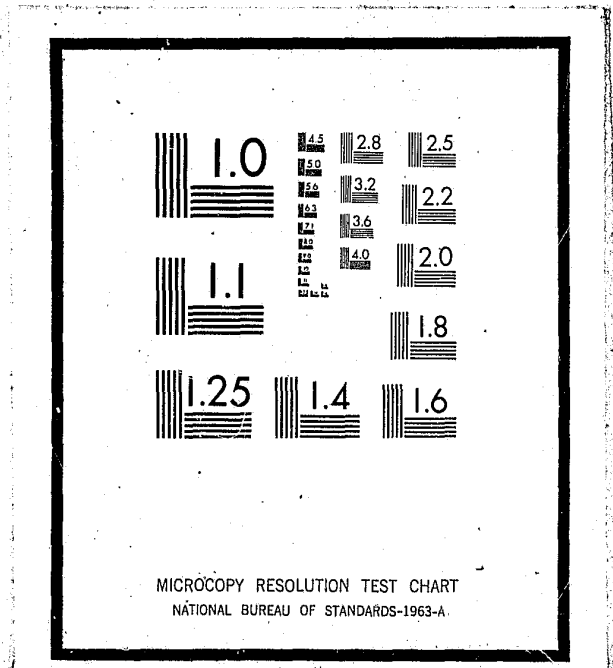


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REPORT TO THE SUBCOMMITTEE
ON CONSTITUTIONAL RIGHTS
COMMITTEE ON THE JUDICIARY
UNITED STATES SENATE

How Criminal Justice Agencies Use
Criminal History Information B-171019

NCJ-14871

BY THE COMPTROLLER GENERAL
OF THE UNITED STATES

AUG. 19, 1974



COMPTROLLER GENERAL OF THE UNITED STATES
WASHINGTON, D.C. 20548

B-171019

The Honorable Sam J. Ervin, Jr.
Chairman, Subcommittee on Constitutional
Rights
Committee on the Judiciary
United States Senate

Dear Mr. Chairman:

This is our report on how criminal justice agencies use criminal history information that you requested as a result of certain issues being raised during the Subcommittee's March 1974 hearings on legislation (S. 2963 and S. 2964) to guarantee the security and privacy of criminal history information.

As agreed with the Subcommittee, we are providing copies of the report to the Attorney General, the Federal Bureau of Investigation, and to appropriate officials in California, Florida, and Massachusetts, where we made the review. As requested, we are also providing copies of the report to others who might be interested in the subject matter.

Sincerely yours,

A handwritten signature in cursive script that reads "Thomas P. Blasts".

Comptroller General
of the United States

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ABBREVIATIONS

CCH	Computerized criminal history
FBI	Federal Bureau of Investigation
GAO	General Accounting Office

COMPTROLLER GENERAL'S
REPORT TO THE SUBCOMMITTEE
ON CONSTITUTIONAL RIGHTS
COMMITTEE ON THE JUDICIARY
UNITED STATES SENATE

D I G E S T

WHY THE REVIEW WAS MADE

In March 1974 the Senate Subcommittee on Constitutional Rights held hearings on proposed legislation (S. 2963 and S. 2964) to guarantee the security and privacy of criminal history information.

Criminal history information is data developed on any individual between his arrest and final release from custody and can include a person's name, dates of arrests, nature of charges, disposition of the charges, and the name of each arresting agency, court, or correctional institution involved.

The proposed legislation would restrict law enforcement agencies' use of this information for prearrest purposes and would also prevent dissemination of certain information.

Information on use is vital in determining the composition of any group having a policymaking role regarding the use of criminal history data so the group would be representative of the extent to which the various criminal justice groups used the information.

The Subcommittee requested that GAO determine

--the extent to which criminal history information was used by

HOW CRIMINAL JUSTICE AGENCIES USE
CRIMINAL HISTORY INFORMATION
B-171019

Federal, State, and local criminal justice agencies for pre versus postarrest purposes; and

--the extent to which the three components of the criminal justice system, law enforcement, judicial, and corrections agencies, used the information.

GAO's findings are based on an analysis of a random sample of requests made by agencies in California, Florida, Massachusetts, and by Federal agencies to the Federal Bureau of Investigation (FBI) and appropriate State agencies. See Chapter 6 for a detailed discussion of the review's scope.

FINDINGS AND CONCLUSIONS

Criminal justice agencies can obtain criminal history information from local files, State identification or data bureaus, and from the FBI. When transmitted from one agency to another this information generally is recorded on a "rap sheet."

Most rap sheets are requested from agencies by submitting a fingerprint card on the individual in question, usually at the time of arrest. They also may be obtained by letter, telephone, teletype, computer terminal, or in person.

Most rap sheets distributed to criminal justice agencies result

from the submission of fingerprint cards containing data on the arrested individual.

State and local uses of criminal history information

State and local agencies primarily used criminal history information after a person was arrested. (See pp. 12 to 18.)

Regardless of how the information was requested, the percentage use of the information for pre versus postarrest purposes was as follows:

	Percent
Prearrest	6.7
Postarrest	83.5
Miscellaneous	9.8

Although use of this data for pre-arrest purposes was relatively small, it is significant enough to indicate that criminal history information in FBI and State files is used by State and local agencies in prearrest situations but not on a routine basis at the time it is received.

State and local law enforcement agencies were the most frequent recipients of criminal history information, as shown below:

Agency	Percent
Law enforcement	58.6
Judicial	32.9
Corrections	2.2
Other and miscellaneous	6.3

The results are influenced by the fact that the greatest percentage of requests for information (51 percent) were by fingerprint

cards submitted by law enforcement agencies, usually as a matter of routine at the time of arrest because State law required it.

State and local law enforcement officials said this information was usually not used by them when it was received but that it was placed in the arrested person's file and could be used for pre-arrest purposes in subsequent investigations of the person.

State and local judicial agencies (prosecutors, courts, probation and parole) were the major recipients of criminal history information requested by nonfingerprint means. (See p. 19.)

Since requests by this means are less routine than fingerprint card requests, it is probably more indicative of how criminal justice agencies use the information when they need to know an individual's criminal background.

Since State and local judicial agencies were primary users of information requested by nonfingerprint means, it seems that they should have a significant voice regarding policies and procedures that govern the use of criminal history information.

Certain questions arose during GAO's review regarding the dissemination practices of Florida and Massachusetts. Thirteen criminal justice agencies in Florida were not complying with the State's dissemination practices for criminal history information in that they misinterpreted State policy and either allowed unauthorized access to the files or furnished criminal history data to agencies not

authorized to receive it.

In Massachusetts GAO could not determine who initiated about 10 percent of the sample requests for criminal history information made to the Department of Probation's files. These requests were mostly made by telephone and indicated the Department's procedures for disseminating such information as a result of telephone requests were inadequate.

GAO advised appropriate officials in both States of the problems so they could take corrective action. (See pp. 21 and 22.)

Various segments of the criminal justice system requested rap sheets on the same individual as his case was processed through the system. In California, there were instances where at least 10 rap sheets were requested on a single individual. In Florida, requests were normally made at eight different points as the individual moved through the system. (See pp. 30 and 31.)

Federal uses of criminal history information

Analysis of requests for criminal history information made by domestic law enforcement agencies in the Departments of Justice (not including the FBI), Treasury, Interior, and Defense, and in the Postal Service and the Administrative Office of the U.S. Courts showed that, as was true for State and local agencies, most Federal requests were for postarrest purposes. (See pp. 33 to 38.) However, Federal agencies were more likely to request the information for pre-arrest purposes as follows.

Purpose	Percent
Prearrest	22.9
Postarrest	52.7
Miscellaneous	24.4

Federal postarrest use of criminal history information was significant although less than State and local postarrest use.

The extent to which Federal agencies received criminal history information follows.

Agency	Percent
Law enforcement	69.8
Judicial	16.6
Corrections	8.4
Other and miscellaneous	5.2

Since State and local criminal justice agency representation on any board governing the policy and use of criminal history information should be fairly representative of both law enforcement and judicial agencies, it seems that Federal representation on such a board should be more weighted towards law enforcement agencies. (See pp. 39 to 41.)

AGENCY COMMENTS AND UNRESOLVED ISSUES

The Department of Justice and the three States generally agreed with GAO's findings and conclusions. (See apps. I through VI.)

The Department and California said prearrest use of criminal history information might be higher than shown in the report because local agencies make use of such information maintained in their own files for prearrest purposes. This

information, usually on rap sheets, is received from State data bureaus and FBI and placed in the agency's files for possible future investigative use.

GAO agrees that local criminal justice agencies may use this information in their own files to assist in prearrest investigations. Local agencies, however, did not maintain data showing the extent of such use and the proposed legislation would not affect an agency's use of information contained in its own files for prearrest purposes.

If local agencies do not have information in their own files they would have to go to either State or FBI identification bureaus. Accordingly, GAO believes its findings as to how this State and FBI data is used accurately reflects the way local agencies use information not contained in their own files.

California said it believes response time should be reduced and that it is attempting to meet a State statutory requirement that by 1978 its data bureau respond to all requests for criminal history information within 72 hours. California also indicated that there was a need to improve accuracy and completeness of data maintained in criminal history records.

GAO agrees, on the basis of its findings and recommendations in an earlier report to the Congress on the need to determine cost and improve reporting in the development of a nationwide criminal data exchange system (B-171019, Jan. 16, 1973).

Florida and Massachusetts said they have taken action to correct dissemination problems GAO noted during its review.

CHAPTER 1

INTRODUCTION

The Subcommittee on Constitutional Rights of the Senate Judiciary Committee requested that we determine how the criminal justice system uses criminal history information to assist it in considering legislation (S. 2963 and S. 2964) to guarantee the security and privacy of such data. The Subcommittee made the request essentially because certain provisions in the proposed legislation would restrict law enforcement agencies' use of criminal history information for prearrest purposes and would prevent dissemination of certain information.

Since specific data on how criminal justice agencies used criminal history information was not available, the Subcommittee requested that we develop this information. The Subcommittee was also concerned about how policy and procedural decisions would be made regarding the use and dissemination of criminal history information. Historically, law enforcement agencies have made most of the decisions. The Subcommittee members and Administration witnesses at the March 1974 hearings generally agreed that any legislative decisions regarding the composition of a policymaking group would be enhanced if data was available showing the extent to which all segments of the criminal justice community (police, courts, and corrections) used this information. Therefore, the Subcommittee requested that we also provide information on the extent to which the various segments of the criminal justice community use criminal history information.

The purpose of this report, therefore, is to provide information. While we have drawn conclusions on the results of our findings as to how criminal history information is used and by whom, we are not commenting on the appropriateness of certain provisions of either S. 2963 or S. 2964.

To obtain the needed data we randomly sampled requests for criminal history information made to the Federal Bureau of Investigation (FBI) and to the appropriate State agencies in California, Florida, and Massachusetts during a 1-week period. Information on each sampled request was then compiled either by interviewing the requestor or by analyzing completed questionnaires. Details on the sampling methodology and scope of the review are in chapter 6.

Without the complete and willing cooperation of the Department of Justice, particularly the FBI, and the appropriate State and local criminal justice agencies, we would not have been able to complete the work successfully. We believe this cooperation indicates the extent to which all interested parties believed the information we developed would be useful for providing an objective basis for making certain decisions regarding the proposed legislation.

Our work with criminal justice agencies in the three States indicated that their activities were similar to the way criminal justice agencies operate throughout the Nation. We also believe that our random sample of requests for criminal history information made to the FBI by Federal domestic law enforcement agencies provides an accurate picture of these agencies' use of this data.

CHAPTER 2

CRIMINAL HISTORY INFORMATION:

WHAT IT IS AND HOW IT IS KEPT AND DISSEMINATED

Criminal history information can generally be defined as any information on an individual, collected or disseminated by criminal justice agencies, as a result of arrest, detention, initiation of criminal proceeding, probation, incarceration, parole, or release from custody.

All segments of the criminal justice system retain criminal history information files. The most widely used, however, are those maintained by the FBI, State, and large metropolitan law enforcement agencies.

FBI'S CRIMINAL HISTORY SYSTEM

The FBI's files contain about 21 million records of individuals for whom fingerprints were submitted to the FBI by Federal, State, and local criminal justice agencies. The FBI disseminates this information when Federal, State, or local criminal justice agencies request it. Arrests are reported to the FBI on fingerprint cards which are placed in a file maintained for each arrested individual. Information from the fingerprint card is transferred to an individual's "rap sheet," making it the master list of the individual's reported criminal activity. (See app. VII.)

Disposition data is also included on the rap sheet if the arresting agency or court of jurisdiction forwards this information to the FBI, although they are not required to do so. An FBI official said about 26 States require that disposition data be reported to their State criminal data bureaus. Some States require that the data be reported to the FBI. However, he said that such requirements generally are not enforced by the States.

Copies of the rap sheet are forwarded to criminal justice agencies in response to specific requests which can be made in several ways. The most common way used to obtain rap sheets is by sending an individual's fingerprint card to the FBI. Most of the time in these cases the individual has been arrested and fingerprinted. The arresting agency, usually as

a matter of course, forwards an individual's fingerprint card to the FBI, which makes a positive identification and then sends the individual's rap sheet to the arresting agency. This positive identification insures that the recipient of the rap sheet receives the record of the individual whose fingerprints were submitted.

Requests for rap sheets can also be made by letter, telephone, or teletype. In these cases the FBI will forward the rap sheet to the requestor with the qualification that positive identification was not established, unless the requestor had submitted an FBI arrest number with the request. The FBI assigns this number to an individual when it first receives a fingerprint card showing he has been arrested. Usually the FBI does not request to know why a criminal justice agency wants an individual's rap sheet.

Most of the FBI's criminal history files are maintained in a manual system. In 1971 the FBI began operating, in conjunction with the States, a computerized criminal history (CCH) system. The CCH system can provide requestors either a detailed record of a person's criminal history, similar to the information contained on a rap sheet, or a summary record. The summary record essentially contains only the number of times a person has been arrested and convicted of certain offenses, and more detailed information on his last arrest. (See app. VII.) However, requests for CCH information are not accompanied by fingerprint cards so there is not positive assurance that the information transmitted to the requestor is, in fact, on the subject of the request.

As of February 1974, the CCH system had data on only about 2 percent of the approximately 21 million individuals on whom the FBI has criminal history information.¹ Two of the States we reviewed, California and Florida, had contributed about half of all records entered into the CCH file by participating States and the District of Columbia.

¹In July 1974 FBI officials advised us that two of the six States contributing to the CCH system, New York and Pennsylvania, had dropped out, thus decreasing the number of records in the system. Nevertheless, the Department of Justice noted that the number of States using CCH file materials is significant and that CCH transactions have been increasing. (See app. I.)

On March 1, 1974, we issued a report to the Subcommittee on the development and use of the CCH system. The report raised the question as to what the national policy should be regarding development of computerized criminal history information systems and to what extent the various segments of the criminal justice community and appropriate Federal agencies should participate in such policy development.

CALIFORNIA

The Bureau of Identification, Identification and Information Branch, of the State Division of Law Enforcement is primarily responsible for maintaining and disseminating criminal history information maintained in the State's manual file. State and local law enforcement agencies are required by California law to submit fingerprint cards to the Bureau on all individuals arrested for felonies or other serious crimes. Fingerprint card data, information from arrest forms¹, and disposition data is entered on the rap sheets maintained by the Bureau.

At the time of our review, the Bureau had fingerprints and/or rap sheets on 9.1 million people. The records on 5.3 million people dealt with criminal offenders. The records on the remaining 3.8 million people were kept because, under State law, they had to undergo a criminal history check to obtain a license or to obtain or retain employment.

Information maintained in the Bureau's files is generally released upon receipt of a fingerprint card or arrest form, or upon request by telephone, teletype, letter, or personal visit. The Bureau cannot be sure that information released in response to requests from other than fingerprint cards is in fact for the individual named because there is no way to insure positive identification. It advises the requestor that positive identification was not established.

In addition to its manual file, California also has a computerized criminal history system which became operational

¹Law enforcement agencies sometimes submit arrest forms instead of fingerprint cards on individuals who already have a fingerprint card on file at the local and State level and who already have State identification numbers.

in April 1973. It is operated by the Law Enforcement Consolidated Data Center. The State is converting certain manual records into computer format. As of May 1974, about 1.4 million records of offenders charged with serious offenses were planned for conversion. About 488,000 had been converted, with about 240,000 of these entered into the computer. A copy of the records is also transmitted to the FBI for inclusion in its CCH system if the record has an FBI number. These records in the State's computer can be accessed by the Bureau to enable it to respond to requests for rap sheets. Also, California law enforcement agencies are linked directly to the State computer by about 975 terminals so they can request information directly.

California has not established a list of agencies authorized to access the State's criminal history files. California legislation states that information shall be furnished to all peace officers; district attorneys; probation officers; State courts; U.S. officers; officers of other States and countries authorized by the California Attorney General; and to any State agency, officer, or official when needed for performance of official functions. Information can be obtained for criminal justice purposes and for determining individuals' eligibility for licensing or suitability for employment.

FLORIDA

The Division of Criminal Justice Services of the Florida Department of Law Enforcement manages the State's criminal history information system, which is entirely computerized. Two main files are kept--the identification file and the full history file. All fingerprint cards and duplicates of criminal histories are kept on microfilm. In addition, the State has entered records on Florida criminals who are multi-State offenders into the FBI's CCH system.

As of May 1974 the State had records for about 775,000 persons in its identification and full history file. About 70,000 of these were multi-State offenders whose records had also been entered into the FBI's CCH system.

The identification file contains the name and certain other identifying characteristics of individuals on whom the State has rap sheets. The identification file is used as a quick reference primarily to determine if the individual has

a criminal record. Inquiries can be made to the identification file with only the individual's name. Upon making an inquiry the requestor is furnished with certain information that indicates whether the State might have criminal history information on the individual and which file contains the information.

The requestor can then use this information to request a rap sheet from the full history file or from the FBI. If a rap sheet is available, the State mails it to the requestor.

As of June 1974, there were 367 telecommunication terminals in operation at various law enforcement agencies throughout the State. These terminals have direct access to the identification file, but only off-line access to the full history file. Requests for either identification or full history information can also be made by telephone, letter, teletype, fingerprint card submission, or by personal visit.

The Department of Law Enforcement's policy is to disseminate criminal history information to criminal justice agencies and any other agencies which have State statutory authority to do checks before licensing or employment. There is no restriction on what local criminal justice agencies can do with criminal history information they developed on their own.

MASSACHUSETTS

Whereas the California and Florida criminal history information systems are relatively similar to the FBI's system, the Massachusetts system is not.

Massachusetts maintains criminal history information in three separate departments:

- The Department of Public Safety keeps identification (e.g., fingerprint cards and photographs) and arrest data.
- The Department of Probation keeps court arraignment through sentencing data.
- The Department of Corrections keeps sentence imposition through sentence completion data.

The identification and arrest data file contains an individual's name, description, aliases, birthdate, parents' and spouse's names, names of other relatives and associates, arrest data, fingerprints, and photographs. Information regarding arrests and their disposition is entered on rap sheets. Records on about 800,000 individuals are on file.

Generally requests for identification and arrest data are made to verify the identity of individuals. Requests for arrest data can be made by letter, telephone, teletype, or by personal visit. Information disseminated as a result of requests other than fingerprint cards cannot be verified to insure positive identification because fingerprint comparisons are not made.

The file maintained by the Department of Probation on individuals contains a complete record of all court appearances and dispositions for every person arraigned before the Massachusetts courts. All information for this file is furnished by the courts. The records contain general identification data and note the date and disposition of all court appearances for each charge from the first appearance to the date of sentencing or release from custody. There are records on about 5 million people in this file.

The files maintained by the probation department are the basic records criminal justice agencies use to secure criminal history information on people. Requests for such records can be made by telephone, teletype, letter, or in person. Requests are usually by name and there is no system for insuring that the information released is truly the record of the correct person because verification is not made by checking fingerprints.

Files maintained by the Department of Corrections contain information on criminal offenders' progress from the time a sentence is imposed until their release from custody. The files contain various documents submitted by the court, probation, correction, or parole officers and include presentence narratives, psychological evaluations, and prison admission data. The files are used almost exclusively by corrections and parole board personnel and access to detailed information in them is generally restricted to corrections and parole board personnel. About 15,000 to 20,000 active records and 35,000 to 40,000 inactive records on microfilm are maintained in the Department of Corrections file.

Massachusetts is developing a Statewide computerized criminal history information system that will consolidate criminal offender records now held in the three departments. The Department of Probation receives court status slips for individuals who have committed felonies, major motor vehicle violations, or nonvehicular misdemeanors other than drunkenness. These slips are sent to the Department of Public Safety which searches for the individual's fingerprint card. If one is located, the fingerprint data, court data, and any existing correctional data is consolidated into a single record.

It is not clear how the State insures itself that the fingerprint, court, and correction data is actually on the same person because the court status slips and probation file record cards do not contain fingerprints or other identifiers, such as arrest numbers or FBI numbers. The State said it is trying to insure, as best it can, positive identification of such records, and if there is any question about the positive match of records, the subject's records are not being consolidated.

As of May 1974 about 15,000 of the 800,000 Department of Public Safety, 5 million probation, and 55,000 corrections records had been converted, with additional conversions taking place at a rate of about 60 a day. State officials were unable to estimate when the computerized system would become operational.

The State Criminal History Systems Board, established in 1972, is responsible for setting policy and regulations governing the collection, storage, dissemination, and use of criminal history information. A Security and Privacy Council, under the Board, has also been established to continually study and recommend ways to insure individual privacy and system security. The Board established a list of 74 types of agencies having access to the State's criminal history information for criminal justice purposes or for determining an individual's eligibility for licensing or suitability for employment.

In addition to criminal history information files maintained by the FBI and various State agencies, there were numerous such files also maintained by local criminal justice agencies in the States where we did our review, primarily law

enforcement agencies. For example, Alameda County, California, keeps a multiagency criminal information system which serves the sheriff's office, the county police departments and other local law enforcement agencies. Ten California law enforcement agencies that we contacted during the review had local criminal history records on about 3 million people with the Los Angeles County sheriff's office having the largest file with records on about 1.2 million people.

Although we did not review the uses of criminal history information in these files, local criminal justice officials told us the information is used extensively by judicial agencies for setting of bail, sentencing, and probation decisions. In addition, law enforcement agencies use this information in prearrest situations and for postarrest followup investigations.

CHAPTER 3

HOW STATE AND LOCAL CRIMINAL JUSTICE AGENCIES

USE CRIMINAL HISTORY INFORMATION

To determine how criminal justice agencies in the three States used criminal history data, we sampled requests they made from three sources:

- The FBI's manual file.
- The State's manual file.
- The State's CCH file in California and Florida.

We did not sample State and local requests to the FBI's CCH file because they automatically go to the State file first and would be recorded and included in our sample there.

We classified the types of requests under three consolidated categories--fingerprint card requests,¹ nonfingerprint requests (telephone, teletype, letter, or personal visit), and CCH requests.

The agencies requesting information are discussed under three categories:

- Law enforcement agencies, which include police and sheriff's departments and other State or local enforcement-type agencies.
- Judicial agencies, which include prosecutors, courts, probation and parole offices.
- Correction agencies.

Briefly, our work showed that:

¹ Fingerprint card submissions are not always made to request information for a specific use. We considered them requests because they usually result in a copy of the individual's rap sheet being forwarded to the submitting agency for its file and possible future use.

--Criminal history information was used primarily after an individual was arrested.

--Judicial and correction agencies most often used the data.

--Requests for criminal history information submitted by fingerprint cards were overwhelmingly made by law enforcement agencies, usually because of a State requirement to submit a fingerprint card when an individual is arrested.

--Requests by nonfingerprint means were much more frequently from judicial agencies than were fingerprint card requests and were more frequently made, not as matter of routine, but to develop additional information on the arrested person.

WHY CRIMINAL HISTORY INFORMATION WAS REQUESTED

One of the basic questions the Subcommittee requested us to answer was the extent to which criminal history information was used for pre versus postarrest activities of criminal justice agencies. Our findings showed that the data was used primarily for postarrest purposes, as can be seen in the following table.

Prearrest Versus Postarrest Use

Activity	Type of request				CCH
	Fingerprint card		Nonfingerprint		
	To FBI file	To State files	To FBI file	To State files	
Prearrest	1.5%	0%	8.9%	13.3%	32.3%
Postarrest	91.5	100	77.9	70.4	47.0
Miscellaneous (note a)	7.0	0	13.2	16.3	20.7

^a Includes requests for information used for such purposes as licensing, certifying, and testing of CCH. It also includes requestors who did not respond to our questionnaire, were not sure they made the request, or said they did not make the request.

The specific purposes for which the data was to be used and by which type of criminal justice agency follows.

Specific Purpose for Request (note a)

Purpose by agency	Type of request				CCH
	Fingerprint card		Nonfingerprint		
	To FBI file	To State files	To FBI file	To State files	
Law enforcement:					
Suspicious circumstances arousing police interest	0.3%	0%	3.9%	7.0%	23.6%
First police report of a crime	0.3	0	0	3.3	2.9
Followup investigation before arrest	0.9	0	2.6	3.7	2.9
Arrest (i.e., booking of suspect)	80.8	86.4	0	19.7	15.8
Followup investigation after arrest	9.0	10.2	6.5	5.4	14.1
Completion of case	3.9	0	4.8	1.5	5.3
Prosecuting agency:					
Prosecution of suspect	8.3	0	15.7	9.0	0
Plea bargaining	1.4	0	2.6	0.4	0
Courts:					
Recommending or setting bail	4.1	0	1.3	9.5	0
Sentencing	7.6	0	10.5	12.1	0
Probation/parole:					
Presentence report preparation or recommendation	5.5	0	41.7	23.0	4.4
Supervision requirement after release of defendant on parole or probation	0.7	0.2	10.5	11.0	2.9
Corrections:					
Incarceration	4.3	0	1.3	0.4	0
Establishing treatment program	3.1	3.2	1.3	1.1	0
Other (note b)	3.6	0	32.8	15.6	19.2
Miscellaneous (note c)	0.9	0	2.6	16.3	20.6

^a The data could be requested for more than one purpose. Thus, percentages total more than 100.

^b Includes responses from such agencies as components of State identification bureaus, State real estate boards, and Federal agencies, which could not be classified as State criminal justice agencies.

^c Includes requestors who said they did not make the request, were not sure they made the request, did not reply to our questionnaire, or were testing equipment or training operators.

The general reasons why the information was requested follow.

General Reason For Request (note a)

Reason	Type of request				CCH
	Fingerprint card		Nonfingerprint		
	To FBI file	To State files	To FBI file	To State files	
Routine agency policy	96.2%	100.0%	61.6%	52.0%	48.3%
Obtain additional background data	30.3	17.4	51.3	40.6	48.3
Need to form an opinion:					
To continue or terminate case	4.6	0	20.9	10.4	6.0
Regarding subject's character or risk to society	18.1	3.6	53.1	27.2	22.1
Other (note b)	4.1	6.4	6.5	24.0	36.6
Miscellaneous (note c)	0.2	0	2.8	10.9	20.6

^aThe data could be requested for more than one purpose. Thus, percentages total more than 100.

^bIncludes purposes which were not listed on our questionnaire, such as checking records of potential jurors; licensing, certifying, or employment checks; or updating files.

^cIncludes requestors who said they did not make the request, were not sure they made the request, did not reply to the questionnaire, or were testing equipment or training operators.

An analysis of the data by type of request--fingerprint card, nonfingerprint, or CCH--shows the following.

Fingerprint card requests

Generally requests submitted by fingerprint cards were done so by law enforcement agencies at the time of arrest, usually as a matter of routine. There were virtually no instances when State or local law enforcement agencies submitted fingerprint cards to obtain information for prearrest purposes. Generally information obtained by fingerprint request is used by law enforcement agencies to update files on an arrested person and to provide them a more complete history of the arrested person's criminal involvement. For example, most law enforcement fingerprint cards submitted during followup investigations after arrest were to insure that the arresting agency had complete criminal histories on the arrested people.

Relatively few fingerprint card requests were made specifically for judicial or correctional agencies' use. In almost no cases did these agencies request the information from State files partly because judicial agencies usually obtain rap sheets directly by nonfingerprint requests to the FBI, State, or local law enforcement agency. Judicial agencies' most frequent use of criminal history data obtained by fingerprint requests was in the prosecution and sentencing of individuals. This might be because generally these are the two points during the judicial process when it is important to have a complete and current criminal history of the individual, and the FBI's files contain the latest comprehensive information on an individual. Nevertheless, most use of such data obtained by fingerprint cards was by law enforcement agencies.

However, the fact that over 80 percent of these requests occurred at the time of arrest suggests that there was probably little actual use of the information by State and local law enforcement agencies in those cases. Local law enforcement officials told us that they believed their agencies rely almost exclusively on their own files for criminal history information to aid in prearrest investigations because:

--Most crime is committed by local people with whom the investigating agency is familiar and on whom the agency has a current criminal history file, which usually contains previously requested FBI or State rap sheets.

--It takes too long to receive information from State or FBI files.

Nonfingerprint requests

An analysis of nonfingerprint requests for criminal history information provides a better indication of the extent to which criminal history data in FBI and the States' files was used for prearrest purposes. A relatively significant number of requests for criminal history information were used for prearrest purposes--8.9 percent of nonfingerprint requests made to the FBI and 13.3 percent of such requests made to the three States' files. This data is more meaningful than fingerprint card requests for determining the extent to which criminal history information is used for prearrest purposes because fingerprints generally are not taken before arrest.

The time factor might also have an important impact on the degree to which criminal history data is used in pre versus postarrest phases. Analysis of the CCH data indicates a much greater use of it in the States' CCH systems for prearrest purposes than the data requested by fingerprint or nonfingerprint means. This may be because the response time is usually quicker for CCH and could indicate that as more criminal history information is computerized, law enforcement agencies will use it more for prearrest purposes than they did during our review.

In summary, although the total weighted percentage State and local use of criminal history data for prearrest purposes is relatively small (see table below), it is significant enough to indicate that criminal history information in the FBI and State files is used by State and local agencies in prearrest investigations, but not on a routine basis at the time it is received.

State and Local Use of Criminal History Information for Pre and Postarrest Purposes Regardless of How Requested

	<u>Percent</u>
Prearrest	6.7
Postarrest	83.5
Miscellaneous	9.8

Nonfingerprint requests for criminal history information were overwhelmingly made for postarrest purposes--primarily by judicial agencies (prosecutors, courts, probation or parole officers). Use for these purposes was almost three times the use for law enforcement purposes. This information was often requested to secure data upon which to base an opinion regarding the individual's character or risk to society. Prosecutors wanted complete background data on individuals to help prepare cases against them. Courts wanted complete background data on which to base decisions regarding bail, probation, or sentencing. Probation officers needed information upon which to base opinions regarding the subjects' character or risk to society. In some cases these opinions regarded how the probation officer would handle a person placed on probation by the court; in other cases the opinions were transmitted to the courts in the form of preprobation or presentencing reports. Nearly half of the nonfingerprint requests submitted to the FBI and nearly one-fourth of those submitted to the States were for information to assist probation or parole agencies preparing presentence reports or recommendations.

CCH requests

The use of CCH information obtained by computer requests was almost exclusively for law enforcement functions. Only about 7 percent of all these requests were for non-law enforcement functions. This is primarily because most non-law enforcement agencies do not have access to CCH terminals. For example, in California, the 240,000 online criminal history records were directly accessible primarily through terminals located at police departments throughout the State. However, these agencies may have subsequently provided the information to judicial and corrections agencies.

The CCH system became operational in late 1971. There are currently very few criminal history records computerized. Very few non-law enforcement agencies have access to a CCH terminal, and in most States detailed records cannot be transmitted online to a requestor. Moreover, CCH accounted for only 773, or 1.3 percent, of the 58,465 requests made by State and local agencies in the three States during our 1-week sample period. Thus, it is too early in CCH's development to be able to draw any definitive conclusions about the uses made of the CCH system.

WHO RECEIVED CRIMINAL HISTORY INFORMATION

To obtain a clearer picture of the extent to which all segments of the criminal justice system used criminal history information, we determined which type of agency received the information either directly from the FBI or State files or subsequently from another agency which had initially received the data. The following table shows, for each type of request, the percentage of criminal history information received by each segment of the criminal justice system.

Recipients of Criminal History Information

<u>Agency</u>	<u>Type of request</u>				<u>CCH</u>
	<u>Fingerprint card</u>		<u>Nonfingerprint</u>		
	<u>To FBI file</u>	<u>To State files</u>	<u>To FBI file</u>	<u>To State files</u>	
Law enforcement	77.2%	85.7%	17.3%	32.9%	67.7%
Judicial	16.7	11.3	77.3	53.5	24.0
Corrections	2.6	2.8	2.1	1.7	0.4
Other (note a)	3.3	.2	1.0	3.2	1.2
Miscellaneous (note b)	.2	0	2.3	8.7	6.7

^aIncludes responses from such agencies as components of State identification bureaus, State real estate boards, and Federal agencies, which could not be classified as State criminal justice agencies.

^bIncludes requestors who said they did not make the request, were not sure they made the request, did not reply to our questionnaire, or were testing equipment or training operators.

The percentages follow for receipt of the information by all criminal justice agencies regardless of the means of request.

<u>Agency</u>	<u>Percent</u>
Law enforcement	58.6
Judicial	32.9
Corrections	2.2
Other and miscellaneous	6.3

The data indicates that law enforcement agencies were the most frequent recipients of the information. The results, however, are influenced by the fact that the greatest percentage of requests (51 percent) for information were by fingerprint cards submitted by law enforcement agencies. As shown in the table on page 14, almost all of such requests were made routinely, and, as shown on page 13, were made at the time of arrest.

When law enforcement agencies received criminal history information in response to fingerprint card submissions, it was generally not used for specific purposes. It became part of the arrested person's file at that agency. The file is available to judicial and correctional officials as the arrested person moves through the criminal justice system. The law enforcement agency could also use the file to provide background data on the person if he were, subsequent to release, suspected of further criminal activity. However, law enforcement agencies made little immediate use of the information they received as a result of fingerprint card requests.

Officials of many police departments we contacted said that information received from routine fingerprint card submissions was filed and that no further immediate use was made of it. They said, however, that their files were open to criminal justice agencies and that they knew judicial agencies used the files but did not know the frequency of that use.

A more accurate picture of who actually receives and uses criminal history information is probably provided by recipients of the data as a result of nonfingerprint requests. As shown in the table on page 14, this information is requested on a much less routine basis than fingerprint card requests. Thus, it is probably more indicative of how criminal justice agencies use criminal history information when they need to know the criminal background of an individual. As shown in the table on page 19, judicial agencies were the major recipients and users of criminal history information requested by nonfingerprint means.

The information in the table on page 13, that discusses specific purposes of requests, shows the extent to which

judicial agencies used the information. It is quite extensive in relation to law enforcement or correctional use.

In summary, our statistics showed that law enforcement agencies were the most frequent recipients of criminal history information. But, if the way the information was requested and used is taken into account, judicial agencies are its primary users. Accordingly, it seems that State and local judicial agencies should have a significant say regarding policies and procedures that govern the uses of criminal history information.

Questions regarding recipients of criminal history information

Certain questions arose during our review regarding some dissemination practices in Florida and Massachusetts. An analysis of sampled requests in California did not indicate any dissemination problems.

At least 13 criminal justice agencies in Florida misinterpreted State policy and were not fully complying with the State's dissemination policies. Our discussions with law enforcement agencies indicated that seven provided criminal history information to requestors who were not authorized by the State to receive it. These included city agencies and other local employers. One law enforcement official explained that he thought it was proper to disseminate information to a local employer who had Department of Defense contracts if it was for security checks on individuals. One police agency's criminal history files were open to the public. Additionally, officials in six local agencies said they had provided criminal history information to military recruiters and investigators. State officials said these practices are contrary to the State's dissemination policy. They noted, however, that the FBI provides criminal history information to the military services and consequently some law enforcement agencies apparently incorrectly interpreted the State's more restrictive policy.

In Massachusetts, we were unable to determine who initiated about 10 percent of the sampled requests for criminal history information made to the probation department. Most of these requests were made by phone. The probation department's policies allowed its employees to respond to the phone requests without calling the requestor back to insure that he

was an employee of an agency authorized to receive criminal history information. We contacted the supposed requesting agencies for these cases. Either the heads of the agencies or their identification division officials contacted all persons authorized to request information from the probation department file. They told us that, to the best of their knowledge, no one in their agencies had requested the information. The probation department's procedures for disseminating criminal history information as a result of telephone requests apparently were inadequate.

We have advised appropriate officials in both States of the problems so they could determine the extent of the problems and take action to insure that their policies and procedures are adhered to or are adequate enough to keep unauthorized recipients from receiving criminal history information. The corrective action taken is discussed in chapter 5.

ADDITIONAL MATTERS REGARDING STATE AND LOCAL USES OF CRIMINAL HISTORY INFORMATION

Several other findings from our work might also be useful to both the Subcommittee and Executive Branch in their consideration of the proposed legislation. These matters-- the response time to requests for criminal history data, the extent to which the States use such data for licensing and employment checks, their purging and sealing provisions for criminal history data, and the number of times a rap sheet is requested--are discussed below.

Response time

The elapsed time between a request for criminal history information to the FBI or State files and the requesting agency's receipt of information was 1 week or more in most cases. Most requesting agencies considered that response time adequate. The following tables show, by percentage, (1) the response times for the requests and (2) whether the requestor considered the response times adequate and whether detrimental effects resulted from slow response times.

Elapsed Time Between the Request for and Receipt of Information

<u>Elapsed time</u>	<u>Type of request</u>				<u>CCH</u>
	<u>Fingerprint card</u>		<u>Non-fingerprint</u>		
	<u>To FBI file</u>	<u>To State files</u>	<u>To FBI file</u>	<u>To State files</u>	
Less than 1 hour	0%	0%	0%	8.3%	34.9%
At least 1 hour, but less than 1 day	0	6.4	0.9	12.7	1.5
At least 1 day, but less than 1 week	1.0	0.2	7.3	22.0	23.8
At least 1 week, but less than 2 weeks	12.1	4.3	32.2	16.7	2.9
Two weeks or more	52.9	61.4	34.8	21.5	0
Could not answer or did not know	34.0	27.7	24.8	18.8	36.9

Adequacy of Response Time

<u>Adequacy</u>	<u>Type of request</u>				<u>CCH</u>
	<u>Fingerprint card</u>		<u>Non-fingerprint</u>		
	<u>To FBI file</u>	<u>To State files</u>	<u>To FBI file</u>	<u>To State files</u>	
Considered response time adequate	63.2%	65.7%	74.1%	76.1%	66.1%
Considered response time inadequate	9.2	16.2	14.4	8.1	0
Could not answer or did not know	<u>27.6</u>	<u>18.1</u>	<u>11.5</u>	<u>15.8</u>	<u>33.9</u>
	<u>100</u>	<u>100</u>	<u>100</u>	<u>100</u>	<u>100</u>
Had detrimental effects	2.1	3.2	2.6	1.5	0

Responses to fingerprint card requests took the longest time to receive. Responses to over 50 percent of these requests made to either the FBI or State files took 2 weeks or more. Excluding the could not answer or did not know column in the table on page 23, the percentage of such responses that took 2 or more weeks to complete goes to over 80 for both FBI and State file requests.

FBI Identification Division officials told us that their turnaround time is usually 3 days for fingerprint card requests. They believed that, in many cases, the information takes much longer to get back to the individual who initially requested it because the requesting individual's agency saves all the fingerprint cards completed over several days or even several weeks before submitting them to the FBI. In such cases a card could have been with the agency for a considerable time after being completed by the arresting officer or fingerprint technician before being sent to the FBI. Officials of some agencies we contacted stated that fingerprint cards are not always sent to the FBI on the day they are completed. Some agencies collected the cards for several days before submitting them.

The FBI said that the distance between California and Washington, D.C., requires a longer period of time between sending and receiving mail than in most States. Also, because most fingerprints submitted by Florida agencies are sent to the FBI through the State bureau, the FBI believed response time would be adversely affected.

Regardless of the reason for the slow response time, the time frame makes it difficult for the information to be useful to law enforcement agencies in postarrest followup investigations or to courts for setting bail.

Nonfingerprint card requests were responded to more quickly, primarily because fingerprint cards must be reviewed and verified for identification purposes. Responses to only about 35 percent of the requests made to the FBI and 20 percent of the requests made to the State files were received as long as 2 weeks or more after the request was made. Telephone and teletype requests were returned more quickly possibly because the request did not have to go through the mail. But, in most cases, the response to the request had to be mailed. The shorter response time also held true for letter requests even though they have to be submitted by mail, as do fingerprint cards.

Response times for CCH requests were less than for other kinds of requests. About 35 percent of the CCH responses were received in less than 1 hour, some of them in seconds. However, responses to about one-fourth of the requests were in the "at least 1 day but less than 1 week" category. The major reason is that in California and Florida detailed records could not be transmitted back to the requestor by computer but were printed out at the State bureau and mailed to the requestors.

A majority of requestors considered the response time for their requests adequate. The percentage of requests for which the response time was considered inadequate was between 0 and 17 for all of the various types of requests made. The highest frequency of response times considered inadequate (16.2 percent) was for fingerprint cards submitted to the State files, and the lowest was CCH with no requestors considering the response time inadequate. Very few requestors, 3.2 percent or less in all cases, felt that detrimental effects resulted from the time it required to receive the information.

This does not necessarily mean that the systems were adequate for meeting criminal justice agency needs. Rather it could imply that criminal justice agencies have merely adjusted their operations to the system and do not consider it necessary to have criminal history information sooner than they normally receive it. However, as more criminal justice agencies begin to receive this information by computer they may begin to realize that their operations can be improved if they receive the data sooner and would then consider that the current, relatively long response times would adversely affect their operations. Computerizing criminal history data could affect the way that criminal justice agencies view and use such data.

Licensing and employment checks

The three States require licensing or certifying of individuals before they can buy firearms or be employed at certain jobs or professions. The agencies responsible for licensing or certifying these individuals must find out whether they have criminal records. The FBI recognizes these State requirements and therefore sends criminal history information to these agencies in the same way it does to criminal justice agencies. According to the FBI, only about 10 States do not have specific legislation authorizing certain State and local agencies to provide fingerprints to, and obtain criminal history information from, the FBI for licensing and employment checks.

In addition, the three States we visited allow certain businesses and agencies access to the criminal history records of applicants for jobs which are considered sensitive or which would place the employee in a position where he could be a menace to the public. Any Massachusetts agency included in the list of 74 groups of authorized agencies may have access to State criminal history records for licensing, certifying, or employment checks. Some of the California agencies authorized access for licensing, certifying, and employment checks are county welfare departments, school districts, the Board of Accountancy, the Board of Cosmetology, the Board of Medical Examiners, and the Board of Funeral Directors and Embalmers. Some of the Florida agencies authorized access to criminal history information for such purposes are the Florida Beverage Department, the Board of Bar Examiners, the Pari-Mutual Wagering Board, and the Police Standards Board.

The largest volume of requests for criminal history information related to licensing, certifying, and employment was in California. About 447,000 applicant fingerprint cards were processed during fiscal year 1973, compared to 880,000 criminal fingerprint cards. In Florida, during the week we took our sample, about 1,250 of the 5,318 fingerprint cards submitted, or about 24 percent, were for licensing, certification, or employment checks. About 10 percent of the requests we sampled in Massachusetts were for such purposes.

Thus, a significant amount of work done by identification bureaus is related to supplying criminal history information to allow persons to obtain licenses, certification, or employment.

Purging and sealing of
criminal history information

Purging of criminal history information is generally defined as the act of deleting or destroying all or part of the data on a criminal history record. Sealing is usually defined as removing from an active file all or part of a criminal history record and placing it in an inactive file where it is accessible only under certain specified conditions and/or to certain specified agencies. The FBI Identification Division generally does not seal records but purges the manual criminal history records of individuals over 80 years old. However, if a State has a sealing requirement, or if a court order requires the sealing or purging of a record, the FBI will return the record to the State, removing it from the FBI files. Many of the States have laws or have established policies regarding the sealing and purging of records.

When Florida automated its criminal history files, about 200,000 of 600,000 records were purged. These included records for persons with no criminal offenses for the previous 5 years and those not containing a State or FBI criminal identification number. The State's current policy provides for purging the files of records on minor traffic violations, public drunkenness, job applicants, and people over 80 years old. Also, all or part of a record is expunged if a court so orders, or if the contributing agency requests expungement due to a previous recording error.

The Florida Department of Law Enforcement has proposed to the legislature implementation of a new system, the Offender Based Transaction Statistics System, which would track an arrested person and report at various points his progress through the criminal justice system. One objective of the system is to obtain better and more timely disposition data. In preparation for the system, the Department is surveying its records to determine how many lack disposition data and is trying to obtain this data from the contributors.

A 1969 Florida Department of Law Enforcement survey showed that the Department was receiving disposition data for only about 18 percent of the arrests reported to it. Department officials estimate that the percent of disposition data received increased to about 65 percent by June 30, 1974. At that time, the Department had a backlog of about 54,000

dispositions that were to be entered onto records in its information system.

Massachusetts has no purging statutes for records maintained in its files. There is, however, a statute which permits the sealing of Department of Probation records after 10 years for misdemeanors and after 15 years for felonies. The record can be sealed only if the individual of record petitions to have it sealed. No State statutes require records in the Department of Public Safety and Department of Corrections files to be sealed.

Requests to the Department of Probation for information on an individual with a sealed record will, for certain agencies, result in a "sealed record" response rather than a "no record" response. When the State's computerized system becomes operational, requests for sealed records will be answered with a "no record" response.

Effective March 1, 1974, California adopted new policies relating to the submission and purging of records. -Fingerprint cards are no longer posted to the files for public drunkenness, violations of local ordinances, minor traffic violations, and certain minor or nonspecific offenses such as investigation, suspicion, inquiry or disorderly. However, the State will search its criminal history records to see if any individuals arrested on the above-mentioned charges had previous criminal histories. If so, the State will send what information it has to the requesting agency. Except for those relating to peace officer applicants and applicants wanting to carry concealed weapons, fingerprint cards are no longer to be retained by the State unless it has a contract with the contributor to notify him in the event of a subsequent arrest of the applicant. However, a copy of any existing record would be returned, with the card, to the contributor in all cases. The following retention periods for criminal history records are in effect:

- No retention period for nonserious offenses and applicant checks.
- 5 years for misdemeanor arrests not resulting in a conviction or arrests later termed "detention only."
- 7 years for misdemeanors resulting in conviction.

--7 years for arrests not resulting in a conviction for an offense where a prior conviction would constitute a felony, for an offense which would be a felony depending upon a disposition, and for felonies.

After these periods the records are purged.

Policy also provides for the purging of records of felony convictions when the individual becomes 70 years old, provided he has had no contact with the criminal justice system since age 60. These policies were expected to become State regulations by August 1, 1974.

These criteria are not as restrictive as those provided for in legislation now being considered by the Subcommittee. However, the trend in the States is currently toward control of submissions and disseminations to decrease unauthorized access and to keep the files current and at a manageable size. Officials in all three States told us that lack of disposition data or the existence of inaccurate disposition data are serious problems. They believed they are more serious problems than access of information by unauthorized agencies. No matter how much dissemination is controlled, if the records disseminated are inaccurate, injustices can result for the individuals. The Bureau of Criminal Statistics, California Division of Law Enforcement, has conducted various studies comparing the State records with local court records and has found inaccuracies in disposition data in 100 percent of the sampled records of some of the courts. If this situation prevails in the majority of the courts, action to insure greater accuracy of records might be the first logical step in providing for individual rights and in improving criminal history record systems.

Numerous requests for rap sheets

We noted that often various segments of the criminal justice system request rap sheets on the same individual as he passes through the criminal justice system. This situation could be alleviated if there were better coordination among criminal justice agencies. In Florida, we were told requests are normally made at eight different points as the individual moves through the system. In California there were instances where at least 10 rap sheets were

requested on a single individual as his case moved through the criminal justice system. An example follows.

Request for rap sheet

Incident

- | | |
|----|---|
| | <u>Suspect arrested and booked at police department</u> |
| 1 | Teletype request to State data bureau for complaint purposes |
| 2 | Fingerprint card to State data bureau |
| 3 | Fingerprint card to FBI |
| | <u>Felony complaint issued, defendant bound over to sheriff's office (jailor)</u> |
| 4 | Fingerprint card to State data bureau |
| 5 | Fingerprint card to FBI |
| | <u>District Attorney assigned case</u> |
| 6 | Letter request to State data bureau |
| | <u>Probation assigned to prepare presentence report</u> |
| 7 | Letter request to State data bureau |
| | <u>Defendant receives sentence of prison/probation - remanded to prison</u> |
| 8 | Fingerprint card to State data bureau |
| 9 | Fingerprint card to FBI |
| | <u>Released to probation or parole</u> |
| 10 | Letter request to State data bureau |

Police agencies indicated that they usually submit rap sheets or rap sheet information with their arrest packages to the district attorney; however, the district attorney requests rap sheets routinely on all cases assigned to him for prosecution. The probation agencies also indicated that they request rap sheets on all individuals assigned to them. Probation officers we contacted stated that they usually obtain rap sheets from the arresting agency or the district attorney because the State data bureau's response to their requests takes too long.

SUGGESTION

We suggest that Federal, State, and local criminal justice agencies determine how to improve the way rap sheet information is provided to the various criminal justice agencies to minimize the frequency of requests for the information.

CHAPTER 4

HOW FEDERAL CRIMINAL JUSTICE

AGENCIES USE CRIMINAL HISTORY INFORMATION

Our review of Federal uses of criminal history data was based on an analysis of a random sample of requests to the FBI by fingerprint card, nonfingerprint means, or by CCH made by the following domestic law enforcement agencies:

Department of Justice:

- Drug Enforcement Administration
- Immigration and Naturalization Service
- Criminal Division
- U.S. Marshals Service
- Bureau of Prisons
- U.S. Attorney's Office

Administrative Office of the U.S. Courts:

- Probation Office

Department of the Treasury:

- Alcohol, Tobacco, and Firearms Division
- Bureau of Customs
- Internal Revenue Service
- Secret Service

Postal Service:

- Postal Inspection Service

Department of the Interior:

- National Park Service

Department of Defense:

- All nonintelligence or analysis agencies

We did not sample requests made by FBI agents because FBI officials advised us that they considered criminal history information provided by one segment of the FBI to another

segment as an internal operation which would not have a bearing on the legislation being considered by the Subcommittee. We agreed but encouraged the FBI to do their own study of the extent to which their field agents used criminal history information for pre versus postarrest purposes.

WHY CRIMINAL HISTORY INFORMATION WAS REQUESTED

As was true with State and local requests for criminal history data, most Federal requests were also for postarrest purposes. However, Federal agencies were more likely to request information for prearrest purposes than State or local agencies.

The following table shows the extent to which the information was used for pre or postarrest purposes by type of request.

Prearrest Versus Postarrest Use

	<u>Type of request</u>		
	<u>Fingerprint card</u>	<u>Nonfingerprint</u>	<u>CCH</u>
Prearrest	1.9%	30.3%	27.3%
Postarrest	94.2	53.1	36.2
Miscellaneous (note a)	3.9	16.6	36.5

^aIncludes requests related to employment checks, identifying deceased persons, and testing of CCH equipment; as well as requestors who said they did not make the request, were not sure they made the request, or did not reply to the questionnaire.

The specific purposes for which the data was to be used and by which type of agency follow.

Specific Purpose for Request (note a)

	<u>Type of request</u>		
	<u>Fingerprint card</u>	<u>Nonfingerprint</u>	<u>CCH</u>
Law enforcement:			
Suspicious circumstances arousing police interest	0%	19.2%	19.5%
First police report of a crime	0	0	0
Followup investigation before arrest	4.0	0	1.9
Arrest (i.e., booking of suspect)	66.0	4.0	11.9
Followup investigation after arrest	10.3	9.6	16.1
Completion of case	0	0	1.9
Prosecuting agency:			
Prosecution of suspect	16.2	4.0	1.9
Plea bargaining	0	0	0
Courts:			
Recommending or setting bail	8.3	5.6	0
Sentencing	16.2	0	0
Probation/parole:			
Presentence report preparation or recommendation	14.3	21.7	0
Supervision requirement after release of defendant on parole or probation	8.3	5.6	0
Corrections:			
Incarceration	38.2	0	0
Establishing treatment program	23.9	0	0
Other (note b)	0	41.4	36.9
Miscellaneous (note c)	3.9	0	13.6

^aThe data could be requested for more than one purpose. Thus, percentages total more than 100.

^bIncludes purposes not listed on our questionnaire, such as requests related to employment checks, identifying deceased individuals, or testing CCH equipment.

^cIncludes requestors who did not reply to the questionnaire, were not sure they made the request, or said they did not make the request.

The general reasons why the information was requested follow.

General Reason For Request (note a)

<u>Reason</u>	<u>Type of request</u>		
	<u>Fingerprint card</u>	<u>Nonfingerprint</u>	<u>CCH</u>
Routine agency policy	90.3%	29.7%	43.6%
Obtain additional background data	23.9	61.3	25.7
Need to form an opinion:			
To continue or terminate case	10.3	9.7	11.6
Regarding subject's character or risk to society	70.6	32.6	12.3
Other (note b)	3.9	19.0	21.1
Miscellaneous (note c)	0	0	3.9

^aThe data could be requested for more than one purpose. Thus, percentages total more than 100.

^bIncludes purposes not listed on our questionnaire, such as requests related to employment checks, identifying deceased individuals, or testing CCH equipment.

^cIncludes requestors who did not reply to the questionnaire, were not sure they made the request, or said they did not make the request.

As was the case with State and local agencies, generally Federal requests submitted by fingerprint cards were done so at the time of arrest, as a routine agency policy. Whereas there was relatively little State or local use of criminal history information received from fingerprint cards by judicial or corrections agencies, there was considerably more use of this information by Federal judicial and corrections agencies. This could have occurred for several reasons.

--Rap sheets received by law enforcement agencies are forwarded about half the time to the judicial agencies responsible for prosecuting the subject.

---Federal correctional institutions fingerprint all prisoners to verify their identity when they enter the prison.

There was a significant difference between State and local, and Federal agency uses of criminal history information for prearrest purposes. Federal agencies used the data much more for prearrest purposes, regardless of how the information was requested. As with the State and local agencies, however, the least used way by Federal agencies to obtain such data was by fingerprint cards. But unlike the State and local agencies, there was about as much use made of information received by nonfingerprint means for prearrest purposes as was received by CCH for the same purposes. This could suggest that a very quick response time is not vital to Federal agency uses of FBI information because the cases they are investigating are of a relatively long term nature or because their own agency's files are sufficient to provide most information they would need very quickly.

Regardless of the way criminal history data maintained by the FBI was requested, Federal agency use of it for prearrest purposes was very significant, as shown below.

Federal Use of Criminal History Information for Pre and Postarrest Purposes Regardless of How Requested

	<u>Percent</u>
Prearrest	22.9
Postarrest	52.7
Miscellaneous	24.4

One reason why Federal use of the data for prearrest purposes was so much greater than State or local use (22.9 percent versus 6.7 percent) may be because the FBI serves as the Federal repository for criminal history data for all Federal agencies whereas local law enforcement agencies often use their own files for prearrest purposes. Local law enforcement agency requests to the FBI or State level for criminal history information for prearrest purposes often are made only when they believe the suspect may have committed crimes elsewhere since the last crime was entered on the suspect's locally maintained record. Another reason for the difference may be that, by nature, more Federal criminal

justice agencies are more concerned with investigative matters than State or local agencies.

Nevertheless, even at the Federal level, most of the criminal history information was used for postarrest purposes. Often the data was used to help form opinions regarding the individual's character or risk to society. For example, law enforcement agencies may use the data in postarrest followup investigations to prepare more complete cases for the prosecutors. Correctional institutions used the data to help determine the best type of correctional programs and the type of security that is necessary for the person.

Although Federal postarrest use was significant it was less than State and local postarrest use.

State and local nonfingerprint requests to the FBI included 15.7 percent for prosecution of a suspect, 10.5 percent for sentencing, 41.7 percent for preparation of a presentence report, and 10.5 percent for probation or parole supervisory decisions. State and local nonfingerprint requests to the State files also showed heavy judicial use. For example, 9 percent were requested for prosecution of a suspect, 9.5 percent for recommending or setting bail, 12.1 percent for sentencing, 23 percent for presentence report preparation, and 11 percent for parole or probation supervision requirements.

Federal nonfingerprint requests for these purposes, although less frequent than non-Federal requests, also showed judicial segment need for information because 4 percent was used for prosecution of a suspect, 5.6 percent for recommending or setting bail, 21.7 percent for presentence report preparation, and 5.6 percent for probation and parole supervision decisions. Moreover, when combined with Federal use of fingerprint card requests for judicial purposes, it is apparent that use of Federal criminal history data for judicial purposes is significant.

Of additional significance in the Federal sample is the fact that the largest purposes for requesting criminal history data by both nonfingerprint means (41.4 percent) and CCH (36.9 percent) was not connected with any normal criminal justice agency function. Such requests were classified under "other" and included such things as investigating agency job applicants, verifying the identity of deceased persons,

testing the system, and routine updating of files. This suggests that the FBI staff dealing with the manual fingerprint file may be spending a considerable amount of time responding to Federal agency requests for criminal history data that is not as significant in terms of the criminal justice community's needs as might be other requests, and probably should not be given the same priority. For CCH the data suggests that its primary use by Federal agencies has not been directly related to the primary purposes of criminal justice agencies. However, because the CCH system is fairly new, cannot yet be used extensively by Federal judicial or correctional agencies, and does not yet have records on most offenders, we believe it is too early to judge the system's usefulness.

WHO RECEIVED CRIMINAL HISTORY INFORMATION

Federal law enforcement agencies received more criminal history information than either judicial or correction agencies, which was also the case for State and local criminal justice agencies. The following table shows, for each type of request, the percentage of criminal history information received by each segment of the criminal justice system.

Recipients of Criminal History Information

<u>Agency</u>	<u>Type of request</u>		
	<u>Fingerprint card</u>	<u>Nonfingerprint</u>	<u>CCH</u>
Law enforcement	56.9%	44.5%	87.9%
Judicial	28.1	37.1	1.5
Corrections	13.9	0	10.6
Miscellaneous (note a)	1.1	18.4	0

^a Includes responses from agencies, such as the Army Board for the Correction of Military Records, which could not be classified as Federal criminal justice agencies and requests made by agencies which did not respond to the questionnaire, were not sure they made the request, or said they did not make the request.

The percentages for receipt of information by all Federal criminal justice agencies regardless of the means by which the information was requested follow.

<u>Agency</u>	<u>Percent</u>
Law enforcement	69.8
Judicial	16.6
Corrections	8.4
Miscellaneous	5.2

As was the case with State and local requests, the Federal results were influenced by the fact that the greatest percentage of requests for information were by fingerprint cards submitted by Federal law enforcement agencies, usually as a routine matter, at the time of arrest. Federal law enforcement agencies pass the criminal history information on to judicial agencies almost 50 percent of the time so judicial

agencies were also significant users of criminal history information obtained by fingerprint cards.

Interestingly, only about a third of the Federal agency nonfingerprint requests were made by the judicial segment, compared to about 77 percent of State and local requests to the FBI and about 54 percent of the requests to the States.

This indicates that State and local judicial agencies are more likely to make requests for criminal history information directly to identification agencies than are Federal judicial agencies.

One primary reason for this situation could be that there is more routine exchange of information among Federal criminal justice agencies than among State or local agencies. For example, in about 48 percent of the cases where Federal law enforcement agencies requested criminal history information by fingerprint card, the information was also received by the judicial segment. The FBI told us that Federal agencies usually stamp the fingerprint card with the name of the judicial agency which also should receive a copy of the criminal history record and the FBI forwards a copy to both in these cases.

State and local judicial agencies only received information requested by fingerprint card about 21 percent of the time from State or local law enforcement agencies which made fingerprint requests to the FBI and only about 13 percent of the time that these requests were made to State files. Thus, there would not be as much of a reason for Federal judicial agencies to directly request criminal history information.

Federal law enforcement agencies received almost 90 percent of all CCH information requested by Federal agencies. However, we do not believe the CCH system has operated long enough to make definitive judgments about its use by criminal justice agencies.

In summary, Federal law enforcement agencies proportionally received and used criminal history information more frequently than did State and local law enforcement agencies. Accordingly, there was correspondingly less proportional receipt and use of the data by Federal judicial agencies than State and local judicial agencies. Federal corrections

agencies' receipt and use of the data was greater than for similar State and local agencies, but not by too significant a margin.

Therefore, whereas State and local criminal justice agency representation on any board governing the policy and use of criminal history information should be fairly representative of both law enforcement and judicial agencies, it seems that Federal representation on such a board should be more weighted towards law enforcement agencies.

RESPONSE TIME

The elapsed time between making a request for criminal history information to the FBI's files and receiving that information varied greatly by method of request with fingerprint card requests taking the longest time and CCH requests taking the shortest time. The response time was considered adequate for at least 75 percent of all requests. In a small percentage of the cases, requestors felt that detrimental effects, such as reporting available but incomplete data to another criminal justice agency, resulted from slow response times. The following tables indicate, by percentages, (1) the response times for the requests and (2) whether the Federal requestor considered the response time adequate and whether detrimental effects resulted from slow response times.

Elapsed Time Between the Request for
and the Receipt of Information

<u>Elapsed time</u>	<u>Type of request</u>		
	<u>Fingerprint card</u>	<u>Nonfingerprint</u>	<u>CCH</u>
Less than 1 hour	0%	5.6%	47.6%
At least 1 hour, but less than 1 day	0	11.1	9.7
At least 1 day, but less than 1 week	1.9	33.2	12.2
At least 1 week, but less than 2 weeks	49.9	16.2	1.9
Two weeks or more	36.5	29.8	3.9
Miscellaneous	11.7	4.1	24.7

Adequacy of Response Time

<u>Adequacy</u>	<u>Type of request</u>		
	<u>Fingerprint card</u>	<u>Nonfingerprint</u>	<u>CCH</u>
Considered response time adequate	74.4%	87.4%	73.4%
Considered response time inadequate	13.9	8.1	1.9
Could not answer or did not know	<u>11.7</u>	<u>4.5</u>	<u>24.7</u>
	<u>100</u>	<u>100</u>	<u>100</u>
Had detrimental effects	7.8	8.1	0

Only 2 percent of the information requested by fingerprint cards was received in less than 1 week. Fifty percent took at least 1 week, but less than 2 weeks, and 37 percent took 2 weeks or more. As with the local agencies, slow submission of fingerprint cards by requesting agencies or their practice of retaining all cards completed for a period of time and then submitting them together, may have been a factor in some cases.

Responses to nonfingerprint requests were quicker. About 17 percent were answered in less than 1 day. Most responses were received in at least 1 day, but less than 1 week (33 percent) and in 2 weeks or more (30 percent). The shorter response time for nonfingerprint requests may result partly because some of these requests (phone, teletype) did not have to be mailed to the FBI. Also, these requests do not have fingerprints with them so the FBI does not have to take time to verify the individual's identity.

Nearly half the CCH requests were answered in less than 1 hour. This seems to suggest that CCH is successful at the Federal level in supplying information to requestors quickly. Unlike the State level of the system, the FBI computer can furnish detailed printouts of records to some requestors online.

Overall, response time by the FBI to Federal agency requests appeared somewhat quicker than to State and local

agencies. For example, about 53 percent of all State or local fingerprint requests to the FBI were received by the requestor in 2 weeks or more, whereas, only about 37 percent of such Federal requests took that long. In both cases, however, the number of requestors who considered the response time inadequate was fairly close--9 percent for the State and local agencies and 14 percent for Federal agencies.

SUGGESTION

We suggest that Federal, State, and local criminal justice agencies examine their information flow procedures to determine how quickly information is needed and, where necessary, try to reduce the amount of time between request and receipt of criminal history information.

CHAPTER 5

AGENCY COMMENTS

The Department of Justice, in a letter dated August 9, 1974, and the three States generally agreed with the report's findings and conclusions.

The Department offered specific comments on certain details contained in a draft of the report. These comments have been recognized and included in appropriate places in the report. (See app. I.)

California said because our data showed only how the information was used when received, the data would tend to understate the use of rap sheets for prearrest purposes. (See app. II.) California maintains that although local law enforcement agencies might not use the rap sheet when received, it becomes a part of the local agency file and could play a major role in providing future investigative data, thereby constituting a prearrest use.

We agree that local law enforcement agencies can subsequently use the rap sheets received from the FBI or States for prearrest purposes but local agencies did not have data showing the extent to which this happens. Further, pending legislation would not prohibit an agency's use of the information contained in its own file for prearrest purposes. We believe our data accurately reflects prearrest and post-arrest use of criminal history information requested from the FBI and State data bureaus, the sources most likely to be queried for information if it is not already in the local agency's internal files.

California, contrary to what local agencies told us, did not believe that current response time to requests is adequate. It maintains that California criminal justice agencies are supporting State attempts to improve turnaround time and to meet legislation requiring that by 1978 the State data bureau respond to all requests for information within 72 hours of the receipt of the request.

California also believes there is a need for significant improvement in the accuracy and completeness of data maintained in criminal history records because the records

must accurately reflect the complete story of factual events which actually took place.¹ The State data bureau is implementing a major effort to improve the accuracy and completeness of its records.

Florida said it had contacted each of the agencies we identified as not being in total compliance with State policy guidelines on dissemination of information and reviewed State policies with each. (See app. III.) It believes that the agencies are now complying with policy guidelines and said it would continue to closely monitor and audit the use of criminal history information.

Massachusetts officials indicated they were working toward improving their methods for insuring the accuracy of records and were strengthening their dissemination policies and self-evaluation efforts. (See apps. IV, V, and VI.)

The Massachusetts Department of Probation said they had contacted those requestors in our sample who told us they did not make the request. As a result, the Department has issued new policy guidelines to all requestors significantly limiting access to the files by telephone.

Regarding the accuracy of the consolidation of records from the three State files into one computerized file, the Massachusetts Committee on Criminal Justice advised us that only records they are certain are accurately matched are being consolidated and converted and, if there is any question regarding the authenticity of a positive match, the record is not converted.

¹A previous GAO report to the Congress, "Development of a Nationwide Criminal Data Exchange System--Need to Determine Cost and Improve Reporting" (B-171019, Jan. 16, 1973), also noted a need to improve the accuracy and completeness of criminal history records.

CHAPTER 6

SCOPE OF REVIEW

Our findings and conclusions are based on (1) the results of random samples we took of criminal justice agency requests made to the FBI and to California, Florida, and Massachusetts State criminal record bureaus, and (2) discussions with Federal, State, and local criminal justice officials. Our samples were taken for a 1-week period--the week of April 8, 1974, for most requests to the FBI and the week of April 15, 1974, for requests to State agencies.

Our fieldwork was done during April and May 1974 and included (1) reviewing the operations of the FBI's and States' criminal record data bureaus, (2) selecting a random sample of requests for criminal history information, and (3) securing answers from requestors about their requests.

All percentages in the report are estimates of total Federal, State, and local uses of criminal history information on the basis of our sample findings. Sampling errors are at the 90-percent confidence level and did not significantly affect the findings in the report.

California, Florida, and Massachusetts were selected for our review because they were considered by criminal justice officials to be more advanced than many States in the collection and dissemination of criminal history information. Consequently, we believed the activities in those States would provide a fairly reliable indication of how criminal history information could be fully used by criminal justice agencies. Also, as noted on page 4 California and Florida have contributed about half of all State criminal history records entered into the CCH system by participating States and the District of Columbia. In addition, California agencies submit about 12 percent of all fingerprint cards received by the FBI.

We had to make two deviations from our general sampling plan to insure adequate universes from which to draw samples.

One deviation concerned the timeframe and type of requests made by Federal agencies to the FBI's CCH file. FBI officials, after discussing our proposal to sample all Federal agency requests to the CCH system for a 1-week period, advised

us to change our approach for several reasons. They believed that it would be extremely difficult, or impossible, for many agencies to know why they had requested a record of an individual by computer if they did not receive a copy of the record. Accordingly, they suggested, and we agreed, to sample from the universe of positive responses to Federal agency requests made of the FBI's CCH file. FBI officials also believed that, because CCH was still relatively new, there would not be a sufficient universe to sample from if we used just 1 week. Accordingly, they suggested, and we agreed, that we sample the positive CCH responses for the period February 1, 1974, through March 31, 1974. They told us that during this period there were 24,132 CCH requests made by other Federal domestic law enforcement agencies and that 791 positive responses were made.

The second deviation from our general sampling plan involved the sample taken from the nonfingerprint requests made to the FBI's manual file. We had originally planned to sample such requests made only by criminal justice agencies in the three States. However, FBI officials advised us that there are relatively few nonfingerprint requests received during a week from any one State. It was agreed that we would sample from all nonfingerprint requests received by the FBI during that week. Accordingly, our sample of those requests was national in scope.

For logistical purposes our sample of requests for criminal history information made by Federal agencies by means of fingerprint cards was taken from the Federal agencies' offices located in the three States we reviewed. On the basis of discussions with officials of the Federal agencies involved, we do not believe activities of their offices in the three States were unlike those of their other offices.

The universes and sample sizes follow.

Requests Made to the FBI

<u>Federal agency requests</u>	<u>Total requests</u>	<u>Sample size</u>
Fingerprint cards	310	50
Nonfingerprint	411	21
CCH	791	50

State and local agency requests

Fingerprint cards	18,855	300
Nonfingerprint	1,856	79

Requests Made to States

<u>State and local agency requests</u>	<u>Total requests</u>	<u>Sample size</u>
Fingerprint cards	12,621	50
Nonfingerprint	24,360	295
CCH	773	55

After selecting our samples we delivered in person or mailed to the requestor our questionnaire to determine why the information was requested. We discussed most of the questionnaires in person.

We obtained replies to our questionnaires from all requestors in California and Florida and from about 90 percent in Massachusetts. All Federal agency requestors replied to our questionnaire. We received replies from about 99 percent of the nonfingerprint requests made to the FBI from our nationwide sample of the State and local requests.



UNITED STATES DEPARTMENT OF JUSTICE

WASHINGTON, D.C. 20530

Address Reply to the
Division Indicated
and Refer to Initials and Number

AUG 9 1974

Mr. John D. Heller
Acting Director
General Government Division
United States General Accounting Office
Washington, D.C. 20548

Dear Mr. Heller:

This letter provides our comments on the draft report titled, "Criminal Justice Agency Uses of Criminal History Information."

Generally, we are in agreement with the report. However, because of the limited time available to provide comments on the draft report we were unable to analyze in detail the statistics set forth in the report. We feel the following comments clarify and strengthen the narrative content of the report.

We believe that the Digest and the Introduction section of the report should reflect the dramatically increasing use of National Crime Information Center/Computerized Criminal History (NCIC/CCH) file contents. In this respect, the number of CCH transactions for calendar year 1972 was slightly over 141,000. Calendar year 1973 data reveal that CCH transactions were 323,000. As of June 1974, 226,000 CCH transactions have been counted and we estimate approximately 450,000 transactions will be made by the end of this calendar year.

Presently, 44 states engage in NCIC/CCH inquiries. The six states which do not use the CCH files are prohibited from doing so because they do not comply with NCIC security policies.

The number of states using the CCH file materials is extremely significant. We consider it much more significant than the fact that only four states and the District of Columbia contribute records to the CCH files. Indeed, the fact that there are many users of the data after it is entered into the CCH system, but relatively few contributors, indicates a need to determine the reasons why states are not contributing information into the system. Through our evaluation of these reasons, we may be able to provide assistance to help overcome the difficulties states are encountering.

The term fingerprint request is used throughout the report. The report should emphasize that fingerprint submissions to the FBI Identification Division are made for the purpose of updating criminal histories of individuals. The Digest and Introduction of the report should reflect that fingerprint cards are submitted for the two-fold purpose of (1) reporting the new arrests of individuals to the FBI's central fingerprint repository so that the criminal history records of such individuals may be complete and (2) enabling the agency submitting the fingerprint card to obtain an updated copy of the identification record (rap sheet).

[15 and 16]

Pages 18 and 19 of the report show a limited use of identification records for prearrest purposes. To help explain this limited use we believe the report should state that an individual's fingerprints generally are not available before he is arrested or completely identified. Another factor which would affect percent of use is that the GAO review did not include internal agency use of identification information in prearrest situations. We believe agency officers make considerable use of an agency's internal identification information. For example, during a survey conducted in April 1974, FBI Headquarters received 241 arrest fingerprint cards and 850 name check requests from its Field Offices. The large number of name check requests indicate a larger percent of prearrest identification information is used within an agency than the GAO report indicates.

[pages 23-25]

The statistical findings concerning response time presented on pages 25-28 of the draft report may have been affected by selecting Massachusetts, California, and Florida as the sample states. For example, the distance between

California and Washington, D.C., requires a longer period of time between sending and receiving mail. The FBI provided GAO with 1,279 state and local requests from California and a combined total of only 980 state and local requests from Florida and Massachusetts. Another factor which affects the response time shown is that computerization efforts in Florida require local agencies to transmit fingerprint cards to the Florida Department of Law Enforcement who then forwards them to the FBI in Washington, D.C. This processing time by the Florida Department of Law Enforcement should be shown as part of the average response time to an inquiry received by the FBI from Florida.

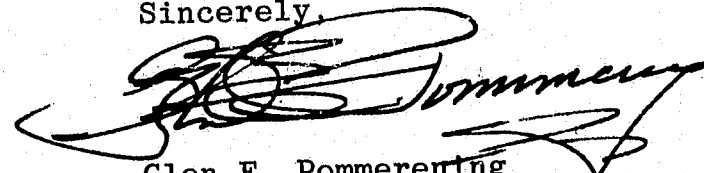
[25]

Page 28 of the draft report has a statement that the FBI made quicker responses to nonfingerprint card requests than to fingerprint card requests. The report suggests that the FBI either gives nonfingerprint card requests priority over fingerprint card requests or that the FBI has more effective ways of handling and responding to the nonfingerprint card requests. Some of the reasons why quicker responses are made to nonfingerprint card requests may help clarify the report. The FBI gives top priority to telephone and teletype requests because, by nature, they represent an urgent request. Letter requests are normally name checks and are not subject to the technical fingerprint search and verification process given to fingerprint cards. By omitting these processes the FBI can respond faster to name check requests than to fingerprint card requests. Name check requests as a general rule are not positive identifications and the FBI states this fact in its responses.

The above points were discussed orally with members of the GAO staff who made this survey. A number of other observations were also furnished to the GAO staff members. These observations related generally to factual situations such as mandatory disposition reporting statutes currently existing in many states, the FBI criminal files currently contain over 21 million fingerprint cards, and terminology used in the draft report.

We appreciate the opportunity to comment on the draft report. Please contact us if you have any questions.

Sincerely,



Glen E. Pommerening
Assistant Attorney General
for Administration

GAD note: The numbers in brackets refer to page numbers in this report.

EVELLE J. YOUNGER
ATTORNEY GENERAL

STATE OF CALIFORNIA



BUREAU OF IDENTIFICATION
Department of Justice

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SACRAMENTO 95818

July 25, 1974

Mr. Victor L. Lowe, Director
General Government Division
United States Governmental Accounting Office
Washington, D. C., 20548

Dear Mr. Lowe:

We have reviewed the draft report to the Subcommittee on Constitutional Rights, Committee on the Judiciary, United States Senate, on criminal justice agency use of criminal history information. Your staff is to be congratulated on the quality of this draft report. However, we do take exception to two areas: One, where we feel the interpretation of criminal history usage results in a distortion of the true use of rap sheet data in pre-arrest vs. post-arrest situations and the second dealing with the adequacy of turnaround times.

Throughout the report are assertions to the effect that local agencies use criminal history information almost exclusively for post-arrest purposes because updated rap sheets are generally received only after a new arrest has been made. The report further states that the rap sheet then goes into local files to update their records.

It is our contention that the rap sheet becomes a very important part of the local agency file and plays a major role in providing future investigative data regarding the subject, thereby clearly constituting a pre-arrest use of rap sheet data.

The number of non-fingerprint requests for rap sheet information from local agencies is relatively low primarily because this data already resides in the local agency's files.

Mr. Victor L. Lowe

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July 25, 1974

Further, it would have been helpful had your investigators attempted to differentiate between requests for criminal history information on subjects previously arrested and not previously arrested in a particular jurisdiction. In the latter situations, a prompt reply from a central source is much more critical. The need is particularly great in both pre-arrest investigations and in the processes immediately following the arrest, e.g., booking, bail and arraignment.

We further question the assertion that State-maintained criminal history information is of little value in pre-arrest investigations because most crime is committed by local people with whom the investigating agency is familiar. A survey of our criminal history file of subjects in the system for more than five years indicates that on the average they have a rap sheet 2½ pages long with entries from five different arresting jurisdictions. The only effective way local agencies will know of these arrests in other jurisdictions is through the State-provided criminal history record.

The second area where we feel basic disagreement is in the contention that existing turnaround time is satisfactory on the return of rap sheet data to local agencies. We do agree that local agencies have had to adapt their systems to existing turnaround times, but this does not imply an optimum situation.

In California, the concern with improved turnaround time is so great that the Legislature has required that by 1978 our Bureau respond to requests for information within 72 hours of the receipt of the request. (See Sections 13175 and 13176 of the California Penal Code, Statutes of 1973). To accomplish this goal will require significant improvements to our processing methods and procedures. To our knowledge, improvement in turnaround time has the wholehearted support of all California law enforcement and other criminal justice agencies. Perhaps your investigators derived the comments regarding satisfactory turnaround time from interviews with record keepers rather than record users.

Mr. Victor L. Lowe

- 3 -

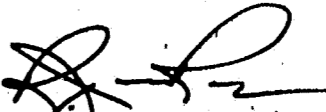
July 25, 1974

A third area not adequately covered in your draft report is the need for significant improvement in the accuracy and completeness of data maintained in criminal history records. These records must accurately reflect the complete story of factual events which actually took place. Our Bureau is in the process of implementing a major effort to improve the quality of data reported to us, to ensure that it is recorded accurately in our files and to ensure that this data is disseminated only to those persons and agencies authorized by law to receive it.

Again, we commend your staff for their performance of a large and complex task in a relatively short period.

We hope these observations will be of assistance to you. If we can be of further help to you, please call on us again.

Very truly yours,



R. JAMES RASMUSSEN
Chief of Bureau

RJR:smm

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FRED O. DICKINSON, JR., Comptroller
THOMAS D. O'MALLEY, Treasurer
DOYLE CONNER, Commissioner of Agriculture
FLOYD T. CHRISTIAN, Commissioner of Education

WILLIAM A. TROELSTRUP
Commissioner

18 July 1974

In Reply Refer To:

Mr. Victor L. Lowe, Director
General Government Division
U.S. General Accounting Office
Washington, D.C. 20548

Dear Mr. Lowe:

In regard to the recent General Accounting Office audit of criminal history information use within the State of Florida, it was pointed out that certain agencies within the State were not in total compliance with NCIC or FCIC policy guidelines. The particular agencies in question were identified to us by GAO representatives from the Atlanta Regional Office.

In response to the above matter we have conducted a follow-up inquiry with each of the agencies in question. Some of the agencies contacted advised that they had not been in total compliance with the NCIC or FCIC policies but were now closely following established guidelines. Other agencies maintained that they only released that information which was locally derived and denied not being in compliance with the NCIC and FCIC policies. To insure a clear understanding the latest NCIC and FCIC policies were closely reviewed with each of the agencies in question.

As a result of contact with each of the agencies there is every reason to believe that the agencies are currently in full compliance with NCIC Advisory Policy Board guidelines. The Department does not anticipate taking further action unless there is renewed indication of policy non-compliance at which time CCH service would be discontinued. The Department will continue to closely monitor and audit the use of CCH information and will continue to periodically publish NCIC and FCIC policy information in our monthly newsletter to participating agencies.

Mr. Victor L. Lowe, Director
Page Two
18 July 1974

Please be assured of our continued cooperation in matters of mutual concern.

Sincerely yours,

William A. Troelstrup
William A. Troelstrup
Commissioner

WAT:cs

cc: Mr. Jesse Flowers



The Commonwealth of Massachusetts

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ATTORNEY GENERAL
CHAIRMAN

August 1, 1974

Mr. Victor Lowe, Director
General Government Division
United States General Accounting Office
Washington, D.C.

Dear Mr. Lowe:

This letter is in response to the Draft of Report to the Subcommittee on Constitutional Rights, Committee on the Judiciary, United States Senate, titled "Criminal Justice Agency Uses of Criminal History Information (B-171019).

This report has been reviewed by this office and the other Criminal Justice Agencies in Massachusetts, which contributed information making this report possible.

This agency has only one requested change which I feel would better reflect the current Massachusetts Criminal History Record Conversion project. On page 12⁽⁹⁾ the report states "It is not clear, however, how the State is assuring itself that the fingerprint, court, and correction data is actually on the same person because the court status slips and probation file record cards do not contain positive identifiers such as arrest numbers or FBI numbers."

I do not believe this paragraph truly reflects the effort that is being placed, by the Commonwealth, on insuring a positive match exists prior to converting and consolidating these existing active criminal history records. This effort is of primary importance to this project, and results in thousands of existing subjects not being converted because there is conflicting identification, no matter how small, that reflects a possibility of not all data being on the same person.

Since so much emphasis is being placed on this effort, I am requesting that the above paragraph be replaced with the following: "The State is assuring itself, through data processing techniques and lengthy manual procedures that

Mr. Victor Lowe
August 1, 1974
Page - 2

positive identification exists between the Probation Central File record, the Correction record, and the fingerprint record. Any identification criteria, that questions the authenticity of a positive match, results in a subjects record not being converted. For existing criminal histories, this is the only possible method available to the State, since the existing court slips and probation file record cards do not contain positive arrest numbers or FBI numbers."

I am sure that the information in this report will be of value to the Subcommittee on Constitutional Rights, in answering their questions on the use of criminal history information for pre versus postarrest purposes.

Sincerely,

Arnold R. Rosenfeld
Executive Director

ARR/mj

GAG note: Numbers in brackets refer to pages in this report.



JOHN F. KEHOE, JR.

COMMISSIONER OF PUBLIC SAFETY

The Commonwealth of Massachusetts

Department of Public Safety

1010 Commonwealth Avenue, Boston

July 25, 1974

John D. Heller, Acting Director
General Government Division
U. S. General Accounting Office
Washington, D. C. 20548

Attention: Mr. Joseph Viega

Dear Sir:

Reference is made to your letter of July 12, 1974 together with draft of your proposed report to the Subcommittee on Constitutional Rights, Committee on the Judiciary, United States Senate on criminal justice agency use of criminal history information.

Before your final report is issued, we would like to offer several suggestions in a limited area, i.e. the guarantee of security and privacy of criminal history information, for your consideration:

1. The request for information of criminal history information type should be made through teletypewriter systems as much as possible.
2. A system for the identification of the actual user of the information - as opposed to the overall requests being in the name of an agency chief - should be used. That is, Trooper John Smith, or Court Officer James Smith, or Deputy Joseph A. Smith, should be identified in the requesting message
3. Attached to this letter is a copy of a directive of this office dated November 16, 1973 which requires in paragraph two, that next to the authorizing officer of this department will be inserted, "the official number of the person requesting such information."
4. As page 30 of your draft mentioned the distribution list of Massachusetts, I will assume that paragraphs one and three are self-explanatory. Paragraph four is an extension of paragraph two.

John D. Heller, Acting Director
General Government Division

-2-

July 25, 1974

It is respectfully suggested that such steps as you deem appropriate should be taken so that all agencies that have need for criminal history information have a teletype capability.

If the above suggestions were taken, and a method of determining the ultimate user were adopted, I feel that the unauthorized use by people would be drastically reduced.

We appreciate your giving us this opportunity to review your proposed report and allowing us to comment on its contents.

Very truly yours,

John F. Kehoe, Jr.
John F. Kehoe, Jr.
Commissioner

JFK:pam
Enclosure

GAO note: Numbers in brackets refer to pages in this report.

THE COMMONWEALTH OF MASSACHUSETTS
 DEPARTMENT OF PUBLIC SAFETY
 1010 Commonwealth Avenue, Boston 02215
 November 16, 1973

From: Commissioner John F. Kehoe, Jr.
 To: All Law Enforcement Personnel, Department of Public Safety
 All Division and Bureau Heads, Department of Public Safety
 Subject: BOP and MSBI Record Requests

1. Your attention is directed to Chapter 805 of the Acts of 1972, AN ACT Providing for the Establishment and Administration of a Criminal Offender Record Information System, and particularly to Section 178 which reads:

"Any person who willfully requests, obtains or seeks to obtain criminal offender record information under false pretenses, or who willfully communicates or seeks to communicate criminal offender record information to any agency or person except in accordance with the provisions of sections one hundred and sixty-eight to one hundred and seventy-five, inclusive, or any member, officer, employee or agency of the board, the advisory committee, the council or any participating agency, or any person connected with any authorized research program, who willfully falsifies criminal offender record information, or any records relating thereto, shall for each offense be fined not more than five thousand dollars, or imprisoned in a jail or house of correction for not more than one year, or both."

2. In complying with the above law, the authority for all Board of Probation requests from the State Police installations will be that of the officer in charge. Immediately adjacent to this name will be the official identification number of the person requesting such information. The identification number used could be the same as the authority. Following is a sample Board of Probation message emanating from State Police, Boston:

#A SPH/0000 BOP/1307.
 4999 FILE 15 SP BOSTON MASS NOV 16-73
 TO BOP

REC PLS

JOHN J. JONES
 200 SEA STREET
 PODUNK, INDIANA

DOB 12-25-40

AUTH SGT J KING 324 JKK 0823 HRS

END

#

3. Only duly authorized law enforcement officers will be furnished Board of Probation or Massachusetts State Board of Identification information. Duly authorized law enforcement officers for this purpose are all sworn members of the Uniformed Branch, Captains of Detectives, and Detective Lieutenants. In relation to requests from outside agencies to this Department, only sworn personnel of duly constituted law enforcement agencies will be entitled to BOP and MSBI information. All other requests for BOP and MSBI records will be submitted in writing for approval by the Commissioner.

4. Records will be maintained on all requests for this information by the Department of Public Safety for one year. This information should include the name of the duly constituted law enforcement officer requesting same, the date and the signature of the person who gives the information to the officer.

JFK:pam


 John F. Kehoe, Jr.
 Commissioner



The Commonwealth of Massachusetts

Commissioner of Probation

206 New Court House, Boston 02108

GG-2-74

Record Inquiry Memorandum #2

July 26, 1974

TO: Chief Probation Officers
Probation Officers in Charge

FROM Commissioner of Probation

SUBJECT: IMMEDIATE TEMPORARY MEASURES CONCERNING SECURITY
OF COURT RECORD INFORMATION

As the result of a recent investigation by the U.S. General Accounting Office, approved and assisted by this office and participated in by many of you, which documented a significant amount (more than 10% of a random sample) of unauthorized access to court record information here by inquirers falsely purporting to be court personnel, the Office of the Commissioner of Probation now prescribes the following necessary security procedures as to inquiry of the central record file by courts, effective August 1, 1974:

1. Each Chief Probation Officer is hereby notified of his responsibility for the security of court record information provided to his office by OCP.
2. Each Chief Probation Officer is to provide OCP with names of person(s) not more than one for each five probation officers, authorized by him to obtain court record information by telephone.
3. Each Chief Probation Officer, or an employee specifically designated by him for this purpose will maintain a list of records by name and date of birth, requested (telephone and mail) and will provide OCP with same on a monthly basis. List will be cross-checked with list maintained by OCP.
4. All records mailed by OCP will be directed to the Chief Probation Officer or person designated by him.
5. OCP will develop a system of random sampling of record inquiries.
6. Record inquiries by the courts must not be made other than in connection with the work of the court and the probation offices. It should be called to the attention of all personnel that the Criminal Offender Record Information System Act, established by Chapter 805 of the Acts of 1972, (General Laws, Chapter 6, Sections 167 - 178 inclusive) provides in Section 178 severe penalties for the unauthorized use of criminal offender record information.

C. Elif Sands

SAMPLES OF CRIMINAL HISTORY DOCUMENTS

1. FBI fingerprint card (front)
2. FBI fingerprint card (back)
3. FBI rap sheet
4. FBI computerized criminal history--summary record
5. FBI computerized criminal history--detailed record

LEAVE BLANK FOR FBI USE		TYPE OR PRINT ALL INFORMATION IN BLACK				FBI LEAVE BLANK FOR FBI USE	
STATE USAGE FOR STATE BUREAU USE		ALIASES ROBERT SMITH		CONTRIBUTOR ORI		YOUR AGENCY AND ADDRESS WILL BE PRE-PRINTED BY FBI	
SIGNATURE OF PERSON FINGERPRINTED MAY PROVE TO BE VALUABLE EVIDENCE		OTHER NAMES USED BY SUBJECT		DATE OF BIRTH DOB Month Day Year 7 - 16 - 49		DATE ARRESTED OR RECEIVED DOA MONTH-DAY-YEAR	
THIS DATA MAY BE COMPUTERIZED IN LOCAL, STATE AND NATIONAL FILES		SEX RACE HGT. WGT. EYES HAIR PLACE OF BIRTH POB M W 72" 175 BRO BLK CITY & STATE		YOUR NO. OCA NUMBER TO BE QUOTED IN FBI REPLY		LEAVE BLANK	
SIGNATURE OF OFFICIAL TAKING FINGERPRINTS YOUR SIGNATURE		FBI NO. FBI INSERT FBI NO. IN THIS SPACE, IF KNOWN		SID NO. SID STATE IDENT BUREAU NO., INSERT IF APPLICABLE		CLASS.	
CHARGE E.G. 1. ROBBERY - BUSINESS - GUN NCIC CODE: 1201 2. AGGRAV ASLT - POL OFF - GUN NCIC CODE: 1310 3. POSSESS STOLEN PROP NCIC CODE: 2804		SOCIAL SECURITY NO. SOC		NCIC CLASS - FPC		REF.	
FINAL DISPOSITION 1. IF FINAL DISPOSITION NOT NOW AVAILABLE, SUBMIT LATER ON FORM R-24. 2. SHOW INTERIM OR ARRESTING AGENCY DISPOSITION ON REVERSE SIDE OF THIS CARD.		CAUTION <input checked="" type="checkbox"/>					
A. INCLUDE N.C.I.C. UNIFORM OFFENSE CODE WITH CHARGE WHENEVER POSSIBLE.		IF SPECIAL CAUTION SHOULD BE USED WHEN DEALING WITH SUBJECT, CHECK (✓) CAUTION BLOCK AND EXPLAIN BASIS FOR CAUTION ON REVERSE SIDE IN APPROPRIATE BLOCK.					
B. PLACE STATE PENAL CODE NUMBERS OR LOCAL CITATION NUMBERS ON REVERSE SIDE IN STATUTE CITATION BLOCK.		A. MUST BE IN CORRECT ORDER.		B. IF DATE OF BIRTH UNKNOWN, LIST APPROXIMATE AGE.			
1. RIGHT THUMB	2. RIGHT INDEX	3. RIGHT MIDDLE	4. RIGHT RING	5. RIGHT LITTLE			
C. HOSPITALS NEED ONLY USE WORD "PATIENT." MILITARY INSTALLATIONS USE "INQUIRY" ONLY.							
SPECIMEN FINGERPRINT CARD							
6. LEFT THUMB	7. LEFT INDEX	8. LEFT MIDDLE	9. LEFT RING	10. LEFT LITTLE			
MAKE CERTAIN ALL IMPRESSIONS ARE LEGIBLE, FULLY ROLLED AND CLASSIFIABLE.				ALL INFORMATION REQUESTED IS ESSENTIAL.			
LEFT FOUR FINGERS TAKEN SIMULTANEOUSLY		LEFT THUMB	RIGHT THUMB	RIGHT FOUR FINGERS TAKEN SIMULTANEOUSLY			

FBI fingerprint card (front)

FEDERAL BUREAU OF INVESTIGATION, UNITED STATES DEPARTMENT OF JUSTICE
WASHINGTON, D. C. 20537

PHOTO AVAILABLE? YES <input type="checkbox"/> NO <input type="checkbox"/>	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.). REQUEST 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-24 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 (IC) 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 44 PENAL LAW) AND CRIMINAL CODE CITATION INCLUDING ANY SUB-SECTIONS. 10. ALL INFORMATION REQUESTED IS ESSENTIAL.
IF AVAILABLE, PASTE PHOTO OVER INSTRUCTIONS IN DOTTED AREA. (DO NOT USE STAPLES)	
SINCE PHOTOGRAPH MAY BECOME DETACHED INDICATE NAME, DATE TAKEN, FBI NUMBER, CONTRIBUTOR AND ARREST NUMBER ON REVERSE SIDE, WHETHER ATTACHED TO FINGERPRINT CARD OR SUBMITTED LATER. TRIM PHOTO TO FIT IN DOTTED AREA	
DATA ON PRIOR ARREST ONLY IF ARREST FINGERPRINTS SENT FBI PREVIOUSLY AND FBI NO. UNKNOWN, FURNISH ARREST NO. DATE	
STATUTE CITATION - SEE INSTRUCTION NO. 9. CIT 1. SHOW SEPARATE CITATION OR PENAL CODE NUMBER FOR EACH CHARGE PLACED ON FRONT SIDE. 2. 3.	
ARREST DISPOSITION - SEE INSTRUCTION NO. 3. ADN HELD FOR GRAND JURY IF DISPOSITION IS FINAL, ENTER ON FACE OF CARD. ENTER PENDING OR TEMPORARY DISPOSITION HERE.	
EMPLOYER: IF U. S. GOVERNMENT, INDICATE SPECIFIC AGENCY. IF MILITARY, LIST BRANCH OF SERVICE AND SERIAL NO. USEFUL FOR FOLLOW-UP INVESTIGATION	
OCCUPATION A GOOD INVESTIGATIVE LEAD	
RESIDENCE OF PERSON FINGERPRINTED MAY BE VALUABLE IN SUBSEQUENT FUGITIVE INVESTIGATION	
SCARS, MARKS, TATTOOS, AND AMPUTATIONS SMT FINGER, HAND, AND ARM AMPUTATIONS SHOULD ALSO BE NOTED IN APPROPRIATE FINGER BLOCKS ON FRONT SIDE.	
BASIS FOR CAUTION ICQ ARMED AND DANGEROUS - SUICIDAL TENDENCIES	
DATE OF OFFENSE DOO IF KNOWN	SKIN TONE SKN E.G. LIGHT
MISC. NO. MNU 35-99-49-300 IDENTIFY TYPE OF NUMBER	SELECTIVE SERVICE NO.
ADDITIONAL INFORMATION	
REPLY DESIRED? YES <input type="checkbox"/> NO <input type="checkbox"/>	
(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) DO NOT CHECK UNLESS WILLING TO ACCEPT COLLECT CHARGES. WIRE REPLY TELEPHONE REPLY TELEPHONE NO. AND AREA CODE	
LEAVE BLANK	FOR FBI USE
LEAVE BLANK	FOR FBI USE

FBI fingerprint card (back)

APPENDIX VII

SIMULATED RECORD

UNITED STATES DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION

NATIONAL CRIME INFORMATION CENTER
CRIMINAL HISTORY RECORD

FBI/123456Z

DATE RECORD PRINTED 7/1/74

MKE/EH NAM/DOE, JOHN SEX/M RAC/W POB/IL DOB/02-24-33 HGT/507 WGT/160
EYE/BRO HAI/BRO SMT/SC R HND FPG/20061000101205030910 100/
ADDITIONAL IDENTIFIERS - HAS BEEN DIABETIC REQUIRING INSULIN
SMT/SC CHIN
AKA/SMITH, HARRY/DOE, JIM
EST/US DRE/021372 DLU/110472

CYCLE 1- STATE ID/F092243 NAME USED/SMITH, HARRY DATE ARR/122668

ARREST- AGCY/US MARSHALL INDIANAPOLIS IN
CHARGE NO/O1 CITATION/T18/US/2312
OFFENSE/INTERSTATE TRANSP STOLEN VEH-DYER ACT
CHARGE NO/O2
OFFENSE/CARRYING CONCEALED-CCW

COURT- AGCY/
COUNT NO/O1
OFFENSE/INTERSTATE TRANSP STOLEN VEH-DYER ACT DISP/CONVICTED
CONFINED/60M FINE/\$2000 OTHER/INDETERM

CUSTODY- AGCY/IN USP TERRE HAUTE
A DATE/050269 STATUS/RECEIVED
AGCY/IN USP TERRE HAUTE
B DATE/042271 STATUS/PAROLED

CYCLE 2- STATE ID/F092243 NAME USED/DOE, JIM DATE ARR/063071

ARREST- AGCY/US MARSHALL LOUISVILLE KY
CHARGE NO/O1
OFFENSE/ROBBERY-BANKING-TYPE INST
CHARGE NO/O2
OFFENSE/PAROLE VIOLATION

COURT- AGCY/
COUNT NO/O1
OFFENSE/ROBBERY-BANKING-TYPE INST DISP/CONVICTED
CONFINED/120M OTHER/RET PAR VIO CONC W/THIS CHG

CUSTODY- AGCY/IN USP TERRE HAUTE
A DATE/110371 STATUS/RECEIVED

END
OFFICIAL USE ONLY - ARREST DATA BASED ON
FINGERPRINT IDENTIFICATION BY SUBMITTING AGENCY OR FBI

END

FBI computerized criminal history--detailed record