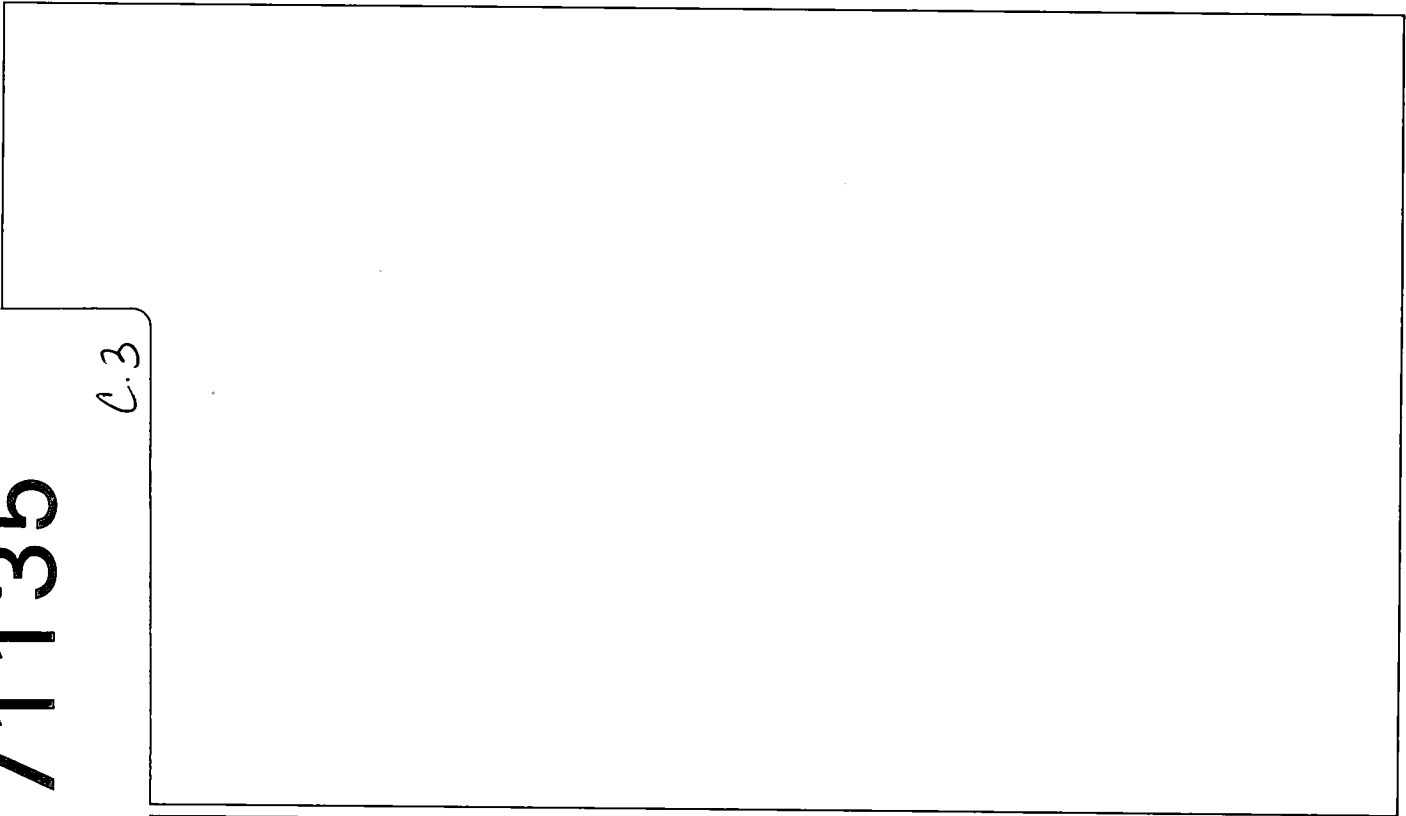




Bureau of Justice Statistics

# Survey of Criminal History Information Systems: Implementing the Lautenberg Amendment



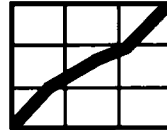
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# **Survey of Criminal History Information Systems: Implementing the Lautenberg Amendment**

**A Criminal Justice Information Policy Report**

**June 1998, NCJ-171135**

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

Jan Chaiken, Ph.D.  
Director

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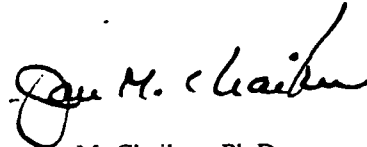
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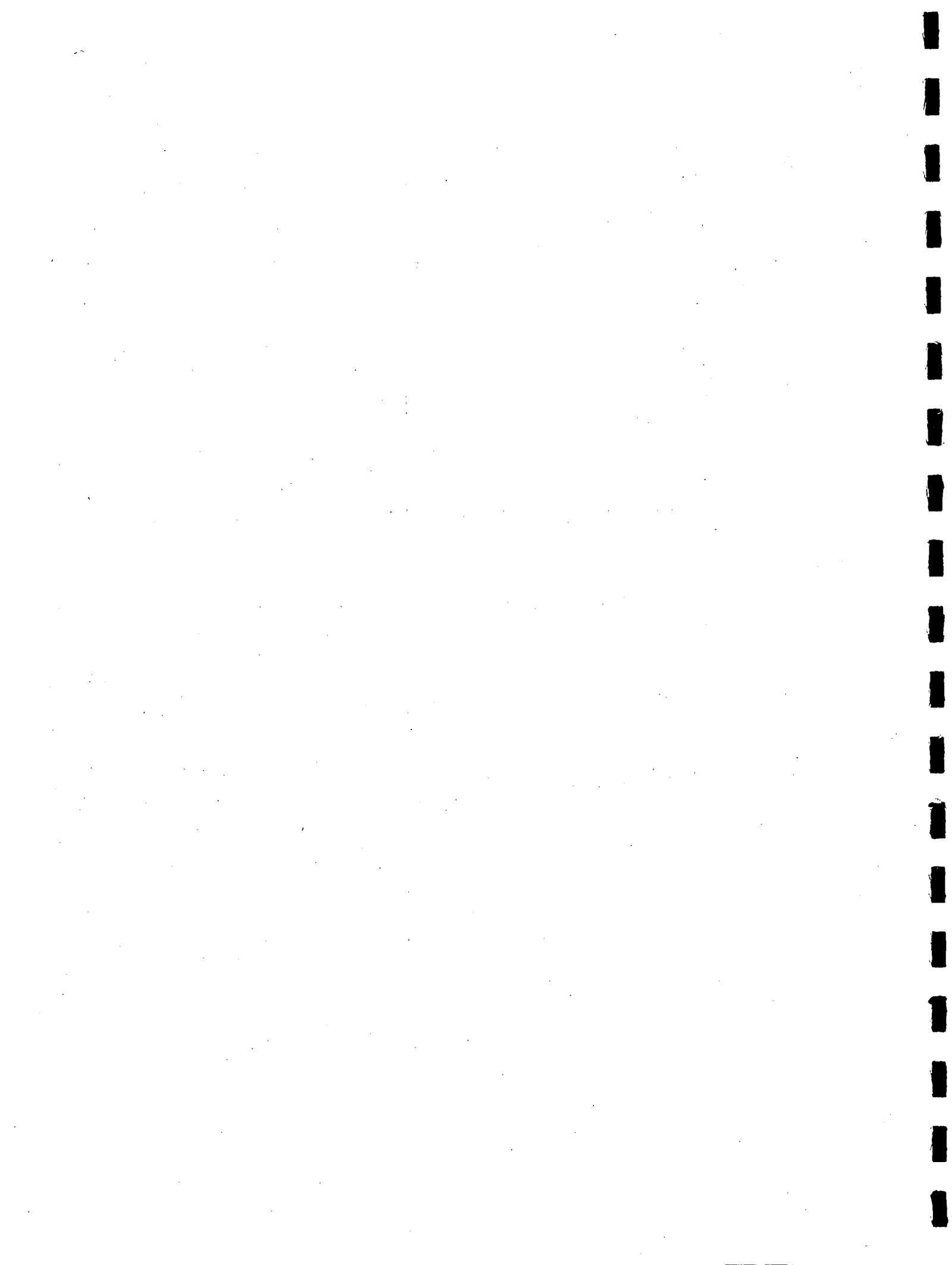
## Foreword

In 1997, the U.S. House of Representatives' Judiciary Committee, Subcommittee on Crime, chaired by Rep. Bill McCollum (R-FL), conducted hearings on the Lautenberg Amendment to the Gun Control Act of 1968. The amendment prohibits the receipt or possession of firearms by persons convicted of the misdemeanor crime of domestic violence.

The Bureau of Justice Statistics, U.S. Department of Justice, responded to the congressional interest in the implementation of this amendment by funding a survey to determine the status and capabilities of the States to comply with the Lautenberg requirements. SEARCH, The National Consortium for Justice Information and Statistics, conducted the survey in July-September 1997. This report is a compilation of the results of the survey. It is an adjunct to earlier surveys of State criminal history information systems conducted for BJS by SEARCH. We hope that the data contained in the report will be useful to policymakers and planners as we approach the implementation of the National Instant Criminal Background Check System (NICS) this November.



Jan M. Chaiken, Ph.D.  
Director





## Introduction

The Gun Control Act of 1968 was amended on October 1, 1996, to prohibit any person, “*who has been convicted in any court of a misdemeanor crime of domestic violence,*” from receiving or possessing firearms. The new prohibition is frequently referred to as the “Lautenberg Amendment,” so-called for the amendment’s sponsor, U.S. Rep. Frank Lautenberg (D-NJ).

As amended, the Gun Control Act provides:

“It shall be unlawful for any person—

(1) who has been convicted in any court of, a crime punishable by imprisonment for a term exceeding one year;

(2) who is a fugitive from justice;

(3) who is an unlawful user of or addicted to any controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802));

(4) who has been adjudicated as a mental defective or who has been committed to a mental institution;

(5) who, being an alien, is illegally or unlawfully in the United States;

(6) who has been discharged from the Armed Forces under dishonorable conditions;

(7) who, having been a citizen of the United States, has renounced his citizenship;

(8) who is subject to a court order that—

(A) was issued after hearing of which such person received actual notice, and at which such person had an opportunity to participate;

(B) restrains such person from harassing, stalking, or threatening an intimate partner of such person or child of such intimate partner or person, or engaging in other conduct that would place an intimate partner in reasonable fear of bodily injury to the partner or child; and

(C)(i) includes a finding that such person represents a credible threat to the physical safety of such intimate partner or child; or

(ii) by its terms explicitly prohibits the use, attempted use, or threatened use of physical force against such intimate partner or child that would reasonably be expected to cause bodily injury; or

(9) *who has been convicted of a misdemeanor crime of domestic violence,*

to ship or transport in interstate or foreign commerce, or possess in or affecting commerce, any firearm or ammunition; or to receive any firearm or ammunition which has been shipped or transported interstate or foreign commerce.” 18 U.S.C. § 922(g) (emphasis added).

The Lautenberg Amendment also defines the term “misdemeanor crime of domestic violence,” as follows:

*The term “misdemeanor crime of domestic violence” means an offense that —*

(A) (i) *is a misdemeanor under Federal law or State law; and*

(ii) *has, as an element, the use or attempted use of physical force, or the threatened use of a deadly weapon, committed by a current or former spouse, parent or guardian of the victim, by a person with whom the victim shares a child in common, by a person who is cohabiting with or has cohabited with the victim as a spouse, parent, or guardian, or by a person similarly situated to a spouse, parent, or guardian of the victim.*

(B) (i) *A person shall not be considered to have been convicted of such an offense for purposes of this chapter unless—*

(I) *the person was represented by counsel in the case, or knowingly and intelligently waived the right to counsel in the case; and*

(II) *in the case of a prosecution of an offense described in this paragraph for which a person was entitled to a jury trial in the jurisdiction in which the case was tried, either*

(aa) *the case was tried by a jury, or*

*(bb) the person knowingly and intelligently waived the right to have the case tried by a jury, by a guilty plea or otherwise,*

*(ii) A person shall not be considered to have been convicted of such an offense for purpose of this chapter if the conviction has been expunged or set aside or is an offense for which the person has been pardoned or has had civil rights restored (if the law of the applicable jurisdiction provides for the loss of civil rights under such an offense) unless the pardon, expungement, or restoration of civil rights expressly provides that the person may not ship, transport, possess or receive firearms. 18 U.S.C. § 921(a)(33) (emphasis added).*

The ability of a State to implement the requirements of the misdemeanor domestic violence prohibition depends on the nature of the State's legislation, the stage of its technical development, and the operational procedures in effect. Specifically:

- Arrests and convictions that meet the statutory definitions must be reported to the State criminal history repository;
- Subjects charged with crimes that meet the statutory definitions must be fingerprinted, and the fingerprints must be submitted to the State criminal history repository;
- Sufficient information must be available to enable the decisionmaking authority to determine:

- (1) whether the offense involved the use or attempted use of physical force, or the threatened use of a deadly weapon;
- (2) the relationship of the perpetrator to the victim;
- (3) whether the subject was represented by counsel, or waived his right to counsel;
- (4) whether the subject was entitled to a jury trial, and either waived his right or had a jury trial;
- (5) whether the subject has had his conviction expunged or set aside; and
- (6) whether the subject has been pardoned or has had his civil rights restored; and

- Domestic violence misdemeanor conviction information must be automated to permit instant access to the record.

This report summarizes the States' responses on their ability to meet the requirements to implement the domestic violence misdemeanor prohibition. In addition, the report contains information about the collection, maintenance, and retention of misdemeanors in general. Throughout this report, the 50 States and the District of Columbia will be referred to as "States." Although all States responded to the survey, some States were able to respond only with "unknown" or "not available" to some of the questions.

## Major Findings

The “Major Findings” relate to the specific requirements and elements of the domestic violence misdemeanor prohibition.

### ■ Legal requirements

*Implementing the Lautenberg Amendment requires that the State legislatures establish crimes that meet the Lautenberg definition of a misdemeanor crime of domestic violence, and require that the convictions for those crimes be reported to the State criminal history repository.*

#### ***Establishment of misdemeanor crime of domestic violence, 1997 (Table 1):***

- Thirty State codes provide for a misdemeanor crime of domestic violence, that is, where family/intimate relationship is a necessary element of the offense.
- Other State codes may provide for crimes that encompass domestic violence, such as assault and battery, without regard to the relationship of the perpetrator to the victim.

#### ***Reporting requirements for misdemeanors, 1997 (Table 1):***

- In 33 States, the State law requires arresting agencies to submit misdemeanor arrest data and fingerprints to the State criminal history repository. In 29 of those States, arrest data and fingerprints are required for

all misdemeanors; 4 additional States require the same reporting for **domestic violence** misdemeanors only.

- Thirty-four States have laws requiring courts with misdemeanor jurisdiction to report dispositions to the State criminal history repository. In 30 of those States, the courts are required to report dispositions in **all** misdemeanor cases. In an additional 4 States, reporting is required for **domestic violence** misdemeanors only.

### ■ Fingerprinting practices

*In almost all States, a criminal history record for a subject is created only when arrest data is supported by fingerprints. To be accessible in response to an inquiry, therefore, fingerprints must be taken for Lautenberg-defined crimes and submitted to the State criminal history repository.*

#### ***Fingerprint reporting practices for misdemeanors, 1997 (Table 2):***

- The State criminal history record repositories in 36 States currently receive fingerprints for misdemeanors. Nineteen States report that they receive fingerprints for **all** misdemeanors, while 17 States receive fingerprints for **domestic violence** misdemeanors. In some States where fingerprints are required, they currently

are not submitted for all misdemeanors. In other States, fingerprints may be voluntarily submitted to the State criminal history repository although not required by State law.

- Thirty-five States reported data for **all** misdemeanors. Twelve of those States estimated that 99 to 100 percent of fingerprints are submitted to the State criminal history repository for **all** misdemeanors.
- Thirteen States reported data on the submission of fingerprints for **domestic violence** misdemeanors. Of those States, 6 States estimated that 99 to 100 percent of fingerprints for **domestic violence** misdemeanors are submitted to the State criminal history repository.
- The primary reason that misdemeanor arrest data is not reported to the State criminal history repository is that State law and/or policy does not require that such offenses be supported by fingerprints; therefore, some or all of these arrests are not submitted to the repositories.

### ■ Identification of offenses

*To implement the domestic violence misdemeanor prohibition, a State must be able to identify the offenses in its criminal history files that meet the statutory definition.*

**Identification of domestic violence misdemeanors in the State criminal history file, 1997 (Table 3):**

- Eleven States reported that some or all of the convictions for **domestic violence** misdemeanors are flagged in the State criminal history file.
- Thirty-one States reported that some or all of the convictions for **domestic violence** misdemeanors can be identified by a computer search based on statute citations or literal offense descriptions.
- Thirty-one States reported that some or all of the convictions for **domestic violence** misdemeanors can be identified by a manual review of the State criminal history file.
- Three States reported that the State criminal history file contains information on the relationship between the victim and the offender.

**Other statutory requirements**

*The misdemeanor domestic violence prohibition applies only pursuant to specified conditions. To implement the legislation, the State must be able to determine whether these conditions have been met.*

**Information available to determine the application of the domestic violence prohibition to potential firearms purchaser, 1997 (Table 4):**

- In 4 States, some or all of the convictions for **domestic violence** misdemeanors contain information on whether the subject was represented by counsel, or knowingly and intelligently waived counsel.
- In 5 States, some or all of the convictions for **domestic violence** misdemeanors contain information on whether the subject was entitled to a jury trial, or knowingly and intelligently waived a jury trial.
- Twelve States have other automated databases where information on the victim-offender relationship can be obtained.
- Twelve States have other automated databases where information on representation by counsel can be obtained.
- Fourteen States have other automated databases where information on the jury trials can be obtained.
- In cases where no automated databases are available to obtain victim, counsel, or jury trial information, 26 States can make the eligibility determination by reviewing court files; 26 States are able to review police/incident reports for at least some of the information; and 5 States review other records.

**Court practices**

*A misdemeanor conviction for domestic violence operates as a prohibition under the Gun Control Act only if the subject was represented by or waived counsel and was convicted after a jury trial or waiver of a jury trial, if entitled to one. In some States, it is necessary to search court records to make these determinations. The courts maintain their own record retention schedules that may have an impact on the ability to conduct a search of a subject's conviction.*

**Record retention practices of courts that have jurisdiction over misdemeanor cases, 1997 (Table 5):**

- In 16 States, convictions for **all** misdemeanors, regardless of the date of the conviction, are maintained by and available from the State courts that have jurisdiction over the cases. In 11 States, convictions for **all** misdemeanors, regardless of the date of conviction, are maintained by the courts, but older convictions are archived and not readily available.
- In 11 States, convictions for **domestic violence** misdemeanors, regardless of the date of conviction, are maintained by and available from the State courts that have jurisdiction over the cases. In 11 States, **domestic violence** misdemeanor convictions, regardless of age, are maintained by the courts, but older convictions are archived and not readily available.

- In 23 States, all misdemeanor convictions are purged by the courts after a number of years, ranging in States from 2 years to a proposed 75 years. Of the States with current purging practices, a total of 18 States purge records at 10 years or earlier.
- In 18 States, domestic violence convictions are purged by the courts after a number of years, ranging from 2 years to a proposed 75 years. Of the States with current purging practices, a total of 13 States purge records at 10 years or earlier.

**Instant access to records under the National Instant Criminal Background Check System (NICS)**

*In November 1998, States will be participating in the National Instant Criminal Background Check System (NICS) that will be used to determine the eligibility of potential purchasers of firearms. In order for States to respond on an instant basis regarding subjects with domestic violence misdemeanor convictions, a State's records must be automated or accessible through an automated master name index. The master name index contains names and other identifiers for every person about whom a record is held in the system, whether manual or automated. In the latter case, this would enable identification of a potential purchaser on an instant basis, even though the full record may not be instantly available for review.*

***Current level of automation of misdemeanor offenses in State criminal history repository, 1997 (Table 6):***

- Nine States estimate that 100 percent of all misdemeanor convictions are maintained in the automated State criminal history file (of 30 reporting data).
- Fifteen States estimate that 100 percent of subjects with convictions for all misdemeanors are maintained in an automated master name index (of 31 reporting).
- Twelve States estimate that 100 percent of the subjects with domestic violence misdemeanor convictions are in the automated master name index (of 22 reporting).

***Plans to implement automation for misdemeanor convictions at the State criminal history repository, 1997 (Table 7):***

- Eleven States that do not currently maintain all misdemeanor convictions in an automated criminal history file reported that plans are underway or anticipated for automating all misdemeanor convictions in a criminal history file.
- Eleven States that do not currently maintain domestic violence misdemeanor convictions in an automated criminal history file reported that plans are

underway or anticipated for implementing an automated criminal history file that includes domestic violence misdemeanor convictions.

**Other Findings**

*The following tables summarize the impact on States of the implementation or planned implementation of the domestic violence misdemeanor conviction prohibition.*

***Current or anticipated impact on State criminal history repository workload resulting from implementation of the domestic violence misdemeanor conviction prohibition, 1997 (Table 8):***

- Nine States reported that the enactment of the domestic violence misdemeanor conviction prohibition would have no impact on their States because they are either legally or technically incapable of implementing the prohibition.
- Two States reported that there would be no impact on their States because the State is already in compliance.
- Thirteen States did not specify a reason but reported that "no impact" has occurred or is anticipated as a result of the Federal firearms prohibition regarding domestic violence misdemeanor convictions.
- In 10 States, more fingerprint cards are or will be submitted as a result of the new prohibition. Nine

States reported that more courts are or will be reporting dispositions. In 12 States, more personnel are or will be needed to implement the prohibition.

***Expected workload impact if the domestic violence misdemeanor conviction prohibition is amended, 1997 (Table 9):***

*The impact reflects the workload associated with:*

1. *making the data available by putting it into the system;*
2. *the process of reviewing the data for compliance; and*
3. *the relationship to existing State requirements.*

- If the law were amended to require the application of the **domestic violence** misdemeanor prohibition to the prior **three** years only, 19 States responded that the impact on the workload of the State would be the same; 7 States estimate that the workload would or could be less, while 10 States reported that the workload would be greater.
- If the law were amended to require the application of the **domestic violence** misdemeanor prohibition only to the prior **five** years, 20 States responded that the impact on the workload of the State would be the same; 7 States estimate that the workload would or could be less, while 10 States reported that the workload would be greater.

- If the law were amended to require the application of the **domestic violence** misdemeanor prohibition only to the prior **ten** years, 19 States responded that the impact on the workload of the State would be the same; 6 States estimate that the workload would or could be less, while 11 States reported that the workload would be greater.
- If the law were amended to require the application of the **domestic violence** misdemeanor prohibition only **from the date of enactment** of the law forward, 22 States responded that the impact on the workload of the State would be the same; 6 States estimate that the workload would or could be less, while 9 States reported that the workload would be greater.
- For those States that were able to provide an estimate of the costs that would enable the State to provide the information required by the domestic violence misdemeanor prohibition, the estimates range from \$20,000 in Minnesota to millions of dollars in California.

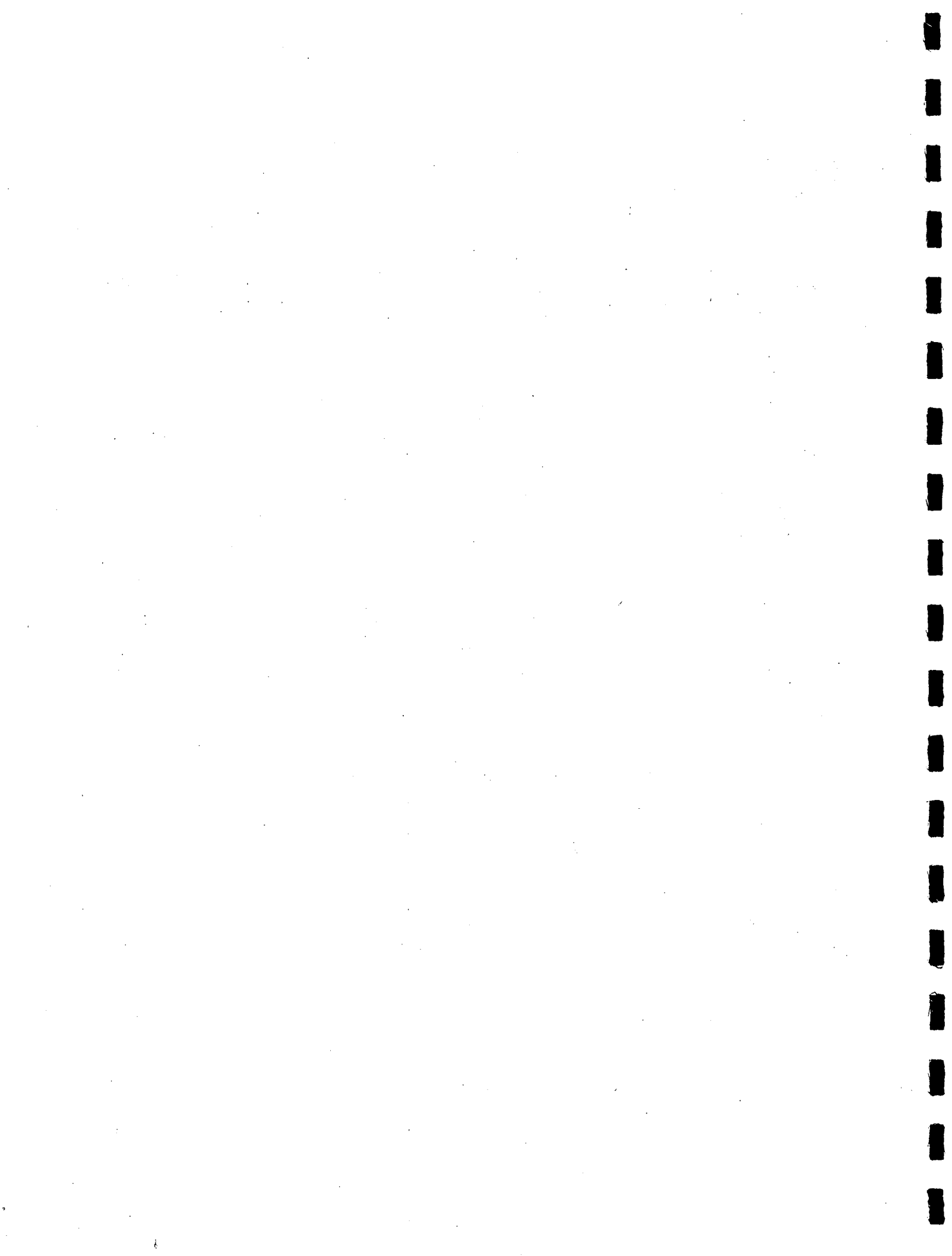
*Certain domestic violence misdemeanor convictions that have been modified do not serve as prohibitions for the purchase of firearms. State practices vary with regard to modifications of misdemeanor convictions.*

***Policies/practices of State criminal history repository regarding modification of misdemeanor convictions, 1997 (Tables 10A and 10B):***

- **Expungements:** Twenty-three States have statutes that provide for the expungement of **all** misdemeanor convictions. In 16 of those States, statutes also include expungement of convictions for **domestic violence** misdemeanors.
- **Setting aside of convictions:** Thirty-eight States have statutes that provide for setting aside **all** misdemeanor convictions. In 32 of those States, the statutes also include setting aside of convictions for **domestic violence** misdemeanors.
- **Pardons:** Forty-five States have statutes that provide for pardons of **all** misdemeanor convictions. In 35 of those States and Georgia, the statutes also include pardons for convictions of **domestic violence** misdemeanors.
- **Restoration of civil rights:** Thirty States have provisions for the restoration of civil rights of subjects convicted of **all** misdemeanors. Twenty-five of those States and Georgia also include restoration of civil rights for those convicted of **domestic violence** misdemeanors.

*Number of misdemeanors and domestic violence misdemeanors in State criminal history databases, 1997 (Table 11):*

- Twenty-six States provided estimates of the total number of convictions for **all** misdemeanors reported within a 12-month period (approximately August 1996-July 1997). The total for the 26 States was 1,177,800.
- Nineteen States estimated that 6 percent of those convictions during the same period were for **domestic violence** misdemeanors.





## Data Tables

Explanatory Notes for Table 1

All States that indicated that no State code provision exists for domestic violence misdemeanors *per se*, also responded that a person who commits a domestic violence-type crime is charged with a felony or other existing misdemeanor, such as simple assault or simple battery. A misdemeanor of domestic violence means that a family/intimate relationship is an element of the offense. A State legal requirement refers to a State statute or a State administrative regulation having the force of law.

...Unknown.

<sup>a</sup>Reporting is required for class A and B misdemeanors only.

<sup>b</sup>Jails are required to submit the information.

<sup>c</sup>Class A misdemeanors.

<sup>d</sup>All physical arrests.

<sup>e</sup>Connecticut law requires reporting of arrest data and fingerprints for all persons over 16 charged with a crime of moral turpitude. There, however, is no consistency in the fingerprinting of misdemeanors; also some appear on the criminal history record, some do not.

<sup>f</sup>If a summons/arrest is made, the repository is notified. If only an application for an arrest is sent to the State's Attorney, no notice is given to the repository.

<sup>g</sup>Reporting is required for class A and B misdemeanors and assaults only.

<sup>h</sup>Except motor vehicle and wildlife violations.

<sup>i</sup>The requirement is that the arresting agency reports the prosecutor's action.

<sup>j</sup>The requirement is that the arresting agency reports the court's decision.

<sup>k</sup>With formal taking into custody and booking.

<sup>l</sup>Since 1994.

<sup>m</sup>Effective August 1997.

<sup>n</sup>Required only for reportable offenses.

<sup>o</sup>If the subject has been arrested and fingerprints have been submitted.

<sup>p</sup>Although there is a legal requirement for reporting in Nevada, due to an administrative policy, the criminal history repository does not have misdemeanor information when a subject is issued a citation in lieu of booking. Recognizing this to be a shortcoming, the State through various system redesign efforts is working to resolve this by allowing the submission of citations for data capture in a special non-fingerprint-based file application. The file will be available in 1998.

<sup>q</sup>Reporting is required for all misdemeanors in the penal law in addition to others that are not found in the penal law. Although the State penal law has no category of domestic violence misdemeanors, such crimes would be charged pursuant to existing misdemeanor statutes contained in the penal law for which submission of fingerprints and arrest data to the State criminal history repository is required.

<sup>r</sup>The North Carolina criminal code provides for offenses of domestic criminal trespass and also for arrest when certain violations of domestic violence protection orders occur.

<sup>s</sup>For simple assault only.

<sup>t</sup>These are received from the District Attorneys, not the courts.

<sup>u</sup>In Pennsylvania, all criminal justice agencies are required to submit dispositions.

<sup>v</sup>Domestic violence is charged as assault, violation of protection order, or both.

<sup>w</sup>Only if the arrest results in incarceration of the subject or bail is posted.

<sup>x</sup>Texas statute requires that only class B misdemeanors and above be reported to the State criminal history repository. Fingerprints must support all submissions to the repository.

<sup>y</sup>To the extent that the offense involves an assault.

**Table 1: State legal requirements for establishing domestic violence misdemeanors and reporting of misdemeanors to the State criminal history repository, 1997**

State	State code provides for misdemeanor crime of domestic violence	State law requires all arresting agencies to submit arrest and fingerprints to State criminal history repository		State law requires reporting of prosecutor declinations to State criminal history repository		State law requires reporting of final court misdemeanor dispositions to State criminal history repository	
		All misdemeanors	Domestic violence misdemeanors only	All misdemeanors	Domestic violence misdemeanors only	All misdemeanors	Domestic violence misdemeanors only
Alabama			a				
Alaska		X <sup>b</sup>		X		X	
Arizona	X	X		X		X	
Arkansas	X		c	X		X	
California	X	X		X		X	
Colorado	X	X <sup>d</sup>		X <sub>f</sub>		X	
Connecticut	X	X <sup>e</sup>				X	
Delaware		X		X		X	
District of Columbia	X	X		X		X	
Florida		X		X		X	
Georgia	X	X		X		X	
Hawaii	X	X		X		X	
Idaho	X						
Illinois	X	X		X		X	
Indiana		X		X		X	
Iowa	X						
Kansas	X		g	g			
Kentucky							
Louisiana		X <sup>h</sup>		X <sub>i</sub>			
Maine		X <sup>h</sup>		X <sup>i</sup>		X <sup>j</sup>	
Maryland		X <sup>k</sup>		X		X	
Massachusetts				X		X	
Michigan	X <sup>l</sup>		X <sup>l</sup>		X <sup>l</sup>		X <sup>l</sup>
Minnesota	X		X <sup>m</sup>		X <sup>m</sup>		X <sup>m</sup>
Mississippi							
Missouri	X <sup>n</sup>	X <sup>n</sup>		X <sup>n</sup>		X <sup>n</sup>	
Montana	X					X <sup>o</sup>	
Nebraska							
Nevada	X	X <sup>p</sup>		X		X	
New Hampshire	X	X		X		X	
New Jersey		X		X		X	
New Mexico	X	X					
New York		X	q	X	q	X	q
North Carolina	X <sup>r</sup>						
North Dakota			s		s		s
Ohio	X	X		X		X	
Oklahoma	X		X		X		X <sup>t</sup>
Oregon							
Pennsylvania		X		X <sup>u</sup>		X	
Rhode Island	X						
South Carolina	X	X				X	
South Dakota	X <sup>v</sup>	X				X	
Tennessee		X <sup>w</sup>					
Texas		x		n		n	
Utah	X	X		X		X	
Vermont	X					X	
Virginia	X	X				X	
Washington	X		X		X		X
West Virginia	X	X				X	
Wisconsin							
Wyoming			y		y		y

Explanatory Notes for Table 2

Percentages reported are results of estimates.

- \* 1 = State law and/or policy does not require that all misdemeanor arrests be supported by fingerprints, and therefore, some or all such arrests are not submitted to the repository.
- 2 = State law and/or policy does not require that misdemeanor arrests be reported to the State criminal history repository, and therefore if such arrests are submitted, they are not retained by the repository.
- 3 = Misdemeanor offenses are not considered criterion offenses (i.e., offenses that do not appear on the FBI's list of nonserious offenses—see Appendix A), and therefore, are not submitted to the repository.
- 4 = Other.
- \*\*5 = State law and/or policy does not require that all misdemeanor domestic violence arrests be supported by fingerprints, and therefore, some or all such arrests are not submitted to the repository.
- 6 = State law and/or policy does not require that misdemeanor domestic violence arrests be reported to the State criminal history repository, and therefore if such arrests are submitted, they are not retained by the repository.
- 7 = Misdemeanor domestic violence offenses are not considered criterion offenses (i.e., offenses that do not appear on the FBI's list of nonserious offenses—see Appendix A), and therefore, are not submitted to the repository.
- 8 = Other.

... Unknown.

<sup>a</sup>Class A and B misdemeanors.

<sup>b</sup>As simple assault.

<sup>c</sup>State law requires fingerprints for all misdemeanors regardless of whether an arrest occurs, but the law is not being followed in all cases.

<sup>d</sup>Physical arrests.

<sup>e</sup>Class A misdemeanors.

<sup>f</sup>Criminal Justice Information System (CJIS) codes used to extract domestic violence information from the longitudinal file are only felony codes.

<sup>g</sup>Based on the longitudinal file using arrest type of charge.

<sup>h</sup>CJIS codes used to extract domestic violence information are only felony codes. Based on a comparison of the monthly arrest and citation register and the longitudinal file, in 1996, 26 percent of the persons arrested for domestic violence were fingerprinted.

<sup>i</sup>The law requires submission of fingerprint data; however, all law enforcement agencies do not submit 100 percent for misdemeanors.

<sup>j</sup>Practices vary and have not been standardized yet.

<sup>k</sup>Arrests of persons with fingerprints on file are reported on criminal summonses that contain two fingerprints.

<sup>l</sup>The small percentage of arrests that are not fingerprint supported are assigned State identification numbers with a "U" prefix (for "unknown"). This allows for identification of each of these exceptions. Unsupported arrests sometimes occur when an offender is hospitalized, or refuses, or is unable, to be fingerprinted.

<sup>m</sup>Class A and B misdemeanors and assault only.

<sup>n</sup>Jail space may not always be available, and fingerprints are taken only when the person is booked at a jail facility.

<sup>o</sup>Lack of compliance in the taking and submission of fingerprints.

<sup>p</sup>With formal taking into custody and booking.

<sup>q</sup>Actual compliance is unknown, but 100 percent are required.

<sup>r</sup>Some.

<sup>s</sup>Since there is no requirement that any misdemeanors, regardless of type, be reported to the State criminal history repository, Montana has no way of accurately estimating the non-reported charges.

<sup>t</sup>Under Nevada law, an arrest and booking must occur when a person commits a crime of domestic violence. Citations cannot be issued in lieu of an arrest for this type of offense (as is possible for other misdemeanor offenses). As a result, because a booking occurs, the repository receives a fingerprint card.

<sup>u</sup>If on a complaint warrant or on a complaint summons signed by law enforcement.

<sup>v</sup>For all misdemeanors contained in the penal law.

<sup>w</sup>New York does not have a substantive offense of domestic violence, but does receive fingerprints to the extent that such crimes are charged pursuant to the existing penal law.

<sup>x</sup>This has been required since 1995; the current level of compliance is unknown.

<sup>y</sup>Some misdemeanors.

<sup>z</sup>The lack of approximately 5 percent is due to missing arrest cards.

<sup>aa</sup>Lack of compliance with State law by police departments and sheriffs' departments that cite lack of personnel to take misdemeanor fingerprints.

<sup>bb</sup>The 40 percent figure is an overall figure for arrests; reporting is simply not complete.

<sup>cc</sup>If an assault charge results.

Table 2: Fingerprint reporting practices for misdemeanors, 1997

State	State criminal history repository currently receives fingerprints for:		Estimated percent of misdemeanor arrests for which fingerprints and arrest data are submitted to State criminal history repository		Reasons that fingerprints and arrest data submitted to State criminal history repository is less than 100%	
	All misdemeanors	Domestic violence misdemeanors	All misdemeanors	Domestic violence misdemeanors	All misdemeanors*	Domestic violence misdemeanors**
Alabama	a	b	100% <sup>a</sup>			
Alaska	X <sup>c</sup>		41		4 <sup>c</sup>	8 <sup>d</sup>
Arizona	X <sup>d</sup>		100			
Arkansas	e	e	35 <sup>e</sup>	75% <sup>e</sup>	1	5
California		f	31 <sup>g</sup>	h	4 <sup>i</sup>	8 <sup>i</sup>
Colorado	X <sup>d</sup>		90%		4 <sup>d</sup>	
Connecticut			...		4 <sup>j</sup>	
Delaware	X <sup>k</sup>		100 <sup>k</sup>			
District of Columbia		X		100%		
Florida	X		100			
Georgia	X		100%			
Hawaii	X		99+ <sup>m</sup>			
Idaho		X	50	100%	1	
Illinois	X		100			
Indiana			<100		...	...
Iowa			50%	50%	1	5
Kansas	m		70		4 <sup>i</sup>	
Kentucky			10	10	1	5
Louisiana			90		4 <sup>n</sup>	
Maine		X	25	...	4 <sup>o</sup>	8 <sup>o</sup>
Maryland	X <sup>p</sup>		100%			
Massachusetts		X	30	...	1	5
Michigan		X	...	... <sup>q</sup>		
Minnesota		X <sup>r</sup>	1	4	1	5
Mississippi			30	...	1	
Missouri		X	...	100% <sup>q</sup>	1	
Montana		X <sup>r</sup>	... <sup>s</sup>	...	1	5
Nebraska			...	...	2	6
Nevada		X <sup>t</sup>	...	100	1	
New Hampshire		X	...	...	1	
New Jersey	X <sup>u</sup>		85%		1	
New Mexico	X		...			
New York	X <sup>v</sup>		... <sup>r</sup>	100% <sup>w</sup>		
North Carolina			...	...	1	5
North Dakota		X <sup>b</sup>	...	...	1	...
Ohio	X		...	... <sup>x</sup>	2	6
Oklahoma		X	5-10%	... <sup>x</sup>	1	8 <sup>x</sup>
Oregon		X	...	...	1	5
Pennsylvania	X		100	...		
Rhode Island			70	...	1	5
South Carolina	X		90%		3 <sup>y</sup>	7
South Dakota	X		90-95		4 <sup>z</sup>	
Tennessee			30	30%	4 <sup>aa</sup>	8 <sup>aa</sup>
Texas		X	...	...	1	5
Utah	X		100			
Vermont			16%	...	1	5
Virginia	X		100			
Washington		X	36	36%	1	5
West Virginia	X		40		4 <sup>bb</sup>	
Wisconsin		X	50	50	1	5
Wyoming		X <sup>cc</sup>	...	100	1	

Explanatory Notes for Table 3

... Unknown.

<sup>f</sup>Identification will be possible as submissions to the State criminal history repository begin using specific citations.

<sup>a</sup>Since February 1994.

<sup>g</sup>As of this date, the State automated system is not operational.

<sup>b</sup>Recent cases.

<sup>h</sup>Nebraska is currently in the process of establishing a flag.

<sup>c</sup>Approximately 50 percent of those fingerprinted are flagged.

<sup>i</sup>Currently the State criminal history file does not flag domestic violence convictions; however, in 1998, this will occur when the redesign of the database is completed.

<sup>d</sup>The definition of a misdemeanor domestic violence for the Lautenberg Amendment includes other conditions such as relationship to the victim and the circumstances relating to waiver of counsel and/or jury trial. The State criminal history repository does not currently carry such details on waiver that could identify qualifying convictions without some manual follow-up or review of case records.

<sup>j</sup>Effective August 1997.

<sup>k</sup>By special request.

<sup>e</sup>Conviction information is available if reported.

<sup>l</sup>Since 1994.

Table 3: Identification of domestic violence misdemeanors in the State criminal history file, 1997

State	Convictions for misdemeanor domestic violence are flagged in State criminal history file	Convictions for misdemeanor domestic violence can be identified by computer search based on statute citations or literal offense descriptions	Convictions for misdemeanor domestic violence can be identified by a manual review of State criminal history file	State criminal history file contains information on the relationship between offenders and victims
Alabama		X	X	
Alaska				
Arizona	X <sup>a</sup>	X	X	
Arkansas		X		
California		X	X	
Colorado	X <sup>b</sup>	X	X	
Connecticut	Some <sup>c</sup>			
Delaware			Some	
District of Columbia	X	X	X	X
Florida			Some	
Georgia	X <sup>d</sup>	X	X	
Hawaii		Some <sup>d</sup>	Some <sup>d</sup>	
Idaho		Some		
Illinois	X	X	X	
Indiana	...	...	...	
Iowa		Some		
Kansas	X	Some <sup>f</sup>	Some	
Kentucky		Some	Some	
Louisiana		X	X	
Maine				
Maryland				
Massachusetts				
Michigan	Some	Some		
Minnesota		Some		
Mississippi				
Missouri		Some		
Montana		Some	X	
Nebraska	h			
Nevada	i		X	
New Hampshire		X	X	
New Jersey				
New Mexico	X <sup>j</sup>		X <sup>j</sup>	
New York				
North Carolina				
North Dakota			X	
Ohio		X	X	X
Oklahoma		X	X	
Oregon			Some	
Pennsylvania				
Rhode Island			Some	
South Carolina				
South Dakota		Some	Some	
Tennessee		Some	Some	
Texas		Some	Some	
Utah	X	X <sup>k</sup>	X	
Vermont		X	X	
Virginia	Some	Some	Some	Some
Washington		X	X	
West Virginia		X <sup>l</sup>	X <sup>l</sup>	
Wisconsin		X	X	
Wyoming		Some		

Explanatory Notes for Table 4

... Unknown.

<sup>a</sup>It would be assumed that waivers of counsel and jury trial were knowingly and intelligently made.

<sup>b</sup>The State criminal history file does carry information on whether a person was represented by counsel, and whether a person was tried by a jury. The file, however, does not contain information on whether waiver of representation by counsel or waiver of a jury trial was knowingly and intelligently made.

<sup>c</sup>To obtain the information, State criminal history repository would have to receive fingerprint cards from all local/State law enforcement agencies and then work with the Administrative Office of the Courts to obtain the relevant disposition information.

<sup>d</sup>After 5 years, only the docket entry is available.

<sup>e</sup>Determination is made by requesting that the responsible State agency break the seal on sealed cases.

<sup>f</sup>From local knowledge; however, this increases the risk that the information will not be available at all.

<sup>g</sup>Retained only briefly.

<sup>h</sup>Information is available from some court systems.



Table 4: Information available to determine the application of the domestic violence prohibition to potential firearms purchaser, 1997

State	State criminal history file has information to determine whether person convicted of domestic violence misdemeanor was:		State has other automated databases to obtain:			If no automated databases are available, State makes determination by:		
	Represented by or waived right to counsel	Entitled to and given jury trial or waived jury trial	Victim-offender relationship information	Counsel representation information	Jury trial information	Review of court files	Review of police/incident reports	Other
Alabama								
Alaska								X <sup>a</sup>
Arizona						X	X	
Arkansas								
California			...	...	...	X		
Colorado				X	X			
Connecticut	a	a		X	X		X	
Delaware			X			X	X	
District of Columbia	X	X	X	X	X			
Florida								X <sup>a</sup>
Georgia						X		
Hawaii	b	b	X	X	X			
Idaho								
Illinois			X			X	X	
Indiana								...
Iowa								
Kansas	X	X					X	
Kentucky								X <sup>c</sup>
Louisiana							X	
Maine						X <sup>d</sup>	X	
Maryland						X		
Massachusetts						X	X	X <sup>e</sup>
Michigan							X	X <sup>f</sup>
Minnesota				X <sup>g</sup>	X <sup>g</sup>		X	
Mississippi						X		
Missouri				...	...	X	X	
Montana						X	X	
Nebraska						X	X	
Nevada				X	X	X	X	
New Hampshire		X			X	X	X	
New Jersey			X	X	X			
New Mexico					X			
New York			X	X	X	X	X	
North Carolina						X		
North Dakota						X	X	
Ohio			X <sup>h</sup>	X <sup>h</sup>	X <sup>h</sup>			
Oklahoma						X	X	
Oregon						X		
Pennsylvania								
Rhode Island								...
South Carolina						X	X	
South Dakota								
Tennessee			X			X		
Texas			X			X	X	
Utah							X	
Vermont	X	X	X	X	X			
Virginia	Some	Some	X	X	X	X	Some	
Washington				X	X	X	X	
West Virginia							X	
Wisconsin			X			X	X	
Wyoming						X	X	

Explanatory Notes for Table 5

\* Data for this table were provided by the State Administrative Offices of the Courts or other relevant judicial agency of the State *except* where denoted with an asterisk (\*), in which case the State criminal history repository provided the data.

... Unknown.

<sup>a</sup>Available in paper format only.

<sup>b</sup>All records, not just convictions, are purged after 5 years; however, all records including misdemeanors that are submitted to the State criminal history repository are maintained until a person is 99 years of age.

<sup>c</sup>Convictions are archived after 3 years.

<sup>d</sup>Records are purged after 10 years; the docket must be retained permanently.

<sup>e</sup>The retention period for misdemeanor cases varies according to the type of offense, ranging from 2 to 7 years. Since court records concerning prior misdemeanor convictions can become relevant in subsequent criminal prosecutions (e.g., under the "three strikes" law), some courts have either developed a local policy or opted to extend the retention period.

<sup>f</sup>Misdemeanor convictions are available to the extent that they are reported. Older records are archived locally. The State system has been in effect only since 1972.

<sup>g</sup>The State criminal history repository policy regarding records, including information received from the courts, is that records are purged when the accused reaches age 80 and has been free of supervision for at least 10 years. Colorado has done some one-time-only purging based on more than 20 years having passed since arrest with no activity for misdemeanor offenses and the offender had to be over 60 years of age.

<sup>h</sup>Conviction information is maintained for 10 years in a central records center. Data is purged from the criminal computer system 2 years after the expiration of the sentence, but paperwork from the case file is available for 10 years.

<sup>i</sup>All convictions are maintained permanently — 2 years in hard copy in the court and subsequently on microfilm at both the court and at the Bureau of Archives and Records.

<sup>j</sup>Records are retained on-site for 5 years, at which time they are archived. After 30 years, the records are destroyed. There will be a ticket entry and computer record for all cases.

<sup>k</sup>Beginning in 1986, all misdemeanor case files must be retained permanently. Prior to 1986, all records of misdemeanors could be purged 10 years after filing.

<sup>l</sup>Prior to 1993, all convictions were purged after 5 years. Sentencing guidelines were enacted in 1993. The guidelines allow misdemeanor information to be considered as a part of the criminal history. Destruction of misdemeanor records has been stayed pending revision of the Kansas Supreme Court rule on records retention. It is anticipated that the rule change will require that misdemeanor records be kept for 50 years.

<sup>m</sup>All convictions are purged after 5 years based on the Kentucky Supreme Court's retention schedule.

<sup>n</sup>In Maine, from 0 to 5 years, the case file is the official record; from 5 years, the docket book is the official record and the case is archived; and on the 25th anniversary, the case file is destroyed, and the docket book is the sole record.

<sup>o</sup>The district courts purge convictions after 3 years; the circuit courts purge convictions after 12 years.

<sup>p</sup>All convictions are maintained and are available upon request in either electronic or paper format. Courts using off-site storage of inactive case files generally can provide the case file within 24 hours.

<sup>q</sup>Courts may defer judgment in a domestic violence case, resulting in the dismissal of the case. A non-public record of the action is maintained.

<sup>r</sup>Retention is governed by a comprehensive retention schedule. Retention of misdemeanors ranges from 20 years (for gross misdemeanors) to 3 years (for petty misdemeanors). The retention schedule applies to both electronic and paper records.

<sup>s</sup>Gross misdemeanor domestic assault convictions are retained for 20 years; misdemeanor domestic assault convictions are retained for 10 years.

<sup>t</sup>All convictions may be purged 10 years after date of filing. The practice/policy varies from court to court.

<sup>u</sup>Convictions are retained for 7 years at each court.

<sup>v</sup>Case files are purged after 15 years; criminal dockets are retained permanently or microfilmed.

<sup>w</sup>Convictions are purged after 6 years.

<sup>x</sup>Convictions are archived after 7 years.

<sup>y</sup>All convictions are purged after 15 years.

<sup>z</sup>Misdemeanor case files may be destroyed after 5 years, but the court's index and journal, which contains information about the conviction, must be retained permanently.

<sup>aa</sup>The current retention schedule provides that misdemeanor case files may be discarded 5 years after the last action if the case is dismissed or no judgment of conviction is entered; if a judgment of conviction is entered, the case file must be retained for 7 years. The register of actions is a permanent record.

The current retention schedule is in the process of being rewritten; the proposal regarding misdemeanors calls for key documents, such as the charging instrument and the judgment, regardless of the outcome of the case, to be retained for 75 years after filing of the charging instrument. All other documents in the file could be discarded 3 years after the entry on the register of actions, if the judgment has previously been entered.

<sup>bb</sup>Misdemeanor I and II cases with jurisdiction residing with the Courts of Common Pleas.

<sup>cc</sup>District Justices in Pennsylvania (excludes Philadelphia and Allegheny Counties) can destroy all misdemeanor III (minor type misdemeanor) cases after 3 years from final disposition upon submission and approval of the Administrative Office of the Pennsylvania Courts pursuant to Pennsylvania Rules of Judicial Administration.

<sup>dd</sup>All case files are destroyed in accordance with a 10-year retention schedule; thereafter the permanent record is available in a docket book unless expunged.

<sup>ee</sup>Class I misdemeanors are microfilmed 5 years after closure. The microfilm is retained permanently.

<sup>ff</sup>Class II misdemeanors are retained for 3 years and then destroyed. They are never archived.

<sup>gg</sup>All convictions are purged after 5 years.

<sup>hh</sup>All non-domestic violence misdemeanor convictions are archived after 5 years and destroyed after 10 years.

<sup>ii</sup>All domestic violence convictions are archived after 5 years and destroyed after 15 years.

<sup>jj</sup>All convictions are purged after 10 years.

<sup>kk</sup>Criminal order books from the circuit courts and criminal case registers from the magistrate courts are permanent records (hard copy document). The availability of the record is dependent on the storage facilities of each court and is not determined by date.

<sup>ll</sup>All misdemeanor case files and court records, regardless of whether there were convictions, are retained for a period of 20 years after the entry of final judgment. Typically, only the current and first preceding years are readily available. The older files are placed in storage.

Table 5: Records retention practices of courts that have jurisdiction over misdemeanor cases, 1997

State	All convictions, regardless of date of conviction, are maintained and available for:		All convictions, regardless of date of conviction, are maintained but older convictions are archived and not readily available for:		All convictions are purged after a designated number of years for:		Other
	All misdemeanors	Domestic violence misdemeanors	All misdemeanors	Domestic violence misdemeanors	All misdemeanors	Domestic violence misdemeanors	
Alabama	X <sup>a</sup>						
Alaska	X						
Arizona*					X <sup>b</sup>		
Arkansas	X	X	X <sup>c</sup>		X <sup>d</sup>	X <sup>d</sup>	
California					X <sup>e</sup>		
Colorado*			X	X			
Connecticut					X <sup>f</sup>	X <sup>f</sup>	
Delaware	X	X	X <sup>g</sup>	X <sup>g</sup>			
District of Columbia			X <sup>h</sup>	X <sup>h</sup>	X <sup>h</sup>	X <sup>h</sup>	
Florida*			X	X			
Georgia*			X	X			
Hawaii				X <sup>i</sup>	X <sup>j</sup>		
Idaho*			X	X			
Illinois	X <sup>k</sup>	X <sup>k</sup>					
Indiana*	X						
Iowa*			X	X			
Kansas					X <sup>l</sup>		
Kentucky					X <sup>m</sup>	X <sup>m</sup>	
Louisiana	X						
Maine							
Maryland					X <sup>n</sup>	X <sup>n</sup>	
Massachusetts							
Michigan	X <sup>o</sup>	X <sup>p</sup>					
Minnesota					X <sup>q</sup>	X <sup>r</sup>	
Mississippi							
Missouri					X <sup>s</sup>	X <sup>s</sup>	
Montana					X <sup>t</sup>	X <sup>t</sup>	
Nebraska					X <sup>u</sup>	X <sup>u</sup>	
Nevada					X <sup>v</sup>	X <sup>v</sup>	
New Hampshire							
New Jersey	X						
New Mexico							
New York	X	X					
North Carolina	X <sup>w</sup>	X <sup>w</sup>					
North Dakota					X <sup>x</sup>		
Ohio					X <sup>y</sup>	X <sup>y</sup>	
Oklahoma*	X	X					
Oregon					X <sup>z</sup>	X <sup>z</sup>	
Pennsylvania	X						
Rhode Island					X <sup>aa</sup>	X <sup>aa</sup>	
South Carolina*	X	X					
South Dakota			X <sup>bb</sup>	X <sup>bb</sup>	X <sup>cc</sup>	X <sup>cc</sup>	
Tennessee*			X	X			
Texas					X <sup>dd</sup>	X <sup>dd</sup>	
Utah					X <sup>ee</sup>	X <sup>ff</sup>	
Vermont	X	X					
Virginia					X <sup>gg</sup>	X <sup>gg</sup>	
Washington	X	X					
West Virginia		X <sup>hh</sup>					
Wisconsin					X <sup>ii</sup>	X <sup>ii</sup>	
Wyoming*			X	X			

**Explanatory Notes for Table 6**

Percentages are the results of estimates.

... Unknown.

<sup>a</sup>Misdemeanor assault and battery.

<sup>b</sup>Of those submitted.

<sup>c</sup>Prior to 1973, data is not automated.

<sup>d</sup>Since 1995.

<sup>e</sup>Not always identifiable as domestic violence.

<sup>f</sup>For past 2 years.

<sup>g</sup>It is unknown how many manual records prior to 1979 exist at the local police departments; therefore, the figure is not available.

<sup>h</sup>Only Class A misdemeanors are contained in the database.

<sup>i</sup>Post-1981.

<sup>j</sup>If fingerprinted supported.

<sup>k</sup>Of the misdemeanors retained, 99 percent are automated.

<sup>l</sup>Of misdemeanors retained, 100 percent are contained in an automated master name index.

Table 6: Current level of automation of misdemeanor offenses in State criminal history repository, 1997

State	Estimated percent of misdemeanor convictions maintained in automated State criminal history file		Estimated percent of misdemeanor convictions maintained in manual State criminal history file		Estimated percent of subjects with misdemeanor convictions contained in automated master name index at State criminal history repository	
	All misdemeanors	Domestic violence misdemeanors	All misdemeanors	Domestic violence misdemeanors	All misdemeanors	Domestic violence misdemeanors
Alabama	80% <sup>a</sup>	100% <sup>b</sup>	0%	0%	100%	100%
Alaska	77	77	23	23	...	...
Arizona	100	100	0	0	...	...
Arkansas	35	...	...	...	35	...
California	...	...	...	...	...	...
Colorado	...	20%	0%	0%	90%	90%
Connecticut	...	...	8	...	...	...
Delaware	60%	60	5 <sup>c</sup>	5 <sup>c</sup>	0	0
District of Columbia	100	100 <sup>d</sup>	100	100 <sup>d</sup>	100	100 <sup>d</sup>
Florida	...	...	0	0	100	100 <sup>e</sup>
Georgia	100%	100% <sup>f</sup>	0%	0%	100%	...
Hawaii	... <sup>g</sup>	... <sup>g</sup>	0	0	... <sup>g</sup>	... <sup>g</sup>
Idaho	...	...	0	0	...	...
Illinois	56	...	0	0	56	...
Indiana	... <sup>h</sup>	...	...	...	...	...
Iowa	30%	40%	0%	0%	50%	60%
Kansas	...	...	...	...	...	...
Kentucky	...	...	0	0	...	...
Louisiana	10	...	10	...	10	...
Maine	0	0	95	95	0	0
Maryland	100%	100%	0%	0%	100%	100%
Massachusetts	100	100	100 <sup>i</sup>	100 <sup>i</sup>	100	100
Michigan	...	...	0	0	...	...
Minnesota	1	4	1	4	...	...
Mississippi	...	...	...	...	...	...
Missouri	100%	100%	0%	0%	100% <sup>b</sup>	100% <sup>b</sup>
Montana	...	...	0	0	...	...
Nebraska	3	...	3	...	3	...
Nevada	50	70	0	0	50	70
New Hampshire	100	100	0	0	100	100
New Jersey	100% <sup>j</sup>	...	0%	0%	100% <sup>j</sup>	...
New Mexico	...	25%	25	25	0	0
New York	90-95	0	0	0	0	0
North Carolina	...	...	...	...	...	...
North Dakota	...	...	...	...	...	...
Ohio	...	...	...	...	...	...
Oklahoma	0-10%	...	0-10%	...	0-10%	...
Oregon	...	...	0	0%	0-10	...
Pennsylvania	71	...	29	...	100	...
Rhode Island	...	...	0	0	...	...
South Carolina	90%	90%	0%	0%	90%	90%
South Dakota	82	82	18	18	100	100
Tennessee	...	...	...	...	...	...
Texas	... <sup>k</sup>	... <sup>k</sup>	...	...	... <sup>l</sup>	... <sup>l</sup>
Utah	100	100	0	0	100	100
Vermont	25%	...	75%	...	100%	100%
Virginia	54	5%	50	5%	100	100
Washington	20	20	0	0	20	20
West Virginia	31	...	...	...	100	100
Wisconsin	50	50	1-2	1-2	55	55
Wyoming	...	...	0	0	...	...

Explanatory Notes for Table 7

... Unknown.

NA Not applicable.

<sup>a</sup>Plans to include misdemeanors in the automated criminal history file relate to having all misdemeanors fingerprint supported; plans may be implemented with live scan and on-line booking.

<sup>b</sup>Some penal summons convictions are not reflected in the criminal history file when the offender is not subsequently booked for identification purposes. The Hawaii Criminal Justice Data Center (HCJDC) continues to work through the courts that themselves have renewed efforts to address this problem area. In addition, HCJDC has started up work to include victim-related information on arrested offenses that could help clarify the circumstances and improve the ability to flag these as domestic violence-related offenses.

<sup>c</sup>Simple misdemeanor convictions are not reported to the State criminal history repository and therefore will not be in an automated criminal history file.

<sup>d</sup>Simple misdemeanor domestic abuse convictions do not mandate fingerprinting and therefore not all of them will be in an automated criminal history file.

<sup>e</sup>State plans include an ongoing project to automate the computerized criminal history system and to re-engineer the State criminal history repository. Domestic violence is captured as a subparagraph of the battery statute; thus, precision reporting is necessary to make that distinction.

<sup>f</sup>A Request for Proposals (RFP) is being written for the procurement of an automated system.

<sup>g</sup>By automating all misdemeanor convictions for crimes that are not designated "misdemeanor domestic violence," but include the prohibited behavior, such as simple assault or simple battery.

<sup>h</sup>Fingerprints will be submitted for the computerized criminal history file beginning in late 1997. Targeted misdemeanors include fifth-degree assault, driving while under the influence, harassment/restraining order violation, domestic assault, interference with privacy, and indecent exposure.

<sup>i</sup>All arrests when incarceration takes place will be reported to the repository.

<sup>j</sup>State criminal history repository will automate all misdemeanor convictions for crimes that are not designated "misdemeanor domestic violence" but include the prohibited behavior, such as simple or simple battery.

<sup>k</sup>State criminal history repository maintains what misdemeanors are voluntarily submitted.

<sup>l</sup>Only Class I and II misdemeanors are retained.

<sup>m</sup>A flag will be set when the conviction is reported.

<sup>n</sup>If resources become available, State criminal history repository will put a domestic violence flag on the criminal history database at the time of conviction.

<sup>o</sup>There are plans to examine the changes needed to State statute and/or procedures for reporting.

<sup>p</sup>The State Criminal History Records Improvement Task Force is working on plans to improve criminal history record information reporting with the Department of Corrections, the District Attorneys General and the Administrative Office of the Courts.

<sup>q</sup>By automating all criminal history record information and disposition data as time and money/personnel permit.

<sup>r</sup>There are no plans to maintain Class C misdemeanors; Classes A and B are currently maintained.

<sup>s</sup>Ongoing automation.

<sup>t</sup>Records are automated as requested.

<sup>u</sup>Domestic assault is automated.

<sup>v</sup>Currently in process of automating arrest, disposition and correctional information.

Table 7: Plans to implement automation for misdemeanor convictions at State criminal history repository, 1997

	State plans to implement automated criminal history file to include misdemeanor convictions	State plans to implement automated criminal history file to include domestic violence misdemeanor convictions
Alabama	NA	NA
Alaska	NA	NA
Arizona	NA	NA
Arkansas	NA	NA
California	NA	NA
Colorado	NA	NA
Connecticut	Yes <sup>a</sup>	Yes <sup>a</sup>
Delaware	NA	NA
District of Columbia	NA	NA
Florida	NA	NA
Georgia	NA	NA
Hawaii	<sup>b</sup>	<sup>b</sup>
Idaho	NA	NA
Illinois	NA	NA
Indiana	...	...
Iowa	No <sup>c</sup>	No <sup>d</sup>
Kansas	Yes <sup>e</sup>	Yes <sup>e</sup>
Kentucky	No	No
Louisiana	Yes <sup>f</sup>	No
Maine	Yes <sup>f</sup>	Yes <sup>g</sup>
Maryland	NA	NA
Massachusetts	NA	NA
Michigan	NA	NA
Minnesota	Yes <sup>h</sup>	Yes <sup>h</sup>
Mississippi	Yes <sup>i</sup>	Yes <sup>j</sup>
Missouri	NA <sup>k</sup>	NA <sup>k</sup>
Montana		
Nebraska	<sup>l</sup>	Yes <sup>m</sup>
Nevada		
New Hampshire		
New Jersey	NA	NA
New Mexico	Yes	Yes
New York	NA	<sup>n</sup>
North Carolina	No	No
North Dakota		<sup>o</sup>
Ohio	NA	NA
Oklahoma	NA	NA
Oregon	<sup>k</sup>	No
Pennsylvania	NA	No
Rhode Island	Yes	Yes <sup>j</sup>
South Carolina	NA	NA
South Dakota	NA	NA
Tennessee	Yes <sup>p</sup>	Yes <sup>q</sup>
Texas	No <sup>r</sup>	No <sup>r</sup>
Utah	NA	NA
Vermont	Yes <sup>s</sup>	Yes <sup>t</sup>
Virginia	NA	<sup>u</sup>
Washington	NA	NA
West Virginia	Yes <sup>v</sup>	Yes <sup>j</sup>
Wisconsin	NA	NA
Wyoming	NA	...

Explanatory Notes for Table 8

\* Unknown.

<sup>a</sup>The court system plans a rule change to require flagging of domestic violence offenses at the time of filing. The domestic violence flag will appear on court dispositions; the domestic violence flag will then be added to the computerized criminal history file.

<sup>b</sup>Arizona has always maintained misdemeanor arrests. The flagging of domestic violence misdemeanors began February 1994.

<sup>c</sup>California has a wide variety of 10-year prohibiting misdemeanors, including assault and battery offenses. These may or may not be reflective of domestic violence circumstances. Other than penal code sections 243(3) and 273.5 that specifically pertain to spouses, cohabitants and/or parents and consequently would clearly be lifetime prohibitions under Federal law, the details surrounding other types of assault and battery convictions most often are not apparent in a review of a purchaser's criminal history record. Consequently, any additional workload to comply with the new Federal domestic violence prohibiting category is nominal in light of California's current system and the lack of availability of other specific information.

<sup>d</sup>The estimated cost of the additional personnel that is or will be needed to meet the increased is \$50,000 per year.

<sup>e</sup>The estimated additional arrest fingerprint cards that are or will be submitted to the repository is 1,100.

<sup>f</sup>The estimated additional courts that are or will be submitting dispositions are 10.

<sup>g</sup>The same number of arrest fingerprint cards and dispositions will be received, but additional training and programming by the Florida Department of Law Enforcement and the Clerks of Court will be necessary to begin identifying domestic violence cases.

<sup>h</sup>The current laws of Hawaii already preclude a person from owning or possessing a firearm if convicted of any crime of violence.

<sup>i</sup>The legal threshold for submitting fingerprint cards to the State criminal history repository is established. The Federal firearms prohibition will not cause law enforcement to submit any more or any less to the central repository.

<sup>j</sup>The estimated cost of the additional personnel that is or will be needed to meet the increased is \$1,066,000 per year, including analysts, programming, Automated Fingerprint Identification System (AFIS), hardware and office space.

<sup>k</sup>The response of "No impact" is due to no State laws mandating reporting of misdemeanors or reporting of domestic violence misdemeanors, as such, and no changes in the law are currently anticipated.

<sup>l</sup>In Massachusetts, the automated criminal history does not include the nature of the relationship between the offender and victim; therefore, the firearms licensing authority has to obtain court records or police reports that are not automated to determine if the person is "Lautenberg disqualified."

<sup>m</sup>This is not currently taking place.

<sup>n</sup>Nevada has just released funds to the Administrative Office of the Courts to conduct an assessment of Nevada's 104 courts to ascertain the technological capabilities of each court for direct interfaces with the State criminal history record repository to improve disposition and to electronically receive other court information such as warrants, protective orders, etc. At this time, it is unknown which courts have such capabilities.

<sup>o</sup>Funds may be needed for program modifications to collect domestic violence misdemeanor information.

<sup>p</sup>Checks are conducted at the local level, and therefore, the impact cannot be determined at this time.

<sup>q</sup>The estimated additional arrest fingerprint cards that are or will be submitted to the repository is 5,000.

<sup>r</sup>Resources are not available at local court and law enforcement agencies to process the documents related to these offenses. As a result, no increased fingerprint cards/dispositions are anticipated.

<sup>s</sup>Reporting is currently low. More personnel will be needed if reporting is to move to 100 percent. At this time, there is no way to determine the impact since West Virginia is in a conversion process, and many factors will have an impact.

<sup>t</sup>The estimated cost of the additional personnel that is or will be needed to meet the increased is \$40,800 to complete programming.



**Table 8: Current or anticipated impact on State criminal history repository workload resulting from implementation of the domestic violence misdemeanor conviction prohibition, 1997**

State	More fingerprint cards are/will be submitted to the repository	More courts are/will be submitting dispositions to the repository	More personnel is/will be needed for the increased workload at the repository	No impact at the repository and none is anticipated	Other
Alabama				X	
Alaska					X <sup>a</sup>
Arizona				X <sup>b</sup>	
Arkansas				X	
California				X <sup>c</sup>	
Colorado		X			
Connecticut			X <sup>d</sup>		
Delaware				X	
District of Columbia	X <sup>e</sup>	X <sup>f</sup>			
Florida					X <sup>g</sup>
Georgia				X	
Hawaii				X <sup>h</sup>	
Idaho				X	
Illinois				X	
Indiana	X	X	X		
Iowa				X <sup>i</sup>	
Kansas	X		X		
Kentucky	X		X <sup>j</sup>		
Louisiana				X <sup>k</sup>	
Maine*					
Maryland				X	
Massachusetts			X <sup>l</sup>		
Michigan				X	
Minnesota				X	
Mississippi					X <sup>m</sup>
Missouri	X	X	X		
Montana	X	X	X		
Nebraska				X <sup>k</sup>	
Nevada		X <sup>n</sup>			
New Hampshire	X	X	X		
New Jersey				X <sup>k</sup>	
New Mexico	X				
New York			X <sup>o</sup>		
North Carolina*					
North Dakota*					
Ohio	X	X	X		
Oklahoma				X <sup>p</sup>	
Oregon				X <sup>k</sup>	
Pennsylvania*					
Rhode Island	X <sup>q</sup>				
South Carolina		X			
South Dakota				X	
Tennessee				X <sup>k</sup>	
Texas				X	
Utah				X	
Vermont				X	
Virginia				X	
Washington				X <sup>r</sup>	
West Virginia			X		X <sup>s</sup>
Wisconsin				X <sup>k</sup>	
Wyoming			X <sup>t</sup>		

Explanatory Notes for Table 9

\*Respondents were requested to frame their responses in the following manner:

_____	Greater by:		
_____	up to 10%	_____	51-60%
_____	11-20%	_____	61-70%
_____	21-30%	_____	71-80%
_____	31-40%	_____	81-90%
_____	41-50%	_____	91-100%
_____	Less by:		
_____	up to 10%	_____	51-60%
_____	11-20%	_____	61-70%
_____	21-30%	_____	71-80%
_____	31-40%	_____	81-90%
_____	41-50%	_____	91-99%
_____	The same		
_____	Other		

Percentages in the table are results of estimates based on the format requested in the response.

> = Greater by  
 < = Less by

... Unknown.

<sup>a</sup> For convictions prior to January 1, 1998 (when court judgments start including a domestic violence indicator), no amount of work will allow anyone to determine, based on State criminal history repository records, whether a conviction involved domestic violence.

<sup>b</sup> Since California checks an individual's criminal history record when any hit is made against the file, the workload level will be the same irrespective of how long ago the conviction took place. Since assault and battery are prohibiting under State law, these will continue to be reviewed.

<sup>c</sup> There would potentially be fewer appeals.

<sup>d</sup> The workload would be less; the percentage is unknown. Source data from the courts and police would be more readily available and of better quality.

<sup>e</sup> The increase would be due to the State law, not the Federal requirement.

<sup>f</sup> There are no State requirements.

<sup>g</sup> Three years would require extensive investigation of original court records on a case-by-case basis. Five years would require the same with additional costs. Ten years would require the same with substantially additional costs. The impact on the workload if the prohibition applied only from the date of enactment is unknown, but would be substantially less expensive at both the State and local levels than flagging existing data.

<sup>h</sup> Reduction on the workload would be anticipated, but how much is unknown.

<sup>i</sup> For handgun sales.

Table 9: Expected workload impact on State criminal history repository if the domestic violence conviction prohibition is amended, 1997

If the application of the misdemeanor domestic violence prohibition were amended, the impact on the workload of the State criminal history repository to implement the amendment would be:

State	If required for prior 3 years only*	If required for prior 5 years only*	If required for prior 10 years only*	If required only from the date of enactment of the law forward*
Alabama	Same	Same	Same	Same
Alaska	... <sup>a</sup>	... <sup>a</sup>	... <sup>a</sup>	... <sup>a</sup>
Arizona	> 21-30%	> 21-30%	> 21-30%	> 51-60%
Arkansas				
California	Same <sup>b</sup>	Same <sup>b</sup>	Same <sup>b</sup>	Same <sup>b</sup>
Colorado	Same	Same	Same	Same
Connecticut	> 11-20%	> 11-20%	> 11-20%	> up to 10%
Delaware	< 61-70%	< 51-60%	< 41-50%	< 81-90%
District of Columbia	Same	Same	Same	Same
Florida	Other <sup>c</sup>	Other <sup>c</sup>	Other <sup>c</sup>	Other <sup>c</sup>
Georgia	Same	Same	Same	Same
Hawaii	Same	Same	Same	Same
Idaho	Same	Same	Same	Same
Illinois	> 11-20%	> 11-20%	> 21-30%	Same
Indiana	...	...	...	...
Iowa	Same	Same	Same	Same
Kansas	> 21-30%	> 41-50%	> 41-50%	> up to 10%
Kentucky	> 71-80%	> 71-80%	> 91-100%	> 61-70%
Louisiana	> 41-50%	> 61-70%	> 81-90%	> 21-30%
Maine	Other <sup>d</sup>	Other <sup>d</sup>	Other <sup>d</sup>	< 91-99%
Maryland	...	...	...	...
Massachusetts	< 81-90%	< 81-90%	< 51-60%	< 81-90%
Michigan	...	...	...	...
Minnesota	Same	Same	Same	> 11-20% <sup>e</sup>
Mississippi	Other <sup>f</sup>	Other <sup>f</sup>	Other <sup>f</sup>	Other <sup>f</sup>
Missouri	Same	Same	Same	Same
Montana	Other <sup>g</sup>	Other <sup>g</sup>	Other <sup>g</sup>	Other <sup>g</sup>
Nebraska	> 21-30%	> 41-50%	> 61-70%	> up to 10%
Nevada	...	... <sup>h</sup>	... <sup>h</sup>	... <sup>h</sup>
New Hampshire	< 71-80%	< 51-60%	> 41-50%	< 91-99%
New Jersey	Same	Same	Same	Same
New Mexico	...	...	...	...
New York	Same	Same	Same	Same
North Carolina	...	...	...	...
North Dakota	...	...	...	...
Ohio	...	...	...	Same
Oklahoma	...	...	...	...
Oregon	> up to 10% <sup>i</sup>	> up to 10%	> 11-20%	> up to 10%
Pennsylvania	...	...	...	...
Rhode Island	> up to 10%	> up to 10%	> up to 10%	Same
South Carolina	< up to 10%	< up to 10%	< up to 10%	Same
South Dakota	...	...	...	...
Tennessee	...	...	...	...
Texas	Same	Same	...	Same
Utah	Same	Same	Same	Same
Vermont	Same	Same	Same	Same
Virginia	< 51-60%	< 51-60%	< 31-40%	< 81-90%
Washington	Same	Same	Same	Same
West Virginia	...	Same	Same	...
Wisconsin	> up to 10%	> 11-20%	> 41-50%	> up to 10%
Wyoming	Same	Same	Same	Same

Explanatory Notes for Table 10A

- \* 1 = Record is destroyed.
- 2 = Record is retained with action noted.
- 3 = Other.

... Unknown.

<sup>a</sup>The term "expunge" is not used in State law. Records may be purged (destroyed) only after the record subject is deceased. An arrest or conviction may be "sealed" (retained with notation) only upon submission of proof beyond a reasonable doubt that the record information resulted from mistaken identity or false accusation.

<sup>b</sup>Expungement is not automatic; subject must apply or petition the court.

<sup>c</sup>Record is destroyed or sealed.

<sup>d</sup>Prior to July 1, 1997, there were provisions for expunging convictions under certain circumstances (if that was the only offense against that victim for a period of 5 years). This Act was rescinded by Act 321, Session Laws of Hawaii 1997.

<sup>e</sup>In the State of Hawaii, the court can grant a "deferred acceptance of a guilty plea" (DAG) which is dismissed if the offender successfully completes the conditions of the DAG. Such set asides may be expunged.

<sup>f</sup>State law does not provide for expungement; however, courts do issue orders expunging criminal records. The State criminal history repository does comply with the orders.

<sup>g</sup>Record is destroyed, but a note is made indicating why the record was destroyed.

<sup>h</sup>Set-aside is not automatic; subject must apply to the court.

<sup>i</sup>Record is retained with action noted or sealed.

<sup>j</sup>State law does not provide for "set-asides" *per se*. It is possible, however, under certain circumstances to have a similar effect; for example, in the case of pretrial diversions (deferred prosecution) and dismissals after deferred imposition. No distinction is made for the type of offense, so misdemeanors may be included. In addition, the State criminal history repository is prohibited from releasing information to the public on misdemeanor convictions that are 5 years or older.

<sup>k</sup>The State of Nevada does not expunge criminal history records. There are provisions for sealing a record, which greatly restrict future access to the record one it has been sealed. This can occur for all misdemeanors, including domestic violence.

<sup>l</sup>Selected misdemeanors.

<sup>m</sup>Sealed.

<sup>n</sup>Pennsylvania does not provide for expungement of misdemeanor conviction information. There are provisions for the expungement of non-conviction data. It is possible to obtain a governor's pardon. Full pardon information may be expunged. Conditional pardon information may not be expunged. There are also provisions to receive an "accelerated rehabilitative disposition" (A.R.D.), which requires the offender to successfully complete certain conditions of the disposition. A.R.D. is not carried as conviction information and therefore may be expunged.

<sup>o</sup>Although law provides for set asides, these are not received at the State criminal history repository.

<sup>p</sup>Records are retained and sealed.

Table 10A: Policies/practices of State criminal history repository regarding modification of misdemeanor convictions by expungement or set-aside, 1997

State	Expungements		Set-asides		How records are treated by State criminal history repository*
	State law provides for expungements of:		State law provides for set-asides of:		
	All misdemeanors	Domestic violence misdemeanors only	All misdemeanors	Domestic violence misdemeanors only	
Alabama	X				1
Alaska	X <sup>a</sup>				3 <sup>a</sup>
Arizona			X		2
Arkansas			X		2
California			X		2
Colorado			X		2
Connecticut	X		X		2
Delaware	X <sup>2</sup>				3 <sup>b,c</sup>
District of Columbia	X		X		1
Florida			X		2
Georgia	X <sup>d</sup>		X		1
Hawaii			X <sup>e</sup>		3 <sup>d</sup>
Idaho			X		1 <sup>f</sup>
Illinois					2
Indiana	X		X		3 <sup>b</sup>
Iowa				X	1
Kansas	X				2
Kentucky	X		X		1 <sup>g</sup>
Louisiana			X		2
Maine			X		2
Maryland			X		3
Massachusetts			X		2
Michigan			X		2
Minnesota	X <sup>b</sup>		X <sup>h</sup>		3 <sup>b,c</sup>
Mississippi	X		X		2 <sup>i</sup>
Missouri					...
Montana	X			j	1 <sup>b</sup>
Nebraska			X		3
Nevada			X		2
Nevadak			X		2
New Hampshire	X		X		2
New Jersey	X <sup>l</sup>		X		2
New Mexico			X		2
New York			X		2
North Carolina	X		X		2
North Dakota			X		2
Ohio	X		X		2
Oklahoma					2
Oregon	X		X		3 <sup>m</sup>
Pennsylvania	X <sup>n</sup>		...		1
Rhode Island	X		X		...
South Carolina					3
South Dakota	X		X		1
Tennessee	X		X		2
Texas	X		X		1
Utah	X				3 <sup>p</sup>
Vermont	X		X		2
Virginia			X		1
Washington			X		2
West Virginia					2
Wisconsin			X		2
Wyoming					2

Explanatory Notes for Table 10B

- \* 1 = Record is destroyed.
- 2 = Record is retained with action noted.
- 3 = Other.

... Unknown.

<sup>a</sup>There is no loss of civil rights when convicted of a misdemeanor.

<sup>b</sup>Record is destroyed, but a note is made indicating why the record was destroyed.

<sup>c</sup>Pardon is not automatic; subject must apply for pardon.

<sup>d</sup>Restoration of civil rights is automatic upon discharge.

<sup>e</sup>Selected misdemeanors.

<sup>f</sup>The record is retained, but no action is noted.

<sup>g</sup>It is possible to obtain a governor's pardon in Pennsylvania. Full pardon information can be expunged. Conditional pardon information may not be expunged.

<sup>h</sup>With regard to restoration of the offender's civil rights, while an offender is incarcerated, he or she is not provided the opportunity to vote in an election by absentee ballot. If the offender is on probation, parole or even furlough and is able to register or get to a voting location, the offender may then vote. The offender's rights are not limited in that circumstance.

<sup>i</sup>Although the law provides for pardons, these are not received at the State repository.

<sup>j</sup>Although the law provides for restoration orders, these are not received at the State repository.

<sup>k</sup>When record is expunged, the subject's civil rights are restored.

Table 10B: Policies/practices of State criminal history repository regarding modification of misdemeanor convictions by pardon or restoration of civil rights, 1997

State	Pardons			Restoration of civil rights		
	State law provides for pardons of:		How records are treated by State criminal history repository*	State law provides for restoration of civil rights of:		How records are treated by State criminal history repository*
	All misdemeanors	Domestic violence misdemeanors only		All misdemeanors	Domestic violence misdemeanors only	
Alabama	X		2			
Alaska	X		2	a		
Arizona	X		2	X		2
Arkansas	X		2	X		2
California				X		2
Colorado	X		2			
Connecticut	X		2	X		3
Delaware	X		2	X		...
District of Columbia						
Florida				a		
Georgia		X	2		X	2
Hawaii	X		2	a		
Idaho	X		2			
Illinois	X		2	X		2
Indiana	X		1	X		1
Iowa	X		2	X		2
Kansas	X		2			
Kentucky	X		1 <sup>b</sup>	X		1 <sup>b</sup>
Louisiana	X		2	X <sup>a</sup>		2
Maine	X		2			
Maryland	X		3			
Massachusetts	X		2			
Michigan	X		2	X		2
Minnesota	X <sup>c</sup>		2	X <sup>d</sup>		2
Mississippi	X		...	a		
Missouri	X		2	X		2
Montana	X		2	X		2
Nebraska	X		2	X		2
Nevada	X		2	a		
New Hampshire	X		2	X		2
New Jersey	X <sup>e</sup>		2	X <sup>e</sup>		3 <sup>f</sup>
New Mexico	X		2	X		2
New York	X		2	X		2
North Carolina	X		2	a		
North Dakota	X		2	X		...
Ohio	X		2			
Oklahoma	X		2	X		2
Oregon	X		2	X		2
Pennsylvania	X <sup>g</sup>		2	h		
Rhode Island	X		3	X		3
South Carolina	X		2	X		...
South Dakota	X		1	X		1
Tennessee	X		i	X		j
Texas	X		2	X <sup>k</sup>		2
Utah				X <sup>k</sup>		
Vermont	X		1	X		...
Virginia	X		2	a		
Washington	X		2	X		2
West Virginia	X		2			
Wisconsin	X		2			
Wyoming						

Explanatory Notes for Table 11

Figures are the results of estimates and have been rounded to the nearest 100.

... Unknown.

<sup>a</sup>The total number of domestic violence felonies and misdemeanors is 11,400.

<sup>b</sup>The conviction counts reflect what is on the central repository of State criminal history record information, which are convictions of those offenses for which there was an arrest. In the State of Hawaii, offenders with penal summons convictions are required to be booked at the police stations for purposes of identification and inclusion in the criminal history information database. The central repository is aware, however, that not all such convictions are subsequently booked, and therefore, may be missing in these counts. The courts are working to ensure that these cases are properly processed upon conviction.

<sup>c</sup>For calendar year 1996.

<sup>d</sup>Statistics for 1996 are still being compiled. Michigan Uniform Crime Reports for 1995 indicate 48,700 domestic violence offenses were reported.

<sup>e</sup>Since there is no requirement that any misdemeanors, regardless of type, be reported to the State criminal history repository, Montana has no way of accurately estimating the number of on-reported charges.

<sup>f</sup>Since 1970.

<sup>g</sup>Oregon Uniform Crime Reports show a total of 30,000 domestic disturbance incidents resulting in 18,900 arrests for 1996.

<sup>h</sup>South Carolina statistics do not separate felony and misdemeanors.

<sup>i</sup>South Carolina statistics do not separate felony and misdemeanors; there were approximately 98,000 arrests for criminal domestic violence.

<sup>j</sup>Prior to 1993, State repository did not record level and degree of offense.



Table 11: Number of misdemeanors and domestic violence misdemeanors in State criminal history databases, 1997

State	Number of misdemeanor convictions reported within last 12 months	Total number of misdemeanor convictions in State criminal history file	Number of domestic violence convictions reported within last 12 months	Total number of domestic violence misdemeanor convictions in State criminal history file
<b>Total</b>	<b>1,177,800</b>	<b>13,631,400</b>	<b>46,200</b>	<b>536,400</b>
Alabama	25,000	300,000	...	...
Alaska	30,000	408,500	...	...
Arizona	54,900	415,400	500	... <sup>a</sup>
Arkansas	60,000	120,000	<500	...
California	116,700	1,633,600	300	217,700
Colorado	...	...	...	...
Connecticut	...	...	...	...
Delaware	35,000	350,000	10,000	125,000
District of Columbia	3,400	...	1,000	...
Florida	...	...	...	...
Georgia	224,500	1,555,800	2,300	7,300
Hawaii	11,000 <sup>b,c</sup>	337,100 <sup>b</sup>	1,200 <sup>b,c</sup>	7,700 <sup>b</sup>
Idaho	...	...	...	...
Illinois	70,700	1,524,900	3,100	12,900
Indiana	...	...	...	...
Iowa	30,000	302,000	5,000	8,500
Kansas	...	...	...	...
Kentucky	...	...	...	...
Louisiana	...	...	...	...
Maine	20,000	400,000	...	...
Maryland	...	...	...	...
Massachusetts	...	...	...	...
Michigan	...	...	... <sup>d</sup>	...
Minnesota	9,000	135,000	1,500	9,200
Mississippi	...	...	...	...
Missouri	7,700	90,800	200	1,800
Montana	... <sup>e</sup>	... <sup>e</sup>	... <sup>e</sup>	... <sup>e</sup>
Nebraska	104,700 <sup>c</sup>	...	...	...
Nevada	3,000	58,600	500	7,200
New Hampshire	...	...	...	...
New Jersey	38,800 <sup>c</sup>	677,000	...	...
New Mexico	...	...	...	...
New York	122,200	2,700,000 <sup>f</sup>	...	...
North Carolina	...	...	...	...
North Dakota	...	...	...	...
Ohio	...	...	...	...
Oklahoma	25,000	50,000	<2,100	2,100
Oregon	...	...	... <sup>g</sup>	...
Pennsylvania	...	...	...	...
Rhode Island	15,800	...	4,000	...
South Carolina	... <sup>h</sup>	...	... <sup>i</sup>	...
South Dakota	9,000	...	500	...
Tennessee	...	...	...	...
Texas	...	... <sup>j</sup>	...	...
Utah	16,500	...	0	100
Vermont	5,000	...	500	...
Virginia	66,800	1,439,300	3,400	72,000
Washington	47,000	860,000	6,500	48,000
West Virginia	...	...	...	...
Wisconsin	26,100	221,800	3,100	15,300
Wyoming	...	51,600	...	1,600

# Methodology

SEARCH, The National Consortium for Justice Information and Statistics, responded to an invitation to present testimony in regard to this new prohibited category before the U.S. House of Representatives' Judiciary Committee Subcommittee on Crime, chaired by Rep. Bill McCollum (R-FL). As a result of SEARCH's testimony, Rep. McCollum and the Bureau of Justice Statistics, U.S. Department of Justice, requested that SEARCH conduct a survey to determine the status among the State criminal history record repositories of requirements and procedures for collecting, maintaining and disseminating misdemeanor conviction information that meets the definition set forth in the Federal law. In addition, questions regarding misdemeanor information in general were included.

This report is the result of the survey of the administrators of the State criminal history record repositories conducted in July – September 1997. One question also was disseminated to the directors of the State offices of court administration. Responses were received from criminal history repository administrators in 51 jurisdictions, including the 50 States and the District of Columbia. Court administrators in 39 States responded to the inquiry sent to them.

The five-part survey instrument consisted of 31 questions, many of which were multi-part. The survey was designed to collect data relating to misdemeanors in five areas:

- (1) State legal requirements;
- (2) State practices;
- (3) workload impact;
- (4) level of automation; and
- (5) impact on the National Instant Criminal History Background System (NICS).

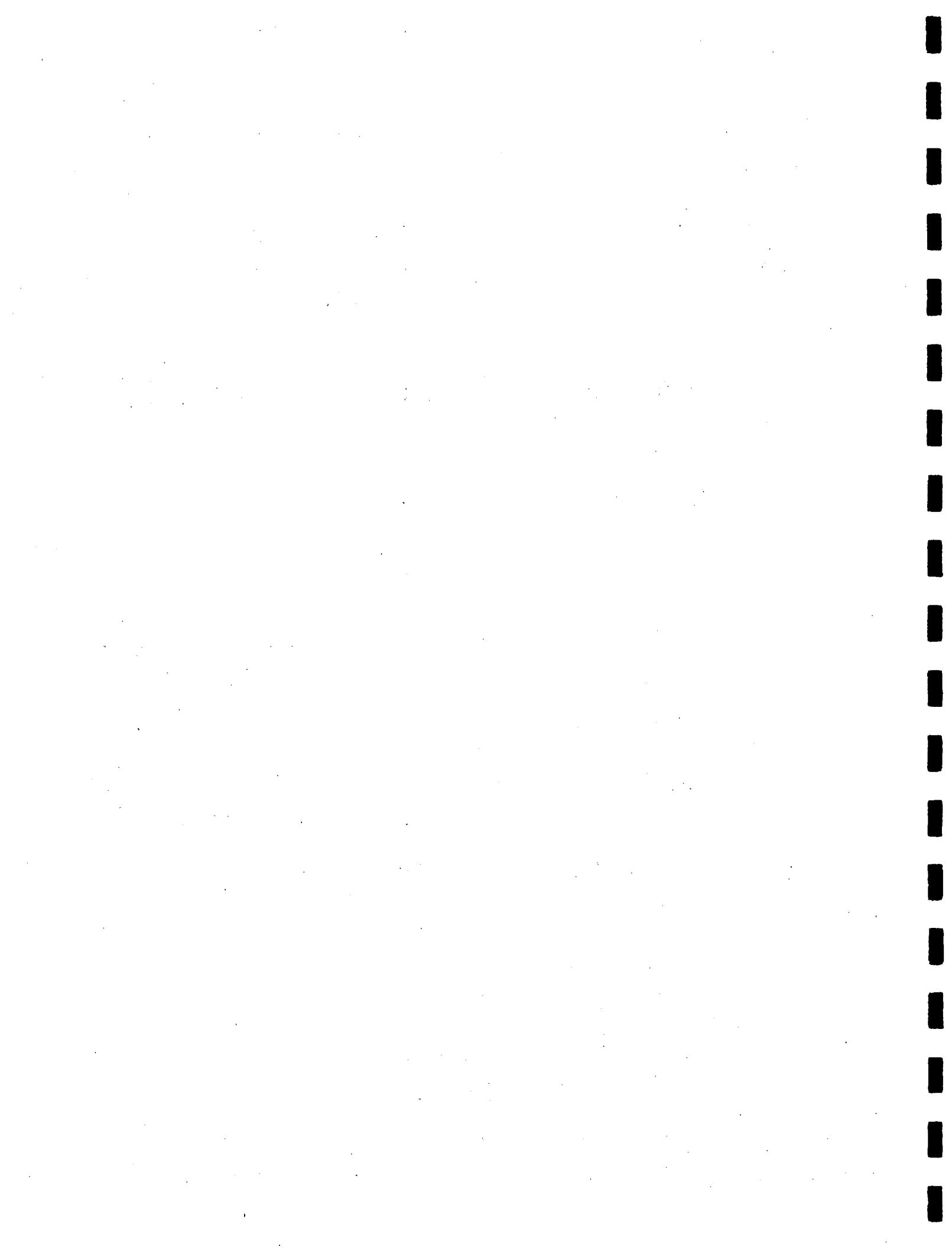
Following the receipt of the responses, all data were compiled in table form. Respondents were permitted a final review of their responses as they appeared in the tables.

Numbers and percentages shown in the tables were rounded. In most cases, numbers were rounded to the nearest 100. Percentages were rounded to the nearest whole number.

State responses are based on State codes that provide for misdemeanor crimes of domestic violence where the family/intimate relationship is an element of the crime. States that do not have misdemeanor crimes of domestic violence *per se* may receive arrest data for misdemeanors that are, in fact, crimes of domestic violence due to the relationship of the perpetrator to the victim. Examples of such crimes are simple assault and simple

battery where the family/intimate relationship exists. Because the State codes are complex and the specifics of the legislation vary, some of the responses among States may not be comparable.

**Appendix A**



# Federal Bureau of Investigation

## List of Nonserious Offenses\*

Abusive Language	Inadequate Brakes
Alms Solicitation	Inquiry (unaccompanied by criterion charge)
Amnesia	Interview
Begging	Intoxication
Breach of Peace	Investigation (unaccompanied by criterion charge)
Card Game Playing	Investigation - Mental
Careless or Reckless Driving (as long as driver under influence of drugs or liquor, hit and run, vehicular manslaughter, involuntary manslaughter or manslaughter <i>not</i> involved)	Jaywalking
Civil Commitment	Juvenile Charge **
Criminal Violation	Juvenile Commitment**
Curfew Registration	Juvenile Offender**
Detention Only	Late Hours
Detoxification	Loafer
Dice Game Playing	Lodger
Disregarding Traffic Signals	Loitering
Disturbance	Lottery Playing
Disturbing Public Worship	Lunacy (unless print pertains to major charge)
Disturbing the Peace	Mandatory Appearance
Dog Laws	Material Witness
Drag Racing	Medical Treatment
Driving while License Suspended or Revoked	Mental
Drunk (not traffic charges)	Minor in Bar
Drunk in or about Auto	Minor in Consumption
Drunk in Public Restroom or Restaurant	Minor in Gambling House
Drunk on Highway	Minor in Possession - Alcohol
Ex-Con Registration	Misrepresenting Age (liquor)
Failure to Give Good Account	Mooching
Failure to Identify	Narcotics Registration
Failure to Operate in Prudent Manner (auto)	Negligent Driving
Failure to Register in Hotel or Register in Hotel with Someone Other than Husband or Wife	
Failure to Yield for Emergency Vehicle, Blue Light, or Siren	
False Fire Alarm	
Felony Registration	
Fireworks	
Fishing without a License	
For Identification Purposes	
General Principles	
Going through Red Light	
Hitchhiking	
Illegal Consumption of Beer	
Illegal Possession of Beer	

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\*This list is not all inclusive; other charges similar in nature may not appear in list.

\*\* Juvenile Arrests (charges) will be accepted as long as the offense for which the juvenile is charged or detained is clearly stated, for example, "JUVENILE ARREST - BURGLARY."

No Driver's License (Note: Operating Auto with  
Altered License Considered as Serious Charge)  
No Inspection Sticker or Expired Sticker  
No Visible Means  
Obstructing Traffic  
Operating Auto without License  
Panhandling  
Parking Warrants  
Patient (**Note:** Unless print pertains to Major  
Charge; that is, murder, rape, etc.)  
Peace Bond  
Peace Warrant  
Possession of Lottery Tickets, Policy Slips, or  
Numbers  
Possession of Open Bottle or Container  
Probation or Parole Check  
Profane Language  
Public Intoxication  
Public Nuisance  
Purchasing Liquor as a Minor  
Rebooked on Suspicion  
Runaway  
Safekeeping, Skusm, Sak  
Sex Registration  
Sleeper

Seeping in a Subway  
Speeding  
State Work Furlough  
Suspect  
Suspicion (unaccompanied by criterion charge)  
Suspicious Person  
Traffic Violations (minor traffic, vehicle and  
licensing charges)  
Train Riding (hobo)  
Tramp  
Transient  
Truancy  
Trusty Commitment  
Urinating in Public  
Uninsured Motor Vehicle  
Unlawful Blood Alcohol Content or Court (alone  
only; not with driving charges)  
Vagabond or Rogue  
Vagrancy  
Venereal Control Registration  
Visiting a Common Nuisance  
Voluntary Commitment  
Walking on Highway  
Wayward



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