, custom or usage, of any state or territory, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges or immunities secured by the Constitution and laws, shall be liable to the party injured in an action in law, suit in equity, or other proceeding for redress."

[118] 530 F.2d 1210, 1215 (5th Cir. 1976), cert. denied 429 U.S. 865 (1977).

[119] Ibid., p. 1215.

[120] McCollan v. Tate, 575 F.2d 509, 513 (5th Cir. 1978).

[121] As noted earlier, the issue of whether a criminal justice official has acted reasonably and in good faith is not reached unless the plaintiff first shows that his tangible injury was caused by the wrongdoing. In Anderson v. Jones, 462 F. Supp. 666, 667 (N.D. Tex. 1978), a federal district court denied relief to a plaintiff who sought to recover damages from a sheriff for his confinement in a county jail for five days after the date on which he should have been released. The court found that the evidence did not establish a delay caused by any recordkeeping error on the part of the sheriff.

[122] Baker v. McCollan, 443 U.S. 137, 146 (1979).

[123] Ibid., pp. 155, 156.

[124] 559 F. Supp. 362, 364 (N.D. Ga. 1983).

[125] 559 F. Supp. at 368.

[126] 520 F. Supp. 1200, 1202 (S.D.N.Y. 1981).

[127] 548 P.2d 122, 123 (Kan. 1976).

[128] Idaho Code Ann., Section 19-4812(g).

[129] All quotations ascribed to criminal justice officials or Roundtable participants are from SEARCH's September 1984 Roundtable and are without attribution to a specific individual, pursuant to an agreement with Roundtable participants.

[130]See, discussion p. 34, ff.

[131]Kentucky Administrative Regulations, 502 KAR 30:030. (Based upon Ky. Rev. Statutes §17.150(1)(c) (Baldwin).

[132]28 C.F.R. § 20.21(a)(2).

[133]28 C.F.R. § 20.21(g)(5).

[134]28 C.F.R. § 20.21(a)(1).

[135]OTA Report, p. 94.

[136]The Challenge of Crime, pp. 268-69.

[137]Minn. Stat. Ann. § 299C.21.

[138]SEARCH Criminal Justice Information Network Survey (January 1985). The survey was distributed to SEARCH's national network of practitioners who represent all of the major disciplines of the justice system. The survey identified the most urgent problems, needs and priorities in criminal justice information management.

APPENDIX

State Statutes and Regulations

State Code Names

Alabama Code
Alaska Statutes Annotated
Arizona Revised Statutes Annotated
Arkansas Statutes Annotated
California Penal Code
Colorado Revised Statutes Annotated
Connecticut General Statutes Annotated
Delaware Code Annotated
District of Columbia Code
Florida Statutes Annotated
Georgia Code of 1981
Hawaii Revised Statutes Annotated
Idaho Code Annotated
Illinois Statutes Annotated (Smith-Hurd)
Indiana Statutes Annotated
Iowa Code Annotated
Kansas Statutes Annotated
Kentucky Revised Statutes (Baldwin)
Louisiana Revised Statutes Annotated
Maine Revised Statutes Annotated
Annotated Code of Maryland of 1957
Massachusetts General Laws Annotated (West)
Michigan Statutes Annotated
Minnesota Statutes Annotated
Mississippi Code 1972 Annotated
Vernon's Annotated Missouri Statutes
Montana Code Annotated 1981
Revised Statutes of Nebraska
Revised Statutes of Nevada
New Hampshire Revised Statutes Annotated
New Jersey Statutes Annotated
New Mexico Statutes Annotated
Consolidated Laws of New York Annotated (McKinney)
General Statutes of North Carolina
North Dakota Century Code
Ohio Revised Code Annotated
Oklahoma Statutes Annotated
Oregon Revised Statutes
Pennsylvania Consolidated Statutes Annotated (Purdon)
Puerto Rico Code Civil Procedure (Act No. 129, June 30, 1977)
General Laws of Rhode Island
Code of Laws of South Carolina 1976
South Dakota Codified Laws Annotated
Tennessee Code Annotated
Texas Revised Statutes Annotated (Vernon)
Utah Code Annotated
Vermont Statutes Annotated
Code of Virginia
Virgin Islands Code
Revised Code of Washington Annotated
West Virginia Code Annotated
Wisconsin Statutes Annotated
Wyoming Statutes Annotated

1. Arrest Reporting

AL	41-9-622, 623
AR	
AZ	41-1750.C.
AR	5-1107
CA	PC 11107; PC 11115; PC 13150
CO	24-32-412(3)
CT	29-12
DE	8507
DC	4-133
FL	943.051(4); Reg. 11C-4.03(2)
GA	35-3-36; Reg. 140-2-03(2)(a)
HI	846-3
ID	19-4813(2), (3)
IL	206-5
IN	5-2-5-2; 10-1-1-18
IA	690.2; 692.15; Reg. 680-11.6
KS	21-2501; 22-4705
KY	17.110, .115; Reg. 502 KAR 30:020 Sec. 1, Sec. 2

LA	591; 592
ME	1542(4)
MD	747(c); Reg. 12.09
MA	263 1A
MI	4.463
MN	299C.10
MS	45-27-9
MO	Policy 2.1.2.; 57.103; 57.105
MT	44-5-202
NB	29-3513
NV	
NH	106-B:14
NJ	53:1-15, 1-16, 1-20.2
NM	29-3-8
NY	160.20; 837-b
NC	15A-502; 15A-1382
ND	12-60-11; 12-60-16
OH	109.61

OK	150.12
OR	181.511
PA	9112; 2173
PR	Act No. 129 Sec. 1
RI	12-1-10
SC	23-3-120
SD	23-5-4
TN	38-6-103
TX	
UT	77-26-8
VT	Reg. 4.10; Reg. 11.10
VI	
VA	19.2-390, 392
WA	43.43.740
WV	15-2-24(g)
WI	165.84(2)
WY	9-1-625(a)

2. Disposition Reporting: Law Enforcement Agencies

AL	41-9-622; 41-9-623
AK	
AZ	41-1750.C
AR	5-1107
CA	P.C. 11115
CO	24-32-412(3)
CT	
DE	
DC	4-132(b)
FL	943.052
GA	35-3-36(b); Reg. 140-2-.03(2)(a)
HI	846-5
ID	19-4813(5)
IL	
IN	5-2-5-3
IA	692.15
KS	22-4705
KY	17.115; 17.150

LA	591
ME	
MD	747(e); Reg. 12.09
MA	
MI	4.463
MN	
MS	45-27-9(1)
MO	Policy 2.2.3.
MT	44-5-213(2)
NB	29-3516
NV	
NH	106-B:14
NJ	
NM	
NY	837-b
NC	
ND	12-60-16
OH	109.57

OK	
OR	181.511(b)
PA	9113
PR	Act No. 129 Sec. 1
RI	
SC	23-3-120
SD	35-6-16
TN	
TX	
UT	
VT	
VI	
VA	19.2-390(a)
WA	43.43.745(1)
WV	
WI	165.84(5)
WY	9-1-625(a)

3. Disposition Reporting – Prosecution Data and/or Data Reported by Prosecutor

AL	41-9-623
AK	
AZ	41-1750.C.
AR	5-1107
CA	
CO	
CT	
DE	
DC	4-132(b)
FL	943.052
GA	35-3-36(b); Reg. 140-2-.03(2)(b)
HI	846-5
ID	
IL	206-2.1
IN	5-2-5-2
IA	Reg. 690-11.10
KS	22-4705; Reg. 10-10-4
KY	17.150

LA	591
ME	
MD	747(c); Reg. 12.09
MA	27
MI	4.403
MN	299C.17
MS	45-27-9(1)
MO	Policy 2.2.3.
MT	
NB	29-3516
NV	
NH	
NJ	53:1-20.2
NM	
NY	837-b
NC	
ND	12-60-10; 12-60-13
OH	

OK	
OR	181.511(4)
PA	9111; 9113
PR	Act No. 129 Sec. 1
RI	12-1-11
SC	
SD	23-6-16
TN	
TX	
UT	
VT	Reg. 4.10(c)
VI	
VA	
WA	43.43.745(3)
WV	15-2-24(g)
WI	
WY	

4. Disposition Reporting – Court Data and/or Data Reported by Court

AL	41-9-648
AK	
AZ	41-1750.C.; 41-1751
AR	5-1107
CA	P.C. 13151; P.C. 13151.1
CO	24-32-412(3)
CT	29-13
DE	8508
DC	4-132(b)
FL	943.052
GA	35-3-36(b),(g); Reg. 140-2-.03(e),(f)
HI	846-5
ID	19-4813(5)
IL	206-2.1
IN	5-2-6-2; 5-2-5-3
IA	692.15
KS	22-4705
KY	17.150

LA	591
ME	
MD	747(c); Reg. 12.09
MA	
MI	4.463
MN	299C.17
MS	45-27-9(1)
MO	Policy Z.2.3.
MT	44-5-213(2)
NB	29-3516
NV	
NH	106-B:14
NJ	53:1-18
NM	
NY	837-b
NC	
ND	12-60-13
OH	109.57(A)

OK	
OR	181.521
PA	9111; 9113
PR	Act No. 129 Sec. 1
RI	12-1-11
SC	23-3-120
SD	23-6-16
TN	
TX	
UT	77-26-9
VT	Reg. 4.10(c)
VI	
VA	19.2-390(b)
WA	43.43.745(3); 10.97.045
WV	15-2-24(g)
WI	165.84(5)
WY	

5. Disposition Reporting – Correction Data and/or Data Reported by Corrections

AL	41-9-623, 628
AK	
AZ	41-1758.C.
AR	5-1107; 43,1231
CA	P.C. 13152
CO	24-32-412(3)
CT	29-13
DE	8569; 8610
DC	4-133(b); 4-134
FL	943.052
GA	35-3-36(b),(f); Reg. 140-2-.02(d)(e)
HI	846-11
ID	19-4813(4), (5), (6)
IL	
IN	5-2-5-2; 10-1-1-15
IA	692.4
KS	22-4705
KY	17.115; 17.150

LA	591
ME	
MD	747(c); Reg. 12.09
MA	23
MI	4.463
MN	299C.14
MS	45-27-9(1), (5)
MO	Policy 2.2.3.
MT	44-5-213(4)
NB	29-2516
NV	
NH	106-B:14
NJ	53:1-14, 1-20.2, 1-20.3
NM	
NY	837-b
NC	
ND	12-60-16
OH	109.57(A)

OK	153.9
OR	181.530
PA	9111; 9113
PR	Act No. 129 Sec. 1
RI	12-1-11
SC	
SD	23-6-16
TN	38-6-103
TX	
UT	77-26-10; 77-26-11
VT	Reg. 4.16(e), (f)
VI	
VA	19.2-390(d)
WA	43.43.745(4); 43.43.765
WV	15-2-24(f)
WI	165.84(3); 165.84(4)
WY	9-1-625(b)

6. Time Limits: Arrest Reporting

AL	41-9-626; 41-9-629
AK	
AZ	
AR	
CA	P.C. 11107
CO	
CT	
DE	8507; 8511
DC	
FL	
GA	35-3-36(d); Reg. 140-2-.03(1)(c)
HI	
ID	19-4813(2)
IL	206.5
IN	
IA	690.2; 692.15
KS	21-2501a
KY	17.110; Reg. 502 KAR 30:020 Sec. 1

LA	592
ME	1542(4)
MD	747(c); Reg. 12.09
MA	
MI	
MN	299C.10
MS	45-27-9(3)
MO	
MT	44-5-302(6)
NB	
NV	
NH	
NJ	53:1-15
NM	
NY	837-b
NC	
ND	
OH	

OK	
OR	
PA	9112; Reg. 195.2
PR	Reg. Sec. 6
RI	
SC	
SD	2:02:04:01
TN	
TX	
UT	
VT	Reg. 4.10(a),(b); Reg. 11.10(d); Reg. 11.20
VI	
VA	19.2-390(a)
WA	43.43.740
WV	
WI	165.84(2)
WY	

7. Time Limits: Disposition Reporting

AL	41-9-625; 41-9-626; 41-9-629
AK	
AZ	
AR	
CA	P.C. 11116; P.C. 13151; P.C. 13152
CO	
CT	29-13
DE	2509; 2510
DC	
FL	
GA	Reg. 140-2-.03(4); 35-3-36(f)
HI	966-5
ID	19-2612(4)
IL	206-2.1
IN	5-3-5-3
IA	692.15; 692.4; Reg. 600-11.10
KS	Reg. 10-10-2
KY	Reg. 902 KAR 30:030 Sec. 2

LA	Reg. LAC 1-19:5, subsec. 2
ME	
MD	747(c); Reg. 12.09
MA	
MI	
MN	
MS	45-27-9(5)
MO	Policy 2.2.3.
MT	44-5-213(2),(3),(4)
NE	29-2516
NV	
NH	
NJ	53:1-18
NM	
NY	837-b
NC	15A-1382
ND	
OH	

OK	
OR	
PA	9113(a); Reg. 195.2
PR	Reg. Sec. 6
RI	
SC	Reg. 73-22(A)
SD	2:02:04:01; 2:02:04:02
TN	
TX	
UT	77-26-9
VT	Reg. 4.10(c),(f); Reg. 11.10(c)
VI	
VA	19.2-390(c); Reg. 3.0
WA	43.43.765
WV	
WI	165.84(4)
WY	

8. Data Quality Sanctions

AL	41-9-600, 647
AK	
AZ	
AR	5-1111
CA	
CO	
CT	29-17
DE	8523
DC	
FL	
GA	35-3-39
HI	
ID	
IL	
IN	
IA	
KS	21-2505; 22-4706
KY	17.157

LA	596
ME	1550
MD	
MA	
MI	4.466
MN	299C.21
MS	
MO	
MT	44-2-205
NB	
NV	
NH	
NJ	
NM	
NY	837-b
NC	
ND	
OH	

OK	
OR	Reg. 257-10-045
PA	9181; 2176
PR	Act No. 129 Sec. 20
RI	
SC	
SD	23-5-4; 23-6-18
TN	
TX	
UT	77-26-19
VT	2054(b)
VI	
VA	
WA	19.97.120
WV	15-2-24(j)
WI	
WY	

9. Uniform Reporting Documents

AL	41-9-621(2)
AK	
AZ	41-1751
AR	5-1103(d)
CA	P.C. 11117; P.C. 13125
CO	
CT	
DE	
DC	
FL	943.052
GA	35-3-33(6); Reg. 140-2-.03(3)
HI	846-2.5(c)
ID	19-4812(g)
IL	
IN	5-2-5-3
IA	692.15
KS	21-2501a; Reg. 10-10-3
KY	17.147(2)(3); Reg. 502 KAR 30:020(2)

LA	15-580
ME	25-1541.4
MD	27-749(a)(1)
MA	
MI	4.462(3)
MN	299C.12, 299C.17
MS	45-27-9(6)
MO	
MT	
NB	29-3516
NV	
NH	
NJ	53:1-20.1, 20.2
NM	
NY	Exec. Law §837-b(1)
NC	
ND	12-60-13
OH	109.57(E)

OK	
OR	
PA	
PR	
RI	
SC	23-3-120, 130
SD	
TN	
TX	
UT	77-26-9, 10, 11
VT	20-2054(a); Reg. §11.10
VI	
VA	19.2-388
WA	
WV	
WI	165.83(g), 165.84(5)
WY	9-1-624(a)(i)

10. Delinquent Disposition Monitoring System

AL	
AK	
AZ	
AR	
CA	
CO	
CT	
DE	
DC	
FL	Reg. 11c-4.06(5)
GA	
HI	846-6(2)
ID	
IL	
IN	
IA	692.16
KS	
KY	

LA	Reg. LAC 1-16:3(4)
ME	
MD	
MA	
MI	
MN	
MS	
MO	Reg. 2.3.1.
MT	44-5-213(5)
NB	29-3517
NV	
NH	Regs. SOPH 4B
NJ	
NM	
NY	
NC	
ND	
OH	

OK	
OR	181.521
PA	16-9123(a)
PR	
RI	
SC	
SD	
TN	
TX	
UT	
VT	
VI	
VA	
WA	Reg. WAC 365-50-290
WV	
WI	
WY	

11. Linking Disposition to Arrest Charge

AL	
AK	
AZ	
AR	5-1163(d)
CA	
CO	
CT	
DE	
DC	
FL	
GA	
HI	
ID	
IL	
IN	
IA	
KS	
KY	Reg. 502 KAR 30:020(2)

LA	Reg. LAC 1-18:6(6)(A)
ME	
MD	
MA	
MI	
MN	
MS	
MO	Reg. 2.2.4.
MT	
NB	
NV	
NH	
NJ	
NM	
NY	
NC	
ND	
OH	

OK	
OR	
PA	Reg. 195.3(b)(2)
PR	
RI	
SC	
SD	
TN	
TX	
UT	
VT	
VI	
VA	
WA	
WV	
WI	
WY	

12. Auditing

	AL	
	AK	§12.62.30(d)
**	AZ	§41-2205.A
	AR	5-1112
**	CA	P.C. 11079
	CO	
**	CT	54-142h(b)
**	DE	8506(f)
	DC	
**	FL	943.055(2)
**	GA	35-3-34(g); 35-3-35(l); Reg. 140-2-.03(7); Reg. 140-2-.07
**	HI	846-13
	ID	
	IL	210-7(e)(i)
	IN	
***	IA	692.13
	KS	22-4706(f)
***	KY	17.150(1)(c); Reg. 502 KAR 30:030(1)(2)

**	LA	15-531; 15-594; Reg. LAC 1-18:7
	ME	
**	MD	27-748(6); Reg. 12.06.04C; 12.06.12
*	MA	6-171
	MI	
	MN	
	MS	
***	MO	Reg. 4.2.1., 4.2.2.
**	MT	44-5-105
	NB	
	NV	179A.080(3)
***	NH	Regs. SOPH 5
	NJ	
	NM	
**	NY	Exec. Law §837-b(2)
***	NC	Reg. T12:4C.0207
	ND	
	OH	

	OK	
***	OR	Reg. 257-10-020(2)d; Reg. 257-10-040
***	PA	18-9141, 18-9161(5)
**	PR	Reg. I Sec. 10
	RI	
***	SC	Reg. 73-28
*	SD	Reg. 2:02:02:04
	TN	
	TX	
	UT	
	VT	Reg. §14.30(a)
	VI	
**	VA	9-186; Reg. § 12.0
	WA	
	WV	
	WI	
	WY	

* indicates in-house audit only
** indicates random sample audit only
*** indicates both in-house and random sample audits

13. Systematic Editing Procedures

AL	
AK	Reg. 6AAC 60.130(b)
AZ	
AR	
CA	
CO	
CT	54-142n(a)
DE	
DC	
FL	
GA	
HI	846-8
ID	
IL	
IN	
IA	
KS	
KY	

LA	Reg. LAC 1-18:7
ME	
MD	
MA	6-171
MI	
MN	
MS	
MO	
MT	
NB	29-3517
NV	
NH	Regs. SOPH 4
NJ	
NM	
NY	
NC	Reg. T12:4c.0207(a)
ND	
OH	

OK	
OR	
PA	18-9142
PR	
RI	
SC	Reg. 73-22E, 73-28B
SD	
TN	
TX	
UT	
VT	
VI	
VA	
WA	
WV	
WI	
WY	

14. Training

AL	Reg. No. 004 S3
AK	Reg. 6AAC 60.060(4)
AZ	
AR	
CA	P.C. 11077(d); Reg. 5716
CO	
CT	54-142i(d)
DE	3605(6)
DC	
FL	Reg. 11C-6.02(16)
GA	25-3-33(6), (7)
HI	846-7(3)
ID	
IL	
IN	
IA	692.11
KS	
KY	17.167(4)

LA	15-560; Reg. LAC 1-19:10
ME	
MD	Reg. 12.06.11A(6)
MA	6-171
MI	
MN	
MS	
MO	Reg. 5.4.1.
MT	44-2-202, 44-5-405(3)
NB	29-3518(5)
NV	
NH	Regs. SOPH 2C, D
NJ	
NM	
NY	
NC	
ND	
OH	

OK	
OR	
PA	18-9131(2)
PR	
RI	
SC	Reg. 73-26E(3), D
SD	
TN	
TX	
UT	
VT	
VI	
VA	Reg. 514.4C
WA	
WV	
WI	
WY	

15. Query Central Repository Before Dissemination

AL	
AK	Reg. 8AAC 88.870(d)
AZ	
AR	
CA	
CO	
CT	54-142j
DE	
DC	
FL	
GA	Reg. 140-2-.06(2)(a)
HI	846-4
ID	
IL	
IN	
IA	
KS	
KY	

LA	
ME	16-616
MD	
MA	
MI	
MN	
MS	
MO	
MT	44-5-213(5)
NE	
NV	179A.090
NH	
NJ	
NM	
NY	
NC	
ND	
OH	

OK	
OR	Reg. 257-10-020(1)(g)
PA	
PR	Reg. I Sec. 6
RI	
SC	Reg. 73-22C
SD	Reg. 2:01:01:03
TN	
TX	
UT	
VT	
VI	
VA	19.2-389C, 9-190E; Reg. 54.0
WA	10.97.040; Reg. WAC 365-50-270, 280
WV	
WI	
WY	

17. Error Notification

AL	41-9-621(8), 41-9-646
AK	§12.62.030(c); Reg. 6AAC 80.980(b)(8)
AZ	
AR	Reg. 56
CA	P.C. 11126(b), (c); P.C. 13324(b)
CO	
CT	54-142n(a)
DE	8506(d)
DC	
FL	943.056(4)
GA	35-3-33(12), 35-3-37(c); Reg. 140-2-.06(3)
HI	846-8; 846-14
ID	
IL	
IN	
IA	692.5; Reg. 680-11.6
KS	
KY	Reg. 502 KAR 30:070(7)

LA	Reg. LAC 1-18:4(6); 1-18:6(10)
ME	16-620.5
MD	27-752(d); Reg. 12.06.07E
MA	6-175
MI	
MN	
MS	45-27-11
MO	Reg. 2.3.2., 6.2.3.
MT	44-5-215(5)(b)
NB	29-3517
NV	179A.150(e)(d)
NH	
NJ	
NM	
NY	Reg. Ch. II §6050.1(f)
NC	Reg. T12:4c.0205(k)
ND	
OH	

OK	
OR	Exec. Order 75-23 Sec. 12; Reg. 257-10-035(5)(f); Reg. 257-10-020(1)(c)
PA	18-9114; 18-9152(d)(3); Reg. 195.5(e)(3)
PR	Reg. 1 Sec. 9(f)(g)
RI	
SC	Reg. 73-22E, 73-23F, 73-25G
SD	Reg. 2:02:03:04
TN	
TX	Reg. §27.1(b)(4), (c)(7)
UT	
VT	Reg. §58.30(b)(2), 8.60
VI	
VA	19.2-390(f), 9-191C, 9-192C, Reg. §53.0, 11.0
WA	10.97.080; Reg. WAC 365-50-250
WV	
WI	
WY	