TRACKING JUVENILE RECIDIVISTS:

3 options for creating statewide, longitudinal records of juvenile offenders

PREPARED BY THE
CALIFORNIA DEPARTMENT OF JUSTICE
PURSUANT TO ASSEMBLY BILL 2755

TRACKING JUVENILE RECIDIVISTS:

Three options for creating statewide, longitudinal records of juvenile offenders

Prepared for the California State Legislature

Teresa L. Rooney

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Assistance provided by Bureau of Criminal Statistics staff:

Del McGuire, Research Analyst
Deborah Miyai, Research Analyst
Sheila Baynard, Word Processing Technician

100915

JOHN K. VAN DE KAMP
Attorney General

State of California
DEPARTMENT OF JUSTICE

P.O. BOX 13427
SACRAMENTO 95813

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MEMBERS OF THE CALIFORNIA LEGISLATURE

Pursuant to the requirements of Chapter 794 of the 1984 Statutes (Assembly Bill 2755, Sher), the Department of Justice submits this report, "Tracking Juvenile Recidivists: Three Options for Creating Statewide, Longitudinal Records of Juvenile Offenders."

The report outlines three systems by which data can be collected to determine subsequent criminal activity of persons exposed to treatment programs after having been found by the juvenile court to be within the provisions of Welfare and Institutions Code 602. Included in the report are:

- An estimate of the cost of the proposed systems.
- A summary of current law governing obtaining, transmitting, storing, accumulating, and utilizing fingerprints of minors.
- A summary of changes in current law which would be required in order to implement the proposed systems.
- A summary of the impact which the proposed systems would have on access to fingerprints.

Additional copies of the report may be obtained from the Bureau of Criminal Statistics and Special Services, P.O. Box 13427, Sacramento, 95813 (916) 739-5166.

Very truly yours,

JOHN K. VAN DE KAMP
Attorney General

NELSON KEMPSKY
Chief Deputy Attorney General

TR:srb

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TABLE OF CONTENTS

Page Number

EXECUTIVE SUMMARY.....i

SECTION 1 INTRODUCTION.....1

1.1 BACKGROUND AND DESCRIPTION OF THE LEGISLATION.....1

1.2 OVERVIEW OF THE PROJECT METHODOLOGY.....2

1.2.1 Consultations with Justice System Practitioners.....2
1.2.2 Review of Relevant Literature.....3
1.2.3 Development of Options for Tracking Juvenile Recidivists.....3
1.2.4 Development of Costs.....4

1.3 OVERVIEW OF THE REPORT.....4

SECTION 2 EVALUATION ISSUES: INFORMATION NEEDS AND DEFINITION OF TERMS.....5

2.1 INFORMATION NEEDS.....6

2.1.1 Selection and Profile of Program Clients.....6
2.1.2 Treatment Services.....8
2.1.3 Cost Information.....9
2.1.4 Additional Measures of Success.....9
2.1.5 Sources of Evaluation Data.....9
2.1.6 Summary of Information Needs.....11

2.2 DEFINITION OF TERMS: RECIDIVISM AND REHABILITATION TREATMENT PROGRAMS.....11

2.2.1 Recidivism: Offense Seriousness.....12
2.2.2 Recidivism: Types of Events.....12
2.2.3 Rehabilitation Treatment Programs.....14
2.2.4 Summary of Definitions.....15

SECTION 3 RECORDS PERTAINING TO CRIMINALS AND DELINQUENTS: CURRENT LAWS, REGULATIONS, AND PRACTICES.....16

3.1 FINGERPRINTING OF JUVENILES.....16

3.1.1 Local Practices.....16
3.1.2 State Practices.....17
3.1.3 Nationwide Practices.....18

3.2 COLLECTION AND DISSEMINATION OF LOCAL JUVENILE RECORDS.....18

3.3 CONFIDENTIALITY OF LOCAL AND STATE JUVENILE RECORDS.....19

3.3.1 General Statutes Pertaining to Confidentiality.....19
3.3.2 Statutes Pertaining to Juvenile Record Sealing.....20
3.3.3 Key Court Decisions Pertaining to Juvenile Records.....21

3.4 STATUTES AUTHORIZING DATA COLLECTION BY THE DEPARTMENT.....22

3.5 AUTOMATED CRIMINAL HISTORY SYSTEM.....23

3.5.1 Access to Criminal History Records.....24

3.6 STATISTICAL SYSTEMS OPERATED BY BUREAU OF CRIMINAL STATISTICS..25

3.6.1 Monthly Arrest and Citation Register Reporting System..26
3.6.2 Juvenile Court and Probation Statistical System.....26
3.6.3 Adult Criminal Justice Statistical System Longitudinal File.....27

SECTION 4 DESCRIPTION OF OPTIONS TO TRACK JUVENILE RECIDIVISTS.....28

4.1 OVERVIEW OF THREE OPTIONS TO TRACK JUVENILE RECIDIVISTS.....29

4.2 POPULATION CHARACTERISTICS.....30

4.3 PROGRAM PLACEMENT INFORMATION.....32

4.4 IDENTIFICATION OF RECIDIVISTS: FINGERPRINTS VERSUS NAMES.....33

4.5 DESCRIPTION OF OPTION 1.....34

4.5.1 Data Sources and Processing.....34
4.5.2 Discussion.....35

4.6 DESCRIPTION OF OPTION 2.....39

4.6.1 Data Sources and Procedures.....39
4.6.2 Discussion.....40

4.7 DESCRIPTION OF OPTION 3.....41

4.7.1 Definitions.....42
4.7.2 Data Sources.....42
4.7.3 Data Processing.....42
4.7.4 Discussion.....42

4.8 ACCESS TO LONGITUDINAL JUVENILE RECORDS.....45

4.9 LEGISLATION.....46

4.10 STATE AND LOCAL COSTS.....47

4.11 GENERAL ISSUES RELATED TO THE OPTIONS.....51

SECTION 5 CONCLUSION.....53

APPENDICES

1. Copy of Assembly Bill 2755
2. Summary of Interviews with Juvenile Justice System Practitioners, Youth Advocates, and Service Providers
3. California Criminal Record Security Statutes and Regulations
4. Agencies Authorized to Receive Criminal History Information
5. Bureau of Criminal Statistics Policy Statement Regarding Release of Offender Information
6. Sample Department of Justice Forms
7. References

EXECUTIVE SUMMARY

State and local funds are devoted to a variety of programs aimed at rehabilitating juvenile offenders, including foster and group homes, residential treatment centers, county camps and ranches, and California Youth Authority facilities. Yet, these funds are allocated with little knowledge of the effectiveness of the programs. For this reason, Assemblyman Byron Sher, then chair of the Committee on Criminal Law and Public Safety, proposed a package of legislation in 1984 intended to identify and implement effective treatment programs. One of these bills, AB 2755 (Chapter 794, Statutes of 1984), directed the Department of Justice (DOJ) to prepare a proposal outlining a system by which data could be captured regarding the subsequent criminal records of persons who are exposed to treatment programs following a finding of delinquency by the juvenile court.

AB 2755 specifically directs the Department to submit a report to the Legislature, outlining a proposed system or systems for collecting such data, and including the following elements:

- An estimate of the cost of the proposed system or systems.
- A summary of current laws governing obtaining, transmitting, storing, accumulating, and utilizing fingerprints of minors.
- A summary of the changes in current law which would be required in order to implement the proposed system or systems.
- A summary of the impact which the proposed system or systems would have on access to fingerprints of minors.

PROJECT METHODOLOGY

During the course of the project, project staff consulted with parties who represent various aspects of the California juvenile justice system, including judges, probation and police officers, prosecutors, attorneys who represent minors processed by the system, youth advocacy groups, and youth services providers. Project staff also relied heavily on the Attorney General's Advisory Committee on Data Use and Publications, a group of highly experienced researchers from the academic and private research communities, and other knowledgeable DOJ staff. The contacts with these individuals and organizations provided valuable insight into the issues relevant to tracking juvenile recidivism. An extensive statewide telephone survey also was conducted of approximately 100 law enforcement officials to determine local agency philosophy, practices, and procedures relative to juvenile fingerprinting, case recordkeeping, and submission of case-reporting documents to the Department of Justice.

To supplement the information gained through personal interviews, project staff reviewed various books, reports, and journal articles pertinent to the

juvenile justice system in general, juvenile fingerprinting and record keeping practices, and evaluation methodology.

DEVELOPMENT OF OPTIONS FOR TRACKING JUVENILE RECIDIVISM

The language in AB 2755 implies that the Legislature intended that the Department propose a statewide statistical system to track recidivism of juvenile delinquents placed outside their homes in treatment programs, so that such information could be considered by the State in allocating treatment resources. This report offers three optional methods which can be used to trace juvenile offenders through the juvenile and, subsequently, the adult criminal justice systems. Each method can be designed to capture placement information to allow follow up studies of those exposed to each program, thereby yielding aggregate recidivism rates by program. It should be pointed out, however, that there are some limitations to these recidivism rates, and other additional information about treatment programs and their clients may be of value when comparing these programs.

First, juvenile offenders are typically exposed to a variety of programs both concurrently and consecutively during their treatment history. Not only will it be difficult to analyze the differential impact of these programs, but it will also be a considerable burden for probation departments to report the actual placement locations for each offender. Since this will be a new reporting requirement for probation, it will represent a state mandated local program requiring funding under Section 223.1 of the Revenue and Taxation Code.

Second, because not all communities have the array of treatment programs to serve the unique needs of all offenders, an offender may be placed in a program that is not perfectly suited to his or her needs. As a result, this program may have a high recidivism rate. Third, the duration and type of services offered to various offenders differs, even among those placed in same programs.

Finally, the types of offenders treated by a program, the length of time available to treat the offender, and the environment to which an offender is ultimately released, will affect recidivism. An understanding of these factors, along with the reasons for placing the offenders in particular programs and the specific treatment services offered, is important when comparing the recidivism rates of those exposed to different programs.

DESCRIPTION OF THE OPTIONS

The first option uses juvenile court reports currently submitted to the DOJ, in order to document an individual's official involvement with the juvenile justice system. Additionally, probation departments could be required to report placement data. Juvenile recidivism would be measured as sustained court petitions. Multiple petitions involving the same offender would be linked together by matching the names shown on each report submitted to DOJ. The juvenile court reports would be tentatively linked to any subsequent adult offender records by a name match process. With the exception of placement data this procedure is possible within the existing data systems and capabilities of the Department. However, for reasons described in the report, there is an unmeasurable degree of unreliability, and potential inaccuracy, involved with attempting to locate records of all reported incidents based only on name and demographic data.

Option 2 would also use juvenile court information that is currently reported to DOJ, along with placement data that is currently not reported, and would measure recidivism as sustained court petitions. However, fingerprint identification would be required for juveniles who sustain a juvenile court petition for a law violation. Probation departments would be required to obtain fingerprints of these adjudicated delinquents and submit the prints to DOJ. This would allow the Department to assign a unique number to each offender to ensure more reliable followup of subsequent juvenile petitions and linkage with adult offender records.

Option 3 would require that juveniles be subject to the same mandatory fingerprinting and arrest reporting requirements as adults, and that their entire record, including their placement history, be maintained in the Criminal History System. This model would track juveniles from the point of arrest through final disposition and subsequent actions, and recidivism could be measured as rearrest or any action subsequent to arrest. Juveniles would be fingerprinted for all felony arrests and selected misdemeanor arrests, and the fingerprints and case disposition reports would be submitted to the DOJ.

Option 3 could be scaled down so that fewer juveniles are mandatorily fingerprinted and made a part of the Criminal History System (e.g., limit the fingerprint requirement to felonies, to arrests that are referred to probation, or to juveniles over a certain age, such as 16). While the basic system would remain unchanged, these alternative approaches would lessen conccerns that may be raised about fingerprinting juveniles and would place less of a burden on the Criminal History System.

The local and state costs for operating a recidivism tracking system range from a low of $74,000 for Option 1 to a high of $4.4 million for Option 3, if placement data are not included. If such data are reported to DOJ on a routine basis, the costs increase to $1.4 million (Option 1) to $5.8 million (Option 3). The higher costs for Options 2 and 3 reflect the local resources to fingerprint juvenile offenders, as well as the state resources to operate a new juvenile offender data collection system. In Option 3, start-up costs must also be considered, and are estimated at $2.2 to $5.2 million, depending upon the costs of additional computer hardware.

Each option includes a method for tying the records of various law violations to a single juvenile, and linking those juvenile records to subsequent adult records. In Options 2 and 3, records would be based on fingerprints, and the matching process would be quite reliable. Option 1, on the other hand, would attempt to match records based on names and other demographic data, and would be less reliable. Each option also includes a method of statistically aggregating the longitudinal records of juveniles exposed to selected treatment programs, in order to generate recidivism rates for those exposed to each program.

In Options 1 and 2, bona fide researchers could gain access to a juvenile's record of sustained court petitions for law violations; currently, only the contributing probation department is allowed access to these records. In Option 3, juvenile criminal histories could be made available to criminal justice practitioners on essentially the same basis as such practitioners have access to adult records.

Options 2 and 3 would require that selected juveniles be fingerprinted by law enforcement or probation officers. Presumably, these agencies would retain one copy of the fingerprints in their local files. Access to the prints would be controlled by local juvenile court orders, and thus would differ from one jurisdiction to another. At a minimum, the prints maintained by law enforcement agencies could be shared with other law enforcement agencies, and likewise for those prints maintained by the probation department. At the state level, access to fingerprints would be strictly limited to authorized DOJ staff in Option 2, but could be made available to criminal justice system practitioners in Option 3.

Options 1 and 2 may require changes to the Penal Code, in order to provide bona fide researchers with access to juvenile longitudinal records. Options 2 and 3 would require a statutory mandate that juvenile law violators be fingerprinted at arrest or following a sustained petition. Option 3 would also require changes to the Penal Code and/or Welfare and Institutions Code to impose new arrest and disposition reporting requirements. All of the options would require that long-standing Department policies regarding juvenile records be changed.

SECTION 1
INTRODUCTION

Rehabilitation of youthful offenders has long been a cornerstone of the juvenile justice system. State and local funds are devoted to a variety of programs aimed at preventing juveniles from continuing their criminal behavior Yet, these funds are allocated with little knowledge of the effectiveness of the programs. How effective are the rehabilitative techniques employed in juvenile camps and ranches, residential treatment centers, foster and group homes, and Youth Authority institutions? Do certain programs do well with some offenders but not others? Are federal and state tax dollars being dedicated to the most beneficial programs?

Faced with these and other questions, Assemblyman Byron Sher proposed a package of legislation in 1984 intended to identify and implement effective treatment programs. One of these bills, AB 2755 (Chapter 794, Statutes of 1984), directed the Department of Justice (DOJ) to prepare a proposal outlining a system by which data could be captured regarding the subsequent criminal records of persons who are exposed to treatment programs following a finding of delinquency by the juvenile court. The legislation stated that such data should be considered when allocating the limited resources available to implement the rehabilitative purposes of the Juvenile Court Law. A copy of the bill is included in Appendix 1.

1.1 BACKGROUND AND DESCRIPTION OF THE LEGISLATION

Passage of AB 2755 can be seen as part of a longstanding interest in promoting accountability among programs funded through tax dollars and charged with delivering public services. The specific impetus came from an Assembly sponsored study of the juvenile justice system by the Rand Corporation. Rand's final report, Youth Crime and Juvenile Justice (June 1983), stated that, " . . . we know very little about which programs or program administrators are effective at whatever we mean by 'rehabilitation' because the system does not keep track of cases and outcomes in a way that would allow anyone to discriminate among more effective and less effective programs" (Greenwood et al., p. 133; emphasis added). AB 2755 is intended to be a first step toward holding juvenile programs accountable for the results of their efforts to rehabilitate delinquents and toward identifying repeat offenders.

AB 2755 specifically directs the Department to prepare a written report, to be submitted to the Legislature, outlining a proposed system for collecting data about the subsequent criminal behavior of adjudicated delinquents who are placed in treatment programs. The report is to include the following elements:

- A cost estimate of the proposed system or systems, including an estimate of the cost to state, city,and county governments.

- A summary of current laws governing obtaining, transmitting, storing, accumulating, and utilizing fingerprints of minors, including a summary of current law in this area governing the department, other state officials, and city and county officials.

- A summary of the changes in current law which would be required in order to implement the proposed system or systems.

- A summary of the impact which the proposed system or systems would have on access to fingerprints of minors, including a summary of persons or agencies who would obtain increased or decreased access to fingerprints of minors as a result of the proposed system or systems.

The sum of $25,000 in General Funds was allocated to DOJ to fulfill the mandates of the legislation.

1.2 OVERVIEW OF THE PROJECT METHODOLOGY

In response to AB 2755, the Department hired a consultant as project coordinator to direct and participate in the efforts to develop a proposed system(s) for tracking juvenile recidivism. The consultant worked closely with staff in the Department's Bureau of Criminal Statistics and Special Services (BCS/SS).

1.2.1 Consultations with Justice System Practitioners

In keeping with the mandate of AB 2755, project staff consulted with parties who represent various aspects of the California juvenile justice system, including judges, probation and police officers, prosecutors, attorneys who represent minors processed by the system, youth advocacy groups, and youth services providers, during the course of the project. These consultations addressed the budgetary, philosophical, legal, and practical impact of the proposed system(s). Many of these contacts were made in Sacramento, where lobbying and professional associations maintain their central offices. Additionally, contacts were made in San Diego, Orange, Los Angeles, and San Mateo counties. Project staff also relied heavily on the Attorney General's Advisory Committee on Data Use and Publications, a group of highly experienced researchers from the academic and private research communities. These contacts with practitioners and researchers provided valuable insight into the issues relevant to tracking juvenile recidivism and judging the value of treatment programs based solely on the rates at which program clients recidivate. The major issues they raised are discussed throughout the report. A summary of their responses is included in Appendix 2.

An extensive statewide telephone survey also was conducted of approximately 100 law enforcement officials - police, sheriff, and probation officers - to determine local agency philosophy, practices, and procedures relative to juvenile fingerprinting, case recordkeeping, and submission of case-reporting documents to the Department of Justice. The results of the survey are included in Section 3.

1.2.2 Review of Relevant Literature

To supplement the information gained through personal interviews, project staff reviewed various books, reports, and journal articles pertinent to the juvenile justice system in general, juvenile fingerprinting and recordkeeping practices in California and throughout the nation, and evaluation methodology.

1.2.3 Development of Options for Tracking Juvenile Recidivists

The language in AB 2755 implies that the Legislature intended that the Department propose a statewide statistical system for tracking recidivism of juvenile delinquents placed outside their homes in treatment programs. The purpose of having a system to generate recidivism rates for those exposed to various programs is to allow the state to allocate its treatment resources based on the comparative effectiveness of the programs. This report describes three options for developing longitudinal records of an indivual's involvement in the justice system as both a juvenile and an adult, and for statistically aggregating the records of juveniles who are exposed to selected programs. These aggregate data would provide a measure of the recidivism rates associated with selected programs.

Numerous possibilities exist as to how longitudinal offender records might be structured and aggregated at the program level. Many were eliminated through discussions with Department staff who have developed previous juvenile offender tracking models and who are knowledgeable of problems inherent in developing criminal history records from various sources. Researchers in government and academia, and practitioners in the juvenile justice field offered their insights as to possible problems and restrictions of various options for tracking juvenile recidivism. The most feasible possibilities were refined into the three basic options described in Section 4.

It should be pointed out, however , that there are some limitations to recidivism rates, and other additional information about treatment programs and their clients may be of interest when comparing programs. First, juvenile offenders are typically exposed to a variety of programs both concurrently and consecutively during their treatment history. An offender might initially be placed in a county camp and subsequently transferred to one or more group homes. If the offender is rearrested 12 months after returning home, should the statistical system attribute the failure to the camp or the group home? It will be difficult to analyze the differential impact of these programs.

Second, not all communities have the array of programs to respond to the unique needs of all offenders, thus a juvenile may be placed in a program that is not perfectly suited to his or her needs. If the juvenile subsequently recidivates, should the program be charged with a failure when it was not the most appropriate but only the most available? Third, the type and duration of treatment services differ from one program to another, and from one individual to another, in the same program. Statistical comparisons of one program versus another may offer little

more than an evaluation of the broad labels attached to these programs, such as foster family, group home, residential treatment center, or the California Youth Authority (CYA).

Fourth, but perhaps most important, prior research has shown that other factors should be considered when comparing recidivism rates. The types of offenders treated by a program, the length of time available to treat the offender, and the environment to which an offender is ultimately released, will all affect recidivism rates. It is the opinion of the Department that recidivism rates would be more valuable to the Legislature if considered in light of these criteria, as well as the reasons for placing juveniles in particular programs and the specific treatment services that they receive.

1.2.4 Development of Costs

Department of Justice staff were called upon to develop state-level cost estimates for the three options. A cost model for local agency fingerprinting was provided by the California Law Enforcement Agency Records Supervisors (CLEARS) Association. The Chief Probation Officers of California Research Committee developed local cost estimates for providing a new set of data on ward placements. Using the per unit cost estimates provided by these organizations, DOJ staff developed statewide estimates of some of the local costs associated with each option. Other local cost estimates were based on a previous study of a proposed juvenile offender-based tracking system.

It should be emphasized that many of the cost estimates are at best tentative. Some remain unknown, either because they involve new practices and processes for which costs could not be estimated, or because the development of costs would have placed an undue burden on local agencies.

1.3 OVERVIEW OF THE REPORT

The remainder of the report is organized around four major sections:

- Section 2. Summarizes program evaluation issues and their relevance to the proposed system(s) envisioned in AB 2755. Identifies the kinds of supplemental information needed to properly interpret recidivism rates.

- Section 3. Summarizes statutes and regulations governing juvenile records. Describes the Department's existing crime and delinquency systems that may be useful to tracking juvenile recidivism.

- Section 4. Describes three options for creating longitudinal juvenile records, including their strengths and weaknesses, impact on access to juvenile records, and costs.

- Section 5. The final section weighs the costs and benefits of the three options.

SECTION 2
EVALUATION ISSUES:
INFORMATION NEEDS AND DEFINITION OF TERMS

Most programs that attempt to rehabilitate juvenile delinquents are funded through state and local tax dollars and, as with any program responsible for delivering crucial public services, must be held accountable for their effectiveness. Without accountability, there is a risk that programs may be ineffective or even counterproductive (Sechrest, White, and Brown, 1979, p. 54). Clearly, there is a need to evaluate program effectiveness and identify the most successful programs both to maximize resources and to have the best chance of rehabilitating young offenders.

Yet, this is no easy task, and there are numerous additional variables other than participation in a rehabilitation program that may affect an offender's likelihood of committing subsequent crimes. On some of these variables, individual programs differ in a random, haphazard fashion. Often, however, offenders are selected for participation in a particular program on the basis of certain factors which are powerful determinants of recidivism (e.g., previous criminal and social history, emotional adjustment, time available to participate in a program). Past research studies have shown that it is important to consider these additional factors along with the more obvious measures of recidivism.

Another important evaluation issue is the definition of "recidivism" and "rehabilitation treatment program." AB 2755 mandates that the Department propose a system to track recidivism of delinquents who are exposed to rehabilitation treatment programs, but does not define these terms. The definitions are important since they set the general framework of the system.

The present section addresses these evaluation concerns. Information needs relevant to program clients, treatment services, costs, and measures of success other than recidivism, along with possible local and state-level sources of this information, are discussed in Section 2.1. The cost of collecting this supplemental evaluation data is unknown, but may be high. Local probation departments, the likely source of most of the data, would require additional funding to maintain this supplemental standardized information for statewide comparisons of treatment programs. Section 2.2 addresses the definitions of recidivism and rehabilitation treatment program.

While much of the narrative is based on project staff's knowledge and review of evaluation literature, the section also draws heavily on meetings with the Attorney General's Advisory Committee on Data Use and Publications, with treatment providers, and with various probation workers and organizations, such as the Chief Probation Officer's Research Committee, the State Coalition of Probation Officers, California Probation, Parole and Corrections Association, and the California Probation Business Managers Association.

2.1 INFORMATION NEEDS

Evaluations are generally devoted to answering two questions: is the impact on clients in one program different than the impact on those in another program, and can we assume the program caused any differential impact (Empey, 1980, pp. 143-144)? While recidivism data provide a partial answer to the first question, they leave the second question unanswered. Information about program clients and treatment services is needed to address the second question and to interpret program results (Reiss, 1980, pp. 364-365; Krisberg, 1980, pp. 222-225).

2.1.1 Selection and Profile of Program Clients

The importance of considering factors other than recidivism when judging program effectiveness is shown in the following anecdote about two fictitious programs. Judge Smith sends 100 delinquent youths to each of 2 privately-operated group homes: Program A and Program B. Two years later, 30 of the delinquents handled by Program A have been rearrested, as compared to 60 of those handled by Program B. Program A is more effective, right? Not necessarily so. Further information about the programs and their clients may lead to a different conclusion.

Program A accepts only first-time, minor offenders. Most of its youths come from homes with both parents and strong family supports. They tend to be educationally in step with their age group peers and well-adjusted emotionally. Most are able to complete the 12-month stay that the program operators believe is needed to achieve their objectives, and are subsequently released to an area where crime rates are low and employment rates are high.

Program B, on the other hand, accepts relatively serious, repeat offenders, many of whom come from one-parent families and have little or no family support. The youths lag several years behind their peers in educational achievement and suffer from emotional and mental handicaps which hamper their ability to change their behavior. Because of funding and other constraints beyond the program's control, the youths are often removed to other placements before they have time to complete the program's objectives. Many are returned to high crime areas in which opportunities for employment are rare.

While this anecdote is extreme, it depicts many of the factors outside the control of the program which have been found by past research to impact an individual's predicted chances of success, such as prior criminal history, social and emotional adjustment, family environment, and academic abilities (Wolfgang, Figlio, and Sellin, 1972; Pennell and Curtis, September 1983, pp. 59-60; Scanlon and Webb, 1981). A California Youth Authority (CYA) study of parolees identified certain characteristics which distinguished chronic offenders from those who did not recidivate and found the chronic offenders were more likely to come from families of lower socioeconomic status, were farther behind in school, had longer prior records, were less socially mature and less intelligent, and were behaviorally more hostile and less responsible for their actions (Haapanen and Jesness, February 1982, p. 6). Programs which handle these high risk offenders cannot hope to achieve the same

degree of success as those that are devoted to lower risk offenders.

The variables that distinguish high and low risk offenders are often the very factors which guide decisions about where to place an offender. As Gibbons points out, the selection and sorting activities that occur in juvenile justice decision making "often allocate to one part of the justice machinery groups and cohorts of offenders who differ in important ways from lawbreakers who are sent off to other way stations in that social apparatus. It is these problems of discretion and bias about which the researcher and research consumer must become informed in order to make sense of program evaluations. . . " (Gibbons, 1980, p. 424).

The differences between clients are even more pronounced when comparing public and private programs or secure and non-secure facilities. Consistent with the juvenile justice system policy of placing juvenile delinquents in the "least restrictive environment" appropriate to their needs and behaviors, minor offenders are likely to be placed in non-secure, community-based programs, while the more serious offenders may be referred to a secure county or state facility. Even within the broad category of community-based programs, facilities range from small family homes to large residential facilities, each of which may impose varying degrees of restrictiveness on their clients.

Assuming the justice system is operating as intended, the types of offenders referred to various programs should differ in ways that will affect program results. For example, secure public facilities house only delinquent offenders, while non-secure foster homes, group homes, and 24-hour schools may handle abused, neglected, and delinquent offenders (Palmer and Wedge, March 1985). While we have already indicated that certain types of offenders are more likely to recidivate regardless of the program intervention, the mix of different types of offenders also complicates evaluation efforts, since a delinquent may be expected to behave differently subsequent to release if treated among noncriminal children (e.g., in a group home) than if treated among the most serious offenders (e.g., in county camps or CYA facilities).

Thus, we would <u>expect</u> juenile participants in some programs to have higher recidivism rates than others based simply on differing selection criteria.

While not a "selection" criteria, the environment to which program participants are released can be a powerful determinant of subsequent behavior. The Panel on Research on Rehabilitative Techniques, a prestigious group of researchers convened by the National Research Council, recommended that evaluations consider such factors as "whether a parolee is released into a high-crime or a low-crime area, levels of unemployment, probable opportunities for crime, and the general resemblance of the released environment to the environment of previous criminal activity (Sechrest, White and Brown, 1979, pp. 71-72).

Another important evaluation consideration is that private programs often are able to accept or reject referrals, while public programs have much less freedom in selecting their clients: those who are too seriously delinquent for community placements generally will be committed to a county camp or CYA. There is some evidence that private group homes and

residential care facilities only accept the cases most amenable to their treatment and leave the more intractable cases for public institutions (Ohlin, July 1983). While programs should maximize their "contribution to society" by treating the cases for which they have the greatest likelihood of success, this confounds attempts to compare programs in an equitable fashion. A related issue is whether offenders participate in the program voluntarily or involuntarily. Private programs may require that an offender voluntarily agree to participate and, perhaps, sign an "agreement" that he or she will fulfill certain requirements.

The field of psychology tells us that this "free choice" is an important ingredient in changing one's behavior. Thus, a higher rate of recidivism would be expected for those from programs with little control over their intake population than for those from programs which may first accept the offenders most amenable to their services and then generate a "buy-in" from the offender to comply with program procedures and objectives.

One way to avoid the issue of pre-existing differences between the clients exposed to various programs is to conduct randomized experiments wherein juveniles are assigned to programs on a random basis. If the number of juveniles involved in such an experiment is large enough, differences between their subsequent recidivism rates can be attributed to the program with a fair degree of certainty.

2.1.2 Treatment Services

In addition to the background information about program clients described in Section 2.1.1, past research efforts have found that data about what occurs during program participation is also a useful supplement to recidivism rates. Programs may vary across jurisdictions and through time. For example, many counties operate programs which are similarly referred to as "camps and ranches," yet the activities and services of one may differ dramatically from another (Palmer and Wedge, March 1985). Likewise, innovative programs may evolve and modify their treatment services based on the results of past experience or on other considerations such as funding (Empey, 1980, p. 147). "Process" information, then, indicates whether programs are providing the types and level of services which they are designed to provide.

Perhaps the most confounding issue is that of multiple services. Many offenders receive services simultaneously from several service providers, including the court and probation department. In Section 1, we discussed the issue of attributing success or failure to a given program when an offender has been exposed to various programs over a period of time. Here, we are concerned with the very difficult methodological problems of controlling for the effects of multiple services provided at the same time. Since it is common practice to develop an individualized treatment plan for each client, the array of services received by one offender may differ from those received by another offender who is exposed to the same program at the same time. Information about these services is useful in interpreting the differential impact of programs on different clients.

2.1.3 Cost Information

The Research Committee of the Chief Probation Officers recommended that costs be considered in comparing the effectiveness of various programs. Cost analyses can be a powerful tool to help decision makers allocate resources in a rational manner. However, there are numerous methodological questions in comparing the costs and benefits of one program versus another (see, for example, Glaser, 1973; Phillips, 1980; and Rossi, Freeman, and Wright, 1979;). Methods of calculating costs vary tremendously between programs, and attaching a dollar figure to the benefits of a program (e.g., improved emotional stability, recidivism) can be deceptive. Nonetheless, comparative costs can be considered in evaluating the effectiveness of programs. The California Probation Business Manager's Association (October 1984) has developed comparative costs for all county camps and ranches, and the CYA is currently using this model to develop comparative costs for its facilities. While the cost of foster care homes has not been calculated using this comparative model, the rate structure established by the Department of Social Services (DSS) gives a rough idea of monthly costs.

2.1.4 Additional Measures of Success

Juvenile rehabiliation treatment programs may have a variety of goals, which differ over time and from one program to another. Program operators and other juvenile justice system practitioners interviewed as part of this project felt that recidivism should not be the sole criterion of program success or failure. Rather, these multiple goals warrant multiple measures, such as incidence of fighting and escapes, completion of educational or vocational training programs, personality or attitudinal change, school performance, and employment (Waldo and Griswold, 1979, pp. 225).

While these concerns are valid, it is also clear that recidivism offers a common goal for measurement across programs, even if it is a somewhat less appropriate measure for some programs than others. This point was emphasized by the Panel on Research on Rehabilitative Techniques, which recommended criminal behavior as the sole criterion against which rehabilitation must ultimately be measured (Sechrest, White, and Brown, pp. 7-8). These other objectives are presumably directed at the overall goal of reducing recidivism, and thus their measures should be closely related to measures of recidivism.

2.1.5 Sources of Evaluation Data

The previous sections outlined numerous variables which are believed to affect subsequent criminal behavior of offenders. Evaluation models must control for the differences in these factors as they relate to participants in one program versus another. The complexity of these variables was summed up by Wilkins as follows:

> Persons who vary in ways that are in the main unknown (variable X1), live in situations (X2), and are exposed to cultural influences that vary in unknown ways (X3). They sometimes commit

> deeds (X4) which vary in many ways, except that they are classified by the laws of society as crimes, and these laws (X5) also vary both in content and interpretation. Some persons are detected by systems that vary in unspecified ways (X6); these are dealt with by persons or courts that also vary in their policies (X7) and are allocated to institutions (X8) that also differ from each other in many unknown ways. They are committed for varying periods of time (X9), and their interaction with the treatment (X10) is expected to vary. In most cases they may be expected to interact with other persons (X11) also undergoing treatment. Eventually, they are released to situations that vary both in themselves and in terms of the expected interaction with the personality of the former inmate (X12). In consideration of recidivism, this process may be seen as repeated many times. Frequently in discussions of recidivism the number of times the circuit has been completed remains unspecified (Wilkins, 1969, p. 20).

To complicate matters, the factors relevant to Programs A and B may not be the same as those relevant to Programs C and D (see, for example, Palmer and Lewis, 1980). It is for these reasons that researchers generally consider other factors in conjunction with recidivism rates when comparing the effectiveness of different programs.

Some of the existing sources for this supplemental information include local probation records, individual program files, and records maintained by the DSS and the CYA. Additionally, the options presented herein for collecting recidivism data would provide information about prior criminal history of offenders.

Delinquent juveniles who are placed in public or private facilities at the local level as a result of court action are under the supervision of the probation department. Department records, then, offer one source of information about a probationer's background and general program history. However, since the probation files in each county are governed by departmental regulations and court orders, there is wide variation in their actual content and in how records are stored, maintained, and released. In all counties, a researcher wishing access to these files must obtain approval from the local juvenile court judge.

A second source of information about local out-of-home placements is the programs themselves. Programs generally maintain a more detailed record of a client's program history than what is available in probation files, at least during the time the offender is in the program. Again, however, these records are not governed by any statewide laws or regulations, and there is little consistency in their quality and content.

The Foster Care Information System (FCIS) offers a source of statewide, standardized information on the placement status, case plan goals, services, payments, and demographics of each child in foster care. This case tracking system was established by DSS to comply with federal and state mandates (Adoption Assistance and Child Welfare Act of 1980, and Welfare and Institutions Code Section 396 et seq.). The laws direct probation departments, among other agencies, to report information about all foster care cases which receive payments under Aid to Families with Dependent Children-Foster Care (AFDC-FC) and for which the agency has

primary case management responsibility. "Foster Care" includes placements in foster family homes, group homes, and residential treatment centers. Request for case information contained in the FCIS are reviewed by DSS legal staff on an individual basis. Since approximately 4,500 delinquent placements are funded through AFDC-FC and reported to the FCIS each year, this may provide a source of information about a sizeable portion of local placements.

One final source of information is the CYA, which maintains an automated case management information system as well as individual ward files that include a ward's background, diagnostic assessment, and program services while under the jurisdiction of the Department. The ward files generally include the individual's social history, psychological information, prior county and state commitments, criminal history as provided by the committing county, and details of the current offense. The files also contain information about the ward's program assignment, progress in the program, and disciplinary incidents. Some of the data are entered to the automated system for statistical purposes. This statistical information is available upon request. Access to individual files requires Department approval.

2.1.6 Summary of Information Needs

There are many factors which are believed to affect subsequent criminal behavior of offenders and therefore recidivism rates. However, more complete recidivism data would be of value to independent evaluators and policy makers. Currently, evaluators are forced to search local records in 58 different counties in order to compile a juvenile's complete criminal history. Time and money generally preclude such an undertaking. Even if all county records were searched, some incidents would still be missed as a result of names being misspelled or changed. A source of statewide recidivism information would provide useful baseline data for evaluators, while also providing information for juvenile justice planning and needs assessments.

2.2 DEFINITION OF TERMS: RECIDIVISM AND REHABILITATION TREATMENT PROGRAMS

AB 2755 mandates that the Department propose a system or systems whereby data could be collected to track recidivism of adjudicated delinquent offenders who are exposed to rehabilitation treatment programs. Neither rehabilitation treatment programs nor recidivism are explicitly defined in the legislation. The definitions of these terms are important since they set the general framework of the system.

In the following sections, various official measures of recidivism are described, i.e., incidents that are detected and officially recorded by the justice system. The seriousness of the offense, the type of event (e.g., arrest, conviction), and the definitions recommended by practitioners interviewed as part of the project are discussed. It should be pointed out that since many crimes go undetected or unsolved, and many of those responsible go unidentified, officially-recorded incidents may underrepresent the true number of crimes attributable to a

particular indivdual. Offenders who are asked to recount their criminal histories frequently admit to more or fewer incidents than are noted in official records. However, the proposals developed by the DOJ are limited to data that can be measured on a statewide basis, and self-reported data do not fit this criterion. The final section addresses the definition of rehabilitation treatment program.

2.2.1 Recidivism: Offense Seriousness

Juveniles may be processed through the justice system for a variety of behaviors that are not considered crimes if committed by an adult (Status Offenses), including running away, truancy, and curfew violations. AB 2755 speaks only to persons who "violate any law defining a crime," thus the options for tracking juvenile recidivists that are presented in this report do not consider status offenses as recidivism..

2.2.2 Recidivism: Types of Events

The juvenile justice system can be viewed as a series of responses to an individual's behavior taken by law enforcement, probation, prosecutors, and courts. At each major decision point, the decision maker can exercise various options as to how the suspected offender should be handled, including whether he or she should continue to the next stage in the system. Recidivism refers to the repeated occurrence of one or more of these responses, such as arrest, court petition, adjudication, or incarceration. However, there is little consensus in the criminal justice literature as to which response or event is the best measure of recidivism (Sechrest, White and Brown, 1979, p. 74). The commonly used definitions include rearrest, rereferral to probation, subsequent petition or complaint filed, subsequent sustained petition or conviction, and reincarceration.

- Arrests, or "taking into custody" in juvenile legalese, provide the most complete official record of an individual's suspected involvement in criminal activity. In 1983, law enforcement agencies reported about 197,000 juvenile arrests for law violations. About 32% were handled internally by the arresting agency or referred to another law enforcement agency.

- Referrals to probation are another indicator of suspected juvenile criminal involvement. Probation departments handle about 144,000* referrals for law violations each year. This measure excludes cases that the law enforcement department handles internally or diverts to a non-justice agency, or about one-third of their juvenile cases. However, it captures cases that are referred to probation by an individual or agency other than law enforcement and thus are not counted as a juvenile arrest.

- Juvenile court petitions or complaint filings offer a third measure of suspected recidivism. In the juvenile justice system, this excludes cases that the probation department settles at intake by reprimanding

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* Excludes subsequent referrals that are closed at intake in four counties (up to 6,000 cases per year).

and releasing the child, referring the case to another agency or to the parents, or placing the juvenile on informal probation (Section 654, WIC). Fewer than half of the referrals to juvenile probation departments are petitioned to court, demonstrating the substantial amount of screening that occurs.

- Sustained juvenile court petitions or adult convictions are a fourth measure of recidivism, and one which reflects true findings by the court. In the juvenile court, this excludes cases that are dismissed, transferred, or remanded to adult court, or about 31% of all adjudications. Sustained petitions include cases in which the juvenile court orders non-ward probation (Sec 725a WIC), ward probation, or CYA commitment. Some evaluations have narrowed the definition to court dispositions involving incarceration (i.e., prison, CYA, juvenile camp, juvenile hall, jail), thus focusing on individuals with the more serious offenses and/or criminal histories.

At each phase of justice system processing, many cases are dismissed or diverted from further processing either because (1) there is insufficient evidence, or (2) there is a preferable, non-judicial method of handling a first-time or minor offender. The further one progresses into the system -- from arrest to court disposition -- the more one measures system response to criminal behavior and the more likely the offenders will be serious ones.

While recorded arrests provide the most complete measure of a juvenile's suspected criminal behavior, they are the least reliable one because the definition of arrest differs from one jurisdiction to another: some count any contact with a juvenile; some count any detention of the juvenile, no matter how long; and others only count an arrest when the juvenile is physically booked. This variation reduces the reliability of arrests as a multi-jurisdictional measure of recidivism. Furthermore, law enforcement agencies have a broader range of control in a juvenile's life than in an adult's; a juvenile may be arrested for relatively non-serious incidents which might be ignored if committed by an adult.

Sustained court petitions are a more reliable and appropriate measure of recidivism. The fact-finding and decision making process that occurs at each point in the system is progressively more likely to distinguish between those persons who actually recidivate and those who are merely suspected of criminal behavior. Minor law violations that perhaps should not be considered recidivism are more likely to be handled informally without a court adjudication.

If recidivism were to be measured by referrals to probation or petitions to court, the advantages that arrests offer would be lost (i.e., completeness) as would the advantages of sustained petitions or convictions (i.e., reliability). Professionals interviewed as part of this project agreed that while no single yardstick can properly measure recidivism, sustained court petitions or convictions are the preferable measure. Some of the recommended variations on who should be labelled "recidivist" included: (1) individuals who subsequently commit an offense of equal or greater seriousness than the original offense; (2) individuals who commit a subsequent offense which represents a danger to the public; (3) individuals who have multiple commitments to out-of-home

residential placements as a result of multiple law violations; and (4) persons who are adjudicated wards of the court as a result of a law violation committed while under probation supervision. The options for tracking recidivism presented herein measure recidivism either as an arrest (the most complete measure) or a sustained petition (the most accurate measure).

Probation violations and revocations were mentioned frequently by interviewees. In general, respondents felt these should not be considered recidivism unless a new law violation is sustained in juvenile court. Each probation department has its own policy for handling criminal behavior committed while an individual is on probation or violations of probation conditions. Incidents that result in revocation in one county may be dismissed as unimportant in another. As a multi-jurisdictional measure of crime, then, probation revocations are unreliable.

The importance of the definition of recidivism cannot be emphasized enough, since different measures can lead to widely different findings about program effectiveness. Weiderander's (February 1983) report on CYA parolee success provides a good example of this: "...we could accurately report that only 13% [of the parolees] were sent to state prison for parole-period offenses committed during the 24 months of the followup, resulting in an 87% 'success rate' by this criterion...Alternately, regarding the same sample we could accurately report that 77% of the sample had been arrested or temporarily detained during the 24 months, leaving a 'success rate' by this criterion of only 23%" (P. 17). The potential for misinterpretation of recidivism statistics is obvious.

2.2.3 Rehabilitation Treatment Programs

The language in AB 2755 indicates that the recidivism tracking system should focus on "persons who are exposed to rehabilitation treatment programs after having been found by juvenile court to be within the provisions of Welfare and Institutions Code (WIC) section 602." This eliminates the large number of juveniles who are diverted from the system prior to adjudication, but still receive treatment services (e.g., police and probation diversion programs, informal probation per Section 654, WIC). Technically, everything the juvenile justice system does is considered "rehabilitation." However, preliminary discussions with the AB 2755 author's staff indicated that the intent of the legislation was to look only at delinquents who are exposed to out-of-home placements, since these youths represent the greatest cost to the state and since the state's intervention in their lives is the most intrusive. Adjudicated offenders who are placed on non-wardship probation (Section 725a, WIC) are excluded, since the court does not have the authority to place them outside their homes.

The target population, then, consists of law violators who are adjudged wards of the juvenile court and placed in privately or publicly operated facilities such as private family homes, group homes, or residential facilities; county camps, ranches, or homes; and state regional youth educational facilities or Youth Authority facilities.

2.2.4 Summary of Definitions

There is little agreement as to the most appropriate definition of recidivism. While arrests offer the most comprehensive measure of suspected criminal involvement, many individuals who are arrested are never processed through the judicial system which ultimately determines guilt or innocence. On the other hand, sustained petitions and convictions do reflect findings of guilt, but ignore cases diverted from the system prior to court proceedings. In weighing these concerns, we chose to propose system options for measuring recidivism both as arrests and sustained petitions or convictions. The system choice must be a policy decision based on both the costs and consequences of maintaining a recidivism data base -- a decision best left to the Legislature. The definition of rehabilitation treatment program is a less crucial one from the standpoint of system design, since the cases that are tracked for recidivism purposes include all offenders who might be exposed to a treatment program.

SECTION 3
RECORDS PERTAINING TO CRIMINALS AND DELINQUENTS: CURRENT LAWS, REGULATIONS, AND PRACTICES

This section describes current laws, regulations, and practices regarding the collection and dissemination of criminal offender record information by local and state agencies, with particular emphasis on the confidentiality of juvenile records. AB 2755 specifically directs the Department to include in its report to the Legislature a "summary of current law governing obtaining, transmitting, storing, accumulating, and utilizing fingerprints of minors, including . . . laws governing the department, other state officials, and city and county officials." The Department broadly interpreted this legislative mandate to include laws and regulations pertaining to the collection and dissemination of all criminal offender record information, including the fingerprints which are considered a part of the record, since it is not the fingerprint per se which is of concern from a confidentiality standpoint, but rather the record of criminal involvement associated with that fingerprint.

Section 3.1 summarizes current laws and practices related to the fingerprinting of juvenile offenders by local and state agencies, as well as other states. A discussion of the collection and dissemination of local juvenile records is presented in Section 3.2. Section 3.3 summarizes statutes and court decisions pertaining to the confidentiality of local and state juvenile records. Section 3.4 outlines the statutes that authorize DOJ to collect and compile information about crime and delinquency. The remaining sections are devoted to a discussion of several DOJ information systems that may be useful in attempting to track juvenile recidivism (Sections 3.5 and 3.6).

3.1 FINGERPRINTING OF JUVENILES

The California Juvenile Court Law, contained in the Welfare and Institutions Code (WIC), is conspicuously silent regarding juvenile fingerprinting. Whereas the adult system has specific statutory provisions and court decisions which mandate fingerprinting, the juvenile system has left this decision to the discretion of local and state justice agencies. The only reference to juvenile fingerprinting is found in Section 204, WIC, which states that: "This section shall not be construed to prohibit the Department of Justice from transmitting fingerprints or photographs of a minor to a law enforcement agency for the purpose of obtaining identification of the minor or from requesting from such agency the history of the minor."

3.1.1 Local Practices

Since there are no statutory provisions which prohibit local justice agencies from fingerprinting juveniles nor any provisions mandating such procedures, fingerprinting practices vary from one jurisdiction to another. These practices are generally guided by local departmental guidelines and regulations.

Project staff conducted telephone interviews with representatives of 43 major law enforcement agencies (who account for the majority of juvenile arrests) and all 58 county probation departments to determine their policies and procedures relative to juvenile fingerprinting and submission of fingerprints to the Department.

Only one law enforcement agency replied that they never fingerprint minors. However, the practices and procedures varied greatly for the remaining 42 who do fingerprint minors. While one agency fingerprints for all offenses, others only fingerprint for serious felonies, felonies and serious misdemeanors, or other selected offenses, age groups, or situations (e.g., burglary and theft suspects; law violators age 13 or over; offenders who have a history of repeated offenses). Of those agencies that do fingerprint, most do so only for those youths taken into physical custody at time of arrest. Only seven (7) agencies forward the print record to DOJ.

Ten (10) of the 58 probation departments fingerprint minors, while most of the others consider fingerprinting a police function. Seven (7) of these agencies are in counties with very small populations, the remainder are of moderate population size. No probation departments routinely forward juvenile fingerprints to DOJ. The 10 departments stated different policy guidelines regarding juvenile fingerprinting:

- All referrals
- Nearly all referrals
- All referrals for Section 602, WIC offenses (all felonies and misdemeanors)
- All referrals resulting from an arrest
- Referrals for burglary and theft
- Upon request of the arresting agency
- All juveniles placed on supervision caseload
- All youths booked into the juvenile hall
- According to specific written policy provision issued by the presiding judge

3.1.2 State Practices

Only one state agency fingerprints juveniles routinely: the California Youth Authority (CYA). While state law does not mandate fingerprinting of these juveniles, CYA departmental regulations state that all wards committed to the CYA must be fingerprinted when they arrive at the central reception center, and the fingerprints must be submitted to the Department of Justice. A criminal record is established on each individuals in the Department's Criminal History System (see Section 3.5).

3.1.3 Nationwide Practices

In 1980, the National Center for Juvenile Justice conducted a nationwide statutory analysis and determined that 34 states have enacted legislation addressing fingerprinting of juvenile offenders (Hutzler, Vereb, and Dexel, December 1980). At that time, New York was the only state that mandated juvenile offenders be fingerprinted. Even there, the offender must be age 11 or older and must be charged with a serious felony offense. The remaining statutes are permissive, not mandatory. Twenty-eight of the states require that certain events or circumstances exist before juvenile fingerprints may be taken, such as judicial consent for each individual case, waiver of the case to adult court, presence of latent prints at the crime scene, or commission of specific serious offenses. Twenty-seven of the states specifically restrict dissemination of fingerprints at either the local, state, or federal level. Nearly half of the states require automatic destruction of the fingerprints if certain conditions occur, such as: the incident was not a felony, no court petition was filed, or the proceedings brought against the juvenile were dismissed.

3.2 COLLECTION AND DISSEMINATION OF LOCAL JUVENILE RECORDS

State law does not govern the content or nature of local criminal justice agency records, except to the extent that the Attorney General may require certain records be maintained to fulfill state crime and delinquency reporting requirements. The specific records maintained by local agencies and the methods of storing records are generally governed by local departmental regulations.

Most youths enter the juvenile justice system via an arrest or citation for alleged violation of the law. The arresting officer generally provides a written report of the incident or a carbon copy of the citation (i.e., a written directive to appear before the juvenile authorities) to the agency's records section. The records section makes an entry of the event in the agency's information system, and for state reporting purposes enters the youth's name, birthdate, sex, race, charged offense, and case disposition on a Monthly Arrest and Citation Register (MACR; JUS form 750). The process of entering and storing this information may be manual or electronic. A copy of the MACR is submitted to the Bureau of Criminal Statistics each month.

A copy of the incident report and arrest or citation report is generally forwarded to the county probation department by the law enforcement agency, regardless of whether or not the youth is referred to probation. A probation intake officer reviews this and other relevant data to determine whether the youth must be processed further into the system. Such information is recorded on the youth's "face sheet" and in the department's management information system.

Statutory mandates that direct local agencies to maintain specific records and to report information to BCS are found in the Penal Code (P.C.) and the Welfare and Institutions Code (WIC).

- Section 13020 P.C.: Agencies dealing with crime or criminals or with delinquency or delinquents must, when requested by the Attorney General, report statistical data to the Attorney General, and install and maintain records needed for the correct reporting of such statistical data.

- Section 285 WIC: All probation officers must make such periodic reports to BCS as the bureau may require, provided that no names or social security numbers shall be transmitted regarding proceedings under Section 300 or 601 (i.e., dependent children or status offenders).

Probation departments report information about their caseloads to BCS via hard copy documents or computer printouts generated from the county's automated management information system. Juvenile court data are also compiled and forwarded to BCS by the probation department.

3.3 CONFIDENTIALITY OF LOCAL AND STATE JUVENILE RECORDS

One of the dominant themes in Juvenile Court Law is the confidentiality of juvenile records and proceedings. The intent is to allow the juvenile the best chance of being "rehabilitated" without the stigma of being publicly labelled as a criminal and to avoid the risk that juvenile records might be misused by third parties.

Confidentiality is achieved by limiting the disclosure of records and by authorizing the juvenile courts to "seal" records upon request by the minor. Local and state records of juvenile offenders are strictly controlled by statute and by court decisions. Access to records is further controlled by regulations and policies established by state and local agencies within the broad guidelines set in law.

3.3.1 General Statutes Pertaining to Confidentiality

The primary statutory restrictions on disclosure of local records are found in Sections 827 and 828, WIC. Generally, law enforcement, probation, and juvenile court records pertaining to juveniles may be shared among criminal justice personnel in the course of their official duties, but may not be disclosed to third parties except by juvenile court rule or order. Certain limited exceptions to this general rule were enacted by the Legislature in 1984:

- Section 676, WIC. The name of a minor found to have committed certain serious offenses, similar to those listed in Section 707(b), shall not be confidential unless the court, for good cause, so orders.

- Section 827, WIC. In cases involving a finding by the court that an individual enrolled in grades 1 through 12 has used, sold, or possessed narcotics or controlled substances, or has committed a serious offense listed in Section 707(b), WIC the court must notify the school superintendent of the case disposition. The school is required to destroy the notice 12 months after the student returns to school.

- Section 828, WIC. Law enforcement must, upon request of any person, release the name and description of any person who is found to have committed a serious offense listed in Section 707(b) and subsequently escapes from a secure detention facility. The law enforcement agency may choose to do so without any request ". . . if it finds that release of the information would be necessary to assist in recapturing the minor or . . . to protect the public from substantial physical harm.

Other exceptions to the general rule of confidentiality are that victims of crime have the right to know the final disposition of juvenile criminal cases (Section 742, WIC), and that the Board of Prison Terms may review the juvenile court records of delinquent acts committed by persons before the Board (Section 829, WIC). Finally, individual juvenile records may also be disclosed for legitimate purposes of cross examination in subsequent cases involving the individual as a complainant.

3.3.2 Statutes Pertaining to Juvenile Record Sealing

In addition to the statutes governing records disclosure, Section 781, WIC permits persons who acquire records as juveniles to petition the court to seal those records. The intent is to allow juveniles to begin their adult life with a "clean slate." (See 40 Ops Cal Atty Gen 50, 52, 1962.) Sealing of juvenile records allows the minor a better chance at employment and, presumably, at rehabilitation.

Record sealing applies to all statutory categories of juvenile cases: dependency, status offenses, and delinquency, and applies to all records created as a result of each case. The records may be sealed when the minor reaches age 18, or 5 years or more after juvenile court jurisdiction has ended, whichever occurs first. A minimum period of good behavior between the end of probation and the filing of a petition to seal the records is required.

Once the petition is approved by the juvenile court judge, the court must seal all juvenile court records relating to the person, and must send a copy of the order to all agencies and persons named in the order instructing them to seal their records and to notify the court of their compliance. Upon receipt of a juvenile sealing order, DOJ must remove all references to the offender from its files (40 Ops Cal Atty Gen 50 (1962)) and must notify anyone who has received information about the sealed record (Section 11105.5 P.C.). The Department of Motor Vehicles is also prohibited from releasing information from sealed records, and those offenses cannot be considered prior convictions in revoking or suspending a driver's license (41 Ops Cal Atty Gen 102 (1963)).

Sealing and expungement of Federal Bureau of Investigation records is less clear. The FBI evidently has no mechanism for sealing arrest records. They will expunge a record if requested by the original contributing agency. This is done by returning the fingerprint card and record to the agency.

Section 781, WIC (a) allows a minor to state that he has not acquired a record and has not had a record sealed once the sealing order is granted. The 1971 California Supreme Court decision in T.N.G., described in Section 3.3.3, further extends this right to minors who were detained by the police but released without a petition being filed, even though their records have not been sealed.

If a minor is waived to the adult court, but is not subsequently convicted and has no other criminal court convictions, he or she may have the criminal court send all copies of the criminal court record to the juvenile court (Section 707.4, WIC). All references to the minor must be removed from the index or minute book. The minor may then have the record sealed per Section 781, WIC.

Section 1203.45, P.C. allows sealing of criminal court records of a minor's misdemeanor convictions if the minor was under age 18 at the time the misdemeanor was committed, and if either of the following occur: (1) the minor receives a certificate of rehabilitation and pardon pursuant to Section 1203.4, P C.; or (2) the court verdict pertaining to the misdemeanor is set aside under Section 1203.4a, P.C.

Inspection of sealed records is only allowed for persons named in a petition brought by the person who is the subject of the sealed records and only if ordered by the superior court (Section, 781(a), WIC). Also, on a showing of good cause in a defamation proceeding, the court and parties may inspect and use sealed records (Section 781(b), WIC). In Davis v Alaska (1974) 415 US 308, the United States Supreme Court decided that a minor's unsealed juvenile record could be used to cross-examine a minor who was a witness, despite the state laws regarding confidentiality. This was based on the criminal defendant's sixth amendment guarantee to confront a witness. It is not clear whether Section 781(a), WIC would disallow this for a sealed record.

3.3.3 Key Court Decisions Pertaining to Juvenile Records

One of the noteworthy decisions regarding juvenile record confidentiality was handed down by the California Supreme Court in T.N.G. v. Superior Court (1971) 4 Col.3d 767,778. This decision clarified and reaffirmed statutory law, finding that:

> "Welfare and Institutions Code section 827 reposes in the juvenile court control of juvenile records and requires permission of the court before any information about juveniles is disclosed to third parties by any law enforcement official" (emphasis added; at page 780).
>
> "Since the entire Juvenile Court Law places the responsibility of providing care and protective guidance for youths upon the juvenile court, Section 827 provides the means for assuring to the juvenile court the authority to fulfill that responsibility without interference by third parties (at page 781)."

juvenile court judges in most counties have issued standing orders or policy statements relevant to release of juvenile information by law enforcement agencies, probation officers, child welfare workers, district attorneys, and/or county counsels. The court orders typically specify that authorized recipients must keep the juvenile information confidential. Any person not identified in the court order or policy statement must petition the juvenile court for authorization to receive information. Pursuant to the T.N.G. decision, the Bureau of Criminal Statistics does not release names of juveniles from its statistical data bases to non-contributors without a specific court order.

In a more recent decision, Wescott v. Yuba County (1980) 104 Cal. App. 3d 103, the stamp of confidentiality was applied though no juvenile court proceeding had been initiated. The court broadly interpreted Section 827, WIC to include such police records within the control of the juvenile court.

3.4 STATUTES AUTHORIZING DATA COLLECTION BY DOJ

The Penal Code and Welfare and Institutions Code provide the statutory authority for data collection, compilation, and dissemination of crime and delinquency information by the Department of Justice. The following is a list of the main code sections. Many of these sections are described in more detail in Appendix 3, which contains a compilation of statutes and regulations dealing with the security, privacy, and confidentiality of crime data, prepared by the Criminal Records Security Unit of DOJ.

Penal Code

- 11101. Attorney General to collect data on all persons convicted of a felony.
- 11104. Attorney General to file information and keep records.
- 11105. DOJ to maintain state summary criminal history records. Persons entitled to receive records.
- 11105.1. Persons entitled to receive records.
- 11105.2. Agencies with licensing and certification duties authorized summary criminal history information.
- 11105.3. Information available to employers for applicants who have supervisory or disciplinary power over minors.
- 11106. Attorney General to keep and file fingerprints.
- 11115. Law enforcement agencies to report dispositions of arrests.
- 11116.6. Dispositions to be placed in appropriate records.
- 13010. Authority to collect and disseminate statistical data.

- 13020. Duty of local agencies to maintain records and report to the Attorney General.
- 13012. Contents of annual report.
- 13102. Criminal offender record information - contents.
- 13125. Standard data elements for criminal offender record information.
- 13150. Arrests to be reported and fingerprints.
- 13175. DOJ to reply to local agencies within 72 hours.
- 13177. DOJ may collect data required by other statutes.
- 13202. Public agencies and research bodies authorized to receive criminal offender record information.

Welfare and Institutions Code Section

- 204. DOJ cannot transmit juvenile records unless dispositions are available.

3.5 AUTOMATED CRIMINAL HISTORY SYSTEM

The Department of Justice provides a wealth of information to local, state, and federal criminal justice agencies, policymakers, and other interested parties, through its Division of Law Enforcement (DLE). This information is obtained from juvenile and criminal justice agencies statewide and is compiled in various data systems maintained by two bureaus within the Division: The Bureau of Criminal Identification (BCID), which compiles statewide records of individual offenders, and the BCS/SS which maintains various statistical data systems describing the operation of the juvenile and criminal justice systems. The systems maintained by BCS are described in Section 3.6.

The BCID operates the Criminal History System (CHS), a statewide, centralized depository of criminal offender record information. The purpose of the system is two-fold: to provide criminal justice agencies with information about offenders that aids in their apprehension and prosecution, and to determine whether individuals applying for licenses, certificates, or employment in certain situations have criminal records. Criminal justice agencies are required to submit information about arrests and their subsequent dispositions to BCID. Arrests are reported by submission of a set of fingerprints to positively identify the offender. Dispositions are reported either on the fingerprint card (JUS form 249), if known at time of submission, or by submission of a disposition document (JUS form 8715) after a final disposition is made. Samples of the forms are shown in Appendix 6.

Information in the CHS is received from various agencies throughout the state, including police, sheriffs, prosecutors, courts, correctional institutions, and licensing agencies. The Penal Code describes the

situations in which these agencies are required to submit information to BCID. The requirements apply to most felony and misdemeanor arrests (i.e. "retainable offenses.") The major excluded offenses are: driving under the influence of drugs or alcohol, public drunk (unless under the influence of drugs), possession of not more than 28.5 grams of marijuana, minor in possession of alcohol, local ordinances, offenses for which incarceration is not a possible punishment, and most traffic offenses not involving drugs or alcohol.

Reporting requirements do not specifically designate that either adult or juvenile records must be reported to the DOJ. The T.N.G. decision has been interpreted by a number of local agencies to prohibit fingerprinting juveniles and forwarding other data to DOJ. An Attorney General's opinion, however, (Younger, 1972) states that T.N.G. applies only to detentions of minors followed by release without the filing of a petition. Even within that context, detention information may be transmitted without court order where authorized by statutes and may additionally be transmitted to others where authorized by court rule or court order in a particular case.

BCID does not specifically require the submission of juvenile prints or dispositional data. Some agencies do print juveniles and submit the data to BCID. At the present time, approximately 12,000 juvenile fingerprint cards are received by BCID each year. Some of the prints are submitted by the CYA (up to 2500 per year) and by probation departments, and the remainder are received from arresting agencies. Since there are nearly 177,000 juvenile arrests for retainable offenses each year, it is apparent that only a small portion are included in the CHS. When such juvenile records are received, they are processed and added to CHS.

3.5.1 Access to Criminal History Records

The CHS provides authorized criminal justice agencies with access to criminal history data via direct access computer terminals, and by teletype, telephone, and mail. Certain employers and licensing or certification agencies also may obtain information by mail. Centralized criminal history records provide a very powerful tool for use by criminal justice agencies in identifying, apprehending, and prosecuting offenders. At the same time, such records can have a strong negative influence on someone seeking employment or licensing or attempting to "rehabilitate" themselves. For this reason, access to the CHS is strictly controlled by statute, court law, and decisional law. The Department also establishes regulations, conducts audits, and provides training on security and privacy of criminal records to assure such information is disseminated only as allowed by statute and required for the performance of official duties.

Specific laws have been enacted to protect access to the Criminal History System. The Penal Code identifies who has access to the CHS and under what circumstances data can be released (Sections 11105 through 11105.3, 11120 through 11127, and 13202; see Appendix 3 for content of the statutes). Agencies and individuals must have a legal right to receive such information and must show the need for information in individual cases. Different agencies and individuals are statutorily granted access

to varying levels of information; access may be more or less restrictive depending upon the agency. (See Appendix 4 for a detailed listing of agencies.) In all cases, juvenile records cannot be released to any agency or individual for criminal history purposes unless the arrest disposition is included (Section 204, WIC).

Certain employers and licensing and certification agencies also may obtain CHS information (Sections 11105 through 11105.3, P.C.). In general, criminal history records provided for these purposes reflect only arrests that result in conviction, and arrests that are currently being prosecuted. Records of juvenile arrests are not released for employment, licensing, or certification purposes, unless the request involves certain health facility employees.

Public agencies and bonafide research bodies directly concerned with relevant criminal justice research may request records from CHS, provided (1) the information is not shared with any third party, and (2) publications or reports resulting from the information do not identify offenders by name (Section 13202, P.C.) The Department has further specified these restrictions in written policies and procedures (Appendix 5).

Other than those agencies and individuals authorized by statute or court decision to receive criminal records, the CHS information maintained by BCID is strictly confidential. Penal Code Sections 11140 through 11144 and 13301 through 13305, and Government Code Section 6200 prescribe penalties for misuse of such information. Under these code sections, it is a misdemeanor to either provide criminal records to unauthorized persons or to receive such records if one is not authorized. The Department has adopted more specific guidelines regarding release of criminal offender record information in the Administrative Code (Chapter I, Title II, Sections 700 et seq.).

3.6 STATISTICAL SYSTEMS OPERATED BY BUREAU OF CRIMINAL STATISTICS

The BCS/SS is the State's center for collecting and reporting statistical data on crime and delinquency and the administration of criminal justice in California. Through published reports, special studies and special requests, the data are made available to the Governor, the Legislature, the Attorney General, state and local criminal justice administrators and planners, criminal justice researchers and other persons and agencies interested in the administration of criminal justice in California.

The BCS maintains statistical data systems, pursuant to mandates contained in the Penal Code (Title 3, Chapter 1, 13010 et seq.). Local and state agencies that deal with crimes, criminals, or delinquents are required to submit statistical data to the Department in such manner as prescribed by the Attorney General. The data systems, categorized by programs are:

Uniform Crime Reporting Program

- Crimes and Clearances
- Arrests

- Homicide
- Arson
- Police Personnel
- Jails and Camps

Juvenile Court and Probation Statistical System

- Referral and Rereferral Data
- Juvenile Detention Survey

Adult Criminal Justice Statistical System

- Adult Felony Arrest Disposition Data
- Longitudinal File

Miscellaneous Systems

- Adult Probation
- Criminal Justice Expenditures
- Criminal Justice Personnel
- Complaints Against Peace Officers
- Crimes Against the Elderly

Within these sets of data collected by the BCS, three have particular significance to juvenile justice and recidivism; these are Monthly Arrest and Citation Register (MACR) Reporting System, Juvenile Court and Probation Statistical System (JCPSS), and the longitudinal file in the Adult Criminal Justice Statistical System (ACJSS).

3.6.1 Monthly Arrest and Citation Register Reporting System

All arrests, including those for juveniles, are reported monthly to the BCS on the Monthly Arrest And Citation Register Reporting System. Each law enforcement agency in the state provides monthly data on individuals arrested, using a JUS 750 form, or an equivalent format if reporting is by automated means (see Appendix 6 for sample form). Data included on each arrest are: name, age, sex, race/ethnicity, arresting agency, highest arrest offense, and law enforcement disposition (handled within department, turned over to another agency or referred to probation). All arrests for law violations, status offenses and certain citations are included in this data set.

3.6.2 Juvenile Court and Probation Statistical System

Further juvenile justice data are compiled through the JCPSS. The purpose of the system is to provide statistical data describing the administration of juvenile justice in California and to describe the chain of events which depict a juvenile's progress through the system from the time a case is referred to probation until it receives a final disposition by the probation department or juvenile court.

County probation departments are the source of JCPSS data pursuant to Section 285, WIC. JCPSS contains data on the characteristics and status of juveniles referred to probation including: name, age, sex,

race/ethnicity, most serious offense, referral source, detention status at referral, probation or court disposition, current supervision status and changes in status while on caseload. JCPSS data are submitted on individual reporting forms (JUS 705, Appendix 6) or on magnetic computer tape at the time the case receives a final disposition, a change of probation supervision status occurs, or supervision is terminated.

In 1980, the format of the JCPSS was modified. The new format retains the essential data elements formerly reported and captures important information that the old system did not include. Since that time, 54 counties have been reporting in the modified format and four have continued to report in the prior format. BCS programmatically converts data submitted by the four counties (Alameda, Los Angeles, San Diego and Santa Clara) to the new format, but certain data elements are not reported; those juveniles who are already on probation supervision status, are referred for a subsequent offense and have their prior status maintained, are not included in the data for the four counties.

Each year's master JCPSS file contains records for all juveniles currently on probation supervision status. At the close of the annual report period, a new master file containing all active cases and their current status is created to start the next report year. Each record on the master file represents the history of a juvenile's progress through the probation and court system for a given incident. Events are linked together to form a comprehensive record of system activities while the juvenile is on supervision status. Events that occur after the juvenile is removed from status or that occur in a different county are not programmatically linked to the individual's record.

The JCPSS file is used to generate routine statistical tabulations which are used in publications and to respond to special requests for juvenile data. Because of the confidentiality of juvenile records, and the possible sealing of records pursuant to Section 781,WIC, Department policy strictly limits the release of juvenile data containing personal identifiers; such data are only released to the contributing agency or upon court order. The identifying information is normally used only to relate the sequence of events in the juvenile justice system to the appropriate offender and to audit the information in the JCPSS; it is not used for any individual criminal history files.

3.6.3 Adult Criminal Justice Statistical System - Longitudinal File

The ACJSS satisfies two separate adult disposition reporting requirements. One is the Offender-Based Transaction Statistics (OBTS) file which is used to prepare annual reports describing the disposition of adult felony arrests; the other is the ACJSS Longitudinal file which is used to identify misdemeanor and felony offender cohorts and to conduct special studies. This file has been recently developed (May, 1985) and its range of capabilites has not been completely tested. This file could be of great interest to the AB 2755 project, as it will allow an evaluator to identify recidivists by tracking their adult arrests and disposition from one source. The file is extracted from the Criminal History System, however, and relies on fingerprint identification for all entries. The file also includes disposition information on juvenile offenders who are remanded to criminal court and tried as adults, as long as fingerprint information has been submitted by arresting and booking agencies.

SECTION 4
DESCRIPTION OF OPTIONS TO TRACK JUVENILE RECIDIVISTS

AB 2755 requires the Department of Justice (DOJ) to propose a system(s) for collecting data on subsequent criminal activity of 602 WIC offenders who are exposed to rehabilitation treatment programs. The intent of the legislation is to provide recidivism data which can be used to make decisions regarding the allocation of juvenile justice resources.

The first step in developing such recidivism data is to compile historical information about individual juvenile offenders, tracking their involvement with both the juvenile and adult criminal justice systems. The second step is to identify those juveniles who have been exposed to specific treatment programs. Both steps must be accomplished to compile aggregate recidivism data on juveniles exposed to selected rehabilitation treatment programs.

As described in Section 3, DOJ maintains two types of data collection systems (1) the Criminal History System (CHS), which consists of criminal offender records based upon fingerprints and used primarily by law enforcement for identification of adult offenders, although some juveniles are included; and, (2) statistical systems designed to describe the processing of adult and juvenile offenders by the criminal justice system. The juvenile records that are included in CHS are accessible to authorized criminal justice agencies, while juvenile records contained in the statistical systems are used for aggregate statistical purposes only and any information which could be used to identify a specific offender is kept strictly confidential.

CHS includes records based on fingerprints submitted for adult arrestees (18 years of age and older) and for juvenile offenders who are remanded to adult court (16-17 years of age). Some juvenile arrestees are also included. Separate statistical systems are maintained on juvenile arrests and juvenile probation referrals. Since records in these statistical systems are not based upon positive identification (fingerprints), arrest and probation referral records are not programmatically linked to form historical information on individual juvenile offenders. Thus, there is no comprehensive recidivism data available on individuals who first enter the criminal justice system as juveniles.

In summary, there are currently several barriers which prevent the identification of subsequent criminal activity by juveniles exposed to rehabilitation programs:

- Multiple juvenile arrest and probation records involving a single offender cannot be positively linked together in the statistical data bases.
- Juvenile and adult records cannot be positively linked together in the statistical data bases, or between the statistical data bases and the Criminal History System.

- Complete information about a juvenile's history of placements in various rehabilitation programs is not reported to DOJ.

In the following sections, we discuss three ways to create historical criminal history records on juvenile offenders, to tie these juvenile records to subsequent adult records, and to develop aggregate records on subsequent criminal activity of juvenile offenders exposed to specific rehabilitation treatment programs. The three options differ in the amount and reliability of information that they would provide, the way in which recidivism is measured and recidivists are identified, and the costs of implementation and maintenance. All of the options represent a dramatic departure from current state policies and practices regarding maintainence of juvenile records.

4.1 OVERVIEW OF THREE OPTIONS TO TRACK JUVENILE RECIDIVISTS

Option 1 uses information currently reported by probation departments to the BCS/SS Juvenile Court and Probation Statistical System (JCPSS) to document an individual's historical involvement with juvenile probation departments and courts. Additionally, local agencies may be required to report to BCS/SS the placements in rehabilitation treatment programs for each offender, including transfers between programs. The relevant JCPSS and placement data would be entered to a separate data base for easier analysis and retrieval. Recidivism would be measured as sustained court petitions. Multiple court petitions involving the same offender would be linked together by matching names and personal identifiers (date of birth, race, sex) shown on each record. Juvenile records generated from JCPSS would be tentatively linked to adult records in CHS through a similar name match process.

Option 1 is possible within the existing data systems and capabilities of the Department. It would require additional local costs for the submission of placement information to DOJ and some additional state costs for data processing and staff to refine the matching process, compile and maintain placement information, and respond to requests for information. However, because there is an unmeasurable degree of unreliability and potential inaccuracy involved with attempting to match records of juveniles based only on name and other personal identifiers, this option has inherent limitations.

Option 2 also uses JCPSS juvenile probation and court information along with treatment program placement data. However, in addition to current reporting documents, probation departments would be required to submit fingerprints to DOJ on juveniles who sustain a juvenile court petition for a 602 WIC violation. This would allow DOJ to assign a unique number to each juvenile to ensure more reliable followup of subsequent 602 WIC violations and eventual linkage with any information received by CHS after the juvenile reaches 18 years of age or is handled as an adult offender (16 to 17 years of age). Recidivism in JCPSS would be identified as sustained court petitions. Multiple court petitions involving the same individual would be linked together by the unique number.

Option 2 increases local costs for submitting fingerprints and, as in Option 1, placement data to DOJ , and DOJ costs to process the fingerprints and

placement data. In addition, DOJ would incur costs for computer programming, data processing, and staffing necessary to develop and maintain a system to select appropriate case reports and link those records involving the same individual.

Option 3 proposes that juveniles be subject to the same mandatory fingerprinting and arrest reporting requirements as adults. Their entire history of involvement with the juvenile and adult justice systems, including program placements, would be documented in the Criminal History System. This option would track juveniles from the point of arrest through final disposition, and include any subsequent actions. Recidivism would be measured as rearrest or any action subsequent to arrest. Juveniles would be fingerprinted for all felony arrests and selected misdemeanor arrests, and their case dispositions would be reported by either law enforcement agencies, juvenile probation departments, the prosecuting attorney or court, depending upon where the final dispositions ocurred. Juvenile justice dispositions can currently be entered in a "comment field" in CHS. However, system modifications would be required to capture and compile the large volume of additional juvenile records anticipated under this option. Additionally, the current CHS does not contain provisions for capturing placement data.

The costs for local agencies to comply with Option 3 would vary according to the type of case disposition. The costs to DOJ would include computer programming, software, hardware, staffing, equipment, and data processing time.

Option 3 could be adjusted to require that fewer juveniles be mandatorily fingerprinted and made a part of the Criminal History System (e.g., limit the fingerprint requirement to felonies, arrests that are referred to probation, or juveniles over a certain age, such as 15). While the basic system would remain unchanged, these adjustments would lessen concerns about fingerprinting juveniles and would place less of a burden on the Department's Criminal History System.

4.2 POPULATION CHARACTERISTICS

The goal of each option is to generate juvenile and adult records for individuals who are exposed to specific juvenile treatment programs in order to compile aggregate data on the value of such programs. Tables 4.1 and 4.2 show the average age at which juveniles are placed on and terminated from ward probation supervision, and the average length of time that they are maintained on supervision status.

Table 4.1

Age Distribution of Juveniles
Placed on and Terminated From Ward Probation Supervision

Age	Placed on Supervision Status (Percent)	Terminated From Supervision Status (Percent)
9 and under	0.1	0.0
10	0.2	0.0
11	0.6	0.2
12	2.1	0.6
13	6.4	1.6
14	12.6	4.0
15	19.1	8.2
16	24.7	13.8
17	26.7	21.7
18 and over	7.4	49.9
TOTAL	100.0%	100.0%

Table 4.2

Average Length of Stay on Ward Probation Supervision,
By Age at Which Ward is Placed on Supervision Status

Age	Months	Age	Months
8	29	15	23
9	22	16	19
10	28	17	14
11	23	18	12
12	24	19	9
13	25	20	7
14	34	21	13

More than three-quarters (78%) of the juveniles are 15 or older when supervision is initiated. By the time supervision is terminated, the vast majority (85%) are 16 or older, and half are supervised until they reach age 18. The younger juveniles tend to remain under ward probation supervision for a longer period of time than older juveniles: those under age 15 are supervised for an average of 24 months, while those 15 or older remain on supervision an average of 18 months. Juveniles may be confined to a treatment program for all or some portion of the period of supervision.

The basic systems or procedures proposed in the three options would track juvenile incidents which are within the proposed definitions of recidivism.

The data reporting requirements could be limited to incidents committed by juveniles over a certain age, with appropriate reductions in costs to local agencies and DOJ.

The most appropriate lower age limit may be 16 years, since the bulk of ward probationers are maintained on supervision until at least this age. Also, this age has been recognized as a "transition point" in the Juvenile Court Law, allowing juveniles to be tried as adults and tempering the confidentiality restrictions for serious offenses.

4.3 PROGRAM PLACEMENT INFORMATION

Currently, BCS receives very little information about an offender's treatment program history. The JCPSS data base only documents the juvenile court decision or order for each offender. Although the court order may specify that the offender be placed in a particular program, such as a county facility, judges often direct the probation officer to locate a "suitable placement." The probation officer chooses a specific program based on both suitability and availability. Subsequent changes of placement may be made without the involvement of the court, in which case no report is submitted to BCS unless a new court order is issued.

In order to respond to the mandates of AB 2755, BCS will need to know who has been exposed to each treatment program and for what period of time. There are several ways in which this might be accomplished. The individual treatment programs could be required to maintain records of all client placements. These records could be kept by the program for a specified number of years to respond to requests by BCS or independent researchers as needed; or, the records could be sumitted to BCS on a routine basis. Probation departments are currently required to notify the State Department of Social Services (DSS) when a juvenile court ward is placed in any facility where funding is provided under Aid to Families with Dependent Children -- Foster Care (AFDC-FC). These are children placed in foster homes, group homes, and residential treatment programs, and represent about 50% to 75% of all delinquents removed from their homes, depending upon the county. Children placed in county-funded facilities, such as camps and ranches, are not included.

The choice is between maintaining program placement information at the local level requiring it be submitted to BCS/SS for maintenance in a statewide data base. The latter approach may prove both cumbersome and time consuming. Approximately 25,000 delinquents are placed in treatment programs each year. Each is exposed to approximately 1.5 to 2.5 different programs in a year; some may experience a much greater number of placements. If the juvenile recidivism information is only needed on an ad hoc or infrequent basis for a small number of programs, there would be little value in routinely reporting placement data to BCS/SS. If, on the other hand, information is routinely requested for a large number of programs, it may be more appropriate to implement a statewide reporting system.

The three options for tracking juvenile recidivism include estimated local and state costs for reporting and tracking program placements. In Options 2 and 3, the addition of placement information does not affect the basic

structure of the proposed system to track recidivism, nor does it substantially affect state costs. Option 1, however, would be considerably simpler and less costly if BCS/SS did not collect placement information. Thus, Section 4.5 describes the method of tracking recidivists under Option 1 both with and without placement data.

If a statewide program placement reporting system were implemented, DOJ and DSS would determine which placements are already being reported to DSS and whether such information could be shared by the two Departments. It may be possible to add an additional carbon copy to the placement forms currently submitted to DSS, or to obtain the data directly from the DSS data base.

4.4 IDENTIFICATION OF RECIDIVISTS: FINGERPRINTS VERSUS NAMES

In order to identify recidivists, there is a need to know that an individual who commits crimes at different times and in different jurisdictions is the same person. The only reliable method of positively identifying an offender is by fingerprinting. Based upon fingerprints, a unique number (CII number) can be assigned to the offender for identification and recordkeeping purposes.

As an alternative to fingerprints, names and demographic data can be used to link criminal activities. However, this approach is less accurate than fingerprints because:

- Juveniles may intentionally use different names and dates of birth in order to avoid detection as a repeat offender. This is particularly easy to do if the offender has moved from one jurisdiction to another. There are indications in the delinquency cohort literature that delinquents do in fact change their residence more frequently than non-delinquents (see Wolfgang, Thorsten and Sellin, 1972; CYA, June 1981). While the cohort studies have focused on residence changes within a single city or county, the greater mobility of delinquents within a jurisdiction may reflect a broader pattern.

- A minor may move from the home of one parent to the other and use two different last names, or a female may marry and assume a new name.

- Names or birthdates may be unintentionally misrecorded by an arresting or probation officer.

- Two different individuals may have the same name and date of birth.

- Other numbers commonly used to identify individuals (social security number, driver's license number, etc.) are not based on positive identification and can therefore result in the same inherent problems cited above. For example, during interviews with administrators of programs that receive AFDC funding, BCS found that minors frequently have more than one social security number. In addition, fake driver's licences are often found in the

possession of minors for purposes of engaging in "adult" activities (alcohol purchase, adult movies etc.)

Section 4.5.2 provides several estimates of the degree of accuracy that can be expected if longitudinal records are generated based on names and personal identifiers other than fingerprints.

4.5 DESCRIPTION OF OPTION 1

Option 1 is the simplest of the three options, but also provides the least reliable information. This method of tracking recidivists would be based on records maintained in the Juvenile Court and Probation Statistical System and the Criminal History Systems. Data on juvenile offenders who have been exposed to rehabilitation treatment programs could be collected from the programs or probation departments on an as needed basis or routinely for comparison against JCPSS and CHS, based on name and other personal identifiers. Juvenile recidivism would be measured as sustained court petitions (equivalent to an adult court conviction), which include minors placed or continued on nonward or ward probation supervision and minors committed to CYA. Adult recidivism would be measured as arrest and any action subsequent to arrest.

Minimal costs would be incurred by the State and probation departments or local treatment programs if they are required to provide placement data to the state on an as needed basis only. However, if local programs or probation departments are routinely required to provide placement data for maintenence in a statewide file this option would become more complicated. The relevant information from the JCPSS and the placement data would be entered to a separate data base, referred to as the Juvenile Recidivism Tracking System (JRTS), in order to simplify the analysis and retrieval of data.

The major advantages of Option 1 is that no fingerprinting of juveniles would be required, and the costs to local agencies/programs and the State could be minimized depending on how placement data are collected.

The major disadvantages are:

- The process for matching records based on names and personal identifiers is unreliable, and thus the longitudinal records may be incomplete or erroneous.
- The reliability of the name match process may vary among counties due to differing reporting practices, resulting in unfair judgements about certain programs.
- Local reporting to JCPSS is incomplete.

4.5.1 Data Sources and Processing

In Option 1, BCS would attempt to track recidivism by extracting individual juvenile probation and court reports from the JCPSS data base and summary criminal records from the CHS. Without fingerprint identification, the only

method of linking these records to specific offenders is by a name matching process. Procedurally, three levels of name matches would have to be accomplished in order to create a complete record of an individual's involvement with the juvenile and adult justice systems:

(1) link together JCPSS juvenile probation and court reports pertaining to a single period of probation supervision

(2) link together JCPSS juvenile probation and court reports pertaining to separate periods of probation supervision, either in a single county or in differing counties; and

(3) link these juvenile records to adult information in CHS.

The first match is currently being done as probation and court reports are received by BCS/SS and entered to the JCPSS data base. The second match is more difficult. In some counties, the same probation number is assigned to an individual if he or she is placed on probation supervision after having been terminated from a prior period of supervision; other counties issue a new number. Since each county uses a distinct numbering system, juveniles who are placed on probation supervision in several counties over a period of years will be assigned different numbers. If a juvenile only commits crimes in one jurisdiction, and if the probation department continues to use the same probation number to identify that juvenile, an accurate and complete record of the individual's probation experiences can be created. However, if the juvenile appears in different counties, or the probation department assigns a new number for each period of probation supervision, reports to BCS/SS involving an individual offender can only be linked based on name and other demographic data.

Similarly, the third match can only be made based on name and demographic data. Here, BCS would attempt to locate CHS records for selected juveniles who have been exposed to treatment programs. The Department has an existing automated process for searching individual names against all criminal records in CHS. The criminal record includes any arrests for which a fingerprint is submitted. The juvenile arrest entries are quite limited, since few law enforcement agencies routinely submit juvenile fingerprints and these tend to be for the more serious cases.

4.5.2 Discussion

Option 1 was intentionally designed so that no fingerprints would be required. As a result, the cost impact on local agencies is minimized. However, without fingerprint identification, the longitudinal records may be incomplete, or even inaccurate, because of weaknesses in the name matching process and because of incomplete reporting by local criminal justice agencies.

Option 1 relies upon a name matching process to create longitudinal records. Some events will be erroneously matched if the names and dates of birth are similar, or if two individuals have the same name and date of birth. Others will not be matched because a name is misspelled or an alias is used.

As indicated in the previous section, CHS includes a program for matching individual names against the criminal history file. Project staff estimated the accuracy of this program by searching for adult records of a cohort of juveniles placed in county camps. DOJ staff also developed and tested several programs for matching cohorts of juveniles with their subsequent reports in the JCPSS data base. The intent of these matching tests was two-fold: to determine whether records could be found, based only on name and demographic data; and to generate preliminary recidivism data.

The CHS name matching process uses an automated program in which the criteria for matching can be varied until a potential match is found. The name of an offender is entered into the system via a terminal, and the matching program identifies potential candidates who have an existing summary criminal record in CHS and may be the same person. The potential candidates are selected based on similarities in name, date of birth, sex, and race. If no candidates are found, or if too many are found, the selection criteria can be made more or less restrictive. Once the candidate names are displayed on the terminal screen, a staff person must choose the most likely match.

BCS staff used the CHS name matching program to search for summary criminal history records, or rapsheets, for 173 offenders who were released from camps and ranches in one county in 1982. The names of the offenders were submitted to CYA by the county probation department and shared with BCS as part of a joint research project. The rapsheets include all arrests in which fingerprints are taken and submitted to DOJ, as well as records of CYA commitments.

Eighty percent (or 138) of the camp releases were tentatively matched to a rapsheet in the CHS. A manual inspection of the rapsheets indicated that ten of the tentative matches could not be confirmed because of wide discrepancies between the personal identifiers reported by the probation department and those shown on the rapsheet.

The remaining 128 matches appeared to be accurate. On 95 of the rapsheets, the name, birthdate, and race were exactly the same as those reported by the county. On an additional 21 rapsheets, the birthdate or race was discrepant, but similar enough to allow for a manual verification of the match. Twelve of the matches were based on a secondary name or an alias shown on the rapsheet. Thus, 128, or 74% of the 173 offenders, could be programmatically matched with a rapsheet, and manually verified with a relatively high degree of certainty. The difference could be attributed to match error and/or non recidivists.

The accuracy of the CHS name matching process can be verified in another manner. When BCID receives arrest records, staff initially attempt to match the record to an existing record in the CHS based on personal identifiers alone. Tentative name matches are made on 48% of the incoming records. These are then verified based on fingerprint identification. Only 2% of the tentative matches are found to be inaccurate based on the fingerprint comparison. Of those arrest records that cannot be matched to an existing record using the name matching program (52%), 15% are subsequently linked based on a fingerprint search. These are generally cases in which there are substantial differences in the reporting of personal identifiers. Among all identifications, 87% of all the matches can be accurately made based on

name, and an additional 13% by fingerprint only. An unknown volume of records are not linked together by name or fingerprint, when in fact they are the same person.

The "recidivism rates" associated with the camp release cohort are also of interest. Among those 138 cases where a rapsheet was found the majority (113 or 82%) included an adult arrest. The remaining rapsheets only included juvenile arrests or commitments to CYA. Thus, 113 (65%) of the 173 offenders who were committed to camps and ranches were arrested as an adult within two to three years following release, according to the CHS search; 27 (20%) were confined to CYA facilities during at least a portion of the follow-up period. While this is only a preliminary analysis of a sample of offenders, it suggests that the process of linking juvenile names to adult records in CHS may be moderately reliable.

The second type of "pre-test" for Option 1 consisted of developing several matching programs for the JCPSS data base. These programs simultaneously matched a number of known offenders against the BCS statistical data bases. A programmer created a "key index", or Key 1, listing the names and personal identifiers of individuals of interest for tracking purposes (e.g., juveniles exposed to treatment programs). A similar key, referred to as Key 2, was created listing the names and personal identifiers of all individuals in the statistical data base against which Key 1 was to be matched (i.e., the JPCSS). An automated program matched the two keys based on a set of pre-determined criteria (exact last name, first three letters of first name, year of birth plus or minus two years, and sex).

The automated process for matching groups of names against the statistical files was by no means infallible. If last names were spelled slightly different on two reports -- Gorman vs. Garman -- they were not programmatically matched. Alternately, different individuals with similar first names and birthdates were erroneously matched-- e.g., Marty, Marvin, Mark. To partially overcome this problem, an alphabetically sorted listing of both matched and non-matched records was visually scrutinized.

The matching program was tested by selecting a cohort of 1400 juveniles who were made wards of the juvenile court in 1980 at the age of 13, and attempting to track their recidivism, measured as any new sustained petition for a law violation, using reports in the JCPSS files for the years 1980 through 1984. The results of the automated matching program indicated that 73% (or 1016) of the juveniles in the 1980 cohort were tentatively linked to a subsequent sustained petition. Project staff reviewed a printout of these tentative matches and found that 851 (84%) were clearly accurate matches; another 39 (4%) appeared to be same individual, but slight differences in the personal identifiers would require that further information be obtained from the contributing agency to verify the match. The remaining 126 (12%) of the tentative matches proved to be erroneous. Of those matched, 75% of the juveniles who sustained more than one petition did so in only one county. This finding may indicate that juveniles are likely to remain in one county, and their subsequent criminal involvement may be identified fairly accurately based on their name and personal identifiers. Alternately, juveniles may be involved with various probation departments using alternative names, making it impossible to track their subsequent criminal involvement based on name.

A review of CHS records (rapsheets) for the cohort of camp releases provides some insight to offender mobility. Among the 113 camp releases who were arrested as adults, 82% (93) had arrests in only one county. Similarly, an analysis of more than 34,000 offender records in the Criminal History System indicated that 88% had arrests in only one county during a five-year follow-up period. The small number of camp releases (31) who had juvenile arrests recorded on their rapsheets appeared to be more mobile; one-third had arrests in two or more counties. This may be a function of the small sample size.

While the name matching process that has been developed and tested is only in a preliminary stage, BCS would continue to refine and further test its accuracy if this option were pursued by the Legislature. It is certainly less accurate than matching records based on fingerprint identification. It does, however, provide an alternative to requiring that juveniles be fingerprinted, as in Options 2 and 3. The accuracy may be improved if researchers who request longitudinal records are asked to verify the contents by reviewing source documents maintained by the contributing agency.

It should be kept in mind that if certain counties are more likely to report names and birthdates inaccurately or to unknowingly report a case under an alias, the name matching process may systematically bias the evaluations of certain programs. For example, County A may scrupulously verify and report to BCS the names of juveniles who sustain a juvenile court petition, while County B may not. The extent of recidivism in County A would appear to be higher than in B, since the matching process would be more accurate.

In addition to the problems inherent in the matching process, there is some underreporting associated with all of the DOJ data bases. For example, in spite of ongoing efforts by BCS to improve the level of reporting, some probation departments do not report all of their probation referrals to the JCPSS data base. Cases that require long-term processing -- the most serious cases -- are apparently the most likely to be "lost" in the reporting process. There is also a high turnover among the clerical staff responsible for making reports to BCS, and errors may be made before the staff are properly trained. Finally, probation resources are severely strained, and reports to BCS are not the top priority of the agencies.

Similarly, local reporting to the CHS data base is incomplete. Comparisons with the Monthly Arrest and Citation Register indicate that arrests (i.e., fingerprints) are underreported by approximately 16% and dispositions by 30%. Although there are differences in these data bases that cannot be overcome statistically, this is still a fairly valid indication of underreporting. The Criminal Identification and Information Branch (CIIB) is continually involved in working with local agencies to improve the level of reporting.

If the name match process was intended as an investigative tool or to guide court decisions, the underreporting and the unverifiable degree of accuracy would be unacceptable. For statistical research purposes, however, it may be an adequate option, if some degree of error is acceptable in records of recidivism.

4.6 DESCRIPTION OF OPTION 2

Option 2 is similar to Option 1 in that information about juvenile probation and court experiences will be extracted from the JCPSS, and recidivism will be measured as sustained juvenile court petitions for law violations (i.e., dispositions of non ward or ward probation supervision, and commitment to CYA). However, longitudinal records will be created based on a unique identifying number rather than names and personal identifiers and entered to an automated Juvenile Recidivism Tracking System (JRTS). Cohorts of juvenile offenders will be selected from the JRTS data base and matched, based on their unique identifying number, with their appropriate adult records in ACJSS or CHS.

Since fingerprint classifications are the most accurate means of identifying individuals and assigning a unique number, this option will require fingerprinting of juveniles who fall within the definition of recidivism -- those who sustain a juvenile court petition for a law violation. Probation departments, which act as staff to the juvenile court, will have responsibility for obtaining fingerprints of these offenders and submitting a fingerprint card to DOJ.

4.6.1 Data Sources and Procedures

The fingerprint card and the JCPSS probation and court reports (JUS 705) will be two data sources for this option. Additionally, program placement data could be reported by local agencies on a new form and incorporated in the JRTS. A unique number will be assigned to each juvenile who receives a sustained court petition, based on their fingerprint classification. The unique number will be added to the information obtained from the JUS 705 reports, allowing BCS/SS to link the transactions involving a single individual with a much higher degree of accuracy than by name and birthdate alone.

Procedurally, Option 2 will operate as follows. Probation departments will submit JUS 705 reports to BCS/SS as currently required for all delinquency referrals to probation. In addition, the departments will submit a fingerprint card for juveniles who the court finds have committed a law violation. When BCS/SS receives the two documents, the fingerprint cards will be given to the Bureau of Criminal Identification (BCID), where the prints will be analyzed and a unique number assigned to the individual if one does not already exist.

Several precautions have been built into this option so that access to the probation fingerprints is severely limited, and no Criminal History System records are established for these offenders. The only information included on the fingerprint card will be personal identifiers and the county and local probation number associated with the case. A computerized image of the fingerprint will be entered to BCID's Automated Fingerprint Identification System (AFIS) solely for in-house comparisons with other fingerprints in the file. Unlike other AFIS fingerprints, these prints will not be accessible through the remote terminals of local law enforcement agencies, nor for comparison with latent prints (i.e., prints found at a crime scene). Rather than assigning a standard CII number to the case, BCID will use a separate numbering system for these juveniles, referred to as "J"

numbers. The fingerprint card itself, and the probation information recorded on the card, will be forwarded to BCS/SS after the J number has been assigned.

If a juvenile or adult arrest print is subsequently received for one of these individuals, the J number will be changed to a CII number, and BCS will be notified of the change. Using the CII number, juvenile records contained in the JRTS will be programmatically matched with adult records contained in the CHS.

The JUS 705 probation and court reports that are of interest for juvenile recidivism tracking purposes -- i.e., those involving a law violator whose petition has been sustained by the juvenile court -- will be programmatically flagged and entered to an automated Juvenile Recidivism Tracking System file. As information is entered to the automated file, it will be placed in a temporary "holding" file. On a routine basis, the Department will programmatically link individual probation and court reports to form longitudinal summary records.

As a condition of ward probation, the juvenile court may order that the minor be committed to a county camp or ranch, or a suitable private placement such as a group home or residential facility. These placements, along with offenders who are committed to CYA, represent the "target population" of AB 2755. Their placement histories could be recorded in the JRTS along with the probation and court data.

4.6.2 Discussion

Option 2 would provide more complete and accurate information than Option 1, because of the unique identifying number. The primary concerns about this option involve the impact of fingerprinting: increased local workload, benefits achieved from the information versus the costs, impact on juvenile justice system philosophy, confidentiality of records, and the duplication of fingerprinting effort.

If this option were selected by the Legislature, probation departments would be required to fingerprint approximately 57,000 juveniles each year and submit the prints to DOJ. Chief probation officers and line staff interviewed as part of this project objected to the increased workload this would impose. In some counties, additional staff would be required to fulfill this function. Only ten probation departments currently fingerprint minors, and all but one are small agencies. It was questioned whether the cost of fingerprinting justified the anticipated benefits, i.e., verifiable records for research purposes.

Some probation officers and other practitioners and researchers believed that the fingerprinting mandate would be inconsistent with the philosphies of the juvenile justice system. While this option does not involve the creation of criminal history records per se, as in Option 3, there were concerns that the process of fingerprinting would be stigmatizing to the minor and would be counterproductive to the goals of the justice system, i.e., to rehabilitate young offenders.

If fingerprinting were mandatory at the court level, some juveniles would be fingerprinted twice during the processing of a case. The BCS survey of law enforcement agencies indicated that some juveniles are already fingerprinted at the point of arrest. These prints may or may not be submitted to DOJ. Option 2 may result in these juveniles being fingerprinted again following court adjudication. This duplication could be avoided through an administrative process wherein the court requests a copy of the print from law enforcement prior to directing probation to print the offender. This would be left to the discretion of local jurisdictions.

One final concern relevant to Option 2 is the underreporting of probation and court cases to the JCPSS data base, and the underreporting of arrests and dispositions to CHS. As discussed in Option 1, CIIB has taken, and continues to take steps to encourage local agencies to improve their reporting.

It should be mentioned that Option 2 could be expanded to require fingerprints of all juveniles referred to probation, rather than only those who sustain a juvenile court petition. The JRTS data base would then include a complete picture of each juvenile's probation and court experiences. The disadvantage of this approach is that probation departments would be required to expend considerable resources to fingerprint all referrals.

4.7 DESCRIPTION OF OPTION 3

Option 3 is designed to capture offender-based information that describes the entire juvenile justice process, from arrest through final case disposition and program placement, if desired, and enter that information in the existing CHS. This information currently is not reported on a routine basis.

As in the adult system, Option 3 would require that a reporting form be initiated by law enforcement agencies for each juvenile arrested for selected offenses and completed by those agencies of the justice system which process the case (e.g., probation, courts). The arresting agency would also fingerprint the juvenile offender and submit a fingerprint card to the Department. The fingerprint identification would be used to assign a unique number to the offender and to link together subsequent arrests and dispositions. This option would result in the Department establishment of a continuous record of an offender's criminal involvement as both a juvenile and an adult. Unlike Options 1 and 2, the juvenile records proposed in Option 3 could be made available to criminal justice practitioners, particularly the law enforcement community.

DOJ's existing data files do not track a juvenile case from the point of arrest through disposition. The Uniform Crime Reporting System identifies the names of juvenile arrestees and their law enforcement disposition, while a separate data base, JCPSS, identifies referrals to juvenile probation and their final disposition by probation or the juvenile court. There is no reliable link between the two systems to allow an arrest to be followed through the probation and court process. Local law enforcement agencies may, on their own initiative, submit fingerprint cards and disposition documents on juvenile arrestees for inclusion in CHS. However, this is on a random basis and typically includes only the law enforcement disposition, not the final case disposition if it occurs at a later point in the system.

4.7.1 Definitions

Option 3 would require that any juvenile arrested for a retainable law violation be fingerprinted by the arresting agency. An "arrest" would be defined as booking, citation to appear at the law enforcement or probation department, detention, or handling in some other manner beyond a field contact (field contacts would not be subject to fingerprinting). The complications inherent in obtaining fingerprints of cited offenders are described in Section 4.7.4.

"Retainable offenses" include all felonies and most misdemeanors, as currently defined in CHS. Status offenses would not be included. Among the most significant non-retainable offenses are: driving under the influence of drugs or alcohol, minor in possession of alcohol, local ordinances, drunk, possession or transportation of not more than 28.5 grams of marijuana, any offense for which incarceration is not a possible punishment, and most traffic offenses.

4.7.2 Data Sources

A copy of the fingerprint card (JUS Form 249) which is currently used to submit arrest prints is shown in Appendix 6. A juvenile disposition document would be developed to report juvenile arrests, dispositions, and program placements. Law enforcement agencies would be responsible for initiating the juvenile disposition document, in the same manner as they are currently required to complete a standardized form when an adult is arrested. If the disposition was final at the police level (e.g., booked and released), the agency would mail the form directly to DOJ. If the offender was delivered to juvenile hall or referred to probation, the document would "follow" the offender to this next step in the process. Since probation departments are the central recordkeeping agency for the juvenile court and for county-run juvenile facilities, they would most likely submit the remaining disposition data. This of course would impose a considerable workload on probation agencies.

4.7.3 Data Processing

The Criminal History System was designed to capture information about cases processed by the adult justice system. The specifications of the system, including data elements, types of records, editing and error resolution procedures, file content, and types of output, were designed and thoroughly tested using adult case records. Modifications to the existing CHS would need to be made to allow complete recording of juvenile processing steps in a programmatically accessible format. The redesign process would require extensive programming, testing, and staff training, as well as additional computer equipment, staff, and space.

4.7.4 Discussion

Of the three options described herein, Option 3 represents the most radical

departure from existing philosophies and practices in the juvenile justice system, but also provides the most comprehensive picture of delinquent behavior. Juveniles would be treated essentially the same as adults for fingerprinting and state record-keeping purposes. The juvenile and adult longitudinal records could be made available for nonresearch purposes, i.e., tentative identification of suspects.

This option would provide information about criminal involvement at the earliest possible point; i.e., arrest. Options 1 and 2 measured recidivism at the point of court adjudication, thus ignoring the arrests that are diverted prior to the final court action. There is, however, a disadvantage to using arrests as a measure of recidivism, in that the acts that constitute a juvenile arrest differ from one jurisdiction to another. For example, some law enforcement agencies consider any contact with a juvenile as an arrest, while others do not consider that an arrest has occurred unless formal booking or detention takes place. BCS/SS has devoted considerable resources to attempting to achieve some consistency throughout the state, but the variations persist.

If Option 3 were proposed by the Legislature, new and time-consuming reporting and procedural burdens would be imposed on both law enforcement agencies and probation departments. Law enforcement agencies make approximately 730,000 arrests of adults for retainable law violations each year. If juveniles were subject to the same mandatory fingerprinting requirement as adults, law enforcement would be required to fingerprint an additional 177,000 arrestees and submit the prints to DOJ. Juvenile arrestees are already fingerprinted by <u>some</u> law enforcement agencies for <u>some</u> offenses. In general, prints are only taken for the more serious offenses or cases which are likely to involve a latent print at the crime scene. These prints are rarely submitted to DOJ.

Option 3 would result in some duplication of effort by probation departments which are now required to report on the disposition of all cases referred to probation, including those that would be subject to additional reporting requirements under Option 3. To avoid this duplication, the Department would need to design a reporting document that serves the needs of both CHS and JCPSS. The reporting responsibilities of probation departments would be expanded; rather than initiating and completing a relatively simple reporting form at the time a referral is received, probation departments would be required to locate the form initiated by the arrest agency and complete the more comprehensive disposition information required under this option. About 13% of the referrals handled by probation departments (or about 18,000 cases each year) do not originate with a law enforcement arrest. Many of these involve misdemeanors committed by probationers who are then re-referred to the agency by a probation officer without formal arrest and fingerprinting. If Option 3 were selected by the Legislature, a process would have to be initiated to obtain these prints.

In addition to the local impact of Option 3, there would be a substantial impact on BCID and on the existing CHS if juvenile record keeping were expanded as proposed. Not only would more juvenile records be included in CHS, but some records would include information about program placements which is not essential to the current purposes of the system. The increased workload imposed by this option would require additional staff and

equipment, and the DOJ facilities are already at maximum space capacity. The Department would be forced to locate new facilities, or expand the existing facilities. Extensive computer programming also would be required to capture the new information relevant to juveniles. The addition of juvenile records may affect the speed at which the CHS is able to provide information about suspected offenders to law enforcement officers. When CHS was recently converted from a manual to an automated format, it was designed to accommodate the anticipated volume of juvenile and adult records based on existing statutes. The addition of a significant number of juveniles could lengthen response time and potentially overload the system.

In light of the concerns about substantially increasing local and state workload and costs, project staff explored alternative ways to generate the records proposed in Option 3. One approach would be to expand the basic system proposed in Option 2, i.e., require fingerprinting of selected juveniles, but include their juvenile records in a Juvenile Recidivism Tracking System that is maintained independently of the CHS. Juveniles could be fingerprinted for all referrals to probation, rather than only sustained petitions. The JRTS data base would then include a complete picture of each juvenile's probation and court experiences. This would provide a broad measure of recidivism, without greatly impacting the existing CHS. However, probation departments would be required to expend considerable time and resources to fingerprint all referrals to probation. The only benefit in return would be a research data base. In Option 3, the "cost to benefit" ratio is more balanced, since law enforcement provides the fingerprints but may in turn have access to complete juvenile records.

Another approach is to modify reporting requirements within the same general framework of Option 3. For example, it could be limited to the more serious offenses, such as felonies or offenses listed in Section 707b WIC. These include murder, arson, armed robbery, rape and other sex offenses, certain kidnap, serious assault, and serious drug offenses. This would reduce the workload to approximately 71,000 (all felonies) or less than 25,000 (707b offenses only). Alternately, fingerprints could be required only for arrests referred to probation (125,000 incidents per year), or arrests involving juveniles age 15 and older (133,000 incidents). A phased-in approach could also be considered, beginning with the older and more serious offenders. Of course, a narrower definition will result in fewer records. The choice is essentially a policy decision: Is the State willing to mandate that juvenile arrestees be treated as adults and fingerprinted to allow positive tracking of their history, and willing to devote the resources needed to accomplish this task?

Regardless of which measure of recidivism is pursued, statutory provisions should be enacted allowing juveniles to have their CHS records purged under various circumstances. Adults may currently request their records be purged if they are found factually innocent or obtain a certificate of rehabilitation and pardon. Juveniles may request their records be sealed after a certain period of "clean time." Both juveniles and adults may request that records of misdemeanor charges be purged one year following commission of the offense. The purging provisions could be extended to juveniles who successfully complete a diversion program or whose cases are dismissed by probation or the juvenile court.

Finally, there are philosophical concerns. Some of the justice system practitioners who were interviewed as part of this project, as well as high level staff in DOJ, believed that Option 3 destroys some of the unique features of the Juvenile Court Law. The Chief Probation Officers Association pointed out that society has historically recognized that there are important differences between children and adults: children do not have the same knowledge, understanding, or maturity as adults. The juvenile justice system, and its unique philosophy of rehabilitation, confidentiality, and "best interests of the child," was established in recognition of these differences. The fingerprinting process, and the creation of accessible juvenile criminal history records, was deemed counterproductive to these philosophies.

The California Public Defenders Association objected to the creation of criminal records for similar reasons. Since juveniles do not have the same legal protections as adults -- most notably they lack the right to bail and to a jury trial -- the public defenders argued that their arrests and court records should not be included in a criminal history system.

4.8 ACCESS TO LONGITUDINAL JUVENILE RECORDS

The three options described herein would allow the Department to generate a longitudinal record of an offender's involvement with both the juvenile and adult justice systems. A good deal of confidence could be placed in the reliability of records generated in Options 2 and 3; those created in Option 1 would be less reliable.

The records envisioned in Options 1 and 2 would be maintained and controlled by BCS. Currently, Department policy dictates that information about juvenile offenders contained in the BCS statistical system cannot be released to researchers unless it is in aggregate, statistical format or unless personal identifiers are removed from the records prior to release. Records with personal identifiers may only be released to the contributing agency. If either Option 1 or 2 were adopted, juvenile offender information would be released to bonafide researchers, such as private consultants or probation department personnel, with the same restrictions that now apply to adult offender information, including:

- Requests for information must be approved by the Chief of BCS.
- Information is strictly confidential and cannot be released to a third party.
- Information displayed in public reports cannot identify individual offenders.
- When released to an outside researcher, personal identifiers shown on the records must be removed upon completion of the research effort.
- Upon notification by BCS that a juvenile record has been sealed as a result of a court order, individuals who have received a copy of the record must be notified and remove all personal identifiers.

- BCS has the authority to examine records that have been released to an outside researcher at any time to ensure that confidentiality rules are being followed.

In Option 1, records released for research purposes also would be accompanied by a "Data Limitations" statement highlighting the potential unreliability of the information.

Option 3 proposes that juvenile arrest and disposition records be included in the Criminal History System on a routine basis. While juvenile records maintained in the various BCS statistical systems have been kept strictly confidential pursuant to the T.N.G. decision as described in Section 3, those that are currently stored in the CHS may be released to criminal justice practitioners _if_ the arrest disposition is included and _if_ the requestor can establish a need and right to know the information. Appendix 4 identifies the agencies and individuals who may access these records, including law enforcement officers, probation officers, public defenders, prosecuting attorneys, and court personnel.

Currently, there are relatively few juvenile records in the CHS. If Option 3 were adopted by the Legislature, the number of juvenile records in the CHS would increase dramatically. Unless specific statutory limitations were imposed on access to these records, more juvenile records would be available to justice system practitioners. Because there would be substantial local costs and reporting requirements associated with Option 3, it would be logical to extend the access to, and benefits of, these juvenile records beyond policymakers and the research community to the broader criminal justice community.

Access to locally-stored juvenile fingerprints is also an issue in Options 2 and 3. Option 2 would require that juveniles who sustain a juvenile court petition for a law violation be fingerprinted by the probation departments. In Option 3, juvenile fingerprints would be taken and stored by law enforcement agencies. Local access to these fingerprints would be subject to the same policies as other juvenile law enforcement and probation records. As discussed in Section 3, local juvenile court orders control access to juvenile records pursuant to the T.N.G. decision, and the content of these orders varies from one jurisdiction to another. It should be pointed out that while Option 3 would appear to substantially increase access to juvenile fingerprints, many law enforcement agencies currently fingerprint juveniles and, by statute, may share these prints with other law enforcement agencies (Section 828 WIC).

4.9 LEGISLATION

Options 1 and 2 would both require that BCS release names of juvenile offenders contained in JCPSS for bonafide research purposes. The Department does not currently release these names, pursuant to the 1971 T.N.G. decision which specifies that all juvenile records are confidential unless specific access is authorized by the juvenile court. Thus, a court order would be required to authorize release of the juvenile information envisioned in Options 1 or 2, unless the Legislature enacted a statute providing access to these records to bonafide researchers, such as the following:

Section 13013 P.C. Release of Data to Public Agencies and Research Bodies. Every public agency or bona fide research body immediately concerned with the prevention or control of crime, the quality of criminal justice, or the custody or correction of offenders, may be provided with information about juvenile and adult offenders, as described in Section 13010, as is required for the performance of its duties, provided that any material identifying individuals is not transferred, revealed, or used for other than research or statistical activities and reports or publications derived therefrom do not identify specific individuals, and provided that such agency or body pays the cost of the processing of such data as determined by the Attorney General.

Existing law does not prohibit fingerprinting of juveniles by either law enforcement or probation, but neither does it require fingerprinting of juveniles. For Option 2 to be effective, a statutory mandate should be enacted to ensure fingerprinting of all juveniles who sustain a juvenile court petition for a law violation. Language could be added to the Welfare and Institutions Code as follows:

> Section 725.6 WIC. Fingerprints. In any case in which the court finds that the minor is a person described in Section 602, the probation officer shall obtain fingerprints of the minor and record them upon a standard form provided by the Department of Justice. The probation officer shall forward a copy of the fingerprints to the Department of Justice within ten (10) working days of the court findings.

Likewise, Option 3 would require a statutory mandate that juvenile arrestees be fingerprinted, and that juvenile arrest disposition documents be submitted to the DOJ. The following proposed legislation would accomplish this objective:

> Section 626.6 WIC. Fingerprints. In any case where a minor is taken into custody under the provisions of Section 625 on the grounds that there is a reasonable cause for believing the minor is a person described in Section 602, the law enforcement agency shall report to the Department of Justice the applicable identification and arrest data, as defined by the Department, and fingerprints of that person.

4.10 STATE AND LOCAL COSTS

Figure 4.1 summarizes the major known state and local costs for start-up and ongoing maintenance of the data collection systems under each of the three options. For each of the options, two different levels of costs are shown:

(1) With placement data. These are the estimated costs of each option assuming probation departments are required to report to BCS/SS when a juvenile court ward is placed in a treatment program, or moved from one program to another. If some of the data was obtained directly from DSS instead of the probation departments, the costs would be lower than estmated.

(2) Without placement data. Each of the proposed systems would provide useful information about an individual court ward's recidivism, even if the sytem did not account for the ward's treatment program history. Thus, this section provides cost estimates for each option assuming BCS/SS does not collect and compile such placement data.

The state costs for the three options are general estimates based on previous system design and staffing experience. Local fingerprinting and disposition reporting costs for Options 2 and 3 were projected from a sample of several counties from which BCS requested rough estimates only. More precise estimates would have required a considerable expenditure of local resources.

The Chief Probation Officers of California provided BCS, on very short notice, with rough local cost estimates for several counties to report placement data to BCS. Based on one county's cost estimate, BCS projected the statewide start-up costs to be $1.9 million for development of procedures to retrieve and report the relevant data and $1.3 million a year for ongoing operating costs. The costs are the same for each of the three options.

Figure 4.1
SUMMARY OF KNOWN COSTS: OPTIONS 1, 2, AND 3
(in thousands)

	OPTION 1		OPTION 2		OPTION 3	
	With Placement Data	Without Placement Data	With Placement Data	Without Placement Data	With Placement Data	Without Placement Data
LOCAL START-UP COSTS						
- Purchase fingerprint equipment	0	0	7	7	0	0
- Develop method to retrieve and report placement data	1,863	0	1,863	0	1,863	0
LOCAL ONGOING COSTS						
- Fingerprint targeted offenders	0	0	865 (2) 774 (3)	865 (2) 774 (3)	1,731 (2) 1,348 (3)	1,731 (2) 1,348 (3)
- Complete disposition document	0	0	0	0	765	765
- Submit placement data	1,318	0	1,318	0	1,318	0
STATE START-UP COSTS						
- Systems analysis and development	127	78	156	154	250	234
- Purchase of computer equipment	0	0	0	0	2,000 to 5,000 (1)	2,000 to 5,000 (1)
STATE ONGOING COSTS						
- Personnel and standard operating expenses and equipment	89	74	340 (2) 318 (3)	320 (2) 299 (3)	1,858	1,777 (4)
- Computer disk space	0	0	0	0	94	94
TOTAL START-UP COSTS	1,990	78	2,026	162	4,113 to 7,113	2,234 to 5,234
TOTAL ONGOING COSTS	1,407	74	2,523 (2) 2,410 (3)	1,185 (2) 1,073 (3)	5,766 (2) 5,383 (3)	4,366 (2) 3,984 (3)

(1) DOJ is in the process of implementing an Automated Fingerprint Identification System. Processing the large volume of juvenile fingerprint cards that would be submitted under Option 3 may require additional computer equipment. More specific cost estimates cannot be provided because the system is new and its capabilities are not certain.

(2) First year costs.

(3) Subsequent year costs.

(4) Equipment costs will be higher if the number of fingerprints exceeds 50,000 per year.

In considering the cost estimates, please, bear in mind that each of the options, except Option 1 without placement data, involve practices and reporting procedures that are substantially different than current practices. If the Legislature adopts and funds one of the options, the Department will develop a more comprehensive analysis of the required process and resulting costs.

The costs associated with Option 1, without placement data, would be incurred solely by DOJ. There would be no additional local reporting requirements, and thus no local costs. The selection, matching, and processing of juvenile records would involve both automated and manual procedures. The state cost to develop these procedures (start-up) is estimated to be $78,000. The ongoing state cost to run the matching program and respond to requests for information would be approximately $74,000. These costs are based on an assumption that BCS would receive 4 special requests per year and 500 record checks per request.

If placement data were required in Option 1, state start-up costs would increase to $127,000 and ongoing annual costs would increase to $89,000. Local costs would be approximately $1.9 million for start-up and $1.3 million a year for ongoing system operation. The total state and local costs would thus be $2.0 million for development and $1.4 for annual ongoing operation.

In Option 2, local probation departments would be required to fingerprint approximately 57,000 juveniles annually at an estimated start-up cost of $7,000 and first-year ongoingcost of $865,000 to prepare one set of prints for local retention and one for submission to DOJ. The ongoing cost would be less after the first year of implementation, since a portion of the juveniles would be repeat offenders for whom local prints would already be available. If 25% were repeat offenders, the cost in subsequent years would decrease to about $774,000. This assumes that existing staff would be available to take the fingerprints and that the larger counties (more than 5,000 referrals annually) would require a supervising officer to oversee the fingerprinting process.

If placement data were not reported for Option 2, state-level start-up costs would be approximately $154,000. Ongoing state costs would approximate $320,000 the first year, when more intensive local training would be required, and $299,000 in subsequent years. This does not include the cost of developing training or procedural manuals for local reporting agencies, nor the cost of training DOJ staff in the new procedures. Thus, local and state start-up costs for Option 2 would be $162,000. Ongoing, annual costs would approximate $1.1 million, with a slightly higher ongoing cost during the first year.

Under Option 2 with placement data, state and local start-up costs would increase to $2.0 million. Ongoing state and local costs would be between $2.4 and $2.5 million.

Option 3 is by far the most expensive of the three alternatives. Local, ongoing costs to prepare and submit fingerprint cards and disposition documents on approximately 177,000 juveniles arrested for retainable law violations would be nearly $2.5 million during the first year of

implementation, and $2.1 million in subsequent years. This estimate assumes that approximately 25% of these juveniles are currently fingerprinted by law enforcement agencies, and only about one-fifth of the fingerprints are submitted to DOJ. It also assumes that during the first year of operation, all juveniles who are not currently being fingerprinted will be "new" offenders and will require two sets of fingerprints: one for the local agency and one for DOJ. During subsequent years, one-half are assumed to be repeat offenders, requiring that fingerprints only be taken for DOJ. (Law enforcement agencies generally do not maintain subsequent duplicate prints in their files.)

With or without placement data, Option 3 would require extensive reprogramming of the Criminal History System to accommodate juvenile records, at a cost of approximately $234,000. Additional computer hardware associated with the Automated Fingerprint Identification System also may be required. Because AFIS is new, the one-time purchase costs can only be estimated at $2 to $5 million.

With placement data, the state and local start-up costs for Option 3 would be between $4.1 and $7.1 million. Annual, ongoing costs would be $5.8 million during the first year and $5.4 million during subsequent years.

Without placement data the total state and local costs for Option 3 would be between $2.2 million and $5.2 million for start-up costs. Annual, on-going costs would be $4.4 million for the first year of operation, and $4.0 million for subsequent years of operation.

There are several DOJ costs that are not included in the Option 3 estimates. First, it can be expected that the number of requests to seal or purge juvenile records would increase, and that additional staff would be required to process these requests. Until the volume of requests is known, it is difficult to estimate a cost. An additional unknown, but anticipated cost, is that of facilities for staff and computer equipment. The increased workload imposed by Option 3 would dictate that the Department hire additional staff and purchase additional computer equipment. DOJ facilities are already at their limit in storage capacity and personnel. Additional juvenile records in excess of 50,000 would exceed the computer capacity as well as the facilities for personnel and hardware. While the cost estimates reflect the necessary staff, they do not include the costs for purchasing or leasing additional facilities.

4.11 GENERAL ISSUES RELATED TO THE OPTIONS

There are two general issues that relate to all of the options: record sealing and information unrelated to juveniles exposed to treatment programs.

By law, individuals may petition the juvenile court to "seal" all records of their involvement with the juvenile justice system (781 WIC). If the petition is granted by the court, the Department of Justice must also seal their records pertaining to the individual. The records of approximately 2,300 juveniles are sealed in this manner each year; thus, they are no longer available for purposes of tracking recidivism.

The options for tracking recidivism would capture information about all juveniles who are placed in rehabilitation treatment programs, along with many more juveniles who are involved in the justice system but never removed from their home. The incidents that would "trigger" the tracking mechanism -- arrests or juvenile court sustained petitions -- may not involve placement in a treatment program. At the local level, the arresting or probation officer may not know that the juvenile has been exposed to a treatment program in their own or another county and is thus of interest for recidivism tracking purposes. Therefore, all arrests or sustained court petitions would have to be reported. These reports would nonetheless be important to evaluation efforts, in that they would provide a measure of prior criminal involvement of juveniles who are <u>subsequently</u> exposed to a treatment program.

SECTION 5
SUMMARY AND CONCLUSIONS

This report has presented three options for collecting data to determine the subsequent criminal records of juveniles exposed to treatment programs, as mandated by AB 2755. The options represent a range of approaches, with differing cost and impact on juvenile justice system policies and procedures. While there may be other methods of collecting such data, these options were selected and developed by project staff after a review of relevant literature, analysis of existing data reporting requirements and systems, and consultations with researchers, practitioners in the juvenile justice field, and Department of Justice staff.

In comparing the three options, a number of issues should be considered:

- What benefits can be anticipated?
- What are the anticipated costs to local and state agencies?
- How reliable would the information be?
- What would the impact be on access to juvenile records, including fingerprints?
- What legislative and policy changes would be required?
- What impact would there be on existing juvenile offender reporting and record keeping practices?

Option 1 is clearly the least expensive, with or without placement data. The higher costs for Options 2 and 3 reflect the local resources to fingerprint juvenile offenders, as well as the state resources to operate a new juvenile offender data collection system. In Option 3, start-up costs are quite high, since DOJ would need to purchase major computer hardware.

Each option includes a method for matching the records of multiple law violations and subsequent dispositions to a single juvenile, and linking those juvenile records to subsequent adult records. In Options 2 and 3, records would be based on fingerprints, and the matching process would be quite reliable. Option 1, on the other hand, would attempt to match records based on names and other demographic data, and would be less reliable.

In Options 1 and 2, bona fide researchers could gain access to a juvenile's record of sustained court petitions for law violations; currently, only the contributing probation department is allowed access to these records. In Option 3, juvenile criminal histories could be made available to researchers as well as criminal justice practitioners on essentially the same basis as such practitioners have access to adult records.

Options 2 and 3 would require that selected juveniles be fingerprinted by law enforcement or probation officers. Presumably, these agencies would retain one copy of the fingerprints in their local files. Access to the prints would be controlled by local juvenile court orders, and thus would differ from one jurisdiction to another. At a minimum, the prints maintained by law enforcement agencies could be shared with other law enforcement agencies, and likewise for those prints maintained by the probation department prints. At the state level, access to fingerprints would be strictly limited to authorized DOJ staff in Option 2, but could be made available to criminal justice system practitioners in Option 3.

Options 1 and 2 may require changes to the Penal Code in order to provide bona fide researchers with access to juvenile longitudinal records. Options 2 and 3 would require a statutory mandate that juvenile law violators be fingerprinted at arrest or following a sustained petition. Option 3 would also require changes to the Penal Code and/or Welfare and Institutions Code to impose new arrest and disposition reporting requirements. All of the options would require that long-standing Department policies regarding juvenile records be changed.

There would be a substantial impact on local agencies if they were required to report all placement decisions to DOJ. Additionally, Option 2 would require that probation departments fingerprint approximately 57,000 juveniles who are made wards of the court each year. The 48 counties which currently do not fingerprint any juveniles would need to develop new procedures to fulfill this mandate. All counties would experience a substantial impact on existing staff resources, and some would be forced to hire additional staff. Option 3 would also have a considerable impact on both law enforcement and probation departments, which would be responsible for fingerprinting juvenile arrestees and reporting arrest disposition information.

At the state level, the impact of each option coincides with its costs. Option 1 would have the least impact. Option 2 would require additional staff, but would have minimal impact on the Department's on-going data processing systems. The most substantial impact would result from Option 3, which would require additional staff and facilities, and changes to a major, on-going data system (the Criminal History System).

What benefits can hope to be achieved if one of the options is selected and funded by the Legislature? At a minimum, the Department can in varying degrees provide longitudinal records describing an individual's involvement with both the juvenile and adult justice systems. If placement decisions were reported to BCS, the Department could also develop program recidivism rates. Option 3 could offer the added benefit of providing criminal justice system practitioners with statewide criminal offender record information on juveniles.

Do the benefits justify the costs? California spends approximately $20,000 to $30,000 per year to place a juvenile in a rehabilitation treatment program. The options for creating longitudinal criminal records on these juveniles range in cost from $75,000 to more than $4 million. The costs are even higher to develop program recidivism rates.

The Department has attempted to describe the complexities of tracking recidivism and several ways in which it could be achieved. It is hoped that this will provide the Legislature with a basis for judging whether the benefits of a recidivism tracking system warrant the costs.

APPENDIX 1

Copy of Assembly Bill 2755

BILL NUMBER: AB 2755

CHAPTER 794

APPROVED BY GOVERNOR AUGUST 28, 1984

FILED WITH SECRETARY OF STATE AUGUST 29, 1984

PASSED THE ASSEMBLY AUGUST 16, 1984

PASSED THE SENATE AUGUST 9, 1984

AMENDED IN SENATE AUGUST 6, 1984

AMENDED IN ASSEMBLY JUNE 4, 1984

AMENDED IN ASSEMBLY MAY 25, 1984

AMENDED IN ASSEMBLY APRIL 24, 1984

AMENDED IN ASSEMBLY APRIL 3, 1984

Introduced by Assembly Member Sher

(Principal coauthor: Assembly Member Willie Brown)

FEBRUARY 7, 1984

An act to add Section 13013 to the Penal Code, relating to minors, and making an appropriation therefor.

AUTHOR: Assembly Member Sher

LAST AMENDED DATE: AUGUST 6, 1984

LEGISLATIVE COUNSEL'S DIGEST

AB 2755, Sher. Minors.

Existing law requires the Department of Justice to compile and report various, specified criminal statistics.

This bill would require the Department of Justice to prepare a written proposal to be submitted to the Legislature on or before July 1, 1985, outlining a proposed system or systems by which data could be collected which could determine subsequent criminal activity of persons exposed to rehabilitation treatment programs, as specified, and would declare the intent of the Legislature in this regard. The bill would appropriate $25,000, as specified, to the department for this purpose.

Appropriation: yes.

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. The Legislature finds and declares that there are limited

resources available to implement the purposes of the Arnold-Kennick Juvenile Court Law. It is the intent of the Legislature that efforts be made to collect data that can be used to determine the subsequent criminal records of persons exposed to treatment programs after a finding of the juvenile court that those individuals' behavior is as described in Section 602 of the Welfare and Institutions Code in order that this data may be considered in making decisions involving allocation of these limited resources. A primary indicator of the outcome of these programs is the frequency with which persons placed in the programs violate any law defining a crime subsequent to their placement.

SEC. 2. Section 13013 is added to the Penal Code, to read:

13013. The department shall prepare a written proposal to be submitted to the Legislature on or before July 1, 1985, which outlines a proposed system or systems by which data could be collected which could determine subsequent criminal activity of persons exposed to rehabilitation treatment programs after having been found by the juvenile court to be within the provisions of Section 602 of the Welfare and Institutions Code. The proposal shall be prepared after consultation with interested parties, including juvenile court judges, probation officers, prosecutors, attorneys who represent minors in juvenile court proceedings, organizations which provide services to minors, and law enforcement officials who specialize in cases involving minors. The proposal shall preserve the confidentiality of records concerning minors wherever possible and shall include information concerning all of the following:

(a) An estimate of the cost of the proposed system or systems, including an estimate of the cost to the state and to city and county government.

(b) A summary of current law governing obtaining, transmitting, storing, accumulating, and utilizing fingerprints of minors, including a summary of current law in this area governing the department, other state officials, and city and county officials.

(c) A summary of the changes in current law which would be required in order to implement the proposed system or systems.

(d) A summary of the impact which the proposed system or systems would have on access to fingerprints of minors, including a summary of persons or agencies who would obtain increased or decreased access to fingerprints of minors as a result of the proposed system or systems.

SEC. 3. The sum of twenty-five thousand dollars ($25,000) is hereby appropriated from the General Fund to the Department of Justice for the purposes of Section 13013 of the Penal Code.

The funds appropriated by this section shall be available for encumbrance only until June 30, 1985.

Appendix 2

Summary of Interviews with Juvenile Justice System Practitioners, Youth Advocates, Service Providers, and Researchers

SUMMARY OF INTERVIEWS

AB 2755 project staff consulted with interested parties, including juvenile court judges, probation officers, prosecutors, attorneys who represent minors in juvenile court proceedings, organizations which provide services to minors, and law enforcement officials who specialize in cases involving minors. Researchers in the academic and private research communities were also contacted. The associations that were contacted included:

- American Civil Liberties Union - California Chapter
- California District Attorney's Association
- Public Defenders Association
- California State Juvenile Officers Association
- California Judges Association
- California Probation, Parole and Correction Association
- Chief Probation Officer Association, and particularly their Research Committee
- Probation Business Managers Association
- State Coalition of Probation Organizations

There was uniform concern among practitioners and researchers that the ultimate purpose of AB 2755 - to provide a data base that informs decisions about program effectiveness - would not be accomplished by tracking recidivism alone. Additional information about program clients and services would be needed to properly interpret program results.

There was also concern among probation officers that the target population identified in AB 2755 was too limited in scope. The bill specifies the population of interest as those minors who are found by the juvenile courts to have committed a delinquent offense and who are exposed to "rehabilitation treatment program". Based on discussions with the author's staff, DOJ interpreted this to mean juveniles who are placed in a residential program outside their home. This target population represents an extremely small proportion of their overall probation caseload, and an even smaller proportion of all offenders who come in contact with the system, but includes the more seriously criminal and difficult to rehabilitate offenders. Although not intended, the juvenile justice system as a whole might be judeged based solely on this select group of probationers.

It should be pointed out that there was a good deal of skepticism regarding the "true" intent of AB 2755. Although many interviewees believed a recidivism data base could be very useful, they also believed the data would ultimately be used for purposes other than program evaluation. Even with rigid confidentiality statutes and regulations in place today, future statutory and court-mandated changes could make the data available to a much broader audience than originally intended. In fact, Option 3 could be a tool for both law enforcement and research, in order to justify its high cost.

The question of costs versus benefits was also raised. Will the data base provide sufficient information to warrant its costs, or would the money be better spent in other ways, such as individual evaluations or innovative programs?

As project staff interviewed juvenile justice system practitioners, their opinions were elicited regarding the creation of statewide records of juvenile recidivists, the practice of fingerprinting juveniles for purposes of positively identifying those who recidivate, and the benefits to be gained from a statewide data base of this nature. These issues were crucial in developing the proposals mandated by AB 2755.

In general, law enforcement officers stressed the importance of maintaining accurate statewide records of criminal offenders, whether they be juveniles or adults. Many jurisdictions already fingerprint juvenile suspects, and all law enforcement agencies have access to each other's records. From their perspective, a statewide data base of juvenile recidivists would simply provide a more readily available source of information.

Probation departments, on the other hand, were justifiably concerned about the possibility of additional workload and costs resulting from AB 2755. Since probation plays a central role in caring for juvenile offenders and in maintaining records of their involvement with the justice system, any work necessary to compile statewide records as envisioned in AB 2755 would be at least partially their responsibility. Knowing that many probation departments have suffered budget cuts of 30% to 50% since the passage of Proposition 13, the additional workload that could ultimately fall in their hands is not welcome.

Public defenders expressed concern about mandating that all juvenile suspects be included in a statewide criminal history system, knowing that juveniles are not afforded the same legal protections as adults. District attorneys, on the other hand, believed that a juvenile's criminal record should be available to the adult court. For the district attorneys, then, a recidivism data base could serve this additional purpose.

Although there was not a consistent theme voiced by juvenile court judges, there was some feeling that decisionmakers (e.g., law enforcement officers, judges) should have as much prior criminal history information available as possible before making a decision, and that the recidivism data base could be useful in this regard.

Appendix 3

California Criminal Record Security Statutes and Regulations

CALIFORNIA CRIMINAL RECORD SECURITY

STATUTES AND REGULATIONS

REVISED

OCTOBER 1984

ATTORNEY GENERAL

JOHN K. VAN DE KAMP

STATE OF CALIFORNIA
DEPARTMENT OF JUSTICE

JOHN K. VAN DE KAMP
ATTORNEY GENERAL

NELSON KEMPSKY
CHIEF DEPUTY ATTORNEY GENERAL

G. B. CRAIG, DIRECTOR
DIVISION OF LAW ENFORCEMENT

DIVISION OF LAW ENFORCEMENT
CRIMINAL RECORDS SECURITY UNIT
4949 BROADWAY, ROOM G-116
SACRAMENTO, CALIFORNIA 95820

MAILING ADDRESS:
POST OFFICE BOX 13387
SACRAMENTO, CALIFORNIA 95813

TELEPHONE NUMBER:
(916) 739-5006

TABLE OF CONTENTS

	PAGE
INTRODUCTION	iv
EXCERPTS FROM THE CALIFORNIA PENAL CODE (White)	
Arrest of School Employees (291, 291.1, 291.5 (ALSO SEE H&S CODE SECTION 11591 & 11591.5 ON PAGE 36)	1
Theft From Computer System or Network (502)	2
Detention Only (849.5, 851.6)	4
Factually Innocent (Sealing and Destruction of Arrest Records 851.8)	5
Motion to Seal Records on Acquittal if Person Appears to Judge to be Factually Innocent; Rights of Dependent Under Order (851.85) (Detention Only (849.5))	8
Probation Pre-Sentence Investigations (1203)	9
Discharged Probationer (1203.4)	12
Petition for Order Sealing Records (1203.45)	13
Criminal Record Dissemination (11075-11081)	15
Furnishing of State Summary Criminal History Information (11105, 11105.1, 11105.2 - 11105.3)	17
Examination of State Summary Criminal History Information (11120-11127)	24
Unlawful Furnishing of State Summary Criminal History Information (11140-11144)	27
Access for Research Bodies (13202)	28
Furnishing of Local Summary Criminal History Information (13300)	29
Unlawful Furnishing of Local Summary Criminal History Information (13301-13305)	33
Examination of Local Records (13320-13326)	34

PAGE

EXCERPTS FROM THE CALIFORNIA GOVERNMENT CODE (Buff)

Theft, Destruction, Falsification (6200, 6201) 36

California Public Records Act (6251-6265) 36

Exemptions from Public Disclosure (6254-6265) 37

Destruction of Records: City Records (34090, 34090.5, 34090.6) 45

County Records (26201, 26202, 26202.5, 26202.6, 26205, 26205.1) 47

State Records (14755, 14756) 50

EXCERPTS FROM THE CALIFORNIA WELFARE AND INSTITUTIONS CODE (Blue)

Petition for Sealing Records (Dependent Children) (389) 52

Petition for Sealing Records (Wards) (781) 53

Release or Destruction of Court Record; Reproduction (826) 54

Destruction of (Juvenile) Records (826.5) 55

Release or Destruction of Records; Notice of Rights; Form (826.6) 56

Inspection of Petition and Reports of Probation Officer (827) 56

Disclosure of (Juvenile) Information Gathered by Law Enforcement Agency (828) 57

Wescott vs. Yuba County 57

TNG vs. San Francisco 57

EXCERPTS FROM THE CALIFORNIA HEALTH AND SAFETY CODE (Pink)

School Employee (11591, 11591.5) 58

EXCERPTS FROM THE CALIFORNIA EVIDENCE CODE (Canary)

Privilege for Official Information (1040) 59

EXCERPTS FROM THE CALIFORNIA EDUCATION CODE (White)

Employment After Conviction of Sex or Narcotics Offense (45123) 61

PAGE

Employment of Sexual Psychopath (45124) 61

Use of Personal Identification (Fingerprint) Cards to Ascertain Conviction of Crime (45125) 62

Duty of Department of Justice to Furnish Information Regarding Applicants for Employment (45126) 63

Employment After Conviction of Sex Offense or Narcotics Offense (88022). . 63

Employment of Sexual Psychopath (88023) 63

Use of Personal Identification Cards to Ascertain Conviction of Crime (88024) 64

Duty of Department of Justice to Furnish Information Regarding Applicants for Employment (88025) 65

EXCERPTS FROM THE CALIFORNIA LABOR CODE (Goldenrod)

Records of Arrest or Detention not Resulting in Conviction (432.7) 66

Limitations on Employers and Penalties for Certain Convictions (432.8) . . 68

EXCERPTS FROM THE CALIFORNIA ADMINISTRATIVE CODE (Green)

Regulations Governing the Release of CORI in the State of California (Chapter 1, Title 2) 69

I N T R O D U C T I O N

This compilation is published by the Criminal Records Security Unit to assist agencies in complying with the statutes and regulations dealing with the security, privacy, and confidentiality of criminal offender record information. The package is envisioned as a ready reference for persons who deal with records on a day-to-day basis and for those at the command/supervisory level. The package includes those sections of the Penal Code, Government Code, Welfare and Institutions Code, Health and Safety Code, Evidence Code, Education Code, Labor Code, and Administrative Code which are germane to record control and release.

The various codes are color-keyed for rapid identification. Any questions regarding this compilation or any aspect of security, privacy, and confidentiality may be directed to the Criminal Records Security Unit, P.O. Box 13387, Sacramento, California 95813, (916) 739-5006, Teletype Mnemonic JFS.

EXCERPTS FROM THE CALIFORNIA PENAL CODE

ARREST OF SCHOOL EMPLOYEES FOR SEX OFFENSES

291. School employees; arrest for sex offense; notice to school authorities

Every sheriff or chief of police, upon the arrest for any of the offenses enumerated in Section 290 or in subdivision 1 of Section 261 of any school employee, shall do either of the following:

(1) If such school employee is a teacher in any of the public schools of this state, he shall immediately notify by telephone the superintendent of schools of the school district employing such teacher and shall immediately give written notice of the arrest to the Commission for Teacher Preparation and Licensing and to the superintendent of schools in the county wherein such person is employed. Upon receipt of such notice, the county superintendent of schools shall immediately notify the governing board of the school district employing such person.

(2) If such school employee is a nonteacher in any of the public schools of this state, he shall immediately notify by telephone the superintendent of schools of the school district employing such nonteacher and shall immediately give written notice of the arrest to the governing board of the school district employing such person.

291.1 Teachers; notice of arrest to private school authorities

Every sheriff or chief of police, upon the arrest for any of the offenses enumerated in Section 290 of any person who is employed as a teacher in any private school of this state, shall immediately give written notice of the arrest to the private school authorities employing the teacher. The sheriff or chief of police shall immediately notify by telephone the private school authorities employing such teacher.

291.5 Teacher or instructor employed in community college district; notice of arrest

Every sheriff or chief of police, upon the arrest for any of the offenses enumerated in Section 290 or in subdivision (1) of Section 261 of any teacher or instructor employed in any community college district shall immediately notify by telephone the superintendent of the community college district employiung the teacher or instructor and shall immediately give written notice of the arrest to the Office of the chancellor of the California Community Colleges. Upon receipt of such notice, the district superintendent shall immediately notify the governing board of the community college district employing the person.

502. Definitions; computer system or network; intentional access to defraud or extort, or to obtain money, property or service with false or fraudulent intent, representations or promises; malicious access, alteration, deletion or damage; violations; penalty

(a) For purposes of this section:

(1) "Access" means to instruct, communicate with, store data in, or retrieve data from a computer system or computer network.

(2) "Computer system" means a machine or collection of machines, excluding pocket calculators which are not programmable and capable of being used in conjunction with external files, one or more of which contain computer programs and data, that performs functions, including, but not limited to, logic, arithmetic, data storage and retrieval, communication, and control.

(3) "Computer network" means an interconnection of two or more computer systems.

(4) "Computer program" means an ordered set of instructions or statements, and related data that, when automatically executed in actual or modified form in a computer system, causes it to perform specified functions.

(5) "Data" means a representation of information, knowledge, facts, concepts, or instructions, which are being prepared or have been prepared, in a formalized manner, and are intended for use in a computer system or computer network.

(6) "Financial instrument" includes, but is not limited to, any check, draft, warrant, money order, note, certificate of deposit, letter of credit, bill of exchange, credit or debit card, transaction authorization mechanism, marketable security, or any computer system representation thereof.

(7) "Property" includes, but is not limited to, financial instruments, data, computer programs, documents associated with computer systems and computer programs, or copies thereof, whether tangible or intangible, including both human and computer system readable data, and data while in transit.

(8) "Services" includes, but is not limited to, the use of the computer system, computer network, computer programs, or data prepared for computer use, or data contained within a computer system, or data contained within a computer network.

(b) Any person who intentionally accesses or causes to be accessed any computer system or computer network for the purpose of (1) devising or executing any scheme or artifice to defraud or extort or (2) obtaining money, property, or services with false or fraudulent intent, representations, or promises shall be guilty of a public offense.

(c) Any person who maliciously accesses or causes to be accesssed any computer system or computer network for the purpose of obtaining unauthorized information concerning the credit information of another person or who introduces or causes to be introduced false information into that system or network for the purpose of wrongfully damaging or wrongfully enhancing the credit rating of any person shall be guilty of a public offense.

(d) Any person who maliciously accesses, alters, deletes, damages, or destroys any computer system, computer network, computer program, or data shall be guilty of a public offense.

(e) Any person who violates the provisions of subdivision (b), (c), or (d) is guilty of a felony and is punishable by a fine not exceeding five thousand dollars ($5,000), or by imprisonment in the state prison for 16 months, or two or three years, or by both such fine and imprisonment, or by a fine not exceeding two thousand five hundred dollars ($2,500), or by imprisonment in the county jail not exceeding one year, or by both such fine and imprisonment.

(f) This section shall not be construed to preclude the applicability of any other provision of the criminal law of this state which applies or may apply to any transaction.

849.5 Arrest without filing of accusatory pleading; record; arrest deemed detention

In any case in which a person is arrested and released and no accusatory pleading is filed charging him with an offense, any record of arrest of the person shall include a record of release. Thereafter, the arrest shall not be deemed an arrest, but a detention only.

851.6 Release of person arrested without warrant or filing of accusatory pleading; issuance of detention certificate; form; deletion from arrest records

(a) In any case in which a person is arrested and released pursuant to paragraph (1) or (3) of subdivision (b) of Section 849, the person shall be issued a certificate, signed by the releasing officer or his superior officer, describing the action as a detention.

(b) In any case in which a person is arrested and released and no accusatory pleading is filed charging him with an offense, the person shall be issued a certificate by the law enforcement agency which arrested him describing the action as a detention.

(c) The Attorney General shall prescribe the form and content of such certificate.

(d) Any reference to the action as an arrest shall be deleted from the arrest records of the arresting agency and of the Bureau of Criminal Identification and Investigation of the Department of Justice. Thereafter, any such record of the action shall refer to it as a detention.

Section 851.8 of the Penal Code is amended to read:

851.8 Sealing and destruction of arrest records; determination of factual innocence.

(a) In any case where a person has been arrested and no accusatory pleading has been filed, the person arrested may petition the law enforcement agency having jurisdiction over the offense to destroy its records of the arrest. A copy of such petition shall be served upon the district attorney of the county having jurisdiction over the offense. The law enforcement agency having jurisdiction over the offense, upon a determination that the person arrested is factually innocent, shall, with the concurrence of the district attorney, seal its arrest records, and the petition for relief under this section for three years from the date of the arrest and thereafter destroy its arrest records and the petition. The law enforcement agency having jurisdiction over the offense shall notify the Department of Justice, and any law enforcement agency which arrested the petitioner or participated in the arrest of the petitioner for an offense for which the petitioner has been found factually innocent under this subdivision, of the sealing of the arrest records and the reason therefor. The Department of Justice and any law enforcement agency so notified shall forthwith seal their records of the arrest and the notice of sealing for three years from the date of the arrest, and thereafter destroy their records of the arrest and the notice of sealing. The law enforcement agency having jurisdiction over the offense and the Department of Justice shall request the destruction of any records of the arrest which they have given to any local, state, or federal agency or to any other person or entity. Each such agency, person, or entity with the State of California receiving such a request shall destroy its records of the arrest and such request, unless otherwise provided in this section.

(b) If, after receipt by both the law enforcement agency and the district attorney of a petition for relief under subdivision (a), the law enforcement agency and district attorney do not respond to the petition by accepting or denying such petition within 60 days after the running of the relevant statute of limitations or within 60 days after receipt of the petition in cases where the statute of limitations has previously lapsed, then the petition shall be deemed to be denied. In any case where the petition of an arrestee to the law enforcement agency to have an arrest record destroyed is denied, petition may be made to the municipal or justice court which would have had territorial jurisdiction over the matter. A copy of such petition shall be served on the district attorney of the county having jurisdiction over the offense at least 10 days prior to the hearing thereon. The district attorney may present evidence to the court at such hearing. Notwithstanding Section 1538.5 or 1539, any judicial determination of factual innocence made pursuant to this section may be heard and determined upon declarations, affidavits, police reports, or any other evidence submitted by the parties which is material, relevant and reliable. A finding of factual innocence and an order for the sealing and destruction of records pursuant to this section shall not be made unless the court finds that no reasonable cause exists to believe that the arrestee committed the offense

for which the arrest was made. In any court hearing to determine the factual innocence of a party, the initial burden of proof shall rest with the petitioner to show that no reasonable cause exists to believe that the arrestee committed the offense for which the arrest was made. If the court finds that this showing of no reasonable cause has been made by the petitioner, then the burden of proof shall shift to the respondent to show that a reasonable cause exists to believe that the petitionery committed the offense for which the arrest was made. If the court finds the arrestee to be factually innocent of the charges for which the arrest was made, then the court shall order the law enforcement agency having jurisdiction over the offense, the Department of Justice, and any law enforcement agency which arrested the petitioner or participated in the arrest of the petitioner for an offense for which the petitioner has been found factually innocent under this section to seal their records of the arrest and the court order to seal and destroy such records, for three years from the date of the arrest and thereafter to destroy their records of the arrest and the court order to seal and destroy such records.

The court shall also order the law enforcement agency having jurisdiction over the offense and the Department of Justice to request the destruction of any records of the arrest which they have given to any local, state, or federal agency, person or entity. Each state or local agency, person or entity within the State of California receiving such a request shall destroy its records of the arrest and the request to destroy such records, unless otherwise provided in this section. The court shall give to the petitioner a copy of any court order concerning the destruction of the arrest records.

(c) In any case where a person has been arrested, and an accusatory pleading has been filed, but where no conviction has occurred, the defendant may, at any time after dismissal of the action, petition the court which dismissed the action for a finding that the defendant is factually innocent of the charges for which the arrest was made. A copy of such petition shall be served on the district attorney of the county in which the accusatory pleading was filed at least 10 days prior to the hearing on the petitioner's factual innocence. The district attorney may present evidence to the court at such hearing. Such hearing shall be conducted as provided in subdivision (b). If the court finds the petitioner to be factually innocent of the charges for which the arrest was made, then the court shall grant the relief as provided in subdivision (b).

(d) In any case where a person has been arrested and an accusatory pleading has been filed, but where no conviction has occurred, the court may, with the concurrence of the district attorney, grant the relief provided in subdivision (b) at the time of the dismissal of the accusatory pleading.

(e) Whenever any person is acquitted of a charge and it appears to the judge presiding at the trial wherein such acquittal occurred that the defendant was factually innocent of such charge, the judge may grant the relief provided in subdivision (b).

(f) In any case where a person who has been arrested is granted relief pursuant to subdivision (a) or (b), the law enforcement agency having jurisdiction over the offense or court shall issue a written declaration to the arrestee stating that it is the determination of the law enforcement agency having jurisdiction over the offense or court that the arrestee is factually innocent of the charges for which he was arrested and that the arrestee is thereby exonerated. Thereafter, the arrest shall be deemed not to have occurred and the person may answer accordingly any question relating to its occurrence.

(g) The Department of Justice shall furnish forms to be utilized by persons applying for the destruction of their arrest records and for the written declaration that one person was found factually innocent under subdivisions (a) and (b).

(h) Documentation of arrest records destroyed pursuant to subdivision (a), (b), (c), (d), or (e) which are contained in investigative police reports shall bear the notation "Exonerated" whenever reference is made to the arrestee. The arrestee shall be notified in writing by the law enforcement agency having jurisdiction over the offense of the sealing and destruction of the arrest records pursuant to this section.

(i) Any finding that an arrestee is factually innocent pursuant to subdivision (a), (b), (c), (d), or (e) shall not be admissible as evidence in any action.

(j) Destruction of records of arrest pursuant to subdivision (a), (b), (c), (d), or (e) shall be accomplished by permanent obliteration of all entries or notations upon such records pertaining to the arrest, and the record shall be prepared again so that it appears that the arrest never occurred. However, where (1) the only entries on the record pertain to the arrest and (2) the record can be destroyed without necessarily affecting the destruction of other records, then the document constituting the record shall be physically destroyed.

(k) No records shall be destroyed pursuant to subdivision (a), (b), (c), (d), or (e) if the arrestee or a codefendant has filed a civil action against the peace officers or law enforcement jurisdiction which made the arrest or instituted the prosecution and if the agency which is the custodian of such records has received a certified copy of the complaint in such civil action, until the civil action has been resolved. Any records sealed pursuant to this section by the court in these civil actions, upon a showing of good cause, may be opened and submitted into evidence. The records shall be confidential and shall be available for inspection only by the court, jury, parties, counsel for the parties and any other person authorized by the court. Immediately following the final resolution of the civil action, records subject to subdivision (a), (b), (c), (d), or (e) shall be sealed and destroyed pursuant to subdivision (a), (b), (c), (d), or (e).

(l) For arrests occurring on or after January 1, 1981, and for accusatory pleadings filed on or after January 1, 1981, petitions for relief under this section may be filed up to two years from the date of the arrest or filing of the accusatory pleading, whichever is later. Until January 1, 1983, petitioners can file for relief under this section for arrests which occurred or accusatory pleadings which were filed up to five years prior to the effective date of the statute. Any time restrictions on filing for relief under this section may be waived upon a showing of good cause by the petitioner and in the absence of prejudice.

(m) Any relief which is available to a petitioner under this section for an arrest shall also be available for an arrest which has been deemed to be or described as a detention under Section 849.5 or 851.6.

(n) The provisions of this section shall not apply to any offense which is classified as an infraction.

(o)(1) The provisions of this section shall be repealed on the effective date of a final judgment based on a claim under the California or United States Constitution holding that evidence which is relevant, reliable, and material may not be considered for purposes of a judicial determination of factual innocence under this section. For purposes of this subdivision, a judgment by the appellate department of a superior court is a final judgment if it is published and if it is not reviewed on appeal by a district court of appeal. A judgment of a district court of appeal is a final judgment if it is published and if it is not reviewed by the California Supreme Court.

(2) Any such decision referred to in this subdivision shall be stayed pending appeal.

(3) If not otherwise appealed by a party to the action, any such decision referred to in this subdivision which is a judgment by the appellate department of the superior court, shall be appealed by the Attorney General.

851.85 Motion to seal records on acquittal if person appears to judge to be factually innocent; rights of defendant under order

Whenever a person is acquitted of a charge and it appears to the judge presiding at the trial wherein such acquittal occurred that the defendant was factually innocent of the charge, the judge may order that the records in the case be sealed, including any record of arrest or detention, upon the written or oral motion of any party in the case or the court, and with notice to all parties to the case. If such an order is made, the court shall give to the defendant a copy of such order and inform the defendant that he may thereafter state that he was not arrested for such charge and that he was found innocent of such charge by the court.

1203. Probation; conditional sentence; pre-sentence investigation, report and recommendations; mitigating circumstances, hearing by court; power to grant probation; summary disposition of misdemeanors; offenses for which probation may not be granted; release to another state

(a) As used in this code, "probation" shall mean the suspension of the imposition or execution of a sentence and the order of conditional and revocable release in the community under the supervision of the probation officer. As used in this code, "conditional sentence" shall mean the suspension of the imposition or execution of a sentence and the order of revocable release in the community subject to the conditions established by the court without the supervision of the probation officer. It is the intent of the Legislature that both conditional sentence and probation are authorized whenever probation is authorized in any code as a sentencing option for infractions or misdemeanors.

(b) In every case in which a person is convicted of a felony and is eligible for probation, before judgment is pronounced, the court shall immediately refer the matter to the probation officer to investigate and report to the court, at a specified time, upon the circumstances surrounding the crime and the prior history and record of the person, which may be considered either in aggravation or mitigation of the punishment. The probation officer shall immediately investigate and make a written report to the court of his or her findings and recommendations, including his or her recommendations as to the granting or denying of probation and the conditions of probation, if granted. Pursuant to Section 828 of the Welfare and Institutions Code, the probation officer shall include in his or her report any information gathered by a law enforcement agency relating to the taking of the defendant into custody as a minor, which shall be considered for purposes of determining whether adjudications of commissions of crimes as a juvenile warrant a finding that there are circumstances in aggravation pursuant to Section 1170 or to deny probation. The probation officer shall also include in his report his or her determination of whether the defendant is a person who is required to pay a fine pursuant to Section 13967 of the Government Code. The probation officer shall also include in his or her report for the court's consideration whether the court shall require, as a condition of probation, restitution to the victim or to the Indemnity Fund if assistance has been granted to the victim pursuant to Article 1 (commencing with Section 13959) of Chapter 5 of Part 4 of Division 3 of Title 2 of the Government Code, a recommendation thereof, and if so, the amount thereof, and the means and manner of payment. The report shall be made available to the court and the prosecuting and defense attorney at least nine days prior to the time fixed by the court for the hearing and determination of the report, and shall be filed with the clerk of the court as a record in the case at the time of the hearing. The time within which the report shall be made available and filed may be waived by written stipulation of the prosecuting and defense attorney which is filed with the court or an oral stipulation in open court which is made and entered upon the minutes of the court. At a time fixed by the court, the court shall hear and determine the application, if one has been made, or, in any case, the suitability of probation in the particular case. At the hearing, the court shall consider any report of the probation officer and

shall make a statement that it has considered such report which shall be filed with the clerk of the court as a record in the case. If the court determines that there are circumstances in mitigation of the punishment prescribed by law or that the ends of justice would be subserved by granting probation to the person, it may place the person on probation. If probation is denied, the clerk of the court shall immediately send a copy of the report to the Department of Corrections at the prison or other institution to which the person is delivered.

(c) If a person is not represented by an attorney, the court shall order the probation officer who makes the probation report to discuss its contents with the defendant.

(d) In every case in which a person is convicted of a misdemeanor, the court may either refer the matter to the probation officer for an investigation and a report or summarily pronounce a conditional sentence. If such a case is not referred to the probation officer, in sentencing the person, the court may consider any information concerning the person which could have been included in a probation report. The court shall inform the person of the information to be considered and permit him or her to answer or controvert such information. For this purpose, upon the request of the person, the court shall grant a continuance before the judgment is pronounced.

(e) Except in unusual cases where the interests of justice would best be served if the person is granted probation, probation shall not be granted to any of the following persons:

(1) Unless the person had a lawful right to carry a deadly weapon, other than a firearm, at the time of the perpetration of the crime or his arrest, any person who has been convicted of arson, robbery, burglary, burglary with explosives, rape with force or violence, murder, assault with intent to commit murder, attempt to commit murder, trainwrecking, kidnapping, escape from the state prison, or a conspiracy to commit one or more of such crimes and was armed with such weapon at either of such times.

(2) Any person who used or attempted to use a deadly weapon upon a human being in connection with the perpetration of the crime of which he or she has been convicted.

(3) Any person who willfully inflicted great bodily injury or torture in the perpetration of the crime of which he or she has been convicted.

(4) Any person who has been previously convicted twice in this state of a felony or in any other place of a public offense which, if committed in this state, would have been punishable as a felony.

(5) Unless the person has never been previously convicted once in this state of a felony or in any other place of a public offense which, if committed in this state, would have been punishable as a felony, any person who has been convicted of burglary with explosives, rape with force or violence, murder, attempt to commit murder, assault with intent to commit murder, trainwrecking, extortion, kidnapping, escape from the state prison, a violation of Section 286, 288, or 288a, or a conspiracy to commit one or more of such crimes.

(6) Any person who has been previously convicted once in this state of a felony or in any other place of a public offense which, if committed in this state, would have been punishable as a felony, if he or she committed any of the following acts:

(i) Unless the person had a lawful right to carry a deadly weapon at the time of the perpetration of such previous crime or he or she was armed with such weapon at either of such times.

(ii) The person used or attempted to use a deadly weapon upon a human being in connection with the perpetration of such previous crime.

(iii) The person willfully inflicted great bodily injury or torture in the perpetration of such previous crime.

(7) Any public official or peace officer of this state or any city, county, or other political subdivision who, in the discharge of the duties of his or her public office or employment, accepted or gave or offered to accept or give any bribe, embezzled public money, or was guilty of extortion.

(8) Any person who knowingly furnishes or gives away phencyclidine.

(9) Any person who intentionally inflicted great bodily injury in the commission of arson under subdivision (a) of Section 451 or who intentionally set fire to, burned or caused the burning of an inhabited structure or inhabited property in violation of subdivision (b) of Section 451.

(f) When probation is granted in a case which comes within the provisions of subdivision (e), the court shall specify on the record and shall enter on the minutes the circumstances indicating that the interests of justice would best be served by such a disposition.

(g) If a person is not eligible for probation, the judge may, in his or her discretion, refer the matter to the probation officer for an investigation of the facts relevant to the sentencing of the person. Upon such referral, the probation officer shall immediately investigate the circumstances surrounding the crime and the prior record and history of the person and make a written report to the court of his or her findings.

(h) In any case in which a defendant is convicted of a felony and a probation report is prepared pursuant to subdivision (b) or (g), the probation officer shall obtain and include in such report a statement of the comments of the victim concerning the offense. The court may direct the probation officer not to obtain such a statement in any case where the victim has in fact testified at any of the court proceedings concerning the offense.

(i) No probationer shall be released to enter another state unless his or her case has been referred to the Administrator, Interstate Probation and Parole Compacts, pursuant to the Uniform Act for Out-of-State Probationer or Parolee Supervision (Article 3 (commencing with Section 11175) of Chapter 2 of Title 1 of Part 4).

1203.4 Discharged petitioner; change of plea or vacation of verdict; dismissal of charge; release from penalties and disabilities; certification of rehabilitation and pardon; application; pleading prior conviction in prosecution for subsequent offenses, disclosure; reimbursement of county for cost of services

(a) In any case in which a defendant has fulfilled the conditions of probation for the entire period of probation, or has been discharged prior to the termination of the period of probation, or in any other case in which a court, in its discretion and the interests of justice, determines that a defendant should be granted the relief available under this section, the defendant shall, at any time after the termination of the period of probation, if he is not then serving a sentence for any offense, on probation for any offense, or charged with the commission of any offense, be permitted by the court to withdraw his plea of guilty or plea of nolo contendere and enter a plea of not guilty; or, if he has been convicted after a plea of not guilty, the court shall set aside the verdict of guilty; and, in either case, the court shall thereupon dismiss the accusations or information against the defendant and except as noted below, he shall thereafter be released from all penalties and disabilities resulting from the offense of which he has been convicted, except as provided in Section 13555 of the Vehicle Code. The probationer shall be informed, in his probation papers, of this right and privilege and his right, if any, to petition for a certificate of rehabilitation and pardon. The probationer may make such application and change of plea in person or by attorney, or by the probation officer authorized in writing; provided, that, in any subsequent prosecution of the defendant for any other offense, the prior conviction may be pleaded and proved and shall have the same effect as if probation had not been granted or the accusation or information dismissed; and provided further that the order shall state, and the probationer shall be informed, that the order does not relieve him of the obligation to disclose the conviction in response to any direct question contained in any questionnaire or application for public office or for licensure by any state or local agency.

Dismissal of an accusation or information pursuant to this section does not permit a person to own, possess, or have in his custody or control any firearm capable of being concealed upon the person or prevent his conviction under Section 12021.

This subdivision shall apply to all applications for relief under this section which are filed on or after November 23, 1970.

(b) Subdivision (a) of this section does not apply to any misdemeanor which is within the provisions of subdivision (b) of Section 42001 of the Vehicle Code, or to any infraction.

(c) A person who petitions for a change of plea or setting aside of a verdict under this section may be required to reimburse the county for the cost of services rendered at a rate to be determined by the county board of supervisors not to exceed sixty dollars ($60), and to reimburse any city for the cost of services rendered at a rate to be determined by the city council not to exceed sixty dollars ($60). Ability to make this reimbursement shall be determined by the court using the standards set forth in paragraph (2) of subdivision (f) of Section 987.8 and shall not be a prerequisite to a person's

eligibility under this section. The court may order reimbursement in any case in which the petitioner appears to have the ability to pay, without undue hardship, all or any portion of the cost for services established pursuant to this subdivision.

1203.45 Petition for order sealing records; exceptions; reimbursement of county for cost of services

(a) In any case in which a person was under the age of 18 years at the time of commission of a misdemeanor and is eligible for, or has previously received, the relief provided by Section 1203.4 or 1203.4a, that person, in a proceeding under Section 1203.4 or 1203.4a, or a separate proceeding, may petition the court for an order sealing the record of conviction and other official records in the case, including records of arrests resulting in the criminal proceeding and records relating to other offenses charged in the accusatory pleading, whether defendant was acquitted or charges were dismissed. If the court finds that the person was under the age of 18 at the time of the commission of the misdemeanor, and is eligible for relief under Section 1203.4 or 1203.4a or has previously received such relief, it may issue its order granting the relief prayed for. Thereafter the conviction, arrest, or other proceeding shall be deemed not to have occurred, and the petitioner may answer accordingly any question relating to their occurrence.

(b) This section applies to convictions which occurred before, as well as those which occur after, the effective date of this section.

(c) This section shall not apply to offenses for which registration is required under Section 290, to violations of Division 10 (commencing with Section 11000) of the Health and Safety Code, or to misdemeanor violations of the Vehicle Code relating to operation of a vehicle or of any local ordinance relating to operation, standing, stopping, or parking of a motor vehicle.

(d) This section does not apply to a person convicted of more than one offense, whether the second or additional convictions occurred in the same action in which the conviction as to which relief is sought occurred or in another action, except in the following cases:

(1) One of the offenses includes the other or others.

(2) The other conviction or convictions were for the following:

(i) Misdemeanor violations of Chapters 1 (commencing with Section 21000) to 9 (commencing with Section 22500), inclusive, or Chapters 12 (commencing with Section 23100) to 14 (commencing with Section 23340), inclusive, of Division 11 of the Vehicle Code, other than Sections 23103, 23104, 23152, 23153, or 23220.

(ii) Violation of any local ordinance relating to the operation, stopping, standing, or parking of a motor vehicle.

(3) The other conviction or convictions consisted of any combination of paragraphs (1) and (2).

(e) This section shall apply in any case in which a person was under the age of 21 at the time of the commission of an offense as to which this section is made applicable if that offense was committed prior to March 7, 1973.

(f) In any action or proceeding based upon defamation, a court, upon a showing of good cause, may order any records sealed under this section to be opened and admitted into evidence. The records shall be confidential and shall be available for inspection only by the court, jury, parties, counsel for the parties, and any other person who is authorized by the court to inspect them. Upon the judgment in the action or proceeding becoming final, the court shall order the records sealed.

(g) A person who petitions for an order sealing a record under this section may be required to reimburse the county for the cost of services rendered at a rate to be determined by the county board of supervisors not to exceed sixty dollars ($60), and to reimburse any city for the cost of services rendered at a rate to be determined by the city council not to exceed sixty dollars ($60). Ability to make this reimbursement shall be determined by the court using the standards set forth in paragraph (2) of subdivision (f) of Section 987.8 and shall not be a prerequisite to a person's eligibility under this section. The court may order reimbursement in any case in which the petitioner appears to have the ability to pay, without undue hardship, all or any portion of the cost for services established pursuant to this subdivision.

11075. Criminal offender record information

(a) As used in this article, "criminal offender record information" means records and data compiled by criminal justice agencies for purposes of identifying criminal offenders and of maintaining as to each such offender a summary of arrests, pretrial proceedings, the nature and disposition of criminal charges, sentencing, incarceration, rehabilitation, and release.

(b) Such information shall be restricted to that which is recorded as the result of an arrest, detention, or other initiation of criminal proceedings or of any consequent proceedings related thereto.

11076. Dissemination to authorized agencies

Criminal offender record information shall be disseminated, whether directly or through any intermediary, only to such agencies as are, or may subsequently be authorized access to such records by statute.

11077. Attorney General; duties

The Attorney General is responsible for the security of criminal offender record information. To this end, he shall:

(a) Establish regulations to assure the security of criminal offender record information from unauthorized disclosures at all levels of operation in this state.

(b) Establish regulations to assure that such information shall be disseminated only in situations in which it is demonstrably required for the performance of an agency's or official's functions.

(c) Coordinate such activities with those of any interstate systems for the exchange of criminal offender record information.

(d) Cause to be initiated for employees of all agencies that maintain, receive, or are eligible to maintain or receive, criminal offender record information a continuting educational program in the proper use and control of criminal offender record information.

(e) Establish such regulations as he finds appropriate to carry out his functions under this article.

11078. Listing of agencies to whom information released or communicated

Each agency holding or receiving criminal offender record information in a computerized system shall maintain, for such period as is found by the Attorney General to be appropriate, a listing of the agencies to which it has released or communicated such information.

11079. Investigations; cooperation by agencies

The Attorney General may conduct such inquiries and investigations as he finds appropriate to carry out functions under this article. He may for this purpose direct any agency that maintains, or has received, or that is eligible to maintain or receive criminal offender records to produce for inspection statistical data, reports, and other information concerning the storage and dissemination of criminal offender record information. Each such agency is authorized and directed to provide such data, reports, and other information.

11080. Right of access to information authorized by other provisions of law not affected

Nothing in this article shall be construed to affect the right of access of any person or public agency to individual criminal offender record information that is authorized by any other provision of law.

11080.5 Federal parolees residing or domiciled in city or county, request for information by chief of police or sheriff

A chief of police of a city or the sheriff of a county shall be authorized to request and receive relevant information concerning persons when on parole who are or may be residing or temporarily domiciled in that city or county and who have been convicted of a federal crime which could have been prosecuted as a felony under the penal provisions of this state.

11081. No access to information unless otherwise authorized by law

Nothing in this article shall be construed to authorize access of any person or public agency to individual criminal offender record information unless such access is otherwise authorized by law.

FURNISHING OF STATE SUMMARY
CRIMINAL HISTORY INFORMATION

11105. State summary criminal history information; maintenance, furnishing to authorized persons; fingerprints on file without criminal history; fees; duration of section

(a)(1) The Department of Justice shall maintain state summary criminal history information.

(2) As used in this section:

(i) "State summary criminal history information" means the master record of information compiled by the Attorney General pertaining to the identification and criminal history of any person, such as name, date of birth, physical description, date of arrests, arresting agencies and booking numbers, charges, dispositions, and similar data about such person.

(ii) "State summary criminal history information" does not refer to records and data compiled by criminal justice agencies other than the Attorney General, nor does it refer to records of complaints to or investigations conducted by, or records of intelligence information or security procedures of, the Office of the Attorney General and the Department of Justice.

(b) The Attorney General shall furnish state summary criminal history information to any of the following, when needed in the course of their duties, provided that when information is furnished to assist an agency, officer, or official of state or local government, a public utility, or any entity, in fulfilling employment, certification, or licensing duties, the provisions of Chapter 1321 of the Statutes of 1974 and of Section 432.7 of the Labor Code shall apply:

(1) The courts of the state.

(2) Peace officers of the state as defined in Section 830.1, subdivisions (a), (b), and (f) of Section 830.2, subdivision (a) of Section 830.3, subdivisions (a) and (b), of Section 830.5, and subdivision (a) of Section 830.31.

(3) District attorneys of the state.

(4) Prosecuting city attorneys of any city within the state.

(5) Probation officers of the state.

(6) Parole officers of the state.

(7) A public defender or attorney of record when representing a person in proceedings upon a petition for a certificate of rehabilitation and pardon pursuant to Section 4852.08 of the Penal Code.

(8) A public defender or attorney of record when representing a person in a criminal case and when authorized access by statutory or decisional law.

(9) Any agency, officer, or official of the state when such criminal history information is required to implement a statute or regulation that expressly refers to specific criminal conduct applicable to the subject person of the state summary criminal history information, and contains requirements or exclusions, or both, expressly based upon such specified criminal conduct.

(10) Any city or county, or city and county, or district, or any officer, or official thereof when access is needed in order to assist such agency, officer, or official in fulfilling employment, certification, or licensing duties, and when such access is specifically authorized by the city council, board of supervisors or governing board of the city, county, or district when such criminal history information is required to implement a statute, ordinance, or regulation that expressly refers to specific criminal conduct applicable to the subject person of the state summary criminal history information, and contains requirements or exclusions, or both, expressly based upon such specified criminal conduct.

(11) The subject of the state summary criminal history information under procedures established under Article 5 (commencing with Section 11120), Chapter 1, Title 1 of Part 4 of the Penal Code.

(12) Any person or entity when access is expressly authorized by statute when such criminal history information is required to implement a statute or regulation that expressly refers to specific criminal conduct applicable to the subject person of the state summary criminal history information, and contains requirements or exclusions, or both, expressly based upon such specified criminal conduct.

(13) Health officers of a city and county, or city, and county, or district, when in the performance of their official duties enforcing Section 3110 of the Health and Safety Code.

(14) Any managing or supervising correctional officer of a county jail or other county correctional facility.

(c) The Attorney General may furnish state summary criminal history information upon a showing of a compelling need to any of the following, provided that when information is furnished to assist an agency, officer, or official of state or local government, a public utility, or any entity, in fulfilling employment, certification, or licensing duties, the provisions of Chapter 1321 of the Statutes of 1974 and of Section 432.7 of the Labor Code shall apply:

(1) Any public utility as defined in Section 216 of the Public Utilities Code which operates a nuclear energy facility when access is needed in order to assist in employing persons to work at such facility, provided that, if the Attorney General supplies such data, he shall furnish a copy of such data to the person to whom the data relates.

(2) To a peace officer of the state other than those included in subdivision (b).

(3) To a peace officer of another country.

(4) To public officers (other than peace officers) of the United States, other states, or possessions or territories of the United States, provided that access to records similar to state summary criminal history information is expressly authorized by a statute of the United States, other states, or possessions or territories of the United States when such information is needed for the performance of their official duties.

(5) To any person when disclosure is requested by a probation, parole, or peace officer with the consent of the subject of the state summary criminal history information and for purposes of furthering the rehabilitation of the subject.

(6) The courts of the United States, other states or territories or possessions of the United States.

(7) Peace officers of the United States, other states, or territories or possessions of the United States.

(8) To any individual who is the subject of the record requested when needed in conjunction with an application to enter the United States or any foreign nation.

(9) Any public utility as defined in Section 216 of the Public Utilities Code, when access is needed in order to assist in employing current or prospective employees who in the course of their employment may be seeking entrance to private residences. The information provided shall be limited to the record of convictions and any arrest for which the person is released on bail or on his or her own recognizance pending trial.

If the Attorney General supplies the data pursuant to this paragraph, the Attorney General shall furnish a copy of the data to the current or prospective employee to whom the data relates.

Any information obtained from the state summary criminal history is confidential and the receiving public utility shall not disclose its contents, other than for the purpose for which it was acquired. The state summary criminal history information in the possession of the public utility and all copies made from it shall be destroyed not more than 30 days after employment or promotion or transfer is denied or granted, except for those cases where a current or prospective employee is out on bail or on his or her own recognizance pending trial, in which case the state summary criminal history information and all copies shall be destroyed not more than 30 days after the case is resolved.

A violation of any of the provisions of this paragraph is a misdemeanor, and shall give the current or prospective employee who is injured by the violation a cause of action against the public utility to recover damages proximately caused by the violations. Any public utility's request for state summary criminal history information for purposes of employing current or prospective employees who may be seeking entrance to private residences in the course of their employment shall be deemed a "compelling need" as required to be shown in this subdivision.

Nothing in this section shall be construed as imposing any duty upon public utilities to request state summary criminal history information on any current or prospective employees.

(10) To any campus of the California State University and Colleges or the University of California, or any four-year college or university accredited by a regional accreditation organization approved by the United States Department of Education, when needed in conjunction with an application for admission by a convicted felon to any special education program for convicted felons, including, but not limited to, university alternatives and halfway houses. Only conviction information shall be furnished. The college or university may require the convicted felon to be fingerprinted, and any inquiry to the department under this section shall include the convicted felon's fingerprints and any other information specified by the department.

(d) Whenever an authorized request for state summary criminal history information pertains to a person whose fingerprints are on file with the Department of Justice and the department has no criminal history of that person, and the information is to be used for employment, licensing, or certification purposes, the fingerprint card accompanying such request for information, if any, may be stamped "no criminal record" and returned to the person or entity making the request.

(e) Whenever state summary criminal history information is furnished as a result of an application and is to be used for employment, licensing or certification purposes, the Department of Justice may charge the person or entity making the request a fee which it determines to be sufficient to reimburse the department for the cost of furnishing such information. In addition, the Department of Justice may add a surcharge to the fee to fund maintenance and improvements to the systems from which the information is obtained. Notwithstanding any other provisions of law, any person or entity required to pay a fee to the department for information received under this section may charge the applicant a fee sufficient to reimburse the person or entity for such expense. All moneys received by the department pursuant to this section, Section 12054 of the Penal Code, and Section 13588 of the Education Code shall be deposited in a special account in the General Fund to be available for expenditure by the department to offset costs incurred pursuant to such sections and for maintenance and improvements to the systems from which the information is obtained when appropriated by the Legislature therefor.

(f) Whenever there is a conflict, the processing of criminal fingerprints and fingerprints of applicants for security guard or alarm agent registrations or firearms qualification permits submitted pursuant to Section 7514 of the Business and Professions Code shall take priority over the processing of applicant fingerprints.

(g) It is not a violation of this section to disseminate statistical or research information obtained from a record, provided that the identity of the subject of the record is not disclosed.

(h) It is not a violation of this section to include information obtained from a record in (1) a transcript or record of a judicial or administrative proceeding or (2) any other public record when the inclusion of the information in the public record is authorized by a court, statute, or decisional law.

11105.1 State summary criminal history information; persons entitled to receive

(a) The following persons shall be furnished with state summary criminal history information when needed in the course of their duties:

(1) The director of a state hospital or other treatment facility to which a person is committed for treatment under Sections 1026 and 1370 of the Penal Code or Section 5250, if committed for being dangerous to others, or Section 5300, or former Section 6316 or 6321, of the Welfare and Institutions Code.

(2) The county mental health director or the director's designee under any of the following conditions:

(A) When ordered to evaluate a defendant for the court under paragraph (2) of subdivision (a) of Section 1370 and subdivision (2) of Section 1026 of the Penal Code or paragraph (2) of subdivision (a) of former Section 6316 of the Welfare and Institutions Code.

(B) When ordered to provide outpatient treatment and supervision services under Title 15 (commencing with Section 1600) of Part 2 of the Penal Code.

(C) When a patient is committed for being dangerous to others under Section 5250 of the Welfare and Institutions Code.

(3) The officer providing conservatorship investigation under Section 5354 of the Welfare and Institutions Code in cases where referral for conservatorship is made while the proposed conservatee is being treated under Section 1026 or 1370 of the Penal Code or Section 5250, of committed for being dangerous to others, or Section 5300, or former Section 6316 or 6321, of the Welfare and Institutions Code.

(b) In all instances pursuant to subdivision (a), the criminal history record shall be transmitted by the court with the request for evaluation or during the conservatorship investigation or with the order committing the person to a treatment facility or approving outpatient status, except that the director of a state hospital, the county mental health director, and the officer providing conservatorship investigation may receive the state summary criminal history information from the law enforcement agency that referred the person for evaluation and treatment under Section 5150 of the Welfare and Institutions Code if the person has been subsequently committed for being dangerous to others under Section 5250 of the Welfare and Institutions Code. Information obtained under this subdivision shall not be included in any document which will become part of a public record.

11105.2 State summary criminal history information; agencies fulfilling employment, licensing or certification duties; subsequent arrest notification service

(a) The Department of Justice may provide subsequent arrest notification to any agency authorized by Section 11105 to receive state summary criminal history information to assist in fulfilling employment, licensing, or certification duties upon the arrest of any person whose fingerprints are

maintained on file at the Department of Justice as the result of an application for licensing, employment, or certification. Such notification shall consist of a current copy of the person's state summary criminal history transcript.

(b) Any agency, other than a law enforcement agency employing peace officers as defined in Section 830.1, subdivisions (a), (b), and (f) of Section 830.2, subdivision (a) of Section 830.3, subdivisions (a) and (b) of Section 830.5, and subdivision (a) of Section 830.31, shall enter into a contract with the Department of Justice in order to receive notification of subsequent arrests for licensing, employment, or certification purposes.

(c) Any agency which submits the fingerprints of applicants for licensing, employment, or certification to the Department of Justice for the purpose of establishing a record of the applicant to receive notification of subsequent arrests shall immediately notify the department when the employment of such applicant is terminated, when the applicant's license or certificate is revoked, or when the applicant may no longer renew or reinstate the license or certificate. The Department of Justice shall terminate subsequent arrest notification on any applicant upon the request of the licensing, employment, or certifying authority.

(d) Any agency receiving a notification of subsequent arrest for a person unknown to the agency, or for a person no longer employed by the agency, or no longer eligible to renew the certificate or license for which subsequent arrest notification service was established shall immediately return such subsequent arrest notification to the Department of Justice, informing the department that the agency is no longer interested in the applicant. The agency shall not record or otherwise retain any information received as a result of such subsequent arrest notice.

(e) Any agency which submits the fingerprints of an applicant for employment, licensing, or certification to the Department of Justice for the purpose of establishing a record at the department to receive notification of subsequent arrest shall immediately notify the department if the applicant is not subsequently employed, or if the applicant is denied licensing or certification.

(f) An agency which fails to provide the Department of Justice with notification as set forth in subdivisions (c), (d), and (e) may be denied further subsequent arrest notification service.

11105.3 Record of conviction involving crimes; availability to employer for applicant for position with supervisory or disciplinary power over minor

(a) Notwithstanding any other provision of law, an employer may request from the Department of Justice records of all convictions involving any sex crimes, drug crimes, or crimes of violence of a person who applies for employment or volunteers for a position in which he or she would have supervisory or disciplinary power over a minor. The department shall furnish the information to the requesting employer and shall also send a copy of the information to the applicant.

(b) Any request for records under subdivision (a) shall include the applicant's fingerprints, which may be taken by the employer, and any other data specified by the department. The request shall be on a form approved by the department, and the department may charge a fee to be paid by the employer for the actual cost of processing the request. The department shall destroy an application within six months after the requested information is sent to the employer and applicant.

(c) The department shall adopt regulations to implement the provisions of this section.

(d) As used in this section "employer" means any nonprofit corporation or other organizations specified by the Attorney General which employs or uses the services of volunteers in positions in which the volunteer or employee has supervisory or disciplinary power over a child or children.

(e) As used in this section "sex crime" means a conviction for a violation or attempted violation of Section 220, 261, 261.5, 264.1, 267, 272, 273a, 273d, 285, 286, 288, 288a, 289, 314, 647a, or subdivision (d) of Section 647, or commitment as a mentally disordered sex offender under the provisions of Article 1 (commencing with Section 6300) of Chapter 2 of Part 2 of Division 6 of the Welfare and Institutions Code.

Conviction for a violation or attempted violation of an offense committed outside the State of California is a sex crime if such offense would have been a crime under one of the above sections if committed in California.

(f) As used in this section, "drug crime" means any felony or misdemeanor conviction, within 10 years of the date of the employer's request under subdivision (a), for a violation or attempted violation of the California Uniform Controlled Substances Act contained in Division 10 (commencing with Section 11000) of the Health and Safety Code, provided that no record of a misdemeanor conviction shall be transmitted to the employer unless the subject of the request has three or more misdemeanor convictions within the 10-year period.

(g) As used in this section, "crime of violence" means any felony or misdemeanor conviction within 10 years of the date of the employer's request under subdivision (a), for any of the offenses specified in subdivision (c) of Section 667.5 or a violation or attempted violation of Chapter 3 (commencing with Section 207), Chapter 8 (commencing with Section 236), or Chapter 9 (commencing with Section 240) of Title 8 of Part 1, provided that no record of a misdemeanor conviction shall be transmitted to the employer unless the subject of the request has three or more misdemeanor convictions within the period.

NOTE: Takes effect January 1, 1985, prior to that date only sex crime conviction information was available for this use.

EXAMINATION OF RECORDS

11120. Record defined

As used in this article, "record" with respect to any person means the state summary criminal history information as defined in subdivision (a) of Section 11105, maintained under such person's name by the Department of Justice.

11121. Purpose

It is the function and intent of this article to afford persons concerning whom a record is maintained in the files of the bureau an opportunity to obtain a copy of the record compiled from such files, and to refute any erroneous or inaccurate information contained therein.

11122. Submission of application; fee

Any person desiring a copy of the record relating to himself shall obtain an application form furnished by the department which shall require his fingerprints in addition to such other information as the department shall specify. Applications may be obtained from police departments, sheriff departments, or the Department of Justice. The fingerprinting agency may fix a reasonable fee for affixing the applicant's fingerprints to the form, and shall retain such fee.

11123. Submission of application; fee

The applicant shall submit the completed application directly to the department. The application shall be accompanied by a fee not to exceed twenty-five dollars ($25) that the department determines equals the costs of processing the application and providing a copy of the record to the applicant. All fees received by the department under this section are hereby appropriated without regard to fiscal years for the support of the Department of Justice in addition to such other funds as may be appropriated therefor by the Legislature. Any request for waiver of fee shall accompany the original request for the record and shall include a claim and proof of indigency.

11124. Determination of existence of record; copy of record or notice of no record; delivery

When an application is received by the department, the department shall determine whether a record pertaining to the applicant is maintained. If such record is maintained, the department shall furnish a copy of the record to the applicant or to an individual designated by the applicant. If no such record is

maintained, the department shall so notify the applicant or an individual designated by the applicant. Delivery of the copy of the record, or notice of no record, may be by mail or other appropriate means agreed to by the applicant and the department.

11125. Unauthorized requirement of obtaining record or notice of no record offense

No person or agency shall require another person to obtain a copy of a record or notification that a record exists or does not exist, as provided in Section 11124, unless specifically authorized by law. A violation of this section is a misdemeanor.

11126. Correction of record; written request for clarification; notice of correction of record; administrative adjudication; judicial review

(a) If the applicant desires to question the accuracy or completeness of any material matter contained in the record, he may submit a written request to the department in a form established by it. The request shall include a statement of the alleged inaccuracy or incompleteness in the record, and its materiality, and shall specify any proof or corroboration available. Upon receipt of such request, the department shall forward it to the person or agency which furnished the questioned information. Such person or agency shall, within 30 days of receipt of such written request for clarification, review its information and forward to the department the results of such review.

(b) If such agency concurs in the allegations of inaccurateness or incompleteness in the record, and finds that the error is material, it shall correct its record and shall so inform the department, which shall correct the record accordingly. The department shall inform the applicant of its correction of the record under this subdivision within 30 days. The department and the agency shall notify all persons and agencies to which they have disseminated the incorrect record in the past 90 days of the correction of the record, and the applicant shall be informed that such notification has been given. The department and the agency shall also notify those persons or agencies to which the incorrect record has been disseminated which have been specifically requested by the applicant to receive notification of the correction of the record, and the applicant shall be informed that such notification has been given.

(c) If such agency denies the allegations of inaccurateness or incompleteness in the record, the matter shall be referred for administrative adjudication in accordance with Chapter 5 (commencing with Section 11500) of Part 1, Division 3, Title 2, of the Government Code for a determination of whether inaccuracy or incompleteness exists in the record. The agency from which the questioned information originated shall be the respondent in the hearing. If a material inaccuracy or incompleteness is found in any record, the agency in charge of the record shall be directed to correct it accordingly, and to inform the department, which shall correct its record accordingly. The

department and the agency shall notify all persons and agencies to which they have disseminated the incorrect record in the past 90 days of the correction of the record, and the applicant shall be informed that such notification has been given. The department and the agency shall also notify those persons or agencies to which the incorrect record has been disseminated which have been specifically requested by the applicant to receive notification of the correction of the record, and the applicant shall be informed that such notification has been given. Judicial review of the decision shall be governed by Section 11523 of the Government Code. The applicant shall be informed of the decision within 30 days of its issuance in accordance with Section 11518 of the Government Code.

11127. Regulations

The department shall adopt all regulations necessary to carry out the provisions of this article.

11140. Definitions

(a) "Record" means the state summary criminal history information as defined in subdivision (a) of Section 11105, or a copy thereof, maintained under a person's name by the Department of Justice.

(b) "A person authorized by law to receive a record" means any person or public agency authorized by a court, statute, or decisional law to receive a record.

11141. Employee of justice department furnishing record or information to unauthorized person; misdemeanor

Any employee of the Department of Justice who knowingly furnishes a record or information obtained from a record to a person who is not authorized by law to receive the record or information is guilty of a misdemeanor.

11142. Authorized person furnishing record or information to unauthorized person; misdemeanor

Any person authorized by law to receive a record or information obtained from a record who knowingly furnishes the record or information to a person who is not authorized by law to receive the record or information is guilty of a misdemeanor.

11143. Unauthorized person receiving record or information; misdemeanor

Any person, except those specifically referred to in Section 1070 of the Evidence Code, who, knowing he is not authorized by law to receive a record or information obtained from a record, knowingly buys, receives, or possesses the record or information is guilty of a misdemeanor.

11144. Dissemination of statistical or research information from a record

(a) It is not a violation of this article to disseminate statistical or research information obtained from a record, provided that the identity of the subject of the record is not disclosed.

(b) It is not a violation of this article to disseminate information obtained from a record for the purpose of assisting in the apprehension of a person wanted in connection with the commission of a crime.

(c) It is not a violation of this article to include information obtained from a record in (1) a transcript or record of a judicial or administrative proceeding or (2) any other public record when the inclusion of the information in the public record is authorized by a court, statute, or decisional law.

13202. Public agencies and research bodies; access to criminal offender record information; removal of individual identification; costs

Every public agency or bona fide research body immediately concerned with the prevention or control of crime, the quality of criminal justice, or the custody or correction of offenders may be provided with such criminal offender record information as is required for the performance of its duties, provided that any material identifying individuals is not transferred, revealed, or used for other than research or statistical activities and reports or publications derived therefrom do not identify specific individuals, and provided that such agency or body pays the cost of the processing of such data as determined by the Attorney General.

FURNISHING OF LOCAL SUMMARY CRIMINAL HISTORY INFORMATION

13300. Furnishing to authorized persons; fingerprints on file without criminal history; fees

(a) As used in this section:

(1) "Local summary criminal history information" means the master record of information compiled by any local criminal justice agency pursuant to Chapter 2 (commencing with Section 13100), of Title 3 of Part 4 of the Penal Code pertaining to the identification and criminal history of any person, such as name, date of birth, physical description, dates of arrests, arresting agencies and booking numbers, charges, dispositions, and similar data about such person.

(2) "Local summary criminal history information" does not refer to records and data compiled by criminal justice agencies other than that local agency, nor does it refer to records of complaints to or investigations conducted by, or records of intelligence information or security procedures of, the local agency.

(3) "Local agency" means a local criminal justice agency.

(b) A local agency shall furnish local summary criminal history information to any of the following, when needed in the course of their duties, provided that when information is furnished to assist an agency, officer, or official of state or local government, a public utility, or any entity, in fulfilling employment, certification, or licensing duties, the provisions of Chapter 1321 of the Statutes of 1974 and of Section 432.7 of the Labor Code shall apply:

(1) The courts of the state.

(2) Peace officers of the state as defined in Section 830.1, subdivisions (a) and (b) of Section 830.2, subdivisions (a), (b), and (j) of Section 830.3, subdivisions (a), (b), and (c) of Section 830.5, and Section 830.5a.

(3) District attorneys of the state.

(4) Prosecuting city attorneys of any city within the state.

(5) Probation officers of the state.

(6) Parole officers of the state.

(7) A public defender or attorney of record when representing a person in proceedings upon a petition for a certificate of rehabilitation and pardon pursuant to Section 4852.08.

(8) A public defender or attorney of record when representing a person in a criminal case and when authorized access by statutory or decisional law.

(9) Any agency, officer, or official of the state when such criminal history information is required to implement a statute, a regulation, or an ordinance that expressly refers to specific criminal conduct applicable to the subject person of the local summary criminal history information, and contains requirements or exclusions, or both, expressly based upon such specified criminal conduct.

(10) Any city or county, or city and county, or district, or any officer, or official thereof when access is needed in order to assist such agency, officer, or official in fulfilling employment certification, or licensing duties, and when such access is specifically authorized by the city council, board of supervisors or governing board of the city, county, or district when such criminal history information is required to implement a statute, a regulation, or an ordinance that expressly refers to specific criminal history information, and contains requirements of exclusions, or both, expressly based upon such specified criminal conduct.

(11) The subject of the local summary criminal history information.

(12) Any person or entity when access is expressly authorized by statute when such criminal history information is required to implement a statute, a regulation, or an ordinance that expressly refers to specific criminal conduct applicable to the subject person of the local summary criminal history information, and contains requirements or exclusions, or both, expressly based upon such specified criminal conduct.

(13) Any managing or supervising correctional officer of a county jail or other county correctional facility.

(c) The local agency may furnish local summary criminal history information, upon a showing of a compelling need, to any of the following, provided that when information is furnished to assist an agency, officer, or official of state or local government, a public utility, or any entity, in fulfilling employment, certification, or licensing duties, the provisions of Chapter 1321 of the Statutes of 1974 and of Section 432.7 of the Labor Code shall apply:

(1) Any public utility as defined in Section 216 of the Public Utilities Code which operates a nuclear energy facility when access is needed in order to assist in employing persons to work at such facility, provided that, if the local agency supplies such data, it shall furnish a copy of such data to the person to whom the data relates.

(2) To a peace officer of the state other than those included in subdivision (b).

(3) To a peace officer of another country.

(4) To public officers (other than peace officers) of the United States, other states, or possessions or territories of the United States, provided that access to records similar to local summary criminal history information is expressly authorized by a statute of the United States, other states, or possessions or territories of the United States when such information is needed for the performance of their official duties.

(5) To any person when disclosure is requested by a probation, parole, or peace officer with the consent of the subject of the local summary criminal history information and for purposes of furthering the rehabilitation of the subject.

(6) The courts of the United States, other states or territories or possessions of the United States.

(7) Peace officers of the United States, other states, or territories or possessions of the United States.

(8) To any individual who is the subject of the record requested when needed in conjunction with an application to enter the United States or any foreign nation.

(9) Any public utility as defined in Section 216 of the Public Utilities Code, when access is needed in order to assist in employing persons who will be seeking entrance to private residences in the course of their employment. The information provided shall be limited to the record of convictions and any arrest for which the person is released on bail or on his or her own recognizance pending trail.

If the local agency supplies the data pursuant to this paragraph, it shall furnish a copy of the data to the person to whom the data relates.

Any information obtained from the local summary criminal history is confidential and the receiving public utility shall not disclose its contents, other than for the purpose for which it was acquired. The local summary criminal history information in the possession of the public utility and all copies made from it shall be destroyed 30 days after employment is denied or granted, including any appeal periods, except for those cases where an employee or applicant is out on bail or on his or her own recognizance pending trial, in which case the state summary criminal history information and all copies shall be destroyed 30 days after the case is resolved, including any appeal periods.

A violation of any of the provisions of this paragraph is a misdemeanor, and shall give the employee or applicant who is injured by the violation a cause of action against the public utility to recover damages proximately caused by the violation.

Nothing in this section shall be construed as imposing any duty upon public utilities to request local summary criminal history information on any current or prospective employee.

Seeking entrance to private residences in the course of employment shall be deemed a "compelling need" as required to be shown in this subdivision.

(d) Whenever an authorized request for local summary criminal history information pertains to a person whose fingerprints are on file with the local agency and the local agency has no criminal history of that person, and the information is to be used for employment, licensing, or certification purposes, the fingerprint card accompanying such request for information, if any, may be stamped "no criminal record" and returned to the person or entity making the request.

(e) Whenever local summary criminal history information furnished pursuant to this section is to be used for employment, licensing, or certification purposes, the local agency shall charge the person or entity making the request a fee which it determines to be sufficient to reimburse the local agency for the cost of furnishing such information, provided that no fee shall be charged to any public law enforcement agency for local summary criminal history information furnished to assist it in employing, licensing, or certifying a person who is applying for employment with the agency as a peace officer, or criminal investigator. Any state agency required to pay a fee to the local agency for information received under this section may charge the applicant a fee sufficient to reimburse the agency for such expense.

(f) Whenever there is a conflict, the processing of criminal fingerprints shall take priority over the processing of applicant fingerprints.

(g) It is not a violation of this article to disseminate statistical or research information obtained from a record, provided that the identity of the subject of the record is not disclosed.

(h) It is not a violation of this article to include information obtained from a record in (1) a transcript or record of a judicial or administrative proceeding or (2) any other public record when the inclusion of the information in the public record is authorized by a court, statute, or decisional law.

UNLAWFUL FURNISHING
OF LOCAL SUMMARY CRIMINAL HISTORY INFORMATION

13301. "Record"; "a person authorized by law to receive a record" defined

(a) "Record" means the master local summary criminal history information as defined in subdivision (a) of Section 13300, or a copy thereof.

(b) "A person authorized by law to receive a record" means any person or public agency authorized by a court, statute, or decisional law to receive a record.

13302. Furnishing to unauthorized person by employee of local agency

Any employee of the local criminal justice agency who knowingly furnishes a record or information obtained from a record to a person who is not authorized by law to receive the record or information is guilty of a misdemeanor.

13303. Furnishing to unauthorized person by authorized person

Any person authorized by law to receive a record or information obtained from a record who knowingly furnishes the record or information to a person who is not authorized by law to receive the record or information is guilty of a misdemeanor.

13304. Receipt, purchase or possession by unauthorized person

Any person, except those specifically referred to in Section 1070 of the Evidence Code, who, knowing he is not authorized by law to receive a record or information obtained from a record, knowingly buys, receives, or possesses the record or information is guilty of a misdemeanor.

13305. Statistical data, data for apprehension of purported criminal, and data in public records; authorized use

(a) It is not a violation of this article to disseminate statistical or research information obtained from a record, provided that the identity of the subject of the record is not disclosed.

(b) It is not a violation of this article to disseminate information obtained from a record for the purpose of assisting in the apprehension of a person wanted in connection with the commission of crime.

(c) It is not a violation of this article to include information obtained from a record in (1) a transcript or record of a judicial or administrative proceeding or (2) any other public record when the inclusion of the information in the public record is authorized by a court, statute, or decisional law.

EXAMINATION OF LOCAL RECORDS

13320. Definitions; purpose

(a) As used in this article, "record" with respect to any person means the local summary criminal history information as defined in subdivision (a) of Section 13300, maintained under such person's name by the local criminal justice agency.

(b) As used in this article, "agency" means any agency or consortium of agencies.

(c) It is the function and intent of this article to afford persons concerning whom a record is maintained in the files of the local criminal justice agency a reasonable opportunity to examine the record compiled from such files, and to refute any erroneous or inaccurate information contained therein.

13321. Application; records relating to applicant; requirements

Any person desiring to examine a record relating to himself shall make application to the agency maintaining the record in the form prescribed by that agency which may require the submission of fingerprints.

13322. Fee

The agency may require the application be accompanied by a fee not to exceed twenty-five dollars ($25) that the agency determines is equal to the cost of processing the application and making a record available for examination.

13323. Verification of applicants identity and existence of record; method of examination

When an application is received by the agency, the agency shall upon verification of the applicant's identity determine whether a record pertaining to the applicant is maintained. If such record is maintained, the agency shall at its discretion either inform the applicant by mail of the existence of the record and specify a time when the record may be examined at a suitable facility of the agency or shall mail the subject a copy of the record.

13324. Written request to correct inaccuracy or completeness, concurrence by agency; correction of record; notice, denial; administrates adjudication

(a) If the applicant desires to question the accuracy or completeness of any material matter contained in the record, he may submit a written request to the agency in the form established by it. The request shall include a statement of the alleged inaccuracy or incompleteness in the record, its materiality, and shall specify any proof or corroboration available. Upon receipt of such request, the agency shall, within 60 days of receipt of such written request for clarification, review its information and forward to the applicant the results of such review.

(b) If the agency concurs in the allegations of inaccuracy or incompleteness in the record and finds that the error is material, it shall correct its record, and the agency shall inform the applicant of its correction of any material error in the record under this subdivision within 60 days. The agency shall notify all criminal justice agencies to which it has disseminated the incorrect record from an automated system in the past two years of the correction of the record.

The agency shall furnish the applicant with a list of all the noncriminal justice agencies to which the incorrect record has been disseminated from an automated system in the past two years unless it interferes with the conduct of an authorized investigation.

(c) If the agency denies the allegations of inaccuracy or incompleteness in the record, the matter shall at the option of the applicant be referred for administrative adjudication in accordance with the rules of the local governing body.

13325. Regulations

The agency shall adopt all regulations necessary to carry out the provisions of this article.

13326. Request of employee to obtain record or notification of existence of record; prohibition; violations; penalty

No person shall require an employee or prospective employee to obtain a copy of a record or notification that a record exists as provided in Section 13323. A violation of this section is a misdemeanor.

EXCERPTS FROM THE CALIFORNIA GOVERNMENT CODE

6200. Theft, destruction, falsification, or removal by officer custodian

Every officer having the custody of any record, map, or book, or of any paper or proceeding of any court, filed or deposited in any public office, or placed in his hands for any purpose, who is guilty of stealing, willfully destroying, mutilating, defacing, altering or falsifying, removing or secreting the whole or any part of such record, map, book, paper, or proceeding, or who permits any other person to do so, is punishable by imprisonment in the state prison for two, three, or four years.

6201. Theft, destruction, falsification, or removal by person other than officer custodian

Every person not an officer referred to in Section 6200, who is guilty of any of the acts specified in that section, is punishable by imprisonment in the state prison, or in a county jail not exceeding one year, or by a fine not exceeding one hundred dollars ($100), or by both such fine and imprisonment.

CALIFORNIA PUBLIC RECORDS ACT

6251. Short title

This chapter shall be known and may be cited as the California Public Records Act.

6252. Definitions

As used in this chapter:

(a) "State agency" means every state office, officer, department, division, bureau, board, and commission or other state body or agency, except those agencies provided for in Article IV (except Section 20 thereof) or Article VI of the California Constitution.

(b) "Local agency" includes a county; city, whether general law or chartered; city and county; school district; municipal corporation; district; political subdivision; or any board, commission or agency thereof; or other local public agency.

(c) "Person" includes any natural person, corporation, partnership, firm, or association.

(d) "Public records" includes any writing containing information relating to the conduct of the public's business prepared, owned, used, or retained by any state or local agency regardless of physical form or characteristics. "Public records" in the custody of or maintained by the Governor's Office means any writing prepared on or after January 6, 1975.

(e) "Writing" means handwriting, typewriting, printing, photostating, photographing, and every other means of recording upon any form of communication or representation, including letters, words, pictures, sounds, or symbols, or combination thereof, and all papers, maps, magnetic or paper tapes, photographic films and prints, magnetic or punched cards, discs, drums, and other documents.

(f) "Member of the public" means any person, except a member, agent, officer, or employee of a federal, state, or local agency acting within the scope of his or her membership, agency, office, or employment.

EXEMPTIONS FROM PUBLIC DISCLOSURE

6254. Exemption of particular records

Except as provided in Section 6254.7, nothing in this chapter shall be construed to require disclosure of records that are:

(a) Preliminary drafts, notes, or interagency or intra-agency memoranda which are not retained by the public agency in the ordinary course of business, provided that the public interest in withholding such records clearly outweighs the public interest in disclosure.

(b) Records pertaining to pending litigation to which the public agency is a party, or to claims made pursuant to Division 3.6 (commencing with Section 810) of Title 1 of the Government Code, until such litigation or claim has been finally adjudicated or otherwise settled.

(c) Personnel, medical or similar files, the disclosure of which would constitute an unwarranted invasion of personal privacy.

(d) Contained in or related to:

(1) Applications filed with any state agency responsible for the regulation or supervision of the issuance of securities or of financial institutions, including, but not limited to, banks, savings and loan associations, industrial loan companies, credit unions, and insurance companies.

(2) Examination, operating, or condition reports prepared by, on behalf of, or for the use of any state agency referred to in subdivision (1).

(3) Preliminary drafts, notes, or interagency or intra-agency communications prepared by, on behalf of, or for the use of any state agency referred to in subdivision (1); or

(4) Information received in confidence by any state agency referred to in subdivision (1).

(e) Geological and geophysical data, plant production data and similar information relating to utility systems development, or market or crop reports, which are obtained in confidence from any person.

(f) Records of complaints to or investigations conducted by, or records of intelligence information or security procedures of, the Office of the Attorney General and the Department of Justice, and any state or local police agency, or any such investigatory or security files compiled by any other state or local police agency, or any such investigatory or security files compiled by any other state or local agency for correctional, law enforcement or licensing purposes, except that state and local law enforcement agencies shall disclose the names and addresses of persons involved in, or witnesses other than confidential informants to, the incident, the description of any property involved, the date, time, and location of the incident, all diagrams, statements of the parties involved in the incident, the statements of all witnesses, other than confidential informants, to the victims of an incident, or an authorized representative thereof, an insurance carrier against which a claim has been or might be made, and any person suffering bodily injury or property damage or loss, as the result of the incident caused by arson, burglary, fire, explosion, larceny, robbery, vandalism, vehicle theft, or a crime of violence as defined by subdivision (b) of Section 13960, unless the disclosure would endanger the safety of a witness or other person involved in the investigation, or unless disclosure would endanger the successful completion of the investigation or a related investigation; provided, however, that nothing herein shall require the disclosure of that portion of those investigative files which reflect the analysis or conclusions of the investigating officer.

Other provisions of this subdivision notwithstanding, state and local law enforcement agencies shall make public the following information, except to the extent that disclosure of a particular item of information would endanger the safety of a person involved in an investigation or would endanger the successful completion of the investigation or a related investigation:

(1) The full name, current address, and occupation of every individual arrested by the agency, the individual's physical description including date of birth, color of eyes and hair, sex, height and weight, the time and date of arrest, the time and date of booking, the location of the arrest, the factual circumstances surrounding the arrest, the amount of bail set, the time and manner of release or the location where the individual is currently being held, and all charges the individual is being held upon, including any outstanding warrants from other jurisdictions and parole or probation holds; and

(2) The time, substance, and location of all complaints or requests for assistance received by the agency and the time and nature of the response thereto, including, to the extent such information regarding crimes alleged or committed or any other incident investigated is recorded, the time, date and location of occurrence, the time and date of the report, the name, age and current address of the victim, except that the address of the victim of any

crime defined by Section 261, 264, 264.1, 273a, 273d, 286, 288, 288a, or 289 of the Penal Code shall not be disclosed, the factual circumstances surrounding the crime or incident, and a general description of any injuries, property or weapons involved.

(g) Test questions, scoring keys, and other examination data used to administer a licensing examination, examination for employment, or academic examination, except as provided for in Chapter 3 (commnencing with Section 99150) of Part 65 of the Education Code.

(h) The contents of real estate appraisals, engineering or feasibility estimates and evaluations made for or by the state or local agency relative to the acquisition of property, or to prospective public supply and construction contracts, until such time as all of the property has been acquired or all of the contract agreement obtained, provided, however, the law of eminent domain shall not be affected by this provision.

(i) Information required from any taxpayer in connection with the collection of local taxes which is received in confidence and the disclosure of the information to other persons would result in unfair competitive disadvantage to the person supplying such information.

(j) Library circulation records kept for the purpose of identifying the borrower of items available in libraries, and library and museum materials made or acquired and presented solely for reference of exhibition purposes. The exemption in this subdivision shall not apply to records of fines imposed on such borrowers.

(k) Records the disclosure of which is exempted or prohibited pursuant to provisions of federal or state law, including, but not limited to, provisions of the Evidence Code relating to privilege.

(l) Correspondence of and to the Governor or employees of the Governor's Office or in the custody of or maintained by the Governor's legal affairs secretary, provided public records shall not be transferred to the custody of the Governor's legal affairs secretary to evade the disclosure provisions of this chapter.

(m) In the custody or maintained by the Legislative Counsel.

(n) Statements of personal worth or personal financial data required by a licensing agency and filed by an applicant with such licensing agency to establish his personal qualification for the license, certificate, or permit applied for.

(o) Financial data contained in applications for financing under Division 27 (commencing with Section 44500) of the Health and Safety Code, where an authorized officer of the California Pollution Control Financing Authority determines that disclosure of such financial data would be competitively injurious to the applicant and such data is required in order to obtain guarantees from the United States Small Business Administration. The California

Pollution Control Financing Authority shall adopt rules for review of individual requests for confidentiality under this section and for making available to the public those portions of an application which are subject to disclosure under this chapter.

(p) Records of state agencies related to activities governed by Chapter 10.3 (commencing with Section 3512) of Division 4 of Title 1, Chapter 10.5 (commencing with Section 3525) of Division 4 of Title 1, and Chapter 12 (commencing with Section 3560 of Division 4 of Title 1, which reveal a state agency's deliberative processes, impressions, evaluations, opinions, recommendations, meeting minutes, research, work products, theories or strategy, or which provide instruction, advice, or training to employees who do not have full collective bargaining and representation rights under the above chapters. Nothing in this subdivision shall be construed to limit the disclosure duties of a state agency with respect to any other records relating to the activities governed by the employee relations acts referred to in this subdivision.

(q) Records of state agencies related to activities governed by Articles 2.6, 2.8, and 2.91 of Chapter 7 (commencing with Section 14000) of Part 3 of Division 9 of the Welfare and Institutions Code, which reveal the special negotiator's deliberative processes, impressions, opinions, recommendations, meeting minutes, research work product, theories, or strategy, or which provide instruction, advice, or training to employees. All or portions of contracts entered into pursuant to these articles may be exempted from the provisions of this chapter as specified by the terms of each contract.

Nothing in this section is to be construed as preventing any agency from opening its records concerning the administration of the agency to public inspection, unless disclosure is otherwise prohibited by law.

(r) Records of Native American graves, cemeteries, and sacred places maintained by the Native American Heritage Commission.

(s) A final accreditation report of the Joint Commission on Accreditation of Hospitals which has been transmitted to the Department of Health Services pursuant to subdivision (b) of Section 1282 of the Health and Safety Code.

NOTES OF DECISIONS

A public record may be withheld where, on the facts of the particular case, the public interest served by not making the record public clearly outweighs the public interest served by disclosure of the record. 53 Ops, Atty, Gen., 258, 8-19-70.

Exemptions from disclosure requirements of Public Records Act are designed to protect privacy of persons whose data or documents come into governmental possession. Black Panther Party v. Kehoe (1974) 117 Cal.Rptr. 106, 42 C.A. 3d 645.

Adjective "law enforcement" used in this section protecting from disclosure investigatory files for correctional, law enforcement or licensing purposes refers to the enforcement of penal statutes and this section does not protect

from disclosure or discovery official files or information not involving a definite prospect of criminal law enforcement. State, Division of Indus. Safety vs. Superior Court for Los Angeles County (1974) 117 Cal.Rptr. 726, 43 C.A. 3d 778.

Term "investigatory files" used in statute protecting from disclosure investigatory files compiled by state or local agency for correctional, law enforcement or licensing purposes is limited in its application to situations where the prospect of future enforcement proceedings is concrete. Id.

Penal Code Sections 11120 to 11127 dealing with access of private individuals to their state arrest records constituted special legislation and took precedence over any general legislation such as Public Records Act. Young v. Berkeley City Council (1975) 119 Cal.Rptr. 830, 45 C.A. 3d 825.

Criminal Offender Records

Ordinarily all criminal offender record information, including that compiled by Berkeley police department, is confidential and not "public" or subject to disclosure. Younger v. Berkeley City Council (1975) 119 Cal.Rptr. 830,45 C.A.3d 825.

6254.5 State or local agency disclosure

Notwithstanding any other provisions of the law, whenever a state or local agency discloses a public record which is otherwise exempt from this chapter, to any member of the public, this disclosure shall constitute a waiver of the exemptions specified in Sections 6254, 6254.7, or other similar provisions of law. For the purposes of this section, before a disclosure of an otherwise exempt public record by a state or local agency to a federal agency, is made, the federal agency shall agree in writing to comply with this chapter. For purposes of this section, "agency" includes a member, agent, officer or employee of the agency acting within the scope of his or her membership, agency, office, or employment.

This section, however, shall not apply to disclosures:

(a) Made pursuant to the Information Practices Act (commencing with Section 1789 of the Civil Code) or discovery proceedings.

(b) Made through other legal proceedings.

(c) Within the scope of disclosure of a statute which limits disclosure of specified writings to certain purposes.

(d) Not required by law, and prohibited by formal action of an elected legislative body of the local agency which retains the writings.

6255. Justification of withholding of records

The agency shall justify withholding any record by demonstrating that the record in question is exempt under express provisions of this chapter or that on

the facts of the particular case the public interest served by not making the record public clearly outweighs the public interest served by disclosure of the record.

NOTES OF DECISIONS

This section providing residual statutory exemption from required disclosure where, on facts of particular case, public interest served by not making records public clearly outweighs public interest served by disclosure entails balancing of interests, initially by public agency, then by reviewing court, and demands clear overbalance on side of confidentiality. Black Panther Party v. Kehoe (1974) 117 Cal.Rptr. 106, 42 C.A. 3d 645.

Under this section, proponent of confidentiality has burden of demonstrating clear overbalance of interest on side of confidentiality. Black Panther Party v. Kehoe (1974) 117 Cal.Rptr. 106, 42 C.A. 3d 645.

This section does not authorize selective disclosures which favors one citizen with disclosures denied to another. Black Panther Party v. Kehoe (1974) 117 Cal.Rptr. 106, 42 C.A. 3d 645.

6256. Copies of records

Any person may receive a copy of any identifiable public record or copy thereof. Upon request, an exact copy shall be provided unless impracticable to do so. Computer data shall be provided in a form determined by the agency.

Each agency, upon any request for a copy of records shall determine within 10 days after the receipt of such request whether to comply with the request and shall immediately notify the person making the request of such determination and the reasons therefor.

6256.1 Extension of time for determination in unusual circumstances; notice

In unusual circumstances, as specified in this section, the time limit prescribed in Section 6256 may be extended by written notice by the head of the agency to the person making the request setting forth the reasons for the extension and the date on which a determination is expected to be dispatched. No such notice shall specify a date that would result in an extension for more than 10 working days.

As used in this section "unusual circumstances" means, but only to the extent reasonably necessary to the proper processing of the particular request:

(a) The need to search for and collect the requested records from field facilities or other establishments that are separate from the office processing the request.

(b) The need to search for, collect, and appropriately examine a voluminous amount of separate and distinct records which are demanded in a single request.

(c) The need for consultation, which shall be conducted with all practicable speed, with another agency having a substantial interest in the determination of the request or among two or more components of the agency having substantial subject matter interest therein.

6256.2 Delay in access; prohibition; notification of denial; name of person responsible

Nothing in this chapter shall be construed to permit an agency to delay access for purposes of inspecting public records. Any notification of denial of any request for records shall set forth the names and titles or positions of each person responsible for the denial.

6257. Request for copy; prompt availability; fee; reasonably segregable portion after deletion of exempt portions

Except with respect to public records exempt by express provisions of law from disclosure, each state or local agency, upon any request for a copy of records, which reasonably decribes an identifiable record, or information produced therefrom, shall make the records promptly available to any person, upon payment of fees covering direct costs of duplication, or a statutory fee, if applicable. Any reasonably segregable portion of a record shall be provided to any person requesting such record after deletion of the portions which are exempt by law.

6258. Proceedings to enforce right to inspect or to receive copy of record

Any person may institute proceedings for injunctive or declarative relief in any court of competent jurisdiction to enforce his right to inspect or to receive a copy of any public record or class of public records under this chapter. The times for responsive pleadings and for hearings in such proceedings shall be set by the judge of the court with the object of securing a decision as to such matters at the earliest possible time.

6259. Order of court; contempt; court costs and attorney fees

Whenever it is made to appear by verified petition to the superior court of the county where the records or some part thereof are situated that certain public records are being improperly withheld from a member of the public, the court shall order the officer or person charged with withholding the records to disclose the public record or show cause why he should not do so. The court shall decide the case after examining the record in camera, if permitted by subdivision (b) of Section 915 of the Evidence Code, papers filed by the parties and such oral argument and additional evidence as the court may allow.

If the court finds that the public official's decision to refuse disclosure is not justified under the provisions of Section 6254 or 6255, he shall order the public official to make the record public. If the judge determines that the public official was justified in refusing to make the record public, he shall return the item to the public official without disclosing its content with an order supporting the decision refusing disclosure. Any person who fails to obey the order of the court shall be cited to show cause why he is not in contempt of

court. The court shall award court costs and reasonable attorney fees to the plaintiff should the plaintiff prevail in litigation filed pursuant to this section. Such costs and fees shall be paid by the public agency of which the public official is a member or employee and shall not become a personal liability of the public official. If the court finds that the plaintiff's case is clearly frivolous, it shall award court costs and reasonable attorney fees to the public agency.

6260. Effect of chapter on prior rights and proceedings

The provisions of this chapter shall not be deemed in any manner to affect the status of judicial records as it existed immediately prior to the effective date of this section, nor to affect the rights of litigants, including parties to administrative proceedings, under the laws of discovery of this state, nor to limit or impair any rights of discovery in a criminal case.

6261. Itemized statement of total expenditures and disbursement of any agency

Notwithstanding Section 6252, an itemized statement of the total expenditures and disbursement of any agency provided for in Article VI of the California Constitution shall be open for inspection.

6262. Exemption of records of complaints to, or investigations by, any state or local agency for licensing purposes; inapplicability to district attorney

The exemption of records of complaints to, or investigations conducted by, any state or local agency for licensing purposes under subdivision (f) of Section 6254 shall not apply when a request for inspection of such records is made by a district attorney.

6263. District attorney; inspection or copying of nonexempt public records

A state or local agency shall allow an inspection or copying of any public record or class of public records not exempted by this chapter when requested by a district attorney.

6264. Order to allow district attorney to inspect or copy records

The district attorney may petition a court of competent jurisdiction to require a state or local agency to allow him to inspect or receive a copy of any public record or class of public records not exempted by this chapter when the agency fails or refuses to allow inspection or copying within 10 working days of a request. The court may require a public agency to permit inspection or copying by the district attorney unless the public interest or good cause in withholding such records clearly outweighs the public interest in disclosure.

6265. Disclosure of records to district attorney; status of records

Disclosure of records to a district attorney under the provisions of this chapter shall effect no change in the status of the records under any other provision of law.

DESTRUCTION OF CITY RECORDS

34090. Destruction of city records; excepted records; construction

Unless otherwise provided by law, with the approval of the legislative body by resolution and the written consent of the city attorney, the head of a city department may destroy any city record, document, instrument, book or paper, under his charge, without making a copy thereof, after the same is no longer required.

This section does not authorize the destruction of:

(a) Records affecting the title to real property or liens thereon.
(b) Court records.
(c) Records required to be kept by statute.
(d) Records less than two years old.
(e) The minutes, ordinances, or resolutions of the legislative body or of a city board or commission.

This section shall not be construed as limiting or qualifying in any manner the authority provided in Section 34090.5 for the destruction of records, documents, instruments, books and papers in accordance with the procedure therein prescribed.

NOTES OF DECISIONS

In general

Any city record, document, instrument, book or paper not covered by the exceptions in this section may be destroyed by a city department head provided he obtains the approval of the legislative body by resolution and the written consent of the city attorney. 57 Ops.Atty.Gen. 307, 6-20-74.

Exceptions - In general

If any of the exceptions in this section exist the record may not be destroyed unless the provisions of 34090.5 are complied with by the city officer having custody of the record. 57 Ops.Atty.Gen. 307, 6-20-74.

- Copies of original. exceptions

The legislature intended, by 34090.5, that before any city record which is covered by the exceptions in this section is destroyed two microfilm or other type copies must be made and retained indefinitely. 57 Ops.Atty.Gen. 307, 6-20-74.

34090.5 Destruction of records; conditions

Notwithstanding the provisions of Section 34090, the city officer having custody of public records, documents, instruments, books, and papers, may, without the approval of the legislative body or the written consent of the city

attorney, cause to be destroyed any or all of such records, documents, instruments, books, and papers, if all of the following conditions are complied with:

(a) The record paper, or document is photographed, microphotographed, or reproduced on film of a type approved for permanent photographic records by the National Bureau of Standards.

(b) The device used to reproduce such record, paper, or document on film is one which accurately and legibly reproduces the original thereof in all details.

(c) The photographs, microphotographs, or other reproductions on film are made as accessible for public reference as the book records were.

(d) A true copy of archival quality of such film reproductions shall be kept in a safe and separate place for security purposes.

Provided, however, that no page of any record, paper, or document shall be destroyed if any such page cannot be reproduced on film with full legibility. Every such unreproducible page shall be permanently preserved in a manner that will afford easy reference.

NOTES OF DECISIONS

Readers

After copying and destroying city records, pursuant to this section, a mechanical "reader" must be made available to the public for microfilm and microfiche items, and copies of said records must be made for the public, if requested. 57 Ops.Atty.Gen. 307, 6-20-74.

Copies of original

The legislature intended, by this section, that before any city record which is covered by the exceptions in Section 34090 is destroyed two microfilm or other type copies must be made and retained indefinitely. 57 Ops.Atty.Gen. 307, 6-20-74.

34090.6

Notwithstanding the provisions of Section 34090, the head of a department of a city, county, or city and county or the head of a special district after 100 days may destroy recordings of telephone and radio communications maintained by the department or the special district. Such destruction shall be approved by the legislative body and the written consent of the agency attorney shall be obtained.

For purposes of this section, "recordings of telephone and radio communications" means the routine daily taping and recording of telephone communications to and from a city, county, city and county, or special district department and all radio communications relating to the operations of such departments or special district.

26201. Destruction of duplicate records and notices or promises to appear

The board may authorize at any time the destruction or disposition of any duplicate record, paper, or document, the original or a permanent photographic reproduction of which is in the files of any officer or department of the county.

The board may authorize at any time the destruction or disposition of any duplicate or copy of a notice to appear in court, or promise to appear in court, that is filed with any officer or department of the county, 12 months after the original of such notice or promise has been filed with the magistrate or a person authorized by the magistrate to receive a deposit of bail specified therein.

NOTES OF DECISION

In general

The records of county boards of education dealing with school affairs are records of "state agencies" within meaning of 14755, 14756 governing the destruction of records of state agencies, and are not records of a department of the county within 26201-26205. 27 Ops.Atty. Gen. 161.

Cancelled bonds and coupons of paid-up issues of county sanitary districts, road improvement districts, school districts, and various other county subdivisions may be destroyed in accordance with procedures set forth in this section and 26202, 26205. 18 Ops.Atty.Gen. 111.

There being no statute requiring the district attorney of city and county of San Francisco to keep any particular set of records, such records when kept by him may be destroyed when they have served their purpose, although authorization to do so should be given by the board of supervisors under Pol.C. 4041.39.

26202. Destruction of old records

The board may authorize the destruction or disposition of any record, paper, or document which is more than two years old and which was prepared or received in any manner other than pursuant to a state statute or county charter. The board may authorize the destruction or disposition of any record, paper or document which is more than two years old, which was prepared or received pursuant to state statute or county charter, and which is not expressly required by law to be filed and preserved if the board determines by four-fifths (4/5) vote that the retention of any such record, paper or document is no longer necessary or required for county purposes. Such records, papers or documents need not be photographed, reproduced or microfilmed prior to destruction and no copy thereof need be retained.

26202.5 Destruction of records exposed to asbestos fibers

The board may authorize the destruction of any record, paper or document, by a four-fifths vote, if the documents have been inadvertently exposed to asbestos fiber in a quantity which presents a risk to the health and safety of persons who handle the record, paper or document, and if the board determines that the risk to these persons is greater than the benefit to be derived from the retention of the record or, alternatively, that the cost of sterilizing the records far exceeds their value. The decision of the board shall be final.

26202.6 Destruction of recorded radio and telephone communications

Notwithstanding the provisions of Sections 26202, 26205, and 26205.1, the head of a department of a city, county, or city and county or the head of a special district after 100 days may destroy recordings of telephone and radio communications maintained by the department or the special district. Such destruction shall be approved by the legislative body and the written consent of the agency attorney shall be obtained.

For purposes of this section, "recordings of telephone and radio communications" means the routine daily taping and recording of telephone communications to and from a city, county, city and county, or special district department and all radio communications relating to the operations of such departments or special district.

26205. Destruction of certain records; conditions

At the request of the county officer concerned, the board of supervisors of any county may authorize the destruction of any record, paper, or document which is not expressly required by law to be filed and preserved if all of the following conditions are complied with:

(a) The record, paper, or document is photographed, microphotographed, reproduced by electronically recorded video images on magnetic surfaces, or reproduced on film of a type approved for permanent photographic records by the National Bureau of Standards;

(b) The device used to reproduce such record, paper, or document on film is one which accurately reproduces the original thereof in all details;

(c) The photographs, microphotographs, electronically recorded video images on magnetic surfaces, or other reproductions on film are placed in conveniently accessible files and provision is made for preserving, examining, and using the same.

Notwithstanding any other provision of this section, destruction of the original records, papers, or documents is not authorized when the method of reproduction pursuant to this section is reproduction of electronically recorded video images on magnetic surfaces unless a duplicate video tape of such images is separately maintained.

26205.1 Destruction of nonjudicial public records, documents, etc.

(a) The county officer having custody of nonjudicial public records, documents, instruments, books, and papers may cause to be destroyed any or all of such records, documents, instruments, books and papers if each of the following conditions exist:

(i) The board of supervisors of the county has adopted a resolution authorizing such county officer to destroy records, documents, instruments, books, and papers pursuant to this subdivision. Such resolution may impose such conditions, in addition to those specified in this subdivision, as the board of supervisors determines are appropriate.

(ii) The county officer who destroys any record, document, instrument, book, or paper pursuant to the authority granted by this subdivision and a resolution of the board of supervisors adopted pursuant to clause (i) shall maintain for the use of the public a photographic or microphotographic film, electronic recorded video production or other duplicate of such record, document, instrument, book or paper destroyed.

(iii) Clause (ii) shall not apply to records prepared or received other than pursuant to a state statute or county charter, or records which are not expressly required by law to be filed and preserved.

For the purposes of this subdivision, every reproduction shall be deemed to be an original record and a transcript, exemplification or certified copy of any reproduction shall be deemed to be a transcript, exemplification or certified copy, as the case may be, of the original.

(b) The county clerk having custody of the original or a copy of the articles of any corporation * * * may cause the destruction of any or all such documents. "Articles" includes the articles of incorporation, amendments thereto, amended articles, stated articles, certificate of incorporation, certificates of determination of preferences, dissolution certificates, merger certificates, and agreements of consolidation or merger.

DISPOSAL OF STATE RECORDS

14755. Preservation of records having value

(a) No record shall be destroyed or otherwise disposed of by any agency of the state, unless it is determined by the director that the record has no further administrative, legal, or fiscal value and the Secretary of State has determined that the record is inappropriate for preservation in the State Archives.

(b) The director shall not authorize the destruction of any record subject to audit until he has determined that the audit has been performed.

NOTES OF DECISIONS

Construction and application

The records of county boards of education dealing with school affairs were records of "state agencies" within meaning of former 11092 and former 12263 governing the destruction of records of state agencies and were not records of a department of the county within 26201-26205 . 27 Ops.Atty.Gen. 161.

County committees were "state agencies" within meaning of former 11092, 12263, dealing with the destruction of records of "state agencies." Id.

Records no longer required

Under former 12263, the secretary of state had the authority to destroy any record or records on file in the central record depository if such records had served their usefulness after first having consulted with the interested state agencies and having received approval of the department of finance for such destruction, and the proper retention period for any such record or records, including faithful performance bonds, filed in pursuance to 1454, 1455, was not a legal question but a question of fact for administrative determination. 34 Ops.Atty.Gen. 58.

A registry of all prisoners kept by the department of corrections as a public record under Pen.C. 2083, as modified by 2070, could be destroyed under former 11092, if the director of corrections as head of the department of corrections and the department of finance agreed that such records were no longer required, and where a prisoner had been discharged by writ of habeas corpus, the records, if retained, should show that the discharge was because the prisoner was illegally sentenced. 9 Ops.Atty.Gen. 67.

Disposal of agency's records

In view of 12260 and former 11092, 12263, the secretary of state could microfilm the records of the industrial accident commission which were in storage in the central record agency and after such microfilming destroy them, but before such destruction, it was first required to be determined that the records had served their purpose and were no longer required and the approval of the industrial accident commission and the department of finance should be obtained. 13 Ops.Atty.Gen. 194.

14756. Microfilmed and photographically reproduced records; standards; certification

The public records of any state agency may be microfilmed or otherwise photographically reproduced and certified on the written authorization of the head of the agency. The microfilming or photographic reproduction must meet the standard specification of the United States Bureau of Standards.

The certification of each such reproduction or set of reproductions shall be in accordance with the standards, or have the approval, of the Attorney General. The certificate shall contain a statement of the identity, description, and disposition or location of the records reproduced, the date, reason, and authorization for such reproduction, and such other information as the Attorney General requires.

Such certified photographic reproductions shall be deemed to be original public records for all purposes, including introduction in courts of law and state agencies.

389. Petition for sealing records; notice; hearing; grounds for and effect of order; inspection and destruction of records

(a) In any case in which a petition has been filed with a juvenile court to commence proceedings to adjudge a person a dependent child of the court, in any case in which a person is cited to appear before a probation officer or is taken before a probation officer pursuant to Section 307, or in any case in which a minor is taken before any officer of a law enforcement agency, the person or the county probation officer may, five years or more after the jurisdiction of the juvenile court has terminated as to the person, or, in a case in which no petition is filed, five years or more after the person was cited to appear before a probation officer or was taken before a probation officer pursuant to Section 307 or was taken before any officer of a law enforcement agency, or, in any case, at any time after the person has reached the age of 18 years, petition the court for sealing of the records, including records of arrest, relating to the person's case, in the custody of the juvenile court and probation officer and any other agencies, including law enforcement agencies, and public officials as petitioner alleges, in his petition, to have custody of such records. The court shall notify the district attorney of the county and the county probation officer, if he is not the petitioner of the petition, and such district attorney or probation officer or any of their deputies or any other person having relevant evidence may testify at the hearing on the petition. If, after hearing, the court finds that since such termination of jurisdiction or action pursuant to Section 307, as the case may be, he has not been convicted of a felony or of any misdemeanor involving moral turpitude and that rehabilitation has been attained to the satisfaction of the court, it shall order sealed all records, papers, and exhibits in the person's case in the custody of the juvenile court, including the juvenile court record, minute book entries, and entries on dockets, and other records relating to the case in the custody of such other agencies and officials as are named in the order. Thereafter, the proceedings in such case shall be deemed never to have occurred, and the person may properly reply accordingly to any inquiry about the events, records of which are ordered sealed. The court shall send a copy of the order to each agency and official named therein directing the agency to seal its records and five years thereafter to destroy the sealed records. Each such agency and official shall seal records in its custody as directed by the order, shall advise the court of its compliance, and thereupon shall seal the copy of the court's order for sealing of records that it or he received. The person who is the subject of records sealed pursuant to this section may petition the superior court to permit inspection of the records by persons named in the petition, and the superior court may so order. Otherwise, except as provided in subdivision (b), such records shall not be open to inspection.

(b) In any action or proceeding based upon defamation, a court, upon a showing of good cause, may order any records sealed under this section to be opened and admitted into evidence. The records shall be confidential and shall be available for inspection only by the court, jury, parties, counsel for the parties, and any other person who is authorized by the court to inspect them. Upon the judgment in the action or proceeding becoming final, the court shall order the records sealed.

(c) Five years after a juvenile court record has been sealed; the court shall order the destruction of the sealed juvenile court record unless for good cause the court determines that the juvenile court record shall be retained. Any other agency in possession of sealed records shall destroy their records five years after the records were ordered sealed.

781. Petition for sealing records; notice; hearing; grounds for and effect of order; inspection and destruction of records

(a) In any case in which a petition has been filed with a juvenile court to commence proceedings to adjudge a person a ward of the court, in any case in which a person is cited to appear before a probation officer or is taken before a probation officer pursuant to Section 626, or in any case in which a minor is taken before any officer of a law enforcement agency, the person or the county probation officer may, five years or more after the jurisdiction of the juvenile court has terminated as to the person, or, in a case in which no petition is filed, five years or more after the person was cited to appear before a probation officer or was taken before a probation officer pursuant to Section 626 or was taken before any officer of a law enforcement agency, or, in any case, at any time after the person has reached the age of 18 years, petition the court for sealing of the records, including records of arrest, relating to the person's case, in the custody of the juvenile court and probation officer and any other agencies, including law enforcement agencies, and public officials as the petitioner alleges, in his or her petition, to have custody of the records. The court shall notify the district attorney of the county and the county probation officer, if he or she is not the petitioner and the district attorney or probation officer or any of their deputies or any other person having relevant evidence may testify at the hearing on the petition. If, after hearing, the court finds that since the termination of jurisdiction or action pursuant to Section 626, as the case may be, he or she has not been convicted of a felony or of any misdemeanor involving moral turpitude and that rehabilitation has been attained to the satisfaction of the court, it shall order all records, papers, and exhibits in the person's case in the custody of the juvenile court sealed, including the juvenile court record, minute book entries, and entries on dockets, and other records relating to the case in the custody of such other agencies and officials as are named in the order. Thereafter, the proceedings in the case shall be deemed never to have occurred, and the person may properly reply accordingly to any inquiry about the events, records of which are ordered sealed. The court shall send a copy of the order to each agency and official named therein, directing the agency to seal its records and stating the date thereafter to destroy the sealed records. Each such agency and official shall seal the records in its custody as directed by the order, shall advise the court of its compliance, and thereupon shall seal the copy of the court's order for sealing of records that it, he, or she received. The person who is the subject of records sealed pursuant to this section may petition the superior court to permit inspection of the records by persons named in the petition, and the superior court may so order. Otherwise, except as provided in subdivision (b), the records shall not be open to inspection.

(b) In any action or proceeding based upon defamation, a court, upon a showing of good cause, may order any records sealed under this section to be opened and admitted into evidence. The records shall be confidential and shall be available for inspection only by the court, jury, parties, counsel for the parties, and any other person who is authorized by the court to inspect them. Upon the judgment in the action or proceeding becoming final, the court shall order the records sealed.

(c)(1) The provisions of subdivision (a) shall not apply to Department of Motor Vehicle records of any convictions for offenses under the Vehicle Code or any local ordinance relating to the operation, stopping and standing, or parking of a vehicle where the record of any such conviction would be a public record under Section 1808 of the Vehicle Code. However, if a court orders a case record containing any such conviction to be sealed under this section, and if the Department of Motor Vehicles maintains a public record of such a conviction, the court shall notify the Department of Motor Vehicles of the sealing and the department shall advise the court of its receipt of the notice.

Notwithstanding any other provision of law, subsequent to the notification, the Department of Motor Vehicles shall allow access to its record of convictions only to the subject of the record and to insurers which have been granted requester code numbers by the department. Any insurer to which such a record of conviction is disclosed, when such a conviction record has otherwise been sealed under this section, shall be given notice of the sealing when the record is disclosed to the insurer. The insurer may use the information contained in the record for purposes of determining eligibility for insurance and insurance rates for the subject of the record, and the information shall not be used for any other purpose nor shall it be disclosed by an insurer to any person or party not having access to the record.

(2) This subdivision shall not be construed as preventing the sealing of any record which is maintained by any agency or party other than the Department of Motor Vehicles.

(3) This subdivision shall not be construed as affecting the procedures or authority of the Department of Motor Vehicles for purging department records.

(d) Unless for good cause the court determines that the juvenile court record shall be retained, the court shall order the destruction of a person's juvenile court records that were sealed pursuant to this section as follows: five years after the record was ordered sealed, if the person who is the subject of the record was alleged or adjudged to be a person described by Section 601; or when the person who is the subject of the record reaches the age of 38 if the person was alleged or adjudged to be a person described by Section 602. Any other agency in possession of sealed records shall destroy its records in accordance with this section.

826. Release or destruction of court record; reproduction

(a) After five years from the date on which the jurisdiction of the juvenile court over a minor is terminated, the probation officer may destroy all records and papers in the proceedings concerning the minor. The juvenile court

record, which includes all records and papers, any minute book entries, dockets and judgment dockets, shall be destroyed by order of the court as follows: when the person who is the subject of the record reaches the age of 28, if the person was alleged or adjudged to be a person described by Section 300 or 601; or when the person reaches the age of 38 if the person was alleged or adjudged to be a person described by Section 602 unless for good cause the court determines that the juvenile record shall be retained, or unless the juvenile court record is released to the person who is the subject of the record pursuant to this section. Any person who is the subject of a juvenile court record may by written notice request the juvenile court to release the court record to his or her custody. Wherever possible, the written notice shall include the person's full name, the person's date of birth, and the juvenile court case number. Any juvenile court receiving the written notice shall release the court record to the person who is the subject of the record five years after the jurisdiction of the juvenile court over the person has terminated, unless for good cause the court determines that the record shall be retained. Exhibits shall be destroyed as provided under Sections 1418, 1418.5, and 1419 of the Penal Code. For the purpose of this section "destroy" means destroy or dispose of for the purpose of destruction. The proceedings in any case in which the juvenile court record is destroyed or released to the person who is the subject of the record pursuant to this section shall be deemed never to have occurred and the person may reply accordingly to any inquiry about the events in the case.

(b) If an individual whose juvenile court record has been destroyed or released under subdivision (a) discovers that any other agency still retains a record, the individual may file a petition with the court requesting that the records be destroyed. The petition will include the name of the agency and the type of record to be destroyed. The court shall order that such records also be destroyed unless for good cause the court determines to the contrary. The court shall send a copy of the order to each agency and each agency shall destroy records in its custody as directed by the order, and shall advise the court of its compliance. The court shall then destroy the copy of the petition, the order, and the notice of compliance from each agency. Thereafter, the proceedings in such case shall be deemed never to have occurred.

(c) Juvenile court records, which include, all records and papers, any minute book entries, dockets and judgment dockets in juvenile traffic matters may be destroyed after five years from the date on which the jurisdiction of the juvenile court over a minor is terminated. Prior to such destruction the original record may be microfilmed or photocopied. Every such reproduction shall be deemed and considered an original; and a transcript, exemplification, or certified copy of any such reproduction shall be deemed and considered a transcript, exemplification or certified copy, as the case may be, of the original.

826.5 Destruction of records, papers and exhibits; microfilm or photocopies; reproductions as originals

(a) Notwithstanding the provisions of Section 826, at any time before a person reaches the age when his or her records are required to be destroyed, the judge or clerk of the juvenile court or the probation officer may destroy all records and papers, the juvenile court record, any minute book entries, dockets, and judgment dockets in the proceedings concerning the person as a minor if the

records and papers, juvenile court record, any minute book entries, dockets, and judgment dockets are microfilmed or photocopied prior to destruction. Exhibits shall be destroyed as provided under Sections 1418, 1418.5, and 1419 of the Penal Code.

(b) Every reproduction shall be deemed and considered an original. A transcript, exemplification, or certified copy of any reproduction shall be deemed and considered a transcript, exemplification, or certified copy, as the case may be, of the original.

826.6 Release or destruction of records; notice of rights; form

(a) Any minor who is the subject of a petition that has been filed in juvenile court to adjudge the minor a dependent child or a ward of the court shall be given written notice by the clerk of the court upon disposition of the petition or the termination of jurisdiction of the juvenile court of all of the following:

(1) The statutory right of any person who has been the subject of juvenile court proceedings to petition for sealing of the case records.

(2) The statutory provisions regarding the destruction of juvenile court records and records of juvenile court proceedings retained by state or local agencies.

(3) The statutory right of any person who has been the subject of juvenile court proceedings to have his or her juvenile court record released to him or her in lieu of its destruction.

(b) In any juvenile case where a local welfare department, probation department, or district attorney is responsible for notifying the minor of the dismissal, release, or termination of the case, the agency shall provide written notice to the minor of the information specified in subdivision (a) upon the dismissal, release, or termination of the case.

(c) A written form providing the information described in this section shall be prepared by the clerk of the court and shall be made available to juvenile court clerks, probation departments, welfare departments, and district attorneys.

827. Inspection of petition and reports of probation officer

(a) Except as provided in Section 828, a petition filed in any juvenile court proceeding, reports of the probation officer, and all other documents filed in any such case or made available to the probation officer in making his report, or to the judge, referee or other hearing officer, and thereafter retained by the probation officer, judge, referee, or other hearing officer, may be inspected only by court personnel, the minor who is the subject of the proceeding, his parents or guardian, the attorneys for such parties, and such other persons as may be designated by court order of the judge of the juvenile court upon filing a petition therefor.

(b) Notwithstanding subdivision (a), written notice of the filing of a petition in juvenile court, alleging that a minor of compulsory school age is a person using, selling, or possessing narcotics or a controlled substance, may be provided by the district attorney, within 48 hours, to be superintendent of the school district of attendance, pursuant to Section 48922 of the Education Code. The district attorney need not obtain a court order prior to providing this notice to the superintendent.

828. Disclosure of information gathered by law enforcement agency

Except as provided in Sections 389 and 781 of this code or 1203.45 of the Penal Code, any information gathered by a law enforcement agency relating to the taking of a minor into custody may be disclosed to another law enforcement agency, or to any person or agency which has a legitimate need for the information for purposes of official disposition of a case. When the disposition of a taking into custody is available, it must be included with any information disclosed.

A court shall consider any information relating to the taking of a minor into custody, if the information is not contained in a record which has been sealed, for purposes of determining whether adjudications of commission of crimes as a juvenile warrant a finding that there are circumstances in aggravation pursuant to Section 1170 of the Penal Code or to deny probation.

RECENT COURT DECISIONS

Welfare and Institutions Code Section 827 reposes in the juvenile court control of juvenile records and requires permission of the court before any information about juveniles is disclosed to third parties by any law enforcement official.

The T.N.G. court explained: "Since the entire Juvenile Court Law places the responsibility of providing care and protective guidance for youths upon the juvenile court, Section 827 provides the means for assuring to the juvenile court the authority to fulfill that responsibility without inteference by third parties. In determining what information should be released, the juvenile court is in a position to determine whether disclosure would be in the best interests of the youth. The presumption of innocence, the legislative policy of confidentiality encompassing juvenile proceedings, and the hazard that the information will be misused by third parties fully justify the juvenile court's refusal to disclose information about juvenile detentions."

More recently, in Wescott v. Yuba County (1980) 104 Cal.App.3d 103, the stamp of confidentiality was applied to a police record of an incident involving juveniles although no juvenile proceeding had been initiated. In Wescott a parent of a temporarily detained juvenile was attempting to obtain the record of a sheriff's investigation of the incident which involved her child and other youths. The Court of Appeal broadly construed Section 827 to include such record, quoting from T.N.G. that "'police records in this regard become the equivalent to court records and remain within the control of the juvenile court.'"

11591. School employee; arrest for controlled substance offense; notice to school authorities

Every sheriff or chief of police, upon the arrest for any of the controlled substance offenses enumerated in Section 11590, or Section 11364, insofar as that section relates to paragraph (9) of subdivision (d) of Section 11054, of any school employee, shall do either of the following:

(1) If such school employee is a teacher in any of the public schools of this state, he shall immediately notify by telephone the superintendent of schools of the school district employing such teacher and shall immediately give written notice of the arrest to the Commission for Teacher Preparation and Licensing and to the superintendent of schools in the county wherein such person is employed. Upon receipt of such notice, the county superintendent of schools shall immediately notify the governing board of the school district employing such person.

(2) If such school employee is a non-teacher in any of the public schools of this state, he shall immediately notify by telephone the superintendent of schools of the school district employing such non-teacher and shall immediately give written notice of the arrest to the governing board of the school district employing such person.

(3) If such school employee is a teacher in any private school of this state, he shall immediately notify by telephone the private school authority employing such teacher and shall immediately give written notice of the arrest to the private school authority employing such teacher.

11591.5 Arrest of teacher or instructor employed in community college district; notices

Every sheriff or chief of police, upon the arrest for any of the controlled substance offenses enumerated in Section 11590, or Section 11364, insofar as that section relates to paragraph (9) of subdivision (d) of Section 11054, of any teacher or instructor employed in any community college district shall immediately notify by telephone the superintendent of the community college district employing the teacher or instructor and shall immediately give written notice of the arrest to the Office of the Chancellor of the California Community Colleges. Upon receipt of such notice, the district superintendent shall immediately notify the governing board of the community college district employing the person.

EXCERPTS FROM THE EVIDENCE CODE

PRIVILEGES

1040. Privilege for official information

(a) As used in this section, "official information" means information acquired in confidence by a public employee in the course of his duty and not open, or officially disclosed, to the public prior to the time the claim of privilege is made.

(b) A public entity has a privilege to refuse to disclose official information, and to prevent another from disclosing such information, if the privilege is claimed by a person authorized by the public entity to do so and:

(1) Disclosure is forbidden by an act of the Congress of the United States or a statute of this state; or

(2) Disclosure of the information is against the public interest because there is a necessity for preserving the confidentiality of the information that outweighs the necessity for disclosure in the interest of justice; but no privilege may be claimed under this paragraph if any person authorized to do so has consented that the information be disclosed in the proceeding. In determining whether disclosure of the information is against the public interest, the interest of the public entity as a party in the outcome of the proceeding may not be considered. (Stats.1965, c. 299, Section 1040)

Comment--Assembly Committee on Judiciary

Under existing law, official information is protected either by sub-division 5 of Code of Civil Procedure Section 1881 (which, like Section 1040, prohibits disclosure when the interest of the public would suffer thereby) or by specific statutes such as the provisions of the Revenue and Taxation Code prohibiting disclosure of information reported in tax returns. See, e.g., Rev. & Tax Code Section 19281-19289. Section 1881 is superseded by the Evidence Code, but the specific statutes protecting official information remain in effect. Evidence Code Section 1040(b)(1).

Section 1040 permits the official information privilege to be invoked by the public entity or its authorized representative. Since the privilege is granted to enable the government to protect its secrets, no reason exists for permitting the privilege to be exercised by persons who are not concerned with the public interest. It should be noted, however, that another statute may provide a person with a privilege not to disclose a report he made to the government; the Evidence Code has no effect on that privilege. See the Comment to Evidence Code Section 920. Where the government has received a report from an informant, the official information privilege may apply to that report. It does not apply, however, to the knowlege of the informant. The government does not acquire a privilege to prevent an informant from revealing his knowledge merely because that knowledge has been communicated to the government.

The official information privilege provided in Section 1040 does not extend to the identity of an informer, Section 1041 provides special rules for determining when the government has a privilege to keep secret the identity of an informer.

The privilege may be asserted to prevent testimony by anyone who has official information. This provides the public entity with more protection than existing law. See the Comment to Evidence Code Section 954 (attorney-client privilege).

Official information is absolutely privileged if its disclosure is forbidden by either a federal or state statute. Other official information is subject to a conditional privilege: The judge must determine in each instance the consequences to the public of disclosure and the consequences to the litigant of nondisclosure and then decide which outweighs the other. He should, of course, be aware that the public has an interest in seeing that justice is done in the particular cause as well as an interest in the secrecy of the information.

45123. Employment after conviction of sex offense or narcotics offense

No person shall be employed or retained in employment by a school district who has been convicted of any sex offense as defined in Section 44010 or narcotics offense as defined in Section 44011. If, however, any such conviction is reversed and the person is acquitted of the offense in a new trial or the charges against him are dismissed, this section does not prohibit his employment thereafter.

Further, the governing board of a school district may employ a person convicted of a narcotics offense if the governing board of the school district determines, from the evidence presented, that the person has been rehabilitated for at least five years.

The governing board shall determine the type and manner of presentation of the evidence, and the determination of the governing board as to whether or not the person has been rehabilitated is final.

NOTES OF DECISIONS

The board of education was not precluded from discharging a teacher for a sex offense despite his acquittal of the criminal charge for such offense in view of provision of this section that no person shall be employed or retained by school district who has been convicted of any sex offense but if conviction is reversed and person is acquitted this section does not prohibit his employment thereafter, thus making optional at discretion of board the retention of an employee who has first been convicted of a sex offense and ultimately acquitted, the same rule applying to anyone who has been acquitted ab initio. Board of Ed. of El Monte School Dist. of Los Angeles County v. Calderon (1973) 110 Cal.Rptr. 916, 35 C.A.3d 490.

A conviction following a plea of nolo contendere under Pen.C., Section 1016, as amended in 1963, should be deemed a conviction within the meaning of Educ.C., Sections 12911, 13129 (repealed) 13130 (repealed), 13206, 13207, 13217, 13218, 13255 and this section, which authorize revocation of a credential only upon conviction of certain specified offenses under California law. 44 Ops. Atty.Gen. 163, 12-22-64.

The date of conviction, final conviction, or suspension or imposition of sentence for sex offense as defined in Section 12912, is immaterial so far as action to be taken against such person by state board of education is concerned. 20 Ops.Atty.Gen.10.

45124. Employment of sexual psychopath

No person shall be employed or retained in employment by a school district who has been determined to be a sexual psychopath under the provisions of Article 1 (commencing with Section 6300), Chapter 2, Part 2, Division 6 of the

Welfare and Institutions Code or under similar provisions of law of any other state. If, however, such determination is reversed and the person is determined not to be a sexual psychopath in a new proceeding or the proceeding to determine whether he is a sexual psychopath is dismissed, this section does not prohibit his employment thereafter.

45125. Use of personal identification cards to ascertain conviction of crime

The governing board of any school district shall, within 10 working days of date of employment, require each person to be employed, or employed in, a position not requiring certification qualifications to have two 8" x 8" fingerprint cards bearing the legible rolled and flat impressions of such person's fingerprints together with a personal description of the applicant or employee, as the case may be, prepared by a local public law enforcement agency having jurisdiction in the area of the school district, which agency shall transmit such cards, together with the fee hereinafter specified, to the Department of Justice; except that any district, or districts with a common board; may process the fingerprint cards in the event the district so elects. "Local public law enforcement agency" as used herein includes any school district and as used in Section 45126 requires the Department of Justice to provide to any such district, upon application, information pertaining only to applicants for employment by the district, including applicants who are employees of another district, and persons already employed by the district. Upon receiving such identification cards, the Department of Justice shall ascertain whether the applicant or employee has been arrested or convicted of any crime insofar as such fact can be ascertained from information available to the department and forward such information to the local public law enforcement agency submitting the applicant's or employee's fingerprints at the earliest possible date. At its discretion, the Department of Justice may forward one copy of the fingerprint cards submitted to any other bureau of investigation it may deem necessary in order to verify any record of previous arrests or convictions of the applicant or employee.

The governing board of each district shall forward a request to the Department of Justice indicating the number of current employees who have not completed the requirements of this section. The Department of Justice shall direct when such cards are to be forwarded to it for processing which in no event shall be later than two years from the date of enactment of this section. Districts which have previously submitted identification cards for current employees to either the Department of Justice or the Federal Bureau of Investigation shall not be required to further implement the provisions of this section as it applies to those employees.

A plea or verdict of guilty or a finding of guilt by a court in a trial without a jury or forfeiture of bail is deemed to be a conviction within the meaning of this section, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code allowing the withdrawal of the plea of guilty and entering of a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusations or information.

The governing board shall provide the means whereby the identification cards may be completed and shall charge a fee determined by the Department of Justice to be sufficient to reimburse the department for the costs incurred in processing the application. The amount of such fee shall be forwarded to the

Department of Justice, with two copies of applicant's or employee's fingerprint cards. The governing board may collect an additional fee not to exceed two dollars ($2) payable to the local public law enforcement agency taking the fingerprints and completing the data on the fingerprint cards. Such additional fees shall be transmitted to the city or county treasury. If an applicant is subsequently hired by the board within 30 days of the application, such fee may be reimbursed to the applicant. Funds not reimbursed applicants shall be credited to the general fund of the district. If the fingerprint cards forwarded to the Department of Justice are those of a person already in the employ of the governing board, the district shall pay the fee required by this section, which fee shall be a proper charge against the general fund of the district, and no fee shall be charged the employee.

Notwithstanding the foregoing, substitute and temporary employees, employed for less than a school year, may be exempted from these provisions. The provisions of this section shall not apply to a district, or districts with a common board, which has an average daily attendance of 400,000 or greater, or to a school district wholly within a city and county, unless the governing board of such district or districts, by rule, provides for adherence to this section.

45126. Duty of Department of Justice to furnish information regarding applicants for employment

Any provision of law to the contrary notwithstanding, the Department of Justice, shall, as provided in Section 45125, furnish, upon application of a local public law enforcement agency all information pertaining to any such person of whom there is a record in its office.

88022. Employment after conviction of sex offense or narcotics offense

No person shall be employed or retained in employment by a community college district who has been convicted of any sex offense as defined in Section 87010 or narcotics offense as defined in Section 87011. If, however, any such conviction is reversed and the person is acquitted of the offense in a new trial or the charges against him are dismissed, this section does not prohibit his employment thereafter.

Further, the governing board of a community college district may employ a person convicted of a narcotics offense if the governing board of the district determines, from the evidence presented, that the person has been rehabilitated for at least five years.

The governing board shall determine the type and manner of presentation of the evidence, and the determination of the governing board as to whether or not the person has been rehabilitated is final.

88023. Employment of sexual psychopath

No person shall be employed or retained in employment by a community college district who has been determined to be a sexual psychopath under the provisions of Article 1 (commencing with Section 6300), Chapter 2, Part 2, Division 6 of the Welfare and Institutions Code or under similar provisions of law of any other state. If, however, such determination is reversed and the

person is determined not to be a sexual psychopath in a new proceeding or the proceeding to determine whether he is a sexual psychopath is dismissed, this section does not prohibit his employment thereafter.

88024. Use of personal identification cards to ascertain conviction of crime

The governing board of any community college district shall, within 10 working days of date of employment, require each person to be employed, or employed in, a position not requiring certification qualifications to have two 8" x 8" fingerprint cards bearing the legible rolled and flat impressions of such person's fingerprints together with a personal description of the applicant or employee, as the case may be, prepared by a local public law enforcement agency having jurisdiction in the area of the district, which agency shall transmit such cards, together with the fee hereinafter specified, to the Department of Justice; except that a district, or districts with a common board, having an average daily attendance of 60,000 or more may process the fingerprint cards in the event the district so elects. "Local public law enforcement agency" as used herein and in Section 88025 includes a community college district with an average daily attendance of 60,000 or more. Upon receiving such identification cards, the Department of Justice shall ascertain whether the applicant or employee has been arrested or convicted of any crime insofar as such fact can be ascertained from information available to the department and forward such information to the local public law enforcement agency submitting the applicant's or employee's fingerprints at the earliest possible date. At its discretion, the Department of Justice may forward one copy of the fingerprint cards submitted to any other bureau of investigation it may deem necessary in order to verify any record of previous arrests or convictions of the applicant or employee.

The governing board of each district shall forward a request to the Department of Justice indicating the number of current employees who have not completed the requirements of this section. The Department of Justice shall direct when such cards are to be forwarded to it for processing which in no event shall be later than two years from the date of enactment of this section. Districts which have previously submitted identification cards for current employees to either the Department of Justice or the Federal Bureau of Investigation shall not be required to further implement the provisions of this section as it applies to those employees.

A plea or verdict of guilty or a finding of guilt by a court in a trial without a jury or forfeiture of bail is deemed to be a conviction within the meaning of this section, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code allowing the withdrawal of the plea of guilty and entering of a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusations or information.

The governing board shall provide the means whereby the identification cards may be completed and shall charge a fee determined by the Department of Justice to be sufficient to reimburse the department for the costs incurred in processing the application. The amount of such fee shall be forwarded to the Department of Justice, with two copies of applicant's or employee's fingerprint cards. The governing board may collect an additional fee not to exceed two

dollars ($2) payable to the local public law enforcement agency taking the fingerprints and completing the data on the fingerprint cards. Such additional fees shall be transmitted to the city or county treasury. If an applicant is subsequently hired by the board within 30 days of the application, such fee may be reimbursed to the applicant. Funds not reimbursed applicants shall be credited to the general fund of the district. If the fingerprint cards forwarded to the Department of Justice are those of a person already in the employ of the governing board, the district shall pay the fee required by this section, which fee shall be a proper charge against the general fund of the district, and no fee shall be charged the employee.

Notwithstanding the foregoing, substitute and temporary employees, employed for less than a school year, may be exempted from these provisions. The provisions of this section shall not apply to a district, or districts with a common board, which has an average daily attendance of 400,000 or greater, or to a community college district wholly within a city and county, unless the governing board of such district or districts, by rule, provides for adherence to this section.

88025. Duty of Department of Justice to furnish information regarding applicants for employment

Any provision of law to the contrary notwithstanding, the Department of Justice, shall, as provided in Section 88024, furnish, upon application of a local public law enforcement agency all information pertaining to any such person of whom there is a record in its office.

EXCERPTS FROM THE LABOR CODE

ARTICLE 3

CONTRACTS AND APPLICATIONS FOR EMPLOYMENT

432.7 Record of arrest or detention not resulting in conviction or referral or participation in diversion programs; prohibition of disclosure to or use by employer; violations; penalty

(a) No employer whether a public agency or private individual or corporation shall ask an applicant for employment to disclose, through any written form or verbally, information concerning an arrest or detention which did not result in conviction, or information concerning a referral to and participation in any pretrial or posttrial diversion program, nor shall any employer seek from any source whatsoever, or utilize, as a factor in determining any condition of employment including hiring, promotion, termination, or any apprenticeship training program or any other training program leading to employment, any record of arrest or detention which did not result in conviction, or any record regarding a referral to and participation in any pretrial or posttrial diversion program. As used in this section, a conviction shall include a plea, verdict, or finding of guilt regardless of whether sentence is imposed by the court. Nothing in this section shall prevent an employer from asking an employee or applicant for employment about an arrest for which the employee or applicant is out on bail or on his or her own recognizance pending trial.

(b) In any case where a person violates any provision of this section, or Article 6 (commencing with Section 11140) of Chapter 1 of Title 1 of Part 4 of the Penal Code, the applicant may bring an action to recover from such person actual damages or two hundred dollars ($200), whichever is greater, plus costs, and reasonable attorney's fees. An intentional violation of this section shall entitle the applicant to treble actual damages, or five hundred dollars ($500), whichever is greater, plus costs, and reasonable attorney's fees. An intentional violation of this section is a misdemeanor punishable by a fine not to exceed five hundred dollars ($500).

(c) The remedies under this section shall be in addition to and not in derogation of all other rights and remedies which an applicant may have under any other law.

(d) Persons seeking employment as peace officers or for positions in the Department of Justice or other criminal justice agencies as defined in Section 13101 of the Penal Code are not covered by this section.

(e) Nothing in this section shall prohibit an employer at a health facility, as defined in Section 1250 of the Health and Safety Code, from asking an applicant for employment either of the following:

(1) With regard to an applicant for a position with regular access to patients, to disclose an arrest under any section specified in Section 290 of the Penal Code.

(2) With regard to an applicant for a position with access to drugs and medication, to disclose an arrest under any section specified in Section 11590 of the Health and Safety Code.

(f)(1) No peace officer or employee of a law enforcement agency with access to criminal offender record information maintained by a local law enforcement criminal justice agency shall knowingly disclose, with intent to affect a person's employment, any information contained therein pertaining to an arrest or detention or proceeding which did not result in a conviction, including information pertaining to a referral to and participation in any pretrial or posttrial diversion program, to any person not authorized by law to receive such information.

(2) No other person authorized by law to receive criminal offender record information maintained by a local law enforcement criminal justice agency shall knowingly disclose any information received therefrom pertaining to an arrest or detention or proceeding which did not result in a conviction, including information pertaining to a referral to and participation in any pretrial or posttrial diversion program, to any person not authorized by law to receive such information.

(3) No person, except those specifically referred to in Section 1070 of the Evidence Code, who knowing he or she is not authorized by law to receive or possess criminal justice records information maintained by a local law enforcement criminal justice agency, pertaining to an arrest or other proceeding which did not result in a conviction, including information pertaining to a referral to and participation in any pretrial or posttrial diversion program, shall receive or possess such information.

(g) "A person authorized by law to receive such information", for purposes of this section, means any person or public agency authorized by a court, statute, or decisional law to receive information contained in criminal offender records maintained by a local law enforcement criminal justice agency, and includes, but is not limited to, those persons set forth in Section 11105 of the Penal Code, and any person employed by a law enforcement criminal justice agency who is required by such employment to receive, analyze, or process criminal offender record information.

(h) Nothing in this section shall require the Department of Justice to remove entries relating to an arrest or detention not resulting in conviction from summary criminal history records forwarded to an employer pursuant to law.

(i) As used in this section, "pretrial or posttrial diversion program" means any program under Chapter 2.5 (commencing with Section 1000) or Chapter 2.7 (commencing with Section 1001) of Title 6 of Part 2 of the Penal Code, Section 13201, 13201.5 or 13352.5 of the Vehicle Code, or any other program expressly authorized and described by statute as a diversion program.

1. In general

State officials were subject to being sued by taxpayer for declaratory and injunctive relief with respect to alleged unconstitutional policy of routinely disseminating to public employers arrest records containing solely nonconviction

data and arrest records containing nonconviction data and conviction data without first deleting reference to nonconviction data. Central Valley Chapter of 7th Step Foundation, Inc. v. Younger (App.1979) 157 Cal.Rptr. 117.

2. Pleadings

Allegations of complaint that arrest records were commonly misinterpreted by public employers, that subjects of those records suffered damage to their reputation and were stigmatized and exposed to unnecessary and unjustified public harassment and humiliation, and that there was widespread discrimination against individuals with arrest records in obtaining employment were sufficient to state a prima facie violation of state constitutional right of privacy with respect to policy of state officials in routinely disseminating to public employers arrest records containing solely nonconviction data and arrest records containing nonconviction data and conviction data without first deleting reference to nonconviction data. Central Valley Chapter of 7th Step Foundation, Inc. v. Younger (App.1979) 157 Cal.Rptr. 117.

3. Injunctions

Injunctive relief was available against state officials to enjoin them from continuing alleged unconstitutional policy of routinely disseminating to public employers arrest records containing solely nonconviction data and arrest records containing nonconviction data and conviction data without first deleting reference to nonconviction data. Central Valley Chapter of 7th Step Foundation, Inc. v. Younger (App.1979) 157 Cal.Rptr. 117.

432.8 Limitations on employers and penalties for certain convictions

The limitations on employers and the penalties provided for in Section 432.7 shall apply to a conviction for violation of subdivision (b) or (c) of Section 11357 of the Health and Safety Code or a statutory predecessor thereof, or subdivision (c) of Section 11360 of the Health and Safety Code, or Sections 11364, 11365, or 11550 of the Health and Safety Code as they related to marijuana prior to January 1, 1976, or a statutory predecessor thereof, two years from the data of such a conviction.

EXCERPTS FROM THE CALIFORNIA ADMINISTRATIVE CODE

REGULATIONS GOVERNING THE RELEASE OF CRIMINAL OFFENDER RECORD INFORMATION IN THE STATE OF CALIFORNIA

After proceedings had in accordance with the provisions of the Administrative Procedure Act (Government Code, Title 2, Division 3, Part 1, Chapter 4.5) and pursuant to the authority vested by Penal Code Section 11077 and to implement, interpret, and make specific Penal Code Sections 11075 through 11081, the Department of Justice hereby adopts regulations in Chapter 1, Title 2, California Administrative Code, as follows:

(1) Adopts new Subchapter 7, CRIMINAL OFFENDER RECORD INFORMATION SECURITY

(2) Adopts new Article 1 of Subchapter 1 to read:

Article 1. Mandatory Securing of Criminal Offender Record Information

700. Scope

In accordance with Sections 11075-11081 of the Penal Code, this article shall insure a measure of uniformity in the handling of criminal offender record information.

701. Definitions

For the purposes of this article, the following definitions shall apply whenever the terms are used.

(a) "Criminal Justice Agency" means a public agency or component thereof which performs a criminal justice activity as its principal function.

(b) "Authorized Person or Agency" means any person or agency authorized by court order, statute, or decisional law to receive criminal offender record information.

(c) "Criminal Offender Record Information" means records and data compiled by criminal justice agencies for purposes of identifying criminal offenders and of maintaining as to each such offender a summary of arrests, pretrial proceedings, the nature and disposition of criminal charges, sentencing, incarceration, rehabilitation, and release. Such information shall be restricted to that which is recorded as the result of an arrest, detention, or other initiation of criminal proceedings or of any consequent proceedings related thereto.

(d) "Right to Know" means the right to obtain criminal offender record information pursuant to court order, statute, or decisional law.

(e) "Need to Know" means the necessity to obtain criminal offender record information in order to execute official responsibilities.

(f) "Record Check" means obtaining the most recent rap sheet from the California Department of Justice.

702. Compliance with State Regulations

(a) Each authorized agency shall adopt written regulations regarding the security of criminal offender record information which comply with these regulations of the State of California. Authorized agencies may adopt more stringent provisions than the state regulations require.

(b) The California Department of Justice shall make every reasonable effort to see that each out-of-state agency or system with which it exchanges criminal offender record information conforms to these regulations.

(c) The California Department of Justice shall conduct audits of authorized persons or agencies using criminal offender record information to insure compliance with the state regulations.

(d) Each authorized agency shall appoint a person to act as its criminal records security officer. The person so appointed will be given the authority and responsibility for seeing that these regulations are adhered to.

(e) Authorized persons or agencies violating these regulations may lose direct access to criminal offender record information maintained by the California Department of Justice.

703. Release of Criminal Offender Record Information

(a) Each authorized agency shall designate specific personnel to release criminal offender record information pursuant to these regulations. Only designated personnel may release such information.

(b) Criminal offender record information may be released, on a need-to-know basis, only to persons or agencies authorized by court order, statute, or decisional law to receive criminal offender record information.

(c) Each authorized agency shall keep a record of each release of California Department of Justice rap sheets or information derived therefrom. The record shall be retained and available for inspection for a period of not less than three years from the date of release. This record shall contain the date of release, name of requesting agency (and name of requesting persons, if possible), name of receiving agency (and name of receiving person, if possible), information given and how the information was transmitted.

The requirement for recording each release need not apply to routine in-house procedures if the location of any specific California Department of Justice rap sheet is easily determinable through other records such as case assignment records, arrest registers, or other formal standard procedures. If a California Department of Justice rap sheet is included as a part of a document package (such as a complaint, probation pre-sentence report, etc.) and a record of the disposition or location of those documents is maintained, that record will suffice as a record of the release of the California Department of Justice rap sheet.

(d) Record checks shall be conducted on all personnel hired after July 1, 1975, who have access to criminal offender record information.

704. Juvenile Records

Nothing in these regulations is intended to alter existing statutory or decisional law or court policy regarding the release of juvenile offender records.

705. Review of Criminal Offender Record Information

A person may review his California Department of Justice record for the purpose of challenge or correction in conformity with California Penal Code Section 11120 through 11127.

706. Protection of Criminal Offender Record Information

Authorized agencies shall take reasonable steps to protect criminal offender record information from unauthorized access.

707. Automated Systems

(a) Automated systems handling criminal offender record information and the information derived therefrom shall be secure from unauthorized access, alteration, deletion, or release. The computer system and terminals shall be located in secure premises. Non-criminal justice agencies shall not receive criminal offender record information directly from an automated criminal justice system.

(b) Record checks shall be conducted on all personnel hired after July 1, 1975, who have access to the computer system, its terminals, or the stored criminal offender record information.

(c) Each authorized agency shall keep a record of each release of criminal offender record information from the automated system. The record shall be retained and available for inspection for a period of not less than three years from the date of release. This record shall contain the date of release, the requesting terminal identifier, the receiving terminal identifier, and the information given.

708. Destruction of Criminal Offender Record Information

(a) When criminal offender record information is destroyed, the destruction shall be carried out to the extent that the identity of the subject can no longer reasonably be ascertained. When criminal offender record information is destroyed outside of the authorized agency, a person designated by the agency shall witness the destruction.

(b) Prior to release or reassignment of any electronic storage media containing criminal offender record information to any non-criminal justice purpose, the criminal offender record information shall be completely erased from the media.

(c) Printouts of criminal offender record information obtained through system development, test, or maintenance shall be destroyed at the completion of the function or purpose for which the printout was obtained.

709. Reproduction of Criminal Offender Record Information

Criminal offender record information shall be reproduced only within the physical facilities of an authorized agency, under the supervision of a person designated by the agency, or under a contract provision that no information from such records will be divulged to any unauthorized person or agency.

710. Training

(a) Each authorized agency shall require that all personnel designated to release criminal offender record information participate in one of the following:

(1) Attend training sessions in the proper use and control of criminal offender record information, to be approved by the California Department of Justice at central locations; or

(2) Attend training sessions in the proper use and control of criminal offender record information, to be approved by the California Department of Justice at the authorized agency's location; or

(3) Familiarize themselves with the training materials in the proper use and control of criminal offender record information, to be provided by the California Department of Justice.

(b) Training need not be limited to those persons designated to release information.

711. Disclaimer

There are no state mandated local costs in this regulation that require reimbursement under Section 2231 of the Revenue and Taxation Code because these regulations implement and make specific a mandate previously enacted by statute (Chapter 1437, p. 3148, Section 1, 1972).

Appendix 4

Updated List of Agencies Authorized to Receive Criminal History Information

JOHN K. VAN DE KAMP
Attorney General

State of California
DEPARTMENT OF JUSTICE

P.O. BOX 13387
SACRAMENTO 95813

September 1983

To: All Users of Criminal Offender Record Information

Subject: Updated List of Agencies Authorized to Receive Criminal History Information

The Criminal Records Security Unit has prepared the attached revision to the Authorized Agencies List for your use. This list supercedes the list published in January 1981 and is structured to correspond to the need-to-know criteria delineated in Penal Code Sections 11105 and 13300. These sections divide persons and agencies having access to criminal history information into those who shall have access when the information is needed in the course of their duties, and those who may have access upon the showing of a compelling need. The list is set up to differentiate between the "shalls" and the "mays". Examples of compelling need are covered in the preface to the Authorized Agencies List.

Any questions regarding this list or any facet of record security may be directed to the Criminal Records Security Unit (CRSU), P.O. Box 13387, Sacramento, California 95813, (916) 739-5006 - CLETS MNEMONIC DOJ.

Sincerely,

JOHN K. VAN DE KAMP
Attorney General

FRED H. WYNBRANDT, Assistant Director
Criminal Identification and
Information Branch

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Attachment

AGENCIES AUTHORIZED TO RECEIVE

CRIMINAL HISTORY INFORMATION

Criminal Records Security Unit
California Department of Justice

September 1983

P R E F A C E

The Authorized Agencies List is prepared and published by the Criminal Records Security Unit, Division of Law Enforcement, Department of Justice, and is a listing of persons or agencies which have a legal right to receive criminal history information. This list is not to be used to determine access to crime or arrest reports. These reports are covered under Government Code Section 6254(f). When an authorized agency receives a request for criminal history information from an agency or individual that is not on the list, and they are not able to determine that the requester has a right to the information, they should refer the requester to the Criminal Records Security Unit of the Department of Justice.

Once an agency has determined that a requester has a right to the information, they must also determine a need-to-know or compelling need. Criminal history information cannot be released until a right-to-know and a need-to-know have been determined.

A compelling need is established when the agency or individual needs the information in the course of their official duties and there is no other practical way they can obtain it. Examples of compelling need include the subject is in custody, is a party to a criminal or security investigation, is seeking employment, is seeking a license or certificate, etc.

All agencies using criminal history information are required to conduct record checks on employees hired after July 1, 1975, who have access to criminal history information. Access for purposes of conducting these record checks constitutes a legitimate need-to-know for all such agencies. Restrictions on the use of the Automated Criminal History System prohibit use of the system to make inquiries on applicants for employment, licensing, or certification. Because of these restrictions, a fingerprint card must be submitted to the Department of Justice on all nonsworn applicants for employment, licensing, or certification.

Both Penal Code Sections 11105 and 13300 deal with the release of criminal history information. Penal Code Section 11105(b) requires the Attorney General to release state summary criminal history information, and Section 13300(b) requires local agencies to release local summary criminal history information. There is no statutory requirement that local agencies release state summary criminal history information (rap sheets), but local agencies may release state summary criminal history information to authorized agencies at their discretion.

Questions regarding the Authorized Agencies List of the dissemination of criminal history information may be directed to the Criminal Records Security Unit, P.O. Box 13387, Sacramento, California 95813, (916) 739-5006, CLETS MNEMONIC DOJ

I N D E X

Page

PREFACE i

AUTHORIZED AGENCIES OR PERSONS

Attorney of Record or Public Defender 1
Banks, Credit Unions, Savings & Loans 21
Bureaus of Adoption 1
California State Agencies 1
Cities, Counties, and Districts 6
City Attorneys 7
Counselors in Mental Health 7
Correctional Officers 9
Courts of California 7
District Attorneys in California 7
District Attorneys Out-of-State 9
Federal Agencies 10
Health Officers 7
Methadone Program Directors 7
Parent Locator Services of The Department of Justice 7
Parole and Probation Officers 7
Peace Officers 7
  California General Authority P.C. Sections 11105(b)(2) and 13300(b)(2). . 7
  California Limited Authority P.C. Sctions 11105(c)(2) and 13300(c)(2) . . 13
  Other States, the United States and its Territories and Possessions . . . 17
  Other Countries 17
Psychiatrists 8
Public Officers (Other Than Peace Officers) 18
  Out-of-State Public Officers 18
  In-State Public Officers 20
Public Utilities 20
  Out-of-State Nuclear Power Facility 20
  In-State Nuclear Power Facility 21
School Districts 8
Subject of the Record 8
VISA Clearance Letters 21
Welfare Departments 9

AGENCIES OR PERSONS AUTHORIZED UNDER PENAL CODE
SECTIONS 11105(b) and 13300(b)

Attorney of Record or Public Defender

Pursuant to Penal Code Sections 11105(b)(7), (8), and 13300(b)(7), (8), authorized agencies shall disseminate criminal history information to an attorney of record or public defender when:

1. The information is needed to file a petition for a Certificate of Rehabilitation for his client, or

2. The information is needed to represent his client in a criminal case, and access has been authorized by the court pursuant to formal discovery or by the district attorney under informal discovery.

   NOTE: Generally, the Department of Justice or the District Attorney will make these releases.

Bureaus of Adoption

Pursuant to Penal Code Sections 11105(b)(12), and 13300(b)(12), and Civil Code Section 226.55, authorized agencies shall disseminate criminal history information to local public adoption agencies when the information is needed to screen persons applying to adopt children.

California State Agencies

Pursuant to Penal Code Sections 11105(b)(9) and 13300(b)(9), authorized agencies shall disseminate criminal history information to a state agency, officer, or official when:

1. The information is needed to implement a statute or regulation which has requirements based on criminal conduct, or

2. The information is needed to execute official duties as a peace officer.

The following is a listing of state agencies which have access to criminal history information, and the need-to-know for each agency.

ALCOHOL AND DRUG ABUSE, DEPARTMENT OF

- for evaluating alcohol and drug abuse treatment programs

ALCOHOLIC BEVERAGE CONTROL

- for liquor licensing and enforcement of liquor laws
- for conducting peace officer backgrounds

AUCTIONEER COMMISSION, CALIFORNIA

- for licensing auctioneers

AUDITOR GENERAL

Joint Legislative Audit Committee

- for screening applicants to exempt positions
- for audit purposes

BANKING, DEPARTMENT OF

. for licensing

BAR EXAMINERS, COMMITTEE OF

. for screening prospective attorneys to enter the bar

BOARD OF CONTROL, STATE

. for determining subject's eligibility for Victim of Violent Crime Program

BOATING AND WATERWAYS, DEPARTMENT OF

. for licensing yacht brokers or salespersons

COMMUNITY COLLEGE POLICE DEPARTMENTS

. for law enforcement purposes

COMMUNITY COLLEGES, CALIFORNIA

. for issuing teaching credentials
. for employing non-teaching personnel

COMMUNITY RELEASE BOARD

. for official purposes

CONSUMER AFFAIRS

Division of Investigation

. for official purposes

The following boards, bureaus, and commissions have access for licensing purposes:

Athletic Commission
Board of Accounting
Board of Architectural Examiners
Board of Barber Examiners
Board of Behavioral Science Examiners
Board of Chiropractic Examiners
Board of Cosmetology
Board of Dental Examiners
Board of Examiners in Veterinary Medicine
Board of Fabric Care
Board of Funeral Directors and Embalmers
Board of Geologists and Geophysicists
Board of Guide Dogs for the Blind
Board of Landscape Architects
Board of Medical Quality Assurance
Board of Nursing Home Administrators
Board of Optometry

Board of Pharmacy
Board of Registered Nurses
Board of Registration for Professional Engineers
Board of Vocational Nurse and Psychiatric Technician Examiners
Bureau of Automotive Repair
Bureau of Collection and Investigative Services
Bureau of Electronic and Appliance Repair
Bureau of Employment Agencies
Bureau of Home Furnishings
Cemetery Board
Certified Shorthand Reporters Board
Nurses Registry
State Contractor's License Board
Structural Pest Control Board
Tax Preparers Program

CONTROLLER, OFFICE OF STATE

. for screening inheritance tax referees

CORPORATIONS, DEPARTMENT OF

. for licensing

CORRECTIONS, DEPARTMENT OF

. for official purposes

EDUCATION, DEPARTMENT OF

Office of Child Development

. licensing child care facilities

Office of Private Postsecondary Education

. for licensing and permits

EMPLOYMENT DEVELOPMENT DEPARTMENT

Investigation Division

. for investigation of unemployment insurance code violations
. for job corps applicants

FAIR POLITICAL PRACTICES COMMISSION

. for investigation of violations of the Political Reform Act

FIRE MARSHAL, STATE

. for licensing in the area of fireworks, explosives, etc.
. for arson/explosion investigations

FISH AND GAME, DEPARTMENT OF

- for official purposes
- for certification of hunter safety instructors

FOOD AND AGRICULTURE, DEPARTMENT OF

- for licensing
- for investigation of violation of the Food and Agriculture Code

FORESTRY, DEPARTMENT OF

- for official purposes
- for law enforcement purposes

FRANCHISE TAX BOARD

- for investigation of Revenue and Taxation Code violations
- for conducting backgrounds on potential employees

GOVERNOR'S OFFICE

- for official purposes

HEALTH SERVICES, DEPARTMENT OF

- for licensing health facilities and clinics
- for certifying Medi-Cal providers, home health aides, nurse assistants, and clinical laboratories

HIGHWAY PATROL, CALIFORNIA

- for official purposes

HORSE RACING BOARD, CALIFORNIA

Investigators

- for official purposes
- for licensing

INDUSTRIAL RELATIONS, DEPARTMENT OF

Special Investigators, Bureau of Investigations, Cal-Osha

- for investigation of violation of Labor and Administrative Code

INSURANCE, DEPARTMENT OF

- for investigating fraudulent claims
- for licensing

JUSTICE, DEPARTMENT OF

- for official purposes

LABOR COMMISSION, STATE

Division of Labor Standards Enforcement

- for law enforcement purposes
- for peace officer backgrounds
- for employment purposes

MILITARY DEPARTMENT

California National Guard

- for law enforcement purposes
- for peace officer backgrounds
- for employment purposes

MOTOR VEHICLES, DEPARTMENT OF

- for occupational licensing, criminal investigations, special driving certificates, and employment of peace officers and persons having access to CLETS and criminal history information

PARENT LOCATOR SERVICE, CALIFORNIA

- for official purposes

PARKS AND RECREATION, DEPARTMENT OF

State Park Peace Officers

- for official purposes

PEACE OFFICER STANDARDS AND TRAINING, COMMISSION ON (POST)

- for peace officer certifications

PERSONNEL BOARD, STATE

- for employment purposes

PUBLIC UTILITIES COMMISSION

- for licensing public utilities

REAL ESTATE, DEPARTMENT OF

- for licensing
- for investigative purposes relative to licensure

SAVINGS AND LOANS, DEPARTMENT OF

- for licensing

SECRETARY OF STATE

- for appointing notaries public

SENATE RULES COMMITTEE

- for screening appointments
- for employment purposes

SOCIAL SERVICES, DEPARTMENT OF

- for fraud investigators
- for licensing community care facilities, child care facilities, foster homes, family care facilities, etc.

STATE BAR OF CALIFORNIA

- for purposes of determining an attorney's suitability to continue to practice law and to be reinstated to the practice of law

STATE POLICE, CALIFORNIA

- for official purposes

TEACHER PREPARATION AND LICENSING, COMMISSION ON

- for determining fitness to hold a California teaching credential
- for employment purposes

STEPHEN P. TEALE CONSOLIDATED DATA CENTER

- for screening employees and vendor personnel

TRANSPORTATION, DEPARTMENT OF

Attorneys and Investigators

- for official purposes

UNIVERSITIES AND COLLEGES, STATE

Police Departments

- for official purposes
- for employment purposes

YOUTH AUTHORITY, DEPARTMENT OF

- for official purposes

Cities, Counties, and Districts

Pursuant to Penal Code Sections 11105(b)(10) and 13300(b)(10), authorized agencies shall disseminate criminal history information to cities, counties, and districts when:

1. The information is needed for employment, certification, or licensing; and

2. The requesting agency's governing board has passed an order, resolution, regulation, or ordinance which grants them access and contains requirements and/or exclusions based upon specific criminal conduct.

City Attorneys

Pursuant to Penal Code Sections 11105(b)(4) and 13300(b)(4), authorized agencies shall disseminate criminal history information to prosecuting city attorneys of any city in California when the information is needed to prosecute a criminal case.

Counselors in Mental Health

Pursuant to Penal Code Section 11105(c)(5) and Welfare and Institutions Code Sections 6778, authorized agencies may disseminate criminal offender record information to a counselor in mental health when he certifies that:

1. The information is needed for furthering the rehabilitation of the subject of the record and he provides written consent of the subject to release such information; or

2. The information is needed to execute his official responsibilities as a peace officer.

Courts of California

. for official purposes

District Attorneys in California

. for official purposes

Health Officers

Health Officers of a city, county, or city and county, or district when performing their duties enforcing Health and Safety Code Section 3110.

Methadone Program Directors

Pursuant to Penal Code Sections 11105(b)(12), 13300(b)(12), and Health and Safety Code Section 11876, authorized agencies shall disseminate criminal history information to methadone program directors when they certify that the subject of the inquiry is an applicant to the program and they provide the subject's written consent to release the information.

Parent Locator Services of the California Department of Justice

. for official purposes

Parole and Probation Officers

. for official purposes

Peace Officers Defined in Penal Code Sections 11105(b)(2) and 13300(b)(2)

Pursuant to Penal Code Sections 11105(b)(2) and 13300(b)(2), authorized agencies shall disseminate criminal history information to the California peace officers listed in the categories below when the information is needed to perform official duties. The categories of peace officers defined in Penal Code Sections 11105(b)(2) and 13300(b)(2) are as follows:

ALCOHOLIC BEVERAGE CONTROL OFFICERS
ARSON INVESTIGATORS
BOARD OF PRISON TERMS OFFICERS
DEPARTMENT OF CORRECTIONS, CORRECTIONAL OFFICERS
DEPARTMENT OF CORRECTIONS, LAW ENFORCEMENT LIAISON UNIT OFFICERS
DEPARTMENT OF CORRECTIONS, PAROLE OFFICERS
DEPARTMENT OF JUSTICE OFFICERS
DISTRICT ATTORNEYS INVESTIGATORS AND INSPECTORS
EMPLOYEES OF THE DEPARTMENT OF CORRECTIONS DESIGNATED BY THE DIRECTOR OF CORRECTIONS
HIGHWAY PATROL
PROBATION OFFICERS OR DEPUTY PROBATION OFFICERS
SAN DIEGO UNIFIED PORT DISTRICT POLICE
SHERIFFS, POLICE, MARSHALS, CONSTABLES
STATE POLICE
SUPERINTENDENTS, ASSISTANT SUPERINTENDENTS, SUPERVISORS, TRANSPORTATION OFFICERS, OR EMPLOYEES OF THE YOUTH AUTHORITY HAVING CUSTODY OF A WARD
TRANSPORTATION OFFICERS OF A PROBATION DEPARTMENT
YOUTH AUTHORITY, PLACEMENT OR PAROLE OFFICERS

Psychiatrists

Pursuant to Penal Code Sections 11105(b)(12), 13300(b)(12), and Welfare and Institutions Code Sections 6306 and 6307, authorized agencies shall disseminate criminal history information to psychiatrists appointed by a court to investigate any circumstances surrounding the crime and the prior record and history of the person who committed the crime. The psychiatrist must certify that he has been appointed by a court to perform this investigation or provide a copy of a court order which authorizes access.

Note: Generally the court, district attorney, or probation department will provide the information to psychiatrists.

School Districts

Pursuant to Penal Code Sections 11105(b)(12) and 13300(b)(12) and Education Code Section 45125, authorized agencies shall disseminate criminal history information to school districts for the purpose of employing non-certificated personnel. School districts are, by statute, "local public law enforcement agencies" for employment purposes, and may roll their own fingerprints and submit them directly to the Department of Justice.

Subject of the Record

Pursuant to Penal Code Section 11105(b)(11), the subject of the state summary criminal history information (rap sheet) has access under the provisions of Penal Code Sections 11121-11126. The Department of Justice will make the record available to the subject upon application.

Pursuant to Penal Code Section 13300(b)(11), the subject of the local summary criminal history information has access under the provisions of Penal Code Sections 13320-13325.

Correctional Officers

Any managing or supervising correctional officer of a county jail or other county correctional facility.

. for official purposes

Welfare Departments

Pursuant to Penal Code Sections 11105(b)(12) and 13300(b)(12), authorized agencies shall disseminate criminal history information to welfare departments when they certify that the information is needed for one or more of the following reasons:

1. To license foster homes and/or day-care facilities
2. To screen persons applying to adopt children
3. To perform all or part of the duties of a probation officer as required by the board of supervisors
4. In conjunction with a welfare fraud investigation
5. To locate the parents of abandoned, dependent, or neglected children
6. In conjunction with an investigation for violation of Penal Code Section 270
7. In conjunction with an investigation into the removal of parental rights under Civil Code Section 232

AGENCIES OR PERSONS AUTHORIZED UNDER PENAL CODE SECTIONS 11105(c) and 13300(c)

Note: These agencies may receive criminal history information upon the showing of a compelling need. Examples of compelling need include the subject being in custody, under investigation for criminal activity or security clearance, seeking employment, or seeking a license or certificate, etc.

District Attorneys Out-of-State

Pursuant to Penal Code Sections 11105(c)(6) and 13300(c)(6), authorized agencies may release criminal history information to an out-of-state District Attorney (Prosecutor, etc.).

Federal Agencies

Pursuant to Penal Code Sections 11105(c)(4) and 13300(c)(4), authorized agencies may disseminate criminal history information to a federal agency, officer, or official when access to criminal history information is specifically authorized by a statute of the United States and when such information is needed for official purposes.

The federal agencies listed below have been determined by the Department of Justice to be authorized agencies:

DEPARTMENT OF AGRICULTURE

Office of Investigation
U.S. Forest Service

- Special Agents
- Forest Officers

COMMODITY FUTURES TRADING COMMISSION

Division of Trading and Markets

DEPARTMENT OF COMMERCE

National Maritime Fisheries Service Investigators
Office of Export Enforcement
Office of Investigations and Security

DEPARTMENT OF DEFENSE

Air Force MSC Units
Air Force Security Police
Army Military Intelligence Units
Base Provost Marshals and Command Security Officers
Criminal Investigations Divisions
Defense Criminal Investigative Services
Defense Investigative Service (DIS)
Military Court Marshals
Military Law Enforcement Units
Military Police
Military Recruiters
Military Security
Naval Investigative Service
Navy Absentee Collection Unit
Office of Special Investigations
Security Division Investigators
Staff Judge Advocates

DEPARTMENT OF EDUCATION

Office of the Inspector General

DEPARTMENT OF ENERGY

Division of Security, Office of Safeguards and Security

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Director
Office of Investigations

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Inspector General

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

- Indian Police
- Investigators
- Law Enforcement Services

National Park Service

- U.S. Park Police
- U.S. Park Rangers

U.S. Fish and Wildlife Service

- Special Agents
- Visitor Protection Specialists

DEPARTMENT OF JUSTICE

Attorneys
Bureau of Prisons
Drug Enforcement Agency
Federal Bureau of Investigation
Federal Correctional Institutions
Federal Marshals
Immigration and Naturalization Service

- Border Patrol
- Immigration Officers

DEPARTMENT OF LABOR

Labor Management Services Division
Office of the Inspector General

DEPARTMENT OF STATE

Coast Guard

- Law Enforcement Units
- Marine Inspection Offices

FAA Airport Service Police
Federal Highway Administration

- Safety Investigators

Office of the Inspector General

DEPARTMENT OF TREASURY

Agents, Special Agents
Alcohol, Tobacco, and Firearms Special Agents
Bureau of the Mint Security Officers
Internal Revenue Service
U.S. Assay Office Security Officers
U.S. Customs Service

- Customs Patrol Officers
- Office of Internal Affairs
- Office of Investigations
- Special Agents

U.S. Secret Service

- Executive Protection Agents
- Special Agents

DISTRICT COURTS

Probation Officers

ENVIRONMENTAL PROTECTION AGENCY

Criminal Enforcement Division

FEDERAL AVIATION ADMINISTRATION

Investigations Branch

GENERAL SERVICES ADMINISTRATION

Federal Protection Officers
Field Investigations Office

INTERNATIONAL COMMUNICATIONS AGENCY

Office of Security

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION (NASA)

Division of Inspections
Inspections and Security

NATIONAL SECURITY AGENCY

Central Security Service

OFFICE OF PERSONNEL MANAGEMENT

Investigations Division

PANAMA CANAL ZONE

Employment Department

POSTAL SERVICE

Postal Inspectors
Security Police Officers

SOCIAL SECURITY ADMINISTRATION

. to determine dates of incarceration

VETERANS ADMINISTRATION

Field Attorneys
Hospital Police Departments
Office of Inspector General

Peace Officers Referred to in Penal Code Sections 11105(c)(2) and 13300(c)(2)

Pursuant to Penal Code Sections 11105(c)(2) and 13300(c)(2), authorized agencies may disseminate criminal history information to certain peace officers upon a showing of a compelling need. The peace officers referred to in Penal Code Sections 11105(c)(2) and 13300(c)(2) are as follows:

AIRPORT OFFICERS

. persons regularly employed as Airport Officers by the city, county, district, or joint powers agency operating the airport

CHILD SUPPORT INVESTIGATORS OF A DISTRICT ATTORNEY'S OFFICE

COMMUNITY COLLEGE POLICE

CONSUMER AFFAIRS, DEPARTMENT OF/DIVISION OF INVESTIGATION OFFICERS

CONTRACTORS STATE LICENSE BOARD INVESTIGATORS

CORONERS AND DEPUTY CORONERS PER GOVERNMENT CODE SECTION 27491

OFFICE OF THE STATE CONTROLLER INVESTIGATORS

CORPORATIONS INVESTIGATORS, DEPARTMENT OF

COUNTY WATER DISTRICT, SECURITY OFFICERS OF A

COURT SERVICES OFFICERS OF SAN DIEGO COUNTY

DENTAL EXAMINERS INVESTIGATORS, BOARD OF

DEPARTMENT OF DEVELOPMENTAL SERVICES INVESTIGATORS

EXPOSITION AND STATE FAIR OFFICERS, CALIFORNIA

FIRE DEPARTMENT OR FIRE PROTECTION AGENCY OFFICERS

FIRE MARSHAL, STATE

- Assistant or Deputy State Fire Marshals

FISH AND GAME, DEPARTMENT OF

- Enforcement Officers

Wildlife Protection Branch

- Deputized Members

FOOD AND DRUG ADMINISTRATION, CALIFORNIA

- Chief and Inspectors

FOOD AND DRUG INSPECTORS, STATE

FORESTRY, DEPARTMENT OF

- Officers
- Volunteer Fire Warden

FORESTRY AND FIRE, DIRECTOR OF

- and employees of the California Department of Forestry and volunteer fire wardens who have been designated as peace officers by the Director

HARBOR OR PORT POLICEMEN AND THE PORT WARDEN AND SPECIAL OFFICERS OF THE LOS ANGELES COUNTY HARBOR DEPARTMENT

HEALTH PLANNING, OFFICE OF STATEWIDE

- Alcohol and Drug Program Investigators

HEALTH SERVICES, DEPARTMENT OF/INVESTIGATORS

- Investigators

HORSE RACING BOARD, CALIFORNIA

. Investigators

HOSPITAL OFFICERS

. of a state hospital under the jurisdiction of the Department of Mental Health or the Department of Developmental Services as designated by the administrators under Welfare and Institutions Code Section 4312 or 4493

HOUSING AUTHORITY PATROL OFFICERS

. employed by the housing authority of a city, district, county, or city and county

HOUSING AND COMMUNITY DEVELOPMENT DEPARTMENT

. Investigators

INSURANCE, DEPARTMENT OF

Bureau of Fraudulent Claims

. Chief and Investigators

LABOR STANDARDS ENFORCEMENT, DIVISION OF

. Investigators

LEGISLATURE

. Sergeant at Arms

LOS ANGELES, COUNTY OF

. Security Officers

LOS ANGELES HARBOR DEPARTMENT, CITY OF

. Port Warden and Special Officers

MEDICAL QUALITY ASSURANCE INVESTIGATORS, BOARD OF

MENTAL HEALTH, DEPARTMENT OF

. Investigators

MOTOR VEHICLES, DEPARTMENT OF

. Enforcement Officers

MUNICIPAL UTILITY DISTRICT SECURITY OFFICERS

. commissioned under Section 12820 of the Public Utilities Code

NATIONAL GUARD, CALIFORNIA

- under Sections 143 and 146, Military and Veterans Code

PARK RANGERS

- of local agencies

PARKS AND RECREATION, DEPARTMENT OF

- Employees pursuant to Section 5008 of the Public Resources Code

PUBLIC EMPLOYEES RETIREMENT SYSTEM

- Investigators

RAILROAD POLICEMEN

- commissioned by the Governor pursuant to Section 8226 of the Public Utilities Code (Santa Fe, Amtrak, Southern Pacific, Union Pacific, etc.)

REGIONAL PARK DISTRICT POLICE

RESERVE OR AUXILIARY OFFICERS

- or deputies of a police or sheriff's department, a regional park district, or the Department of Fish and Game, when assigned specific police functions

SAN FRANCISCO BAY AREA RAPID TRANSIT DISTRICT POLICE

SCHOOL DISTRICT SECURITY OFFICERS

SOCIAL SERVICES, DEPARTMENT OF

- Investigators

STATE COLLEGE POLICE OFFICERS

STATE POLICE, CALIFORNIA

- Security Officers

STATE TREASURER'S OFFICE

- guards and messengers

STATE UNIVERSITY POLICE OFFICERS

SUPREME COURT AND COURTS OF APPEAL

- Bailiffs

TRANSIT POLICE OFFICERS

- of a county, city, or district

UNIVERSITY OF CALIFORNIA POLICE OFFICERS

WELFARE FRAUD INVESTIGATORS

Peace Officers of Other States, the United States, and its Territories and Possessions

Pursuant to Penal Code Sections 11105(c)(7) and 13300(c)(7), authorized agencies may disseminate criminal history information to (1) chiefs of police, (2) sheriffs, (3) state police, (4) highway patrols, and (5) parole, probation, and correctional officers in other states, the United States and its territories and possessions upon a showing of a compelling need.

The agencies listed below have been determined to be authorized agencies pursuant to Penal Code Sections 11105(c)(7) and 13300(c)(7).

ARIZONA DEPARTMENT OF PUBLIC SAFETY

ARIZONA RACING COMMISSION

- Agents

FLORIDA DEPARTMENT OF LAW ENFORCEMENT

GEORGIA CRIME INFORMATION CENTER

IDAHO DEPARTMENT OF CORRECTIONS

KANSAS BUREAU OF INVESTIGATION

MONTANA DEPARTMENT OF REVENUE

Alcohol, Tobacco Control Bureau

NEW YORK DIVISION OF CRIMINAL JUSTICE SERVICES

SOUTH CAROLINA LAW ENFORCEMENT DIVISION

TEXAS DEPARTMENT OF PUBLIC SAFETY

VIRGIN ISLANDS DEPARTMENT OF PUBLIC SAFETY

WASHINGTON STATE LOTTERY COMMISSION

- Investigators

Peace Officers of Other Countries

Pursuant to Penal Code Sections 11105(c)(3) and 13300(c)(3), authorized agencies may disseminate criminal history information to a peace officer of another country when he provides proof that he is a peace officer and upon a showing of a compelling need.

Public Officers (Other Than Peace Officers)

Pursuant to Penal Code Sections 11105(c)(4) and 13300(c)(4), authorized agencies may disseminate criminal history information to any public officer when he provides proof that he has statutory access to criminal offender record information and the information is needed for official purposes.

The California Department of Justice has determined that public officers in the following agencies are authorized to receive criminal history information.

Out-of-State Public Officers

ARIZONA DEPARTMENT OF ECONOMIC SECURITY

Office of Special Investigation

ARIZONA RACING COMMISSION

. Agents

ARIZONA REAL ESTATE COMMISSION

FLORIDA BOARD OF BAR EXAMINERS

FLORIDA DEPARTMENT OF STATE

Division of Licensing

HAWAII COUNTY ATTORNEY, MAUI

KANSAS DEPARTMENT OF REVENUE

. Liquor Control Enforcement Officers

LEWIS COUNTY (WASHINGTON) DEPARTMENT OF COMMUNICATIONS

MICHIGAN STATE BAR

MONTANA STATE DEPARTMENT OF ALCOHOL, TOBACCO, AND FIREARMS

NEBRASKA LIQUOR CONTROL COMMISSION

NEVADA DEPARTMENT OF MOTOR VEHICLES

Compliance and Enforcement Section

NEVADA GAMING CONTROL BOARD

NEVADA OFFICE OF THE ATTORNEY GENERAL

Welfare Division

NEVADA STATE DEPARTMENT OF LAW ENFORCEMENT ASSISTANCE

NEVADA TAXI CAB AUTHORITY

NEW JERSEY DEPARTMENT OF MOTOR VEHICLES

NEW MEXICO BOARD OF PHARMACY

- Drug Inspectors

NEW YORK DIVISION OF ALCOHOL BEVERAGE CONTROL

NEW YORK STATE RACING AND WAGERING BOARD

OHIO DEPARTMENT OF LIQUOR CONTROL

OHIO LOTTERY COMMISSION

- Director of Security (and Deputies)

OKLAHOMA ALCOHOLIC BEVERAGE CONTROL BOARD

OREGON ADULT CORRECTIONS SERVICE (MULTNOMAH COUNTY)

OREGON BOARD ON POLICE STANDARDS AND TRAINING

OREGON DEPARTMENT OF COMMERCE

Insurance Division

OREGON DEPARTMENT OF EDUCATION

- Superintendent of Public Instruction

OREGON DEPARTMENT OF HUMAN RESOURCES

- Board of Medical Examiners
- Children's Services Divisions
- Mental Health

OREGON LAW ENFORCEMENT COUNCIL

Washington County

OREGON LIQUOR CONTROL COMMISSION

OREGON STATE BAR

OREGON STATE UNIVERSITY

Security Department

PENNSYLVANIA LIQUOR CONTROL BOARD

TEXAS ALCOHOLIC BEVERAGE CONTROL

TEXAS BOARD OF MEDICAL EXAMINERS

TEXAS STATE BAR

VIRGINIA DIVISION OF CORPORATIONS

WASHINGTON (DC) METROPOLITAN TRANSIT AUTHORITY

WASHINGTON GAMBLING COMMISSION

WASHINGTON LIQUOR COMMISSION

. Liquor Enforcement Officer

WASHINGTON STATE DEPARTMENT OF LICENSING

. Investigation and Enforcement Unit

WASHINGTON STATE LOTTERY COMMISSION

. Investigators

WESTERN STATE HOSPITAL, FT. STEILACOOM, WASHINGTON

. Sex Offender Treatment Program

In-State Public Officers

LOS ANGELES (CITY) PERSONNEL DEPARTMENT

MENDOCINO COUNTY YOUTH PROJECT

SOUTH-EAST ANIMAL CONTROL AUTHORITY, DOWNEY

Public Utilities Operating Nuclear Power Facilities

Pursuant to Penal Code Sections 11105(c)(1) and 13300(c)(1), authorized agencies may disseminate criminal history information to the public utilities listed below when they certify that the subject of the inquiry will be employed at their nuclear power facility upon being cleared. The disseminating agency must provide the subject of the record with a copy of the record disseminated to the public utility:

Out-of-State Nuclear Power Facility

BOSTON EDISON COMPANY

Nuclear Operations Department

PENNSYLVANIA POWER AND LIGHT COMPANY

VIRGINIA ELECTRIC AND POWER

Nuclear Power Facility

In-State Nuclear Power Facilities

SOUTHERN CALIFORNIA EDISON

SAN DIEGO GAS AND ELECTRIC COMPANY

PACIFIC GAS AND ELECTRIC COMPANY

The SACRAMENTO MUNICIPAL UTILITY DISTRICT operates a nuclear power facility and also has access pursuant to Penal Code Section 11105(b)(10).

VISA Clearance Letters

Pursuant to Penal Code Sections 11105(c)(8) and 13300(c)(8), police and sheriff's departments may furnish criminal history information or a no-criminal record letter to an individual in conjunction with an application to enter the United States or any foreign nation when the subject of the record:

1. Certifies that the information is needed to complete an application to enter the United States or a foreign nation; and

2. Provides proof that he is the subject of the record.

The disseminating agency should certify that the information released is accurate as of the date of release and is being released only for the purpose of assisting the subject of the record in gaining entry into the United States or a foreign nation.

BANKS, CREDIT UNIONS, SAVINGS & LOANS

Financial Code Sections 777, 5612.5, 11110, and 14409.2 state that the Department of Justice shall and local agencies may furnish information on applicants for employment to financial institutions on certain arrests, that resulted in convictions, or where the case is still pending. The crimes covered are the commission or attempted commission of a crime involving robbery, burglary, theft, embezzlement, fraud, forgery, bookmaking, receiving stolen property, counterfeiting, or involving checks or credit cards or computers. No request shall be submitted without the written consent of the applicant.

Appendix 5

Bureau of Criminal Statistics
Data Release Policy

DIVISION OF LAW ENFORCEMENT
CRIMINAL IDENTIFICATION AND INFORMATION BRANCH
BUREAU OF CRIMINAL STATISTICS AND SPECIAL SERVICES

DATA RELEASE POLICY

EFFECTIVE DATE

This policy is effective June 1, 1984

GENERAL POLICY

All statistical data collected and developed by the Bureau of Criminal Statistics and Special Services (BCS/SS) are public information. The only exceptions are special reports prepared for Bureau, Division, or Department use. Statistical information will normally be released through routine or special publications. Unpublished data may be released upon special request for any reasonable purpose. BCS/SS may charge certain requesters for data that must be developed into special formats.

ANNUAL TABULATIONS AND ROUTINE PUBLICATIONS

Annual (calendar year) tabulations may be released to a contributing agency upon its request for its own data as soon as they are available. No other release of this information will be made until the Attorney General has been provided either a copy of statewide tabulations or the annual publication containing the data. Once statewide figures are released by the Attorney General, both statewide and jurisdictional information will be considered public information.

If a request is received that may warrant an advance release of information and BCS/SS management approves the release, the data will be released through the Attorney General's Office.

No routine publication will be released until:

1. It has been approved by the Assistant Director.

2. Copies have been furnished to the Assistant Director, Director, Chief Deputy Attorney General, and the Attorney General.

JURISDICTIONAL INFORMATION

I. Normal Distribution

A. Crime and Arrest Data

Each contributing agency will be sent copies of its crime and arrest statistics when the data for a calendar year are complete and available. A cover letter will advise that BCS/SS may release these data to other agencies and/or the news media.

B. OBTS Data

OBTS data will not be routinely sent to agencies at the end of a reporting period because of the many different agencies involved in preparation of the disposition form (JUS 8715). However, when a request for data from an identifiable agency is received from outside the Department of Justice (DOJ), copies of the response will be sent to the contributor. Once data have been sent to a contributor, the same data need not be sent again.

B. Probation Data

Adult probation calendar year summary reports will be sent to chief probation officers annually. Cumulative juvenile data tabulations will be sent to chief probation officers each quarter and for the fiscal year (July through June). A cover letter will accompany all adult and juvenile tabulations.

II. Special Requests

A. When requests are received concerning an identifiable agency or agencies, each agency will be notified if the Section Manager determines that doing so would be in the best interest of the agency or DOJ.

B. Form of Notifications

Normally, notification will be by letter to the contributing agency; however, telephone contact will be made if the data and/or the nature of the request from either the news media or other sources indicates that immediate notification would be beneficial or necessary.

UNPUBLISHED DATA

Statewide or county statistical data showing less than annual information may be released without notifying the contributing agencies. Less than annual data from individual agencies, not published or previously released, may be released to requesters with simultaneous release to the contributing agencies. All tabulations showing less than annual data will be stamped "Preliminary Data."

Statistical data that are released should be accompanied by a data limitation notification to include such items as missing data elements for the period, procedural inconsistencies, and the level of reporting, including known delinquent agencies.

SPECIAL REPORTS

Statistical data collected by BCS/SS for special studies and projects may be released in the form of special reports and monographs or on a special request basis following approval by Bureau management. It will be the responsibility of Bureau management to determine which of these data warrant preliminary release to the contributor(s), if any, prior to release to requesters and the general public.

DATA CONTAINING PERSONAL IDENTIFIERS

Certain data containing personal identifiers may be released to public agencies or bona fide research bodies provided the data are available (Bureau Record Sealing Policy) and provided the data are used only for research and statistical purposes (13202 PC) and subject to the following additional rules:

1. All releases of data containing personal identifiers must be with the written approval of the Chief of the Bureau.

2. Because of the frequent sealing of individual juvenile records (pursuant to Section 781 of the Welfare and Institutions Code and Sections 851.7 and 1203.45 of the Penal Code), available juvenile data containing personal identifiers will not be released to anyone except contributing agencies or upon the order of the court.

3. Adult offender name information contained in BCS/SS files and not in any criminal history file, may be released to any agency entitled to criminal history information.

4. Requests by public agencies or bona fide research bodies for data containing personal identifiers must be in writing and must specify the intended use of the data.

5. Public agencies or bona fide research bodies receiving data containing personal identifiers must not use identifiers in any reports or publications derived from the data, or transfer such information to a third party.

6. Public agencies or bona fide research bodies receiving data containing personal identifiers must destroy all personal identifiers attached to the data after the research project is completed. BCS/SS must be notified in writing of such destruction.

7. BCS/SS shall maintain control lists and counts of data that contain personal identifiers sent to public agencies or bona fide research bodies. If BCS/SS receives a record sealing order that contains information on an individual whose record has been transmitted to a public agency or bona fide research body, that agency or body shall be notified and the agency or body must delete all identifiers from the sealed record and notify BCS/SS that it has done so. (This section applies only to those records which existing law could require to be sealed.)

8. BCS/SS reserves the right to inspect any data containing personal identifying information which has been furnished to a requester to assure that the record sealing and privacy and security provisions are being met.

PUBLISHING BCS/SS DATA

When BCS/SS data are reprinted or referred to in any publication, a copy of the publication shall be furnished to the Bureau.

R. JAMES RASMUSSEN, Chief
Bureau of Criminal Statistics
and Special Services

5/31/84
Date

Appendix 6

Department of Justice Forms

FINGERPRINT CARD
(Front)

LEAVE BLANK

TYPE OR PRINT ALL INFORMATION IN BLACK

LAST NAME NAM | FIRST NAME | MIDDLE NAME

FBI LEAVE BLANK

STATE USAGE

ALIASES

CONTRIBUTOR ORI CA0349400 DEPT OF JUST BU OF IDENT SACRAMENTO, CA

SIGNATURE OF PERSON FINGERPRINTED

DATE OF BIRTH DOB Month Day Year

THIS DATA MAY BE COMPUTERIZED IN LOCAL, STATE AND NATIONAL FILES

DATE | SIGNATURE OF OFFICIAL TAKING FINGERPRINTS

DATE ARRESTED OR RECEIVED DOA

SEX | RACE | HGT. | WGT. | EYES | HAIR | PLACE OF BIRTH POB

YOUR NO. OCA

LEAVE BLANK

CHARGE

FBI NO. FBI

CLASS.

SID NO. SID

REF.

FINAL DISPOSITION

SOCIAL SECURITY NO. SOC

NCIC CLASS - FPC

CAUTION

1. R. THUMB	2. R. INDEX	3. R. MIDDLE	4. R. RING	5. R. LITTLE
6. L. THUMB	7. L. INDEX	8. L. MIDDLE	9. L. RING	10. L. LITTLE

LEFT FOUR FINGERS TAKEN SIMULTANEOUSLY | L. THUMB | R. THUMB | RIGHT FOUR FINGERS TAKEN SIMULTANEOUSLY

FINGERPRINT CARD
(back)

FEDERAL BUREAU OF INVESTIGATION, UNITED STATES DEPARTMENT OF JUSTICE
WASHINGTON, D.C. 20537

PALM PRINTS TAKEN? YES ☐ NO ☐

PHOTO AVAILABLE? YES ☐ NO ☐

IF ARREST FINGERPRINTS SENT FBI PREVIOUSLY AND FBI NO. UNKNOWN, FURNISH ARREST NO. _____ DATE _____

STATUTE CITATION (SEE INSTRUCTIONS NO. 9) CIT

1.

2.

3.

ARREST DISPOSITION (SEE INSTRUCTION NO. 5) ADN

EMPLOYER: IF U.S. GOVERNMENT, INDICATE SPECIFIC AGENCY.
IF MILITARY, LIST BRANCH OF SERVICE AND SERIAL NO.

OCCUPATION

RESIDENCE OF PERSON FINGERPRINTED

SCARS, MARKS, TATTOOS, AND AMPUTATIONS SMT

BASIS FOR CAUTION ICO

DATE OF OFFENSE DOO | SKIN TONE SKN

MISC. NO MNU

ADDITIONAL INFORMATION

INSTRUCTIONS

1. UNLESS OTHERWISE PROVIDED BY REGULATION IN YOUR STATE, FINGERPRINTS ARE TO BE SUBMITTED DIRECTLY TO FBI IDENTIFICATION DIVISION. FORWARD IMMEDIATELY FOR MOST EFFECTIVE SERVICE.
2. FINGERPRINTS SHOULD BE SUBMITTED BY ARRESTING AGENCY ONLY (MULTIPLE PRINTS ON SAME CHARGE SHOULD NOT BE SUBMITTED BY OTHER AGENCIES SUCH AS JAILS, RECEIVING AGENCIES ETC.) REQUESTS COPIES OF FBI IDENTIFICATION RECORD FOR ALL OTHER INTERESTED AGENCIES IN BLOCK BELOW. GIVE COMPLETE MAILING ADDRESS INCLUDING ZIP CODE.
3. TYPE OR PRINT ALL INFORMATION.
4. NOTE AMPUTATIONS IN PROPER FINGER BLOCKS.
5. LIST FINAL DISPOSITION IN BLOCK ON FRONT SIDE. IF NOT NOW AVAILABLE, SUBMIT LATER ON FBI FORM R-84 FOR COMPLETION OF RECORD. IF FINAL DISPOSITION NOT AVAILABLE SHOW PRE-TRIAL OR ARRESTING AGENCY DISPOSITION e.g., RELEASED. NO FORMAL CHARGE, BAIL, TURNED OVER TO, IN THE ARREST DISPOSITION BLOCK PROVIDED ON THIS SIDE.
6. MAKE CERTAIN ALL IMPRESSIONS ARE LEGIBLE, FULLY ROLLED AND CLASSIFIABLE.
7. CAUTION - CHECK BOX ON FRONT IF CAUTION STATEMENT INDICATED. BASIS FOR CAUTION (ICO) MUST GIVE REASON FOR CAUTION, e.g., ARMED AND DANGEROUS, SUICIDAL, ETC.
8. MISCELLANEOUS NUMBER (MNU) - SHOULD INCLUDE SUCH NUMBERS AS MILITARY SERVICE, PASSPORT AND/OR VETERANS ADMINISTRATION (IDENTIFY TYPE OF NUMBER.)
9. PROVIDE STATUTE CITATION, IDENTIFYING SPECIFIC STATUTE (example - PL for PENAL LAW) AND CRIMINAL CODE CITATION INCLUDING ANY SUB-SECTIONS.
10. ALL INFORMATION REQUESTED IS ESSENTIAL.
11. PRIVACY ACT OF 1974 (P.L. 93-579) REQUIRES THAT FEDERAL, STATE, OR LOCAL AGENCIES INFORM INDIVIDUALS WHOSE SOCIAL SECURITY NUMBER IS REQUESTED WHETHER SUCH DISCLOSURE IS MANDATORY OR VOLUNTARY, BASIS OF AUTHORITY FOR SUCH SOLICITATION, AND USES WHICH WILL BE MADE OF IT.

REPLY DESIRED? YES ☐ NO ☐

(REPLY WILL BE SENT IN ALL CASES IF SUBJECT FOUND TO BE WANTED)

IF COLLECT WIRE OR COLLECT TELEPHONE REPLY DESIRED, INDICATE HERE: (WIRE SENT ON ALL UNKNOWN DECEASED)

WIRE REPLY ☐ TELEPHONE REPLY ☐ TELEPHONE NO. AND AREA CODE _____

SEND COPY TO: NAME, ORI NUMBER AND ADDRESS

LEAVE BLANK

FD-249 (REV. 12-29-82) ☆U.S. GOVERNMENT PRINTING OFFICE: 1983—382-807

DISPOSITION OF ARREST AND COURT ACTION

A. LAW ENFORCEMENT INFORMATION — ARRESTING/BOOKING AGENCY

REASON FOR RELEASE: ○ 849B (3) PC ○ 849B (1) PC
If 849B (1) PC, please check one of the following:
○ COMPL. REFUSES TO PROS. ○ ADMISS. EVID. INSUFF. ○ ARRESTEE EXON. ○ ASCERT. EVID. INSUFF. ○ FURTHER INVEST.
○ RELEASED TO OTHER AGENCY _____ ○ OTHER _____

RELEASE DATE

I.D. NUMBERS: CII NO. / FBI NO. / S.S. NO. / D.L. NO.

BOOKING NO.	LOCAL NO. (OCA)	POB
NAME (LAST, FIRST, MIDDLE)		

SEX	DESCENT	HGT	WGT	EYES	HAIR	DATE OF BIRTH

ARREST DATE	WARRANT NO.	CHARGE 1 (SEC., CODE)	TYPE F	TYPE M	CHARGE 2 (SEC., CODE)	TYPE F	TYPE M

CHARGE 3 (SEC., CODE)	TYPE F	TYPE M	CHARGE 4 (SEC., CODE)	TYPE F	TYPE M	REMARKS:

B. PROSECUTION — DATE ____ ○ 849.5 PC — REASON FOR REJECTION: CHARGE 1 ____ CHARGE 2 ____ CHARGE 3 ____ CHARGE 4 ____

C. COURT INFORMATION

DATE FILED	FILE NO.	CONSOLIDATED FILE NO.	L.C. JUD. DIST. NO.
			S.C. JUD. DIST. NO.

TYPE OF FILING: ○ INFORMATION ○ CERTIFICATION ○ INDICTMENT

	TYPE FILING F	TYPE FILING M	FIRST PLEA NG	FIRST PLEA NG-I	FINAL PLEA G	FINAL PLEA NOLO	DISPOSITION ACQ	DIS	CRT JUV	HTA	CRT SC	CONV	DATE	TYPE DISPO F	TYPE DISPO M	CHARGES AT DISPOSITION: SECTION AND CODE	DEG	PRIOR
1.																		
2.																		
3.																		
4.																		

DATE OF SENTENCE ____ TRUE NAME ____ TYPE OF TRIAL: ○ JURY ○ COURT ○ TRANSCRIPT ○ FINDING/VERDICT OF NOT GUILTY-INSANE

SENTENCE	CHARGE 1	SUS	CHARGE 2	SUS	CHARGE 3	SUS	CHARGE 4	SUS
CYA								
JAIL								
FINE								
RESTITUTION								
OTHER								
PROBATION	17 PC		17 PC		17 PC		17 PC	
PRISON	SUS							
NOTES:								

REMARKS:

D. PROCEEDINGS SUSPENDED — DATE

○ BW ○ APPEAL ○ 1000 PC ○ CRC 3050 WIC ○ CRC 3051 WIC ○ NON-STAT DIVERSION ○ 1203.03 PC ○ MISTRIAL ○ OTHER ○ 1370 PC ○ 1026 PC ○ MDSO ○ ST. HOSP. ○ CO. MENTAL

E. REOPEN OR RETRIAL AFTER — DATE

○ BW ○ APPEAL ○ 1000 PC ○ CRC ○ 1170 PC ○ NON-STAT DIVERSION ○ 1203.03 PC ○ MISTRIAL ○ HUNG JURY ○ 1370 PC ○ 1026 PC ○ MDSO ○ CYA ○ JUV CRT ○ LOWER CRT ○ OTHER

F. SUBSEQUENT ACTION

DATE — PROBATION: ○ VIOLATED ○ 1203.9 PC ○ REVOKED ○ 1203.3 PC ○ REINSTATED ○ EXPIRED
MODIFIED TO: ____ MOS. ____ DS JAIL ____ FINE

DATE — CONVICTION SET ASIDE/REDUCED/DISMISSED: ○ 1203.4 PC ○ 1203.4a PC ○ 1772 WIC ○ 3200 WIC ○ REDUCED 17 PC ○ OTHER

DATE — RECORD SEALED: ○ 851.7 PC ○ 851.8 PC ○ 1203.45 PC ○ 389 WIC ○ 781 WIC ○ OTHER

DEPARTMENT OF JUSTICE COPY

JUS 8715 (Rev. 1/1/78)

MONTHLY ARREST AND CITATION REGISTER

Agency _____ Agency No. _____ /Month _____ /Supervisor _____ /Check One: ☐ ADULT ☐ JUVENILE Page ☐

	LOCAL REFERENCE NUMBER	NAME Last	First	Middle	RACE Wht.	Blk.	Ind.	Chi.	Jap	Fil.	Oth.	BIRTHDATE Mo Day Yr	SEX M	F	DATE ARRESTED Mo Day Yr	LEVEL Del	Misd	Fel	CHARGES Section Only	DCS Use	STAT Cite	Book	Oth	LAW ENFORCE. DISPO. Rel	Turned Over	Misd	Fel	Jet	Dept	ARRESTING AGENCY
1					1	2	3	4	5	6	7	8		1	2		1	2	3			1	2	3	1	2		3	4	5	6	
2					1	2	3	4	5	6	7	8		1	2		1	2	3			1	2	3	1	2		3	4	5	6	
3					1	2	3	4	5	6	7	8		1	2		1	2	3			1	2	3	1	2		3	4	5	6	
4					1	2	3	4	5	6	7	8		1	2		1	2	3			1	2	3	1	2		3	4	5	6	
5					1	2	3	4	5	6	7	8		1	2		1	2	3			1	2	3	1	2		3	4	5	6	
6					1	2	3	4	5	6	7	8		1	2		1	2	3			1	2	3	1	2		3	4	5	6	
7					1	2	3	4	5	6	7	8		1	2		1	2	3			1	2	3	1	2		3	4	5	6	
8					1	2	3	4	5	6	7	8		1	2		1	2	3			1	2	3	1	2		3	4	5	6	
9					1	2	3	4	5	6	7	8		1	2		1	2	3			1	2	3	1	2		3	4	5	6	
10					1	2	3	4	5	6	7	8		1	2		1	2	3			1	2	3	1	2		3	4	5	6	
11					1	2	3	4	5	6	7	8		1	2		1	2	3			1	2	3	1	2		3	4	5	6	
12					1	2	3	4	5	6	7	8		1	2		1	2	3			1	2	3	1	2		3	4	5	6	
13					1	2	3	4	5	6	7	8		1	2		1	2	3			1	2	3	1	2		3	4	5	6	
14					1	2	3	4	5	6	7	8		1	2		1	2	3			1	2	3	1	2		3	4	5	6	
15					1	2	3	4	5	6	7	8		1	2		1	2	3			1	2	3	1	2		3	4	5	6	
16					1	2	3	4	5	6	7	8		1	2		1	2	3			1	2	3	1	2		3	4	5	6	
17					1	2	3	4	5	6	7	8		1	2		1	2	3			1	2	3	1	2		3	4	5	6	
18					1	2	3	4	5	6	7	8		1	2		1	2	3			1	2	3	1	2		3	4	5	6	
19					1	2	3	4	5	6	7	8		1	2		1	2	3			1	2	3	1	2		3	4	5	6	
20					1	2	3	4	5	6	7	8		1	2		1	2	3			1	2	3	1	2		3	4	5	6	

JUS 750 (Rev. 5/79) California Department of Justice / Division of Law Enforcement / BUREAU OF CRIMINAL STATISTICS P. O. Box 13427 Sacramento, Ca. 95813

MONTHLY ARREST AND CITATION REGISTER

JUVENILE COURT AND PROBATION STATISTICAL SYSTEM REPORTING DOCUMENT

DEPARTMENT OF JUSTICE
BUREAU OF CRIMINAL STATISTICS

JUVENILE COURT AND PROBATION STATISTICAL REPORT

A. TYPE OF ACTION
- ☐ 1. REFERRAL
- ☐ 2. COURT
- ☐ 3. CLOSURE

B. DATE OF ACTION
M M / D D / Y Y

C. PRIOR STATUS
- ☐ 1. NONE/PENDING
- ☐ 2. INFORMAL PROB (654 W&I)
- ☐ 3. NON-WARD PROB (725A W&I)
- ☐ 4. WARD PROB
- ☐ 5. CYA

D. COUNTY

E. CASE NUMBER

F. NAME (LAST, FIRST, MIDDLE INITIAL) *(INCLUDE AKA)*

G. DATE OF BIRTH
M M / D D / Y Y

H. SEX
- ☐ 1. MALE
- ☐ 2. FEMALE

I. RACE
- ☐ 1. WHITE
- ☐ 2. MEX/LATIN AMER
- ☐ 3. NEGRO
- ☐ 4. AMER INDIAN
- ☐ 5. CHINESE
- ☐ 6. JAPANESE
- ☐ 7. FILIPINO
- ☐ 9. OTHER
- ☐ 0. UNKNOWN

J. REFERRAL SOURCE
- ☐ 1. LAW ENFORCEMENT
- ☐ 2. SCHOOL
- ☐ 3. OTHER PUBLIC AGENCY OR INDIVIDUAL
- ☐ 4. PARENTS OR OTHER GUARDIAN
- ☐ 5. PRIVATE AGENCY OR INDIVIDUAL
- ☐ 6. TRANSFER FROM OTHER COUNTY/STATE
- ☐ 9. OTHER

K. NAME OF LAW ENFORCEMENT AGENCY

L. REFERRAL OFFENSE *(INCLUDE CODE SECTION)*

M. DETENTION
- ☐ 1. NOT DETAINED
- ☐ 2. DETAINED-NONSECURE FACILITY
- ☐ 3. DETAINED-SECURE FACILITY
- ☐ 0. UNKNOWN

N. PROSECUTING ATTORNEY ACTION
- ☐ 1. NO AFFIDAVIT FILED
- ☐ 2. AFFIDAVIT ACCEPTED
- ☐ 3. AFFIDAVIT NOT ACCEPTED

O. DEFENSE REPRESENTATION
- ☐ 1. NONE
- ☐ 2. PRIVATE COUNSEL
- ☐ 3. COURT APPOINTED COUNSEL
- ☐ 4. PUBLIC DEFENDER
- ☐ 9. OTHER

P. DISPOSITION
- ☐ 10. CLOSED/DISMISSED
- ☐ 11. TERMINATED
- ☐ 12. TRANSFERRED
- ☐ 13. REMANDED TO ADULT COURT
- ☐ 20. INFORMAL PROBATION (654 W&I)
- ☐ 30. NON-WARD PROBATION (725 W&I)

WARD PROBATION *(INDICATE PLACEMENT)*
- ☐ 40. OWN/RELATIVES HOME
- ☐ 41. NONSECURE COUNTY FACILITY
- ☐ 42. SECURE COUNTY FACILITY
- ☐ 43. OTHER PUBLIC FACILITY
- ☐ 44. PRIVATE FACILITY
- ☐ 49. OTHER
- ☐ 50. CYA

Q. SUSTAINED OFFENSE *(INCLUDE CODE SECTION)*

R. CURRENT CASE STATUS
- ☐ 1. CLOSED
- ☐ 2. INFORMAL PROBATION (654 W&I)
- ☐ 3. NON-WARD PROBATION (725A W&I)
- ☐ 4. WARD PROBATION
- ☐ 5. CYA

S. REMARKS *(USE OTHER SIDE OF CARD IF NECESSARY)*
- ☐ YES

BCS 705 9/78

SEND TO: BUREAU OF CRIMINAL STATISTICS P.O. BOX 13427, SACRAMENTO CA 95813

Appendix 7
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