

IMMIGRATION AND NATURALIZATION SERVICE
REPORTING PLAN FOR THE STATE OF TEXAS

PHASE I



Prepared by the Criminal Justice Policy Council
on behalf of the Office of the Governor,
Criminal Justice Division

April 7, 1992

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U.S. Department of Justice
National Institute of Justice

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BACKGROUND

The Immigration Act of 1990 changed Section 503 of the Omnibus Crime Control and Safe Streets Act to require that criminal justice records identify aliens who are convicted and provide that information to the Immigration and Naturalization Service (INS). The United States Department of Justice, Bureau of Justice Assistance (BJA), in conjunction with the INS and state representatives developed the Guidance for the Improvement of Criminal Records which outlines the requirements for conforming with the federal law. The Guidance was published in the Federal Register for public comment and was adopted on December 10, 1991. States are required to have a coordination plan with INS as a condition for continued receipt of Edward Byrne Memorial State and Local Law Enforcement Assistance Formula Grants. Texas received \$27 million of these funds for federal fiscal year 1992.

This initiative to improve records will assist state and local governments in reducing recidivism by deporting criminally involved aliens upon release from prison. It will also reduce supervision costs by deporting convicted aliens sentenced to probation.

For purposes of reporting to INS, conviction is defined as a final criminal conviction of aliens or suspected aliens by a court of competent jurisdiction for which the offender has been sentenced. All direct appeal rights must also have been exhausted or waived or the appeal period must have lapsed.

PLAN REQUIREMENTS

The Guidance for the Improvement of Criminal Justice Records sets forth the following requirements:

- The state must assure that it has established a plan under which it will provide without fee to INS, within 30 days of the date of conviction, notification of conviction of aliens who have been convicted of violating the criminal laws of the state. Convictions include felonies and deportable misdemeanors for which all appeals have been exhausted or waived. (Deportable offenses are listed in Appendix C of the Guidance.)
- States, or jurisdictions within states, which do not submit a plan or do not implement the plan to provide conviction records to INS are prohibited from receiving formula grant funds.

It should be noted that early drafts of the Guidance required the reporting of information on paper. The Criminal Justice Policy Council suggested to Bureau of Justice Assistance that an electronic reporting process be adopted. The BJA was very receptive to this approach. There are still some details to be worked out, however, and the potential for paper reporting still exists. The final Guidance allows for the reporting documents to be in the form of printouts or electronic records. However, the INS currently has no system in place for electronic reporting. Therefore, states with electronic reporting may provide the required records in printout form to the INS District Office until a system for the electronic reporting of information can be established.

A two-phased plan development and submission process was developed by the Department of Justice:

- Phase I, to be implemented immediately, requires that INS be given conviction records for aliens already sentenced to prison, including those held in local jails awaiting transfer to prison.
- Phase II requires establishment of mechanisms and procedures for the identification of alien status in criminal records and for providing to INS all conviction records of suspected aliens. This phase should be addressed as part of the required criminal justice records improvement plan, although it may be a separate section of the plan.

The Department of Justice, Bureau of Justice Assistance, establishes the following goal for measuring the completeness of records contained in the Criminal Justice Information System (CJIS):

At least 90% of the records of convictions should contain information on the Place of Birth of the offender and, if available, the Citizenship and Alien Identification Number.

As requested in the Bureau of Justice Assistance's Guidance for the Improvement of Criminal Justice Records, attainment of this goal is being addressed in a separate criminal records improvement plan (the Criminal Justice Records Improvement Plan for the State of Texas) being submitted to the Department of Justice. Appropriate data fields are being included in the new Texas Criminal Justice Information System (CJIS) to capture the data necessary to meet the INS reporting requirements.

THE TEXAS RESPONSE

The State of Texas has been working to improve the quality of criminal history records since 1987 when the Criminal Justice Policy Council began its analysis of the existing Computerized Criminal History (CCH) system. The results were reported in the 1988 Analysis of the Texas Computerized Criminal History System Database. In 1989, the Texas Legislature codified many of the report's suggestions, creating Chapter 60, Code of Criminal Procedure, which mandates:

- Enhancements to the Computerized Criminal History (CCH) system managed by the Department of Public Safety (DPS);
- Creation of a Corrections Tracking System (CTS) to be managed by the Department of Criminal Justice (DCJ);
- Establishment of a link between the DPS's Enhanced CCH and the DCJ's CTS. This link defines the statewide Criminal Justice Information System;
- Coordination of all county criminal history record systems with the CJIS;
- Assignment of a CJIS tracking incident number to each arrest incident for felonies and Class A and B misdemeanors. The CJIS tracking incident number will follow the offender through the system;
- Encouragement of electronic reporting of data between local contributors and the state;
- Reporting to the CJIS by the agency with the offender under its jurisdiction

- Mandatory reporting to the state of all arrests for felonies and Class A and B misdemeanors;
- Mandatory reporting to the state of all court dispositions of arrests for felonies and Class A and B misdemeanors;
- Mandatory reporting to the state of status changes as the offender moves through the system;
- Collection of start and end dates by DCJ for each program, level of probation or parole supervision, and reason for termination from programs;
- Holding of at least three regional hearings in the State to allow input on local needs for the CJIS; and
- Implementation of the CJIS by January 1, 1993.

Texas policy makers want to develop a CJIS system design that meets federal requirements while accommodating existing state efforts. As the Texas CJIS is still in the development stage, the addition of new data fields to accomplish the INS reporting requirements was an easy task. The prospect of manual reporting of documents to INS is problematic, however, as it is contrary to current efforts to reduce duplicative reporting burdens placed on counties. The ultimate goal of the CJIS is to maximize computer resources and reduce manual and duplicative reporting by adopting electronic reporting.

A new federal funding initiative makes available to each state no less than five percent of block grant funds to be used for criminal records improvement. In Texas this funding will assist counties in developing the capability for electronic reporting of criminal justice information to the state CJIS. Since the state has been working towards the goal of statewide electronic reporting, this method of reporting to the INS is the preferred approach.

CURRENT REPORTING PROCEDURE

Phase I of the Plan for Reporting Convicted Aliens, as defined in the Guidance for the Improvement of Criminal Justice Records, requires the following:

This phase should target serious offenders and should be implemented immediately. At a minimum, the State should provide INS with notification of conviction for aliens sentenced to prison, including those held in local jails awaiting placement in prison.

An alien inmate is defined as any inmate who is not a United States citizen, whether the person is in the United States legally or illegally.

The Texas Department of Criminal Justice (DCJ) is the State agency managing probation, prison and parole functions. DCJ's Institutional Division (ID) has a long standing cooperative relationship with the INS and has notified the proper INS district office upon identification of an incarcerated alien.

Currently, the State is in compliance with the Phase I requirement for aliens in prison. All inmates go through a reception and diagnostic process in which alien inmates are identified. The Institutional Division's Photo and Identification Department located at the Diagnostic Unit

makes the determination of citizenship through information reported by the inmate and from any available official records.

Inmates identified as non-citizens or whose citizenship is determined to be questionable are reported to the INS for further investigation. Some inmates may have been born in U.S. territorial jurisdictions, such as Puerto Rico, Virgin Islands, Guam, or to United States military personnel in a military installation in another country and would be considered United States citizens. The Diagnostic Unit provides names of identified aliens to an INS representative who visits the Unit one day each week. The information is provided on a form completed by the Diagnostic Unit (see appendix). The representative interviews each inmate to investigate and establish citizenship status.

To formally notify INS of the results of the representative's interviews, each month the Institutional Division's Bureau of Classification and Records Office (BOC) sends a computer printout listing all identified alien inmates to the INS. Data elements reported are: name, DCJ-ID number, parole eligibility date, country of citizenship, and unit of assignment. The INS then files United States Immigration detainers on alien inmates who are deemed deportable.

PAPER-READY CONVICTED FELONS IN COUNTY JAILS

Currently there is no notification process in place for alien inmates in county jails who are ready for transfer to DCJ-ID. There are 254 counties in Texas and a total of 242 operating county jails. DCJ-ID does not always have adequate information to determine whether an inmate in jail awaiting transfer is an alien. In spite of DCJ-ID receiving "pen packets" on some inmates held in local jails, the packet of information usually does not indicate whether an inmate is an alien. Unless official records already indicate that a convicted felon in jail is an alien, an interview with an inmate is necessary to determine whether he is a United States citizen. As previously described the interviews are conducted at the prison diagnostic unit.

This problem will, however, be rectified with implementation of the new CJIS. The new system will capture place of birth and alien identification number at the time of arrest. The central repository will then have this information at the front end of offender processing and notification can be provided to INS and to DCJ in a timely manner. This process will be detailed in the Phase II plan to be submitted later.

NATURE OF INTERAGENCY AGREEMENT

There is not a written agreement between INS and DCJ-ID on the process for notifying INS of aliens. There is, however, a long standing informal working cooperative agreement. DCJ-ID reports alien inmates to the INS. In turn the INS reviews and investigates the reported inmates and files detainers on those who are illegal aliens. INS has not requested any other information than what is already being provided. DCJ-ID works with two INS offices: the Houston INS office handles all male alien cases; the San Antonio INS office handles all female alien cases.

PHASE II REPORTING PLAN

The Phase II plan for implementing INS reporting requirements will be submitted with the Criminal Justice Records Improvement plan. Electronic reporting between the CJIS and INS and alien identification are the prominent topics for Phase II. This section gives a brief overview of

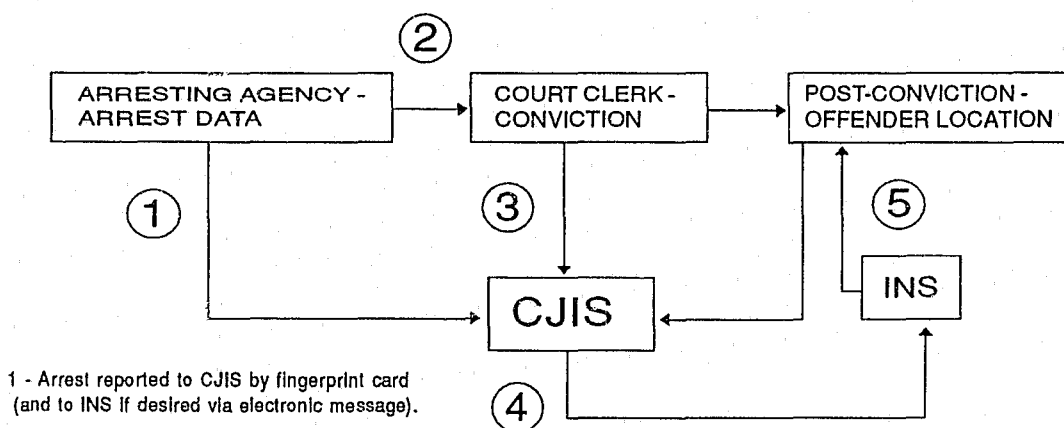
what will be addressed in the Phase II plan.

Chapter 60, Code of Criminal Procedure, requires a link from the DCJ's Computerized Tracking System to the CJIS. This link allows DCJ to report the status of convicted offenders and encourages electronic reporting of criminal history information to the CJIS. Since the State's goals are focussed toward fully implementing electronic reporting of offender status, the DCJ-ID is currently working toward implementing the electronic transfer of offender information, including alien status, to the Department of Justice.

In order to report alien convictions electronically the INS requires certain data elements to be included in the State's reporting system. The required data elements are "Place of Birth" and "Citizenship and Alien Identification Number". Under the new CJIS this information will be provided by the arresting agency in the Identification/Arrest segment of the new Incident Form, Fingerprint Card and Supplemental Form.

When a court reports a conviction of a suspected alien, the information will be transmitted electronically to the central repository where the CJIS system will flag these records. The INS will be provided an electronic notification from which they can begin their verification and processing of the offender.

PROPOSED TEXAS SYSTEM DESIGN FOR IMPLEMENTING INS REPORTING



- 1 - Arrest reported to CJIS by fingerprint card (and to INS if desired via electronic message).
- 2 - Offender turned over to the court.
- 3 - Conviction reported to CJIS.
- 4 - INS informed of conviction via electronic message over telecommunications lines. Available data transmitted.
- 5 - INS places Immigration detainer on offender if in jail/prison or interviews offender if on probation.

Criminal Justice Policy Council 6/24/91

Appendix

Bureau of Records and Identification

Data Form

TEXAS DEPARTMENT OF CRIMINAL JUSTICE
INSTITUTIONAL DIVISION
BUREAU OF RECORDS & IDENTIFICATION
HUNTSVILLE, TEXAS

Alias _____

Name _____

Date of Sentence _____

County _____

Crime _____

Term _____

Last Residence _____

Name of Employer _____

Address _____

Read & Write _____ No. Yrs in School _____

Occupation _____

Native(Country) _____ (State) _____

Member of What Church _____

Ex. Service _____

Marital Status _____

In Case of Injury, Illness, or Death

Notify _____

Place of Registration _____

Ex. Convict _____

No. _____ Race _____ Sex _____

Date Received _____

Age _____ Date of Birth _____

Eyes _____ Hair _____ Comp. _____

Build _____ Ht. _____ Wt. _____

Marks and Scars _____

County Sentenced From _____

No. _____ Released From _____ Method of Release _____

Year Released _____ Ex. Convict other Prison or Reformatories _____
