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COMPUTERIZED CRIMINAL HISTORY RECORDS

HEARING

BEFORE THE

SUBCOMMITTEE ON

PATENTS, COPYRIGHTS AND TRADEMARKS

OF THE

COMMITTEE ON THE JUDICIARY

UNITED STATES SENATE

NINETY-EIGHTH CONGRESS

FIRST SESSION

ON

SYSTEM FOR INTERSTATE EXCHANGE OF CRIMINAL HISTORY RECORDS

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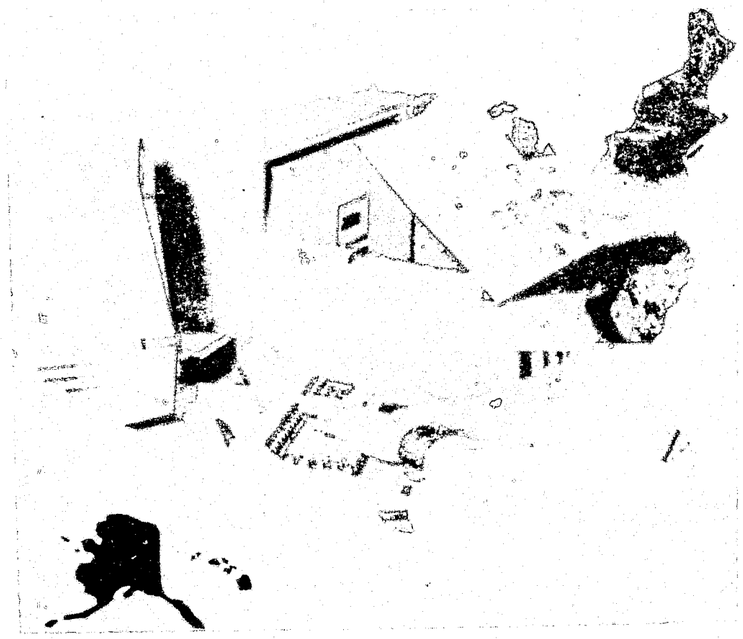

CONGRESS OF THE UNITED STATES
Office of Technology Assessment
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Foreword

This summary presents the major findings of *An Assessment of Alternatives for a National Computerized Criminal History System.* The study addresses: 1) the status of criminal history record systems in the United States; 2) the alternatives for a national computerized system; 3) the possible impacts of such a system; and 4) the relevant policy issues that warrant congressional attention.

Conducted at the request of the House and Senate Committees on the Judiciary, this study is the last of four components of the OTA assessment of Societal Impacts of National Information Systems. The other components include a September 1981 OTA report on *Computer-Based National Information Systems: Technology and Public Policy Issues;* a March 1982 background paper on *Selected Electronic Funds Transfer Issues: Privacy, Security, and Equity;* and an August 1982 OTA report on *Implications of Electronic Mail and Message Systems for the U.S. Postal Service.*

In preparing the full computerized criminal history report, OTA has drawn on working papers developed by OTA staff and contractors, extensive related research on criminal history record systems carried out by SEARCH Group, Inc., and others, and operating data and descriptive information provided by the Federal Bureau of Investigation and various States. The final draft of this report was reviewed by the OTA project advisory panel and by a broad spectrum of interested individuals and organizations from the criminal justice community.

OTA appreciates the participation of the advisory panelists, external reviewers, and others who helped bring the study to fruition. It is, however, solely the responsibility of OTA, not of those who so ably advised and assisted us in its preparation.

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Alternatives for a National Computerized Criminal History System

Overview

The United States already has a national criminal history system. It is partly manual and partly computerized, and includes criminal record and fingerprint card repositories maintained by the Federal Bureau of Investigation's (FBI) criminal identification file (known as Ident) and 49 State identification bureaus. The national system also includes the computerized criminal history (CCH) files in the FBI's National Crime Information Center (NCIC) and in 27 States. Seven other States have a computerized name index to their manual files, and 10 more States are in the process of implementing a computerized index. As of October 1981, Ident held about 6 million automated criminal history records, NCIC/CCH held about 1.9 million, and the 27 State CCH files collectively held about 11.5 million records. For the interstate exchange of criminal history records, the national system uses the U.S. Mail, the NCIC communication network, and the National Law Enforcement Telecommunications System (NLETS). The many local and metropolitan criminal history record systems, either manual or automated, are also part of this national system.

Thus, most of the building blocks for a national *computerized* criminal history record system are already in place. Technically, there are many ways that a national CCH system could be designed. At one end of the spectrum, criminal history records for all offenders could be stored in a central national repository. At the other end, a national repository could be limited to records of Federal offenders, with records of State offenders stored only in the respective State repositories. The emerging consensus among Federal and State criminal record repository and law enforcement officials favors the latter, with only Federal offender records and an index to State offenders (known as the Interstate Identification Index or "III") maintained at the national level along with a national fingerprint file on serious criminal offenders.

Criminal history records are used at all levels of government, by all sectors of the criminal justice community, and increasingly by the noncriminal justice community as well. To the extent that a national CCH system provides information that is more complete, timely, and verifiable (based on positive identification) than is presently available,

the system would improve the functioning of the criminal justice process. The most significant improvements are likely to be in the areas of criminal investigations, police booking and intake, pretrial release and bail decisions, and presentence investigation reports. For example, the impact could be particularly significant in pretrial release and bail decisions, which typically must be made within 36 to 72 hours after arrest. If accurate and complete, CCH records could help prosecutors and judges better balance the need to protect the public from harm by defendants out on bail versus the need to minimize the detention of defendants on charges for which they have not been tried under due process of law. The potential contribution of a national CCH system becomes even more important in view of State bail and sentencing reforms that place greater reliance on criminal history information, and the many recommendations of the U.S. Attorney General's Task Force on Violent Crime that involve criminal history records.

Depending on how a national CCH system is controlled and used, the quality of the CCH records exchanged, and the standards set for access and operation, the system could have important implications for employment and licensure, Federal-State relationships, and civil and constitutional rights, as well as for public safety and the administration of justice. Full implementation of III (or any other national CCH system) raises a number of issues that warrant congressional attention to ensure that beneficial impacts are maximized and potentially adverse impacts are controlled or minimized.

Policy Control.—Considerable debate has focused on which agency or organization(s) should have direct policy control over a national CCH system. Suggestions include a consortium of States, a broadened and strengthened NCIC Advisory Policy Board (APB), an independent board, and/or the FBI. For example, a strengthened APB could include greater representation from the prosecutorial, judicial, correctional, and public defender sectors than at present, and could include an "advise and consent" role, at least with respect to State and local participation in a national system. There are many other possibilities, but the key issue is how to devise a mechanism that will effectively represent the interests of the diverse users of a national system, and afford them a strong and possibly controlling role.

Record Quality.—Since 1970, Congress has expressed its concern about the completeness and accuracy of criminal history records. Based on the results of record quality research conducted by OTA and others, the quality of criminal history records at the State level has improved; however, significant problems remain, especially with respect to court disposition reporting. The average nationwide disposition reporting level increased from 52 percent in 1970 to 65 percent in 1979, but has changed little since then (to 66 percent in 1982). Fourteen of 41 States in 1979 and 13 of 47 States in 1982 indicated that disposition reporting to the State repositories was less than 50 per-

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cent. In both 1979 and 1982, eight States indicated a reporting level of less than 25 percent.

With a national index, the FBI would no longer maintain non-Federal records, and the problems of record quality in Ident and NCIC/CCH would be reduced. However, the quality of records maintained by the States, as well as the quality of any index based on those records, would still be a matter of concern. The progress made by many States in recent years indicates that continued improvement in disposition reporting is possible but would require a significant further commitment measured in manpower, dollars, and system improvements at the State and local levels. As of August 1982, 49 of 50 States maintain transaction logs of criminal history records disseminated, 35 of 46 routinely employ quality control checks on the accuracy of input data, 30 of 49 have automated or manual procedures for the regular review of court disposition reporting, and only 13 of 49 States have conducted a record quality audit.

File Size and Content.—Under the III concept, the national index would include only names and identifiying information. Index size would depend on what limitations are placed on entries (e.g., with respect to types of offenses and the handling of juvenile offender records), how long entries are kept in the index (e.g., limited retention period for some types of entries), and how the index is initially established and then maintained and updated. The index could have as many as 21 million entries if all persons with arrests for serious or significant offenses were included.

Noncriminal Justice Access.—Significant noncriminal justice use of Federal and State criminal history record systems, coupled with widely varying State statutes defining authorized users and State policies on sealing and purging, has generated concern about control of access to criminal history records. As of fiscal year 1981, about 53 percent of requests to Ident were from noncriminal justice users (30 percent Federal and 23 percent State/local). As of 1982, roughly 15 percent of requests to State CCH systems were for noncriminal justice purposes.

Noncriminal justice access to a national index could be prohibited entirely, or could be permitted only under stronger Federal guidelines than presently exist. A dual index could be established, one for criminal justice use and a second for noncriminal justice use, perhaps with the latter based on disposition or conviction information only. Even under the status quo, access to a national index would require complicated safeguards (which are technically feasible with a computer-based system) to be consistent with a wide variety of existing State laws and regulations, and would require some means to resolve conflicts among State laws, and between Federal statutes and Executive orders and State laws.

Oversight and Audit.—Oversight mechanisms would help assure Congress, the public, and others that a national index (or any other national CCH system) is operating within the boundaries of law and regulation, and to help identify any problems that might emerge. Congress could require an annual report and periodic audits of Federal and State CCH files to help ensure compliance with whatever system standards may be established.

Federal Funding.—Throughout the 1970's, it was Federal Government policy to support the development of State CCH systems and the implementation of Federal privacy and security regulations. However, Federal support has been phased out. The following three areas are possible priorities for further Federal funding: 1) improving court disposition reporting on a nationwide basis; 2) upgrading criminal history record systems in States that are operating manually, or assisting those in the process of automating their name index and/or file; and 3) improving procedures in all States where necessary to assure the accuracy and completeness of criminal history information, to conduct audits of local users, to maintain and periodically review transaction logs, and to train employees and users.

Message Switching.—Unless all criminal history records were stored in one place (e.g., a national CCH repository), a national CCH system would require some electronic means to transfer criminal history records (and inquiries for such records) among and between the various State and Federal repositories and participating agencies. The transfer or switching of messages from one State to another through the NCIC computer has been a point of controversy with respect to the impact on Federal-State relations and the potential for monitoring and surveillance use. There are several message switching alternatives for III. First, inquiries could be switched via NCIC, with records returned via the NLETS message switching system. This approach has been used in pilot tests of III. Second, both inquiries and records could be switched via NCIC. Third, both inquiries and records could be switched via NLETS. Fourth, records could be switched via NLETS and inquiries via NCIC or NLETS. Fifth, the use of NCIC or NLETS could be optional for switching of both inquiries and records. Any Department of Justice or FBI message switching role in a fully operational III (or other national CCH system) would probably require congressional approval.

Federal Direction and Legislation.—In the seven years since Congress last considered legislation on criminal history record systems, both the States and the FBI have made significant progress in improving the interstate exchange of criminal history information and in implementing State and Federal privacy and security regulations. Substantial consensus has developed around III, and pilot tests indicate that III is technically feasible. Nonetheless, absent Federal direction and probably some modest Federal funding, full implementation of III is likely to take many years. Also, further improvement in nation-

wide record quality and some kind of national standards on record access and use are needed. Resolution of conflicts between and among State and Federal laws is a necessity.

Legislation represents one of the strongest measures to provide Federal direction and ensure accountability and control. Legislation could provide explicit authority for a national index or other national CCH system, and include statutory guidelines for its operation and use. In addition to the areas listed above, legislation could address access, review, and challenge procedures; criminal penalties; privacy standards; and possibly a prohibition on unauthorized intelligence or surveillance use of a national CCH system. In sum, legislation appears to be the most appropriate vehicle for guiding the full implementation of a national CCH system in a way that will enhance the efficiency and effectiveness of the criminal justice process, protect civil and constitutional rights, and properly balance the roles and responsibilities of the Federal and State Governments.

Introduction

This report addresses four major areas:

- the status of criminal history record systems in the United States;
- the alternatives for a national computerized criminal history (CCH) system;
- the possible impacts of any such system; and
- relevant policy issues that warrant congressional attention to ensure that the beneficial impacts of a national CCH system are maximized and the possible adverse impacts controlled or minimized.

These areas are of concern because:

- criminal history records are a vital part of the criminal justice process;
- advances in computer and communication technologies can help to improve the completeness, accuracy, and timeliness of such records; and
- the use of criminal history records, particularly when exchanged via a national system, can have important implications for public safety and the administration of justice, employment and licensure, Federal-State relationships, and civil and constitutional rights.

Current Status of Criminal History Record Systems

Criminal History Record Repositories.—Criminal history records are stored at the local, State, and Federal levels. Since 1924, the Federal Bureau of Investigation (FBI) has maintained a national repository

of fingerprint cards and rap sheets in its Identification Division (known as Ident). Forty-nine of the fifty States now have their own criminal history record repositories.

The use of computers is already widespread. Ident has made progress in automating its own operations through the Automated Identification System (AIDS). As of October 1981, almost 6 million of Ident's criminal records had been automated (representing more than one-fourth of the individuals in the criminal file) and fingerprints for about 70 percent of the individuals in the file had been converted to a machine-readable (automated) format. Since 1971, the FBI has also maintained a CCH file in its National Crime Information Center (NCIC), although only eight States currently keep records in this file. As of October 1981, it contained about 1.9 million records, including approximately 0.5 million Federal offender records.

At the State level, as of August 1982, 27 States had CCH files, 7 had an automated name index, and 16 had a completely manual system. Ten of the sixteen manual States are in the process of implementing an automated index, and two are implementing a CCH file. Also, the 27 States with CCH files accounted for about 85 percent of all criminal fingerprint card activity, and collectively maintained about 11.5 million CCH records as of September 1981. At the local level, most major metropolitan police departments use computer-based systems (19 have direct lines to NCIC).

For those 12 States in the process of implementing an automated name index and/or CCH file, the estimated time to completion ranged from 1 month, to 1 year, to an indefinite time period, due largely to variations and/or uncertainties in staffing and funding. With full implementation, all but four States would have at least an automated name index, and two of the four remaining manual States do have plans to automate.

Interstate Exchange of Criminal History Records.—The exchange of criminal history records among the States and between the States and Federal Government can be accomplished in several ways. The exchange of records with Ident is almost entirely by mail, since Ident does not have direct communication lines to the States. Exchange with NCIC/CCH is almost entirely electronic, since NCIC has direct communication lines to all 50 States (49 of which are authorized to access the NCIC/CCH file) and to several Federal agencies. Use of the CCH file involves about 4.4 million transactions annually, but only about 3.5 percent of total NCIC traffic. Only eight States keep records in the CCH file. Of the 10 files maintained in NCIC, the bulk of traffic involves the eight so-called "hot files," which furnish an electronic bulletin board capability used by law enforcement agencies to list wanted or missing persons or stolen properties (e.g., vehicles, guns, and securities). NCIC is currently testing the concept of an Interstate Identification Index (III) in which the NCIC/CCH file includes only records for Federal offenders plus a national index of State offenders,

and the participating States maintain both single- and multi-State offender records.

The exchange of criminal history records can also be accomplished via the National Law Enforcement Telecommunications System (NLETS), a computerized message switching network linking local, State, and Federal agencies. Operated by a nonprofit corporation controlled by the States, NLETS does not hold or manage record files, but provides the capability to switch criminal history records among 49 of the 50 States.

Use of Criminal History Records.—Criminal history records are used at all levels of government, by all sectors of the criminal justice community, and increasingly by the noncriminal justice community as well. During fiscal year 1981, about 18 percent of Ident use was by law enforcement agencies, 29 percent by other criminal justice agencies (e.g., prosecutors, courts, and corrections), and 53 percent by noncriminal justice agencies (primarily for employment and licensing and security checks). About 33 percent of Ident use was by Federal agencies and 67 percent by State/local agencies.

Based on 1979 and 1982 OTA surveys, the use of State CCH repositories was roughly 56 percent by law enforcement agencies, 29 percent by other criminal justice, and 15 percent by noncriminal justice. Data from the 1981 III pilot test suggest that NCIC/CCH is used almost entirely by criminal justice agencies—about 86 percent by law enforcement and 14 percent by other criminal justice (about 12 percent by Federal agencies and 88 percent by State/local agencies).

The picture is a little less clear with respect to noncriminal justice use. As noted above, the use of Ident is already greater for noncriminal justice than for criminal justice purposes, and as of August 1982, 7 of 45 States reported that noncriminal justice use of criminal history records accounted for more than 40 percent of total use. At least 14 States have recently enacted (since 1979) or have pending State legislation or regulations that further broaden noncriminal justice access. Delays resulting from the noncriminal justice workload reached the point where Ident suspended most State and local applicant services (for licensing and employment checks) for fiscal year 1982. These will be reinstated on October 1, 1982, but on a fee-for-service basis.

Multi-State Offenders.—Based on 1979 research, OTA found that about 30.4 percent of individuals in the FBI's Ident criminal file had arrests in more than one State, which closely approximated a 1974 FBI estimate of 30 percent and a 1981 FBI estimate of 33 percent. Based on 1981 data available to OTA for eight States, multi-State offenders ranged from a low of about 3 percent to a high of 36 percent, with Federal offenders excluded. The average was about 12 percent, and only one State was above 16 percent. Nonetheless, the percentage of multi-State offenders appears to be significant. Whether the crimes committed by multi-State offenders tend to be more or less

serious than those of single-State offenders could not be positively determined from information available to OTA. This is an area of possible further study.

Fingerprint Identification.—Criminal justice practitioners believe that, at present, fingerprints are the only reliable and consistent basis for positive identification. The exchange of records based on names alone results in a high percentage of errors due to the frequent use of aliases and similarities among many common surnames. In a 1982 III pilot test, the FBI found that almost one-third of the matches between individuals and records were in error when based on name-searching techniques alone. Both Ident and State identification bureaus process fingerprint cards received from criminal justice agencies, but manual fingerprint processing is extremely time-consuming and labor-intensive, and therefore costly, especially at the high volumes presently experienced. A 1981 FBI survey estimated that 4.16 million criminal fingerprint cards were received annually by State identification bureaus, and 2.91 million criminal fingerprint cards by Ident.

Ident's experience exemplifies the enormity of the problem. As of October 1981, there were 78 million criminal fingerprint cards representing 21 million individuals in the Ident criminal file. During fiscal year 1981, Ident received an average of 12,684 criminal fingerprint cards daily. Surveys conducted for the FBI in 1979 and 1980 indicated that the average Ident response time for processing fingerprint cards was about 36 workdays. As of July and October 1981, the FBI estimated that Ident internal processing time (excluding mailing time) was averaging 27 and 25 workdays, respectively, for all categories of inquiries (both fingerprint checks and name checks). As of July 1982, processing time had improved, at least temporarily, to about 13 days, due to Ident's 1-year suspension of record checks for federally chartered or insured banking institutions and State and local employment and licensing authorities.

There is general agreement that improvement in fingerprint processing time is necessary, particularly to meet needs that arise early in the criminal justice process where decisions must be made very quickly, for example, in bringing charges and setting bail. OTA did not assess specific alternatives for improvement, but major studies have recently been completed by the Jet Propulsion Laboratory (JPL) and the International Association for Identification. However, it seems clear that fingerprint identification is properly viewed as an integral part of any national CCH system and that automated fingerprint classification and search technology offers substantial promise for improvement.

Record Quality.—Since 1970, Congress has expressed its concern about the completeness and accuracy of criminal history records. Section 524(b) of the Crime Control Act of 1973 required the Law Enforcement Assistance Administration (LEAA) to promulgate regulations

to provide safeguards for the privacy and security of criminal history records, including their completeness and accuracy. The 1975 regulations (known as title 28, Code of Federal Regulations, pt. 20) apply to the Federal Government and to all States whose criminal history record systems were federally funded in whole or in part. Federal courts have also ruled on record quality issues. For example, in *Tarlton* v. *Saxbe* (1974) the U.S. Court of Appeals for the District of Columbia ruled that the FBI had a duty to prevent dissemination of inaccurate arrest and conviction records, and had to take reasonable precautions to prevent inaccuracy and incompleteness. Most States now have statutes or regulations requiring agencies to ensure reasonably complete and accurate criminal history information, including timely reporting of court dispositions. The number of States with statutes or regulations on record quality increased from 14 in 1974 to 45 in 1979, and to 49 in 1981.

Based on the results of record quality research conducted by OTA and others, the quality of criminal history records has improved since 1970; however, significant problems remain. For Ident, OTA record quality research found that, based on a 1979 sample of arrest events, about 30 percent of the Ident records that could be verified lacked a court disposition that had occurred and was confirmed by the district attorney in the local area responsible for prosecution. A 1980 study by JPL found that Ident receives dispositions for about 45 percent of the arrests reported. OTA also found that about one-fifth of the Ident arrest events sampled were inaccurate when compared with charging, disposition, and/or sentencing information in local records.

With respect to NCIC/CCH, OTA record quality research found that, based on a 1979 sample of arrest events, about 27 percent of the CCH records that could be verified lacked a court disposition that had occurred. About one-fifth of the arrest events sampled were inaccurate with respect to charging, disposition, and/or sentencing information.

At the State level, a comparison between a 1979 OTA 50-State survey and a 1973 General Accounting Office (GAO) study (based on a 1970 50-State survey conducted by LEAA) shows some improvement in the average level of disposition reporting. The GAO study found the average level to be about 52 percent for the 49 States responding; the OTA study showed an average level of about 65 percent for the 41 States responding. However, the 1979 average for computerized States (with a CCH file and/or automated name index) as opposed to manual States was even higher (about 71 percent compared to 50 percent for manual States). Given that in 1970 only one State (New York) had a CCH system, the results indicated that most of the improvement in disposition reporting over the 1970-79 period was in States with CCH systems. OTA also sampled State records in one major urban jurisdiction in each of three States. For the three urban jurisdictions, disposition reporting was 58, 60, and 85 percent. Several States

contacted by OTA have achieved further improvement in disposition reporting since 1979. However, between 1979 and 1982, average disposition reporting levels for all States responding improved only marginally, to about 66 percent. In the OTA 50-State survey, 14 of 41 States responding in 1979 and 13 of 47 States in 1982 indicated that disposition reporting to the State repository was less than 50 percent. In both 1979 and 1982, eight States indicated a reporting level of less than 25 percent.

Significance of Record Quality Problems.—On the one hand, Federal and State law emphasizes the importance of complete and accurate criminal history records, but on the other, the law authorizes the dissemination of records, whether or not they are accurate and complete, for a variety of purposes. For example, Federal regulations and FBI operating procedures assign agencies that enter records into Ident or NCIC the responsibility "to assure that information on individuals is kept complete, accurate, and current." The FBI helps to maintain the integrity of the NCIC files through automatic computer edits and purges, quality control checks, and periodic record validations by originating agencies. Similar procedures are possible in Ident through the use of AIDS. Yet, with few exceptions, Federal and State law authorizes the dissemination of criminal history records—with or without dispositions—to the criminal justice community. Law enforcement and prosecuting agencies, in particular, find that an incomplete and/or inaccurate record can be useful as a "pointer" to the location of complete and accurate information, even though an arrest-only record is not admissible in criminal trial proceedings under the laws of criminal evidence in most jurisdictions.

With respect to noncriminal justice use, Federal regulations permit dissemination of Ident and NCIC/CCH records without dispositions to Federal noncriminal justice agencies if authorized by Federal statute or Executive order. Dissemination is also permitted to State and local noncriminal justice agencies if authorized by Federal or State statutes and approved by the U.S. Attorney General, except for records without dispositions where the arrest charge is more than 1 year old and is not under active prosecution. At the State level, as of mid-1981, 37 States authorized dissemination of arrest-only records to a variety of State and local noncriminal justice agencies (primarily for employment and licensing purposes), and 27 States authorized such dissemination to private sector organizations and individuals.

In most court cases where the completeness or accuracy of criminal records has been challenged, the balancing of individual rights of privacy and due process versus the maintenance of public safety and welfare has proven a difficult challenge to the courts. Yet the Federal courts have found violations of civil and constitutional rights, particularly when arrest-only information is used in minority employment decisions (see *Gregory* v. *Litton Systems,* 1970) and when arrest information without otherwise available disposition information is used

in criminal justice decisions such as setting bail (see *Tatum* v. *Rogers,* 1979).

Privacy and Security Protection.—While very important, record quality (accuracy and completeness) is only one aspect of privacy and security protection. In enacting section 524(b) of the 1973 Crime Control Act, Congress also stressed the importance of protecting individual privacy by limiting record dissemination to lawful purposes, by permitting individuals to access, review, and challenge their records, and by ensuring the security of criminal history record systems. Title 28 of the Federal regulations required States accepting Federal funding to develop specific policies and procedures in these and other areas.

Since 1974, when statistics were first compiled, the States have made substantial progress. For example, as of mid-1981, over two-thirds of the States had statutes and/or regulations that:

- establish a State regulatory authority for privacy and security of criminal justice information systems (46 States in 1981 compared with 7 in 1974);
- place some restrictions on the dissemination of criminal history information (all States and the District of Columbia in 1981 compared with 12 in 1974);
- establish the rights of individuals to inspect their criminal history records (43 States compared with 12);
- provide criminal sanctions for violation of privacy and security laws (39 States compared with 12); and
- establish the rights of individuals to challenge the accuracy and completeness of record information pertaining to them (35 States in 1981 compared with 10 in 1974).

Nonetheless, even where States have enacted laws or regulations, wide diversity remains in the specific provisions—for example, in sealing and purging procedures, in statutory limitations on criminal history file content, and in the definition of authorized users.

Also, States vary widely in their implementation of privacy and security measures such as record quality audits, court disposition monitoring, quality control checks, and routine review of transaction logs. Based on a 1982 50-State survey, OTA found that only 13 of 49 States responding had ever conducted a record quality audit. Thirty of 49 had automated or manual procedures for the regular review of court disposition reporting, and 35 of 46 routinely employ quality control checks on the accuracy of input data. Forty-nine of fifty States maintained transaction logs of criminal history records disseminated, although most indicated that the logs were reviewed only when a specific abuse was indicated.

Alternatives for a National CCH System

The United States already has a "national criminal history system." It is partly manual and partly computerized, and includes criminal record and fingerprint card repositories maintained by Ident and 49 State identification bureaus. The national system also includes the CCH files in NCIC and 27 States. For the interstate exchange of criminal history records, the national system uses the U.S. Mail, the NCIC and NLETS communication networks, and, to a lesser extent, the communication networks of the Justice and Treasury Departments. The many local and metropolitan criminal history record systems, either manual or automated, are also a part of this national system.

Thus, many but not all of the building blocks for a national *computerized* criminal history record system are already in place. Technically, there are several ways that a national CCH system could be designed. At one end of the spectrum, criminal history records for all offenders could be stored in a central national repository such as Ident. The full development of AIDS or the NCIC/CCH file could constitute a national CCH repository when hooked up to the NCIC (or other) communication lines to permit nationwide electronic access. The repository would include records on roughly 21 million persons with arrests for serious or significant offenses. At the other end of the spectrum, a central national repository could be limited to records of Federal offenders (approximately 0.5 million), and records of State offenders would be stored only in the respective State repositories. An intermediate alternative (known as the single-State/multi-State approach) would be for a national repository to maintain records of all multi-State as well as Federal offenders, with single-State offender records stored by the States.

Given the constitutional prerogatives of the States with respect to criminal justice, and the fact that 49 of the 50 States now maintain their own State repositories, records on State offenders will continue to be maintained by the States whether or not a national CCH system is implemented. Therefore, any State records maintained in a national repository will incur extra costs (to the Federal Government for storing the records and to the States for updating the records). Cost control has thus been one of the driving forces behind efforts to keep the recordkeeping function decentralized so that duplication between the Federal and State Governments is minimal.

For any alternative where all records are not maintained in a central repository, two other capabilities are necessary—an index to records not stored centrally, and a means to exchange or transfer records stored in 50 or more locations. There are several technical options here. For example, a national index could be maintained centrally at one location, such as Ident or NCIC in Washington, D.C. or NLETS in Phoenix, Ariz. Records could be exchanged via the NLETS or NCIC communication networks or both.

Regional systems have also been proposed. However, OTA found little evidence to support the feasibility of regional systems. On the contrary, NLETS traffic logs indicate that criminal history traffic between the States does not conform to regional patterns. During the 1981 III pilot test, almost three-quarters of the hits on Florida records (matches between an inquiry and a record) originated from the Midwest and West. In addition, the 1979 OTA record quality research found that a high percentage (about 75 percent for Ident) of multi-State offenders had arrests in at least one noncontiguous State.

A so-called "ask-the-network" system is also a technical possibility. In the ask-the-network approach, there would be no central index. Instead, each State would, in effect, poll any or all of the other 49 States plus the FBI when seeking CCH information. OTA found that a significant percentage of multi-State offenders (about 43 percent for Ident, again based on 1979 data) had arrests in three or more States. Considered together with the high percentage of multi-State arrests in noncontiguous States, it appears that all States and the FBI would have to be polled every time in order to make sure arrests were not missed, but the inquiry-to-hit ratio would then be very low. Under similar circumstances, NLETS found that many States began to ignore the inquiries. Also, the FBI and various State criminal justice officials believe that an ask-the-network approach would not be cost effective, and would be harder to secure against unauthorized access. Nonetheless, ask-the-network systems are used successfully in the defense intelligence community and in the private sector, and their potential use in a national CCH system is an area of possible further research.

Improving Response Time.—The operating experience of the Ident AIDS program and several State identification bureaus has documented that a much shorter turnaround time is possible with automated systems than with manual. The JPL study of AIDS concluded that full automation could reduce the overall Ident processing time for fingerprint checks from about 36 workdays to about 3 hours. Further improvements could result from the use of high quality facsimile electronic transmission. For example, New York State already makes relatively extensive use of this technology. New York responds to fingerprint inquiries submitted via facsimile within an average of 1 hour and 50 minutes, and within 3 hours 90 percent of the time.

The response times for computerized criminal history record checks could be even faster. In theory, the response time for a national CCH repository would be measured in seconds. Indeed, as of April 1982, NCIC/CCH processing time was averaging less than one-half second per inquiry, with very few inquiries taking more than 5 seconds. The III pilot test has demonstrated that even for a national index alternative, response times of less than an hour are possible. During a February-March 1982 test, response time was less than 1 hour 96 percent of the time, less than 5 minutes 76 percent of the time, and less than 1 minute 48 percent of the time. Thus, it appears that the III response

time could approach the response time achieved by individual States with online CCH files, which is frequently in the range of 5 to 20 seconds. Response times for States with manual files would be considerably longer.

Improving Record Quality.—While computerization can improve the response time of fingerprint and criminal record checks, improvements in record quality are more difficult to achieve. This is because high record quality depends on timely and accurate submissions from a large number of criminal justice agencies. Court disposition reporting appears to be a significant problem in many States.

Available evidence indicates that strengthening State and local criminal history systems and court disposition reporting systems is a prerequisite to further improving CCH record quality, regardless of the national CCH system structure. Particularly important are efforts to upgrade court administration, establish standardized (and perhaps even codified) court reporting procedures, improve the coordination between judicial and other criminal justice agencies (especially law enforcement) responsible for timely record update actions, strengthen field audits of reporting procedures and record quality, and increase funding and technical assistance to implement computer-based systems where appropriate.

Shifting Preferences on System Structure.—An OTA survey of State repository officials found that, as of 1979, officials from 24 States out of 42 responding preferred the national index alternative, known as III. Officials from 11 States preferred the single-State/multi-State alternative. Since that time, many other Federal and State officials have shifted their support to III. The NCIC's Advisory Policy Board, NLETS Board of Directors, and SEARCH Group, Inc., have all endorsed III which, if fully implemented, would mean that all State records would be maintained by the States themselves. Only Federal offender records and an identification index would be maintained at the national level.

In a 1982 OTA followup survey, officials from about two-thirds of the States indicated a clear preference for the III concept, with officials from most of the other States either actively considering III or seeking further information on which to base a decision. However, many States, even some of those strongly supporting III, noted a variety of implementation problems which might preclude their participation, in some cases for years.

Many of these officials also support the concept of a National Fingerprint File (NFF), considered to be an integral part of III. The NFF would be limited to fingerprint cards and related personal descriptors on each criminal offender. The NFF would contain no arrest or disposition data. It would perform the technical fingerprint search to establish positive identification or nonidentification based on fingerprint cards received from State identification bureaus or Federal agencies.

It would aslo assign FBI identification numbers, and could enter identification data into III. The NFF concept is predicated on single-source submission policies. That is, only one agency per State would be authorized to submit fingerprint cards. Submission of only one fingerprint card per subject per State would be permitted.

OTA surveyed the States with respect to single-source fingerprint card submission and found that, as of August 1982, 18 States had implemented single-source submission (compared with 17 in a September 1981 FBI survey) and four more had scheduled a late 1982 implementation, for a total of 22 States. Officials from about one-third of the other States indicated that implementing single-source submission could be difficult due to a potential work overload, staff and funding shortages, local agency resistance, and/or privacy concerns.

Possible Impacts of a National CCH System

Criminal Justice Process.—To the extent that a national CCH system provides information that is more complete, timely, and verifiable (based on positive identification) than is presently available, the system would improve the functioning of the criminal justice process. The most significant improvements are likely to be in the areas of criminal investigations, police booking and intake, pretrial release and bail decisions, and presentence investigation reports.

For example, after an arrest, police make or participate in decisions concerning whether to release or how long to hold the suspect, whether to fingerprint, and the level of charges to be placed. Each of these decisions clearly affects the creation of a criminal history record, and conversely, criminal history records (and thus a national CCH system) may potentially influence these decisions. Since postarrest police decisions often must be made quickly, a national CCH system could make criminal history records more readily available, thus increasing their use.

The impact of a national CCH system could be particularly significant in pretrial release and bail decisions, which typically must be made within 36 to 72 hours after arrest. If accurate and complete, CCH records could help prosecutors and judges to better balance the need to protect the public from harm by defendants out on bail, versus the need to protect the constitutional rights of defendants. Many States have laws or rules requiring judges to consider prior convictions in determining pretrial release conditions. It is important, however, that CCH records be complete and accurate. In *Tatum* v. *Rogers* (1979), a U.S. district court found a violation of constitutional (sixth, eighth, and 14th amendment) rights when arrest information without otherwise available disposition information was used in setting bail.

Criminal history information is also used in the preparation of presentence investigation reports. These are used by judges in arriving

at a sentence suited to offenders, and are subsequently used by the courts and corrections departments in assigning offenders to appropriate institutions. Problems that arise in the preparation of presentencing reports include incomplete disposition data and insufficient resources (time and money) for verification. It would appear that a national CCH system would be advantageous if based on accurate and complete records that could be obtained quickly and easily.

A national CCH system could also affect other aspects of the criminal justice process. For example, criminal history records are very important to specialized programs (e.g., prior felon, career crime, and violent felon programs) that assign police investigators and special prosecutors to individuals who have prior felony convictions. Also, an arrestee's criminal history record can affect the prosecutor's decisions concerning whether to bring or drop charges, the level and number of charges, and whether to negotiate at trial for lower charges through plea bargaining. An offender's criminal history is also an important factor in determining initial correctional custody rating (level of supervision needed) and institutional placement (e.g., maximum, medium, or minimum security), and is one of many factors considered in parole decisions.

Employment and Licensure.—Criminal history information is used in employment and licensing decisions to protect the public or the employer from harm. Criminal records may be used to screen individuals out of positions where they might easily cause harm to other citizens or coworkers or present an excessive risk to the protection of valuable assets (e.g., money, securities, precious jewelry, and other property).

However, limiting job opportunities on the basis of a criminal record in effect involves an additional punishment for crime, that is, a "civil disability," in addition to the punishment administered by the court. This civil disability may in turn hinder the rehabilitation of offenders and prevent them from becoming useful and productive members of society, even if they want to do so and are otherwise capable. Former offenders who cannot find suitable employment may become dependent on public welfare or return to crime.

Federal and State legislatures must balance these considerations when requiring criminal history checks or character evaluations (which frequently include record checks) for literally millions of public sector jobs or publicly licensed private sector jobs. The private sector also frequently seeks criminal history information in making employment decisions.

The impact of a national CCH system for noncriminal justice use is complicated by several factors. First, States (as well as the Federal Government) vary widely in their noncriminal justice access and dissemination policies. As noted earlier, a significant portion of State and

Federal criminal history record repository use is for noncriminal justice purposes.

Second, noncriminal justice use is even more sensitive to record quality than is criminal justice use. There is no doubt that the use of criminal history information affects employment and licensing decisions. The results of research, case studies of employers, surveys of employer attitudes, as well as the experience of Federal and State parole officers, all suggest that any formal contact between an individual and the criminal justice process is likely to influence an employer's decisions on job applicants. A record of arrest and conviction will have the greatest influence, but even a record of arrest and acquittal will frequently work to the disadvantage of the applicant. This problem is aggravated because criminal history records are designed for use by those who are familiar with the criminal justice process and who understand the limitations of a record.

Third, there is considerable disagreement over the extent to which criminal history records can predict future employment behavior, except in particular cases such as repeat violent offenders. Other factors such as education, prior work experience, length of time in the community, and personal references may be more predictive. On the other hand, the high recidivism rates suggest that once a person is arrested or convicted, he or she is much more likely to be convicted of a subsequent crime within a few years than those without a prior criminal record. Whether or not this is relevant to or predictive of employment behavior is a matter of debate. States such as New York have required by statute that any agency seeking criminal history information establish a strong relationship between the nature of the job and specific kinds of criminal offenses. Florida, with its open records policy, is at the other extreme.

Fourth, criminal history records involve a sizable proportion of all persons in the labor force. After a careful review of existing research, OTA estimated that as of 1979 about 36 million living U.S. citizens had criminal history records held by Federal, State, and/or local repositories.

These aspects of noncriminal justice use warrant congressional consideration in formulating policy on any national CCH system.

Minority Groups.—Some minority groups account for a disproportionate percentage of arrest records. For example, various studies have estimated the percentage of blacks with arrest records as ranging from 30 percent nationwide to over 50 percent in certain cities such as Philadelphia. As of February 21, 1980, blacks accounted for about 29 percent of all records in the NCIC/CCH file, which is almost triple the percentage of blacks in the total U.S. population.

As discussed earlier, a criminal arrest record, even without convictions, can have an adverse effect on employment and licensing applicants. Indeed, the courts have found that a policy of refusing employ-

ment to blacks with an arrest record without convictions "had a racially discriminatory impact because blacks are arrested substantially more frequently than whites in proportion to their numbers" (see *Gregory* v. *Litton Systems,* 1970). Similar judicial reasoning has been extended to black applicants refused employment due to criminal convictions where the offense "does not significantly bear upon the particular job requirements" (see *Green* v. *Missouri Pacific RR,* 1975).

In this context, any discriminatory impacts from the use of national CCH information would depend on whether and under what conditions noncriminal justice access is permitted. The potential for discriminatory impacts could be minimized if records or index entries based on arrest-only information, as well as information on arrests not leading to conviction, were actively sealed or otherwise effectively removed from the file, at least for noncriminal justice purposes. Some States, such as New York, do this for their own files, but many States do not. California has struck a middle ground. Felony arrests that result in detention only are retained in the California State criminal history record repository for 5 years, and felony arrests that otherwise do not result in a conviction are retained for 7 years.

Federalism.—The balance of authority and power between Federal, State, and local governments has been a central issue in the debate over a national CCH system. Because of the decentralized nature of the U.S. criminal justice process and because the generation and use of criminal history information occurs mostly at the State and local levels of government, most States seek a primary role in any national CCH system. State governments have basic jurisdiction over law enforcement and criminal justice within their borders under their constitutionally reserved powers, and many have been reluctant to share this jurisdiction with the Federal Government, except with respect to Federal offenders. Most States have appreciated other kinds of support from the Federal Government, such as FBI fingerprint identification services and LEAA funding for State CCH system development, as long as this support was provided on a voluntary basis and the States retained control over the operation and use of their own criminal history record systems.

The Federal Government has a legitimate interest in: 1) the enforcement of Federal criminal law, 2) the prosecution of Federal offenders, whether intrastate or interstate, and 3) assisting with the apprehension of interstate and international criminal offenders who cross State and/or national borders. To the extent that crime is perceived as a national problem deserving national attention, the Federal Government also has a defined role in the provision of voluntary support to State and local law enforcement and criminal justice activities.

From the perspective of many States, a national CCH system like III would have a minimal impact on Federal-State relationships assuming that it retained State policy control over the CCH records, avoided any significant conflict with State laws and practices on the

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collection and use of criminal history information, and kept State costs at an affordable level. Nevertheless, III (or any other national CCH system) would have interstate and national as well as intrastate impacts. A strong argument can be made that, regardless of the specific system structure, the Federal Government has the responsibility and authority to establish some kind of system standards.

From a legal standpoint, Federal action could be based on: 1) the criminal record information needs of Federal agencies as established by various Federal statutes and Executive orders (e.g., Executive Order Nos. 10450, 12065, and 10865); 2) the implementation of Federal regulations for State and local criminal justice information systems that have used Federal funding (title 28, Code of Federal Regulations, pt. 20); 3) the interstate commerce clause of the U.S. Constitution; and/or 4) the constitutional provisions (including the first, fourth, fifth, sixth, ninth, and 14th amendments) guaranteeing individual rights of privacy and due process.

Cost.—Throughout the 1970's, it was Federal Government policy to support the development of State CCH systems and the implementation of the Federal regulations. From 1970 to 1981, LEAA provided a cumulative total of about $207 million in categorical grants to the States for comprehensive data systems and statistical programs. About $39 million was for 145 CCH-related grants awarded to 35 different States. These grants peaked in 1976 and ended in 1981.

Thus, at present the States and localities would have to bear most of the cost of any national CCH system. The difficulty of finding "new money" or cutting back other expenses could discourage State participation. Financing could be particularly difficult for States whose criminal history record systems are not yet well developed, whose need for a national CCH system is not perceived to be great, and whose ability to pay is limited.

OTA did not independently estimate the cost of a national CCH system. The Federal share would presumably include some portion of the cost of Ident (which totaled about $58.7 million in fiscal year 1980 and whose full automation has been estimated at $50 million by JPL) and NCIC ($6.1 million in fiscal year 1981), plus the costs of Federal agencies participating in the system. The actual Federal share would depend on the specific alternative implemented, and whether or not further Federal support were provided to the States.

LEAA grants made a significant contribution to the relatively rapid development of State CCH systems during the last 12 years. OTA research has identified the following three areas as possible priorities for further funding: 1) improving court disposition reporting systems on a nationwide basis; 2) upgrading criminal history record systems in the States that are operating manually or assisting those in the process of automating their name index and/or file; and 3) improving procedures in all States where necessary to assure the accuracy and

completeness of criminal history information, to conduct audits of local users, to maintain and periodically review transaction logs, and to train employees and users.

Surveillance Potential.—The "flagging" of criminal records is a common monitoring or surveillance practice and an accepted law enforcement tool. Placing a flag on a file helps law enforcement personnel to keep track of the location and activity of a suspect whenever there is a police contact.

Concern has been expressed about the possible use of a national CCH system by Federal agencies—and particularly the FBI—for monitoring or surveillance of the lawful activities of individuals or organizations. To understand this concern, one must remember that the debate over a national CCH system began in the late 1960's and early 1970's, a time when the FBI was engaged in domestic political intelligence and surveillance activities with respect to, for example, civil rights and anti-Vietnam War leaders and groups. Also during the early 1970's, the FBI made very limited use of NCIC for intelligence purposes which, although strictly law enforcement in nature, had not been authorized by Congress.

Since that time, the FBI has rejected all requests or proposals for intelligence use of NCIC.* During the course of the OTA study, FBI officials have repeatedly stated to Congress and to OTA that they will not permit Ident or NCIC to be used for unauthorized purposes of any kind. FBI officials do not believe that a national CCH would have any significant surveillance potential and would represent little, if any, danger to law-abiding citizens. Strong and independent policy control over a national CCH system and tight restrictions on noncriminal justice access, coupled with outside audit and explicit statutory guidelines for operations, would help protect against the possibility—however remote —that a national CCH system could be used at some point in the future in violation of first amendment or other constitutional rights. In comments to OTA, various criminal justice officials have suggested a statutory prohibition on intelligence use of III or any other national CCH system. On the other hand, some State officials have noted that there may be legitimate intelligence and surveillance applications, and that these possibilities should not be abandoned solely because of their sensitivity.

Message Switching.—As noted earlier, unless all criminal history records were stored in one place (e.g., a national CCH repository) a national CCH system would require some electronic means to transfer records (and inquiries for such records) among and between the various State and Federal repositories and participating agencies. The

*As of September 1982, the Department of Justice and the FBI had approved but not yet implemented a U.S. Secret Service proposal to establish an NCIC file on persons judged to represent a potential threat to protectees, including the President. This could involve the use of NCIC to gather intelligence data on or track individuals not formally charged with a criminal offense.

transfer or switching of messages from one State to another through the NCIC computer has been a point of controversy over the last 12 years. Some message switching alternatives have raised questions about the impact on Federal-State relations and the potential for monitoring and surveillance. For example, in 1973, the FBI proposed to have NCIC assume all law enforcement message switching (not just NCIC/CCH traffic), including messages sent over NLETS. As a result, Congress has denied the FBI authority to perform message switching, defined as "the technique of receiving a message, storing it in a computer until the proper line is available, and then retransmitting, with no direct connection between the incoming and outgoing lines."* More specifically, the Department of Justice (DOJ) was prohibited, without explicit approval of the House and Senate Judiciary Committees of Congress, from "utilizing equipment to create a message switching system linking State and local law enforcement data banks through equipment under the control of DOJ or the FBI."** In addition, congressional approvals in 1979 and 1980 of the FBI's requests to upgrade NCIC computer technology were conditioned on the FBI's commitment not to use such technology for message switching.

There are several message switching alternatives for III. First, inquiries could be switched via NCIC, with records returned via the NLETS message switching system. This approach was used in the III pilot and Phase 1 tests. The routing of inquiries through NCIC has been termed "automatic inquiry referral" and is a form of partial message switching. Second, both inquiries and records could be switched via NCIC. Third, both inquiries and records could be switched via NLETS. Fourth, records could be switched via NLETS and inquiries via NCIC or NLETS. Fifth, the use of NCIC or NLETS could be optional for switching of both inquiries and records. OTA has not evaluated these alternatives in detail, although all appear to be technically feasible. In making a complete evaluation, message formats and purpose codes, costs to the States and the Federal Government, response time, and message privacy and security all need to be considered. In any event, any DOJ or FBI message switching role in a fully operational III (or other national CCH system) would probably require congressional approval.

Congressional Policy Considerations

As noted earlier, the emerging consensus among Federal and State law enforcement and criminal history record repository officials supports the national index concept known as III. However, full implementation of III (or any other national CCH system) raises a number

*Department of Justice Appropriation Authorization Act of 1980.
**Ibid.

of issues that warrant congressional attention to ensure that beneficial impacts are maximized and adverse impacts are controlled or minimized.

Policy Control.—Considerable debate has focused on which agency or organization should have direct policy control over a national CCH system. Suggestions include a consortium of States, a broadened and strengthened NCIC's Advisory Policy Board, an independent board, and/or the FBI. For example, a broadened and strengthened Advisory Policy Board could include greater representation from the prosecutorial, judicial, correctional, and public defender sectors of the criminal justice community than at present, and could include an "advise and consent" role, at least with respect to State and local participation in a national system. There are many other possibilities, but the key issue is how to devise a mechanism that will effectively represent the interests of the diverse users of a national system, and afford them a strong and possibly controlling policy role.

File Size and Content.—Under the III concept, the national index would include only names and identifying information (e.g., height, weight, social security number, and State and Federal criminal identification numbers). Proposals have been made to limit the index to entries on violent or very serious offenders, that is, for crimes included in the FBI Crime Index. However, this would exclude entries for drug, weapons, drunk driving, and other offenses generally considered to be serious but not included in the FBI Crime Index. At the other extreme, a totally unrestricted index could include entries on as many as 36 million persons. Other national index issues include the need for policies on limited retention periods for some entries and on the handling of juvenile offender records.

Record Quality.—With a national index, the FBI would no longer maintain non-Federal records, and the problems of record quality in Ident and NCIC/CCH would be reduced. However, the quality of records maintained by the States, as well as the quality of any index based on those records, would still be a matter of concern. Record quality could be strengthened by tightening the disposition reporting requirements and/or requiring confirmation of records lacking disposition data with the originating agency prior to any dissemination. In the opinion of some, the latter requirement would be costly and impractical. The progress made by many States in recent years indicates that improved disposition reporting is possible, but continued improvement would require a significant further commitment measured in manpower, dollars, and system improvements at the State and local levels.

Noncriminal Justice Access.—Significant noncriminal justice use of Federal and State criminal history record systems, coupled with widely varying State statutes defining authorized users and State policies on sealing and purging, has generated concern about control of access to criminal history records. Noncriminal justice access to

a national index could be prohibited, although this would conflict with many Federal and State laws. Noncriminal justice access could be permitted, but only under stronger Federal guidelines than presently exist. A dual index could be established, one for criminal justice use and a second for noncriminal justice use, perhaps with the latter based on disposition or conviction information only. Even under the status quo, access to a national index would require complicated safeguards (which are technically feasible with a computer-based system) to be consistent with the wide variety of existing State laws and regulations, and would require some means to resolve conflicts between State laws, and between Federal statutes and Executive orders and State laws.

Oversight and Audit.—The purposes of new oversight mechanisms would be to help assure Congress, the public, and others that a national index (or any other national CCH system) is operating within the boundaries of law and regulation, and to help identify any problems that may emerge. Oversight is closely linked to system audit. Several possibilities have been suggested. First, Congress could require an annual management report on the operation of a national CCH system. Second, Congress could require periodic audits of Federal and State CCH files to help ensure compliance with whatever system standards may be established. To keep costs down, the audits would presumably be conducted by sampling Federal and State files on a rotating and perhaps unannounced schedule. Any Federal audit authority, whether by GAO or some other body, would appear to require new Federal legislation and/or regulations.

Public Participation.—NCIC's APB is the only direct avenue of public participation in the governance of the existing NCIC/CCH system. However, at present APB does not include representation from the general public or from public defenders. Public defenders feel strongly that they should be represented on any policy board established for a national CCH system and that defense interests should have access to that system. The experience of Alameda County, Calif., where public defenders are considered to be part of the criminal justice community, has been that public participation in oversight can help ensure accountability of criminal justice record systems and can be beneficial in terms of system performance.

Comprehensive Legislation.—Legislation represents one of the strongest measures to provide Federal direction and ensure accountability and control. It could provide explicit authority for a national index or other national CCH system, and include statutory guidelines for its operation and use. In addition to the areas listed above, legislation could establish access, review, and challenge procedures; criminal penalties; privacy standards; funding for computer-based user audits and disposition monitoring procedures; and uniform crime codes and criminal history record formats. Legislation could also cover areas discussed earlier such as intelligence use, message switching, and funding for development of court disposition reporting and State criminal history record systems.

III Development Plan.—In order to develop important additional data from the III test now under way, Congress may wish to consider whether the plan should be revised so that: 1) some or all of the participating States can be tested with no NCIC message switching as well as with partial message switching (known as automatic inquiry referral); and 2) record quality research can be conducted.

AIDS/CCH Consolidation.—At present, the Ident/AIDS and NCIC/CCH files duplicate each other to a significant and growing extent. Any AIDS/CCH consolidation is likely to have a significant impact on the cost of FBI criminal history and identification services and could be an integral part of a national CCH system. Congress may wish to request the preparation of several alternative consolidation plans, including the possible creation of a new National Criminal Information and Identification Division of the FBI which would combine Ident, NCIC, and related activities. Congress may also wish to examine the pros and cons of shifting management of a national CCH system to a new bureau within DOJ or elsewhere.

NOTE: Copies of the full report "An Assessment of Alternatives for a National Computerized Criminal History System," can be purchased from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402, GPO stock No. 052-003-00896-3.

Assessments in Progress as of October 1982

Alternative Energy Futures
Industrial and Commercial Cogeneration
Strategic Responses to an Extended Oil Disruption
Potential U.S. Natural Gas Availability
The Future of Conventional Nuclear Power
An Assessment of Nonnuclear Industrial Hazardous Waste
Wood: The Material, The Resource
Technologies To Reduce U.S. Materials Import Vulnerability
Impact of Technology on Competitiveness of U.S. Electronics Industry
Strategic Command, Control, Communications, and Intelligence Systems
Technology Transfer to the Middle East
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Technologies To Sustain Tropical Forest Resources
Plants: The Potentials for Extracting Protein, Medicines, and Other Useful Chemicals
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Medical Technology and Costs of the Medicare Program
The Medical Devices Industry
Comparative Assessment of the Commercial Development of Biotechnology
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Publications Available

OTA Annual Report.—Details OTA's activities and summarizes reports published during the preceding year.

List of Publications.—Catalogs by subject area all of OTA's published reports with instructions on how to order them.

Press Releases.—Announces publication of reports, staff appointments, and other newsworthy activities.

OTA Brochure.—"What OTA Is, What OTA Does, How OTA Works."

Assessment Activities.—Contains brief descriptions of assessments presently under way and recently published reports.

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Mr. WOOD. Thank you very much.

I would like to emphasize the major findings of our study. First of all, we concluded that the United States already has a national criminal history system.

As Dr. Andelin mentioned, 27 of the States have computerized criminal history files, as does the Federal Government, at least partially. There are over 60 million criminal records at the State and Federal levels, and approximately one-third are computerized right now. So the issue is not whether to have a national system; the issue is whether the current system that we have now is working well enough.

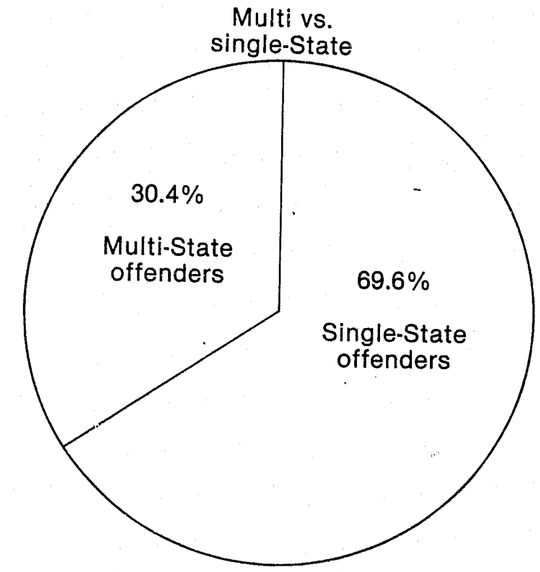
After looking at this entire area, OTA reached a conclusion that the current system, while showing significant improvement over the last decade, is still not fully meeting legitimate criminal justice needs, nor is it fully protecting privacy and individual rights. We still have considerable progress to make to have a system that meets both criminal justice needs and the need to protect privacy and individual rights.

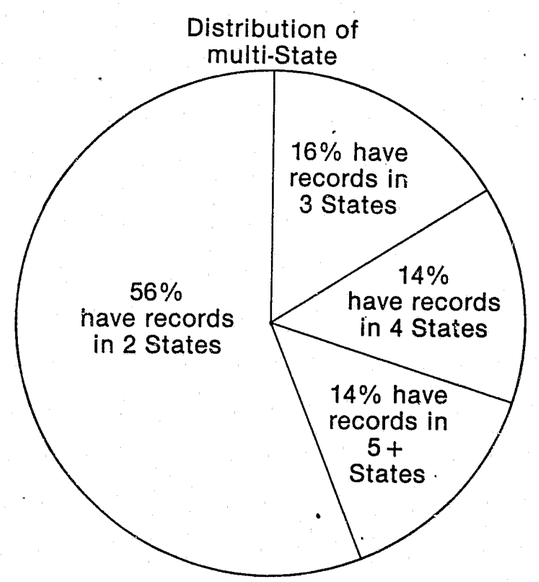
There were several problems that OTA identified with respect to the current system. One is a slow response time for getting records of multi-State offenders. I would like to call your attention to chart No. 3, which illustrates our findings in that regard.

[Chart 3 follows:]

Chart 3.

Multi-State Offenders





NOTE: About 75 percent of Multi-State offenders have arrests in at least one noncontiguous State.
SOURCE: Office of Technology Assessment sample of FBI Ident file, 1979.

Mr. WOOD. We did confirm the significant percentage of multi-State offenders. In fact, we found that 30.4 percent of serious offenders have records in more than one State. But even more importantly, many of those offenders have records in three, four, five or more States, and additionally, we found that 75 percent of the multi-State offenders have records in at least one noncontiguous State.

So we did determine that in fact there is significant interstate mobility, and that there is a need for interstate exchange of criminal history records. The problem is that as it stands now, it is very difficult to get that information on a timely and complete basis, in a way that will meet the needs of the various components of the criminal justice system that you identified in your opening statement.

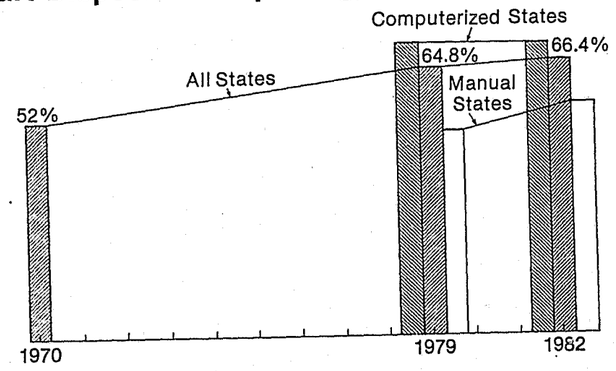
A second problem is record duplication. As it stands right now, there are millions of records that are maintained both at the State and Federal level. This is a problem that is, hopefully, going to be addressed by the Interstate Identification System, which I will mention a little bit later.

A third problem area which we think is perhaps the most important is record quality. I would like to call your attention to chart No. 4, which outlines some of our findings on record quality. The No. 1 problem within record quality is incomplete disposition reporting.

[Chart 4 follows:]

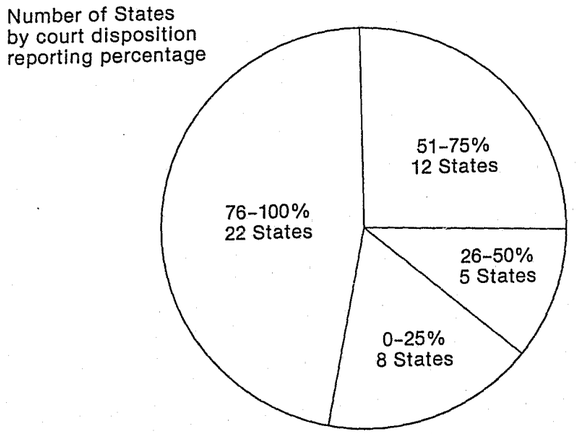
Chart 4.

Court Disposition Reporting, 1970, 1979, and 1982



SOURCE: GAO, LEAA, and Office of Technology Assessment.

Court Disposition Reporting, All States, 1982



SOURCE: Office of Technology Assessment, 1982.

Mr. WOOD. We conducted surveys of the States in 1979 and 1982. We also did sampling of the FBI's criminal record files. The results show, without a doubt, that about one-third of the dispositions that are taking place are not being reported to State and Federal repositories.

Now, as you can see from the chart, there has been some improvement since 1970, but over the last several years there really has been very little improvement in the overal national average, although surprisingly we found that the manual States have come up a bit. However, computerized States still do better on disposition reporting than manual States.

Another aspect of the record quality problem is incomplete record updating. As a person passes through the criminal justice process, different actions are taken, different information is generated. This information is not getting into the record anywhere near as much as it should. Record quality problems can compromise both public safety and constitutional and individual rights.

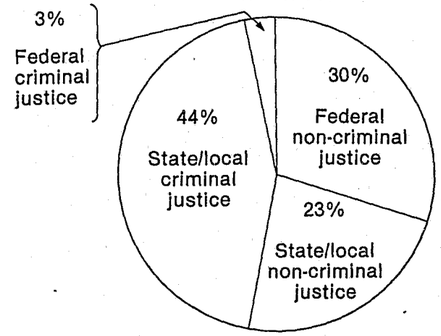
A fourth problem area is the substantial employment and licensure use, and I call your attention to chart No. 5. We found, based on our surveys at the State and Federal levels that in fiscal year 1981, roughly one-half of the use of the FBI's Identification Division was for employment and licensing purposes, and roughly one-fifth of use at the State level.

[Chart 5 follows:]

Chart 5.

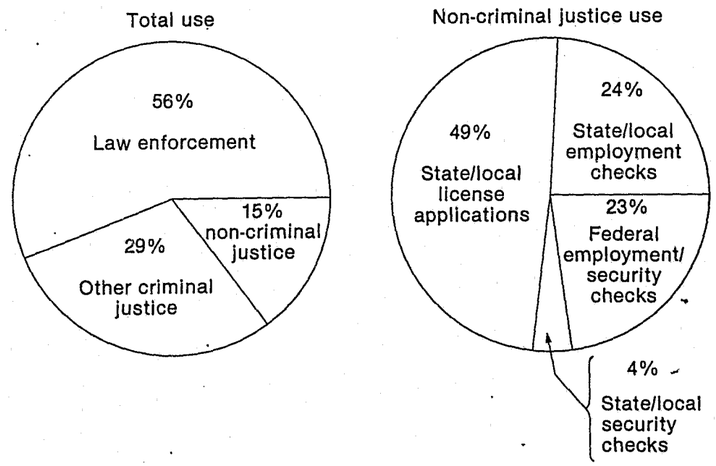
Criminal History Record Use

FBI/Ident Use



SOURCE: FBI, 1981 (6.8 million fingerprint cards received by Ident).

State CCH File Use



SOURCE: Office of Technology Assessment, 1979 and 1982 (for 27 CCH States).

Mr. WOOD. The question then, what does this mean for Congress, and what should Congress do? We feel that it is important that Congress seriously consider action in four priority areas.

No. 1, record quality. We feel that there is a need to carefully examine tightening the record quality standards, because a national system will critically depend on the quality of the records for its success.

No. 2, noncriminal justice access. It seems essential that there be a Federal resolution of the existing conflicts amongst the many State laws on employment and licensing access and, particularly, on the use of nonconviction information, and the dissemination of that information for noncriminal justice purposes.

No. 3, in terms of priority action, is policy control. We feel that it is very important that a policy advisory mechanism involve all sectors of the criminal justice community.

And finally, record content. As it stands now, there is wide disparity among the States, and congressional action is certainly in order to rectify that so that there is consistency and uniformity in the records that are exchanged.

Mr. Chairman, I thank you. I would be happy to answer any questions that you might have.

Senator MATHIAS. Let me ask you first this question.

How long was this assessment in the making?

Mr. WOOD. This study ran approximately 4 to 5 years.

Senator MATHIAS. It goes back as far as I can recall, to about 1978, is that roughly correct?

Mr. WOOD. That is correct.

Senator MATHIAS. Now, in the 5 years since 1978, there has been a substantial amount of technological progress in the computer area.

Was there any monitoring of this technological advance, as you went along?

Mr. WOOD. Yes, as a matter of fact, one of the realities that we had to face with the study was that the real world was changing, and in fact we had to update the study two or three times, so that it would reflect reality.

The technology has come a long way, and many States are using it, and we had to deal with that.

Senator MATHIAS. And when was the assessment first published?

Mr. WOOD. The assessment report was published in October of 1982.

Senator MATHIAS. So there has been 6 months, or a little more, to get public reaction?

Mr. WOOD. That is correct.

Senator MATHIAS. If you had it to do over again, would you change anything as a result of this public reaction?

Mr. WOOD. Well, frankly, the public reaction to the report has been very favorable. We have had a substantial amount of press coverage in the New York Times, San Francisco Chronicle, St. Louis Post-Dispatch, and elsewhere, and the newspapers generally feel it is a very important national issue.

Senator MATHIAS. One thing that might be helpful, because I think it will come up throughout the afternoon, is a discussion of the interstate identification index.

Do you want to say anything further about that?

Mr. WOOD. Sure, I will be happy to. We did look at a range of alternatives in our study, all the way from a full record national repository, where all records would be computerized in one national data bank, to the other extreme, where there would be basically no national system, and it would be like a telephone party line, everybody would call everybody else.

The index is a balancing act that provides a central focus, an index of offenders, but at the same time permits the records themselves to be maintained by the States or the Federal Government, respectively. It is technically feasible, in our opinion; it does use, or could use, or should use new computer and communication technology, and it can potentially provide faster record access and quicker dissemination.

But on the other hand, it will not, in and of itself, solve the record quality problems; it will not, in and of itself, solve the problems with noncriminal justice access.

Senator MATHIAS. So that is one of the reasons for your recommendation that we need further quality control?

Mr. WOOD. That is correct. We found significant record quality problems at the FBI level, as well as at the State level.

Now, the interstate identification index will solve some of the FBI record quality problems, but it will not automatically improve record quality at the State level.

Senator MATHIAS. Now, as I understand it, there has been no access to the interstate identification index by noncriminal justice use, is that correct?

Mr. WOOD. Up to this moment, that is correct. Yes. And that is a major issue that is going to have to be addressed.

Senator MATHIAS. Why not continue that policy?

Mr. WOOD. Because if the III becomes the national system that is adopted and implemented, and if noncriminal justice requests are not permitted to use that index, that will require the FBI, or somebody else, to maintain a separate file for employment and licensing purposes. This would defeat one of the major objectives of the III in the first place, which is to get away from a national full record repository.

Senator MATHIAS. Now, you talk about resolving conflicts in State law. Very delicate job, particularly in the view of the chairman of the full committee, who has a high regard for State law.

How do you propose to resolve that conflict?

Mr. WOOD. We believe that while there are differences, obviously, among State laws on these subjects, there are some commonalities. There is some common ground, and we would suggest looking for some minimum national standards that can be reasonably met and be reasonably consistent with most of the State laws. It is obviously going to be impossible to have an approach that will be consistent with every State law, but we think minimum national standards are possible, because very significantly, almost every State now has made some progress in establishing their own State criminal record privacy laws.

This is a radical change from the early seventies, when very few States had their own laws.

Senator MATHIAS. Well, you have given this committee and the Congress an assignment that will keep us busy for a while.

I just promise you that when we get to work on your assignment, we are going to have to call on you for further assistance.

So we thank you very much for being here today.

Mr. WOOD. Thank you.

[The following questions and answers were subsequently received for the record:]

FOLLOW-UP QUESTIONS AND ANSWERS

Question 1. As you graphically demonstrate in the report, the problem of record quality continues to plague the national criminal history records system, although there are some signs of improvement. You suggest that Congress ought to consider setting quality control standards. What do you think those standards should be? Is the goal of 100 percent disposition reporting realistic? If so, when should we require it to be attained?

Answer. Record quality is important for the efficiency of many law enforcement and criminal justice decisions that use or rely on criminal history records, as well as to the protection of individual and constitutional rights (especially including privacy, due process, and equal protection of the laws). Congress previously has recognized the importance of record quality in enacting Public Law 91-644 (Sec. 519(b)) and Public Law 93-83 (Sec. 524(b)) which emphasize the need for complete and accurate criminal history information. However, to date Congress has not set specific standards for record quality.

Should the Congress wish to establish record quality standards (perhaps concurrent with action on the Interstate Identification Index (III) concept), OTA has concluded that, at a minimum, the standards should incorporate several key provisions based in part on 28 CFR 20.21(a) and *Tarleton* v. *Saxbe* (1974, U.S. App. D.C.).

First, the standards should assign responsibility for State criminal history record quality to the State criminal record repositories, and responsibility for Federal record quality to the FBI. That is, the States and FBI would be legally responsible for maintaining complete and accurate records in their respective repositories. The quality of records exchanged via III will depend fundamentally on the record quality in the State and FBI repositories.

Second, the standards should establish mandatory disposition reporting requirements for all arrests entered into the III. That is, dispositions must be submitted to the State repository (or to the FBI for Federal offenders) for any arrests that are indexed in III. As of 1982, OTA estimates that about two-thirds of the States had statutes or formal agreements that mandate reporting of dispositions.

Third, the standards should set a mandatory disposition reporting period of, at a maximum, 90 days, which is the standard in 28 CFR 20.21(a)(1). While a majority of States are not in substantial compliance with the 90-day reporting requirement (e.g., 25 of 47 States surveyed by OTA in 1982 report that 25 percent or more of dispositions are never reported), no State official interviewed by OTA recommended relaxing the standard. Indeed, some support was expressed for tightening the disposition reporting period to 60 or even 30 days. Sixteen States surveyed by OTA indicated that dispositions are reported in 30 days or less. In Minnesota, roughly 80 percent of all final dispositions are reported within 1 to 2 days after the disposition occurs, and almost all are reported within 5 days.

Fourth, the standards should require that any record repository State or the Federal not in compliance on disposition reporting (as determined by audit) must check on the disposition status prior to dissemination of the record. This is similar to the check required by 28 CFR 20 (a)(1), except the disposition status check would take place only for States out of compliance, not for all disseminations by all States.

Fifth, the standards should establish mandatory routine record quality checks (the FBI and 35 of 46 States surveyed by OTA already do this) and a mandatory annual record quality audit. OTA found that, as of 1982, the FBI and 36 of 49 States surveyed had never conducted such an audit. Audits are essential as a means to compare the contents of State and local files to determine to what extent the State records are complete and accurate. In the event a State is unable to conduct such a record quality audit, the standards should give the authority (and perhaps funding) to the FBI or some other entity (e.g., the General Accounting Office or Advisory Policy Board or a new advisory group) to do the audit.

As to whether 100 percent disposition reporting is realistic, OTA found a few States that (by their own estimate) have already achieved this level. So it can apparently be done. Nonetheless, at present most States repositories (as well as the FBI) are missing dispositions for, on the average, about one-third of the arrests where a disposition actually occurred but was not reported. Of course, States with currently low disposition reporting rates (e.g., 13 of 47 States surveyed by OTA estimated 50 percent or less disposition reporting) cannot be expected to improve dramatically just because a reporting requirement is established. But rapid improvement is possible, as demonstrated by North Carolina, which increased disposition reporting from 26 percent to 61 percent over a 5- or 6-year period.

One approach would be for Congress to establish a goal of full and complete disposition reporting and direct the U.S. Department of Justice (perhaps in collaboration with the U.S. Supreme Court) to develop a realistic plan and schedule for each State (and the FBI) to achieve this goal. Congress could also provide funding to assist States in upgrading court information systems, establishing standardized court reporting procedures, improving the coordination between judicial and other criminal justice agencies responsible for timely update actions, strengthening field audits of reporting procedures and record quality, and other measures where needed to improve disposition reporting.

As a very rough approximation, OTA estimates that with a concerted effort, close to 100 percent disposition reporting for those arrests indexed in the III might be achieved on a nationwide basis within 5 years. OTA estimates that, of the 47 States responding to OTA's 1982 survey, 13 States might be able to achieve 100 percent reporting in 1 year or less, 9 States in 2 years, 12 States in 3 years, 5 States in 4 years, and 8 States in 5 years. These estimates are based on 1982 levels of disposition reporting, and apply only to arrests that would be both reportable to State repositories and indexed in the III. Thus most minor and many misdemeanor offenses presumably would be excluded.

Question 2. How does the continued evolution of information technology affect the matters raised in your report? Does the newest technology bring with it new dangers to privacy or to efficient administration of the criminal justice systems? Does it also provide new opportunities for curing some of the problems which you raise?

Answer. The continued evolution of information technology (e.g., faster, cheaper, smaller computers) is a two-edged sword. On the one hand, the technology permits much faster interstate (or, for that matter, intrastate and regional) exchange of criminal history information. If that information is complete and accurate, then criminal justice decisions that rely in any significant way on criminal history records would presumably be enhanced. On the other hand, if the information exchanged is incomplete or inaccurate, then criminal justice decisionmaking could be impaired to the detriment of public safety, the administration of justice, and individual rights.

The same dichotomy applies to the use of criminal history records for purposes other than criminal justice, such as employment and licensing decisions. Here the potential dangers to privacy result from the fact that incomplete and inaccurate information can be most harmful to the employment and rehabilitation prospects of individuals.

On balance, however, if used properly with adequate controls, oversight, and accountability, information and computer technology can contribute to better record quality. Especially for the larger States, computers are essential for managing the large volume of criminal history records and updates. With proper quality controls, computerized systems can achieve high levels of record quality and can facilitate the maintenance of transaction logs (to monitor use patterns and develop audit trails) and the implementation of internal and external quality checks.

But technology alone cannot solve all the problems of record quality. Fundamentally, high record quality requires high levels of cooperation between the law enforcement, prosecutorial, judicial, and correctional sectors. While information technology is an important tool, its proper use requires a cooperative working relationship within the criminal justice community. This is partly why the OTA study concluded that the policy advisory mechanism for the III should include substantial representation from all criminal justice sectors (as well as some users and stakeholders from outside the criminal justice community).

Finally, on the negative side, any national computerized system like the III has the potential for surveillance and monitoring of individuals or groups beyond those with prior criminal records or outstanding warrants. A direct tie-in or cross-indexing between the III and other NCIC files (e.g., wanted persons) is already under consideration. The Secret Service file recently established in NCIC illustrates how any category or group of individuals could be entered into the computer system and sub-

jected to nationwide surveillance and tracking. Regardless of the merits or demerits of the Secret Service file, OTA notes with considerable concern that such applications apparently do not at present require explicit statutory authority. The OTA study concluded that Federal legislation and strong accountability and oversight measures are the best mechanisms to ensure that the III and NCIC are not used at some future time for surveillance purposes lacking explicit authority in public law.

Question 3. Would technological advances be helpful to us in the area of noncriminal justice access? For example, isn't it possible to set up barriers to access which can be breached if a request is for a certain kind of information, for a certain purpose? For example, arrest records would not be generally available for employment inquiries; but records of arrest for certain specified offenses against children would be made available to authorized inquiries from schools or day care centers. How difficult would it be to devise such a partial access system?

Answer. Yes, computer technology would permit a system of partial access whereby certain kinds of requests for other than criminal justice purposes (e.g., employment and licensing) would be permitted access to specified categories of criminal history information. In fact, computers are frequently used today for similar applications in the private sector.

To implement such a system the rules of access via, say, the III would have to be agreed upon at the policy level by the States and the Federal Government. This agreement could be reached through user agreements or an interstate compact, but Federal legislation or regulations would be the most likely (and probably most expeditious) route.

Second, a set of access and offense codes would have to be developed and agreed to. NCIC already uses a very simple set of access (or purpose) codes. These would have to be expanded in order to distinguish between the types of requests that would have different levels of access to criminal history information. NCIC and the FBI's Uniform Crime Reports program both have offense codes which could be modified for use in the III.

Third, all of the participating States and the FBI would have to program their computers and records to use the agreed upon codes.

Apart from the difficulties in reaching agreement on rules for access for other than criminal justice purposes (i.e., noncriminal justice access), the cost of reprogramming computers and records could be substantial. In addition, some States (e.g., California) at present are of the opinion that there should be manual intervention (human review and processing) for such requests and that automated responses should not be permitted.

Overall, the partial access approach is more difficult to implement in a decentralized system like the III than in a centralized system. The reason is that, as presently envisioned, the III would not know the types of offenses included in the records requested or whether or not a disposition has occurred or how long it has been since the arrest. The index would contain only identification information and a listing of the State(s) holding a criminal history record on a specified individual. The index would contain no criminal history record information. Therefore, the record requests resulting in a hit against the index would have to be routed to the repository (or repositories) holding the record for a determination as to whether access is permitted to the information included in the record for the purpose stated. Special protections would be required to ensure that hit information was not disseminated if no record was releasable.

In sum, the technology is available to implement an automated partial access system. But the cost of automating a complex coding scheme is likely to be substantial, and some States may not view such information as either necessary or desirable. The higher priority would seem to be reaching a nationwide consensus on rules of noncriminal justice access via the III. This consensus could then be incorporated into statutory or regulatory language. Inquiries would be routed over III with the appropriate purpose code included, and States would respond in accordance with the agreed upon access rules. But whether or to what extent the State repository response was automated or manual would be left up to the States, at least for the time being.

Another alternative is, of course, to maintain a centralized criminal history file to respond to noncriminal justice requests. This would be much easier and less costly to program than 50 State files, but would defeat a major purpose of the III. As indicated by the few States (15) that have ever participated in the FBI's own computerized criminal history program, most States prefer the III concept where the records and responsibility for record quality and record dissemination remain at the State level.

An additional alternative would be for the FBI to serve as the record broker. Requests would be based on fingerprint cards or State or Federal identification number. If there was a hit on the III, the FBI would send inquiries to the States, assemble the record information received from the State, and provide the inquiring agency with only the information permitted under national standards. If no information was releasable, the FBI would respond, as they do now, in a way that does not indicate whether or not a record exists but only that there is no record meeting dissemination standards. This would put the FBI in a de facto full record message switching role for noncriminal justice requests.

Senator MATHIAS. Our next witnesses are composed of a panel, Mr. Kier T. Boyd, Deputy Assistant Director, the Federal Bureau of Investigation; Conrad S. Banner, and Mr. David F. Nemecek.

Gentlemen, happy to have you with us.

I did not explain to the last witnesses that these lights are not an obsession I have with Christmas, or anything of that sort. We try to hold you to our agreement that the statements will be limited to 10 minutes. When you are getting close, the yellow lights will flash, and then the red lights, but the full statement will be included in the record, of course.

STATEMENT OF KIER T. BOYD, DEPUTY ASSISTANT DIRECTOR, TECHNICAL SERVICES DIVISION, FEDERAL BUREAU OF INVESTIGATION, DEPARTMENT OF JUSTICE, ACCOMPANIED BY CONRAD S. BANNER, DEPUTY ASSISTANT DIRECTOR FOR THE IDENTIFICATION DIVISION, AND DAVID F. NEMECEK, CHIEF, NATIONAL CRIME INFORMATION CENTER (NCIC) SECTION

Mr. BOYD. Good afternoon, Mr. Chairman.

On my left is Dave Nemecek, who is the chief of the NCIC section, and Bud Banner on my right, the Deputy Assistant Director for the Identification Division.

As you are probably aware, the Bureau has two criminal justice records systems; one, for positive identification, is in the fingerprint area, that is what Mr. Banner represents; each day approximately 25,000 fingerprint cards come in to the Bureau, where they are first searched with the name and identifying data of the information appearing on the card. If an indentification is not made, then the technical search is done.

Senator MATHIAS. Can I interrupt you just to ask, is the Fingerprint Division now fully operative?

Mr. BOYD. Fully operative, or fully automated?

Senator MATHIAS. Well, there was going to be a moratorium in which some reduced activity would——

Mr. BOYD. That is over.

Bud, do you want to address that?

Mr. BANNER. Yes, we had suspended employment and licensing types of searches during fiscal year 1982, and at the start of fiscal year 1983, those services were restored.

Senator MATHIAS. You are back to full activity now?

Mr. BANNER. Yes, sir.

Senator MATHIAS. All right.

Mr. BOYD. Mr. Chairman, turning to the automation efforts, the first attempt at having something instantly retrievable, beyond a name search, was back in 1971 with the computerized criminal history system. Several architectures were proposed. The one that eventually emerged was a centralized system where the Bureau

maintained not just the identifying data on an individual, but also his criminal record.

The system probably at its height had maybe 12 States participating, but it obviously was not what was needed. In 1978, the concept of the III was brought into existence. The first test with that was with the State of Florida. We subsequently enlarged that to other States who have been in the old CCH system; to date, we are just beginning—in fact, we began at the beginning of this month an expanded system where 15 States and the Federal Government will participate.

Under that concept, the FBI maintains both the identification information and the criminal record of Federal offenders. If an inquiry is made against the State offender, it goes against the index. The index points to a State which holds that record, sends a separate message to the State telling them that a request has been made and who is making it.

It also advises the inquiring State where the record is located. At that point, NCIC backs out of it and the State holding the record and the State which has made the inquiry get together generally through the inlets system. I guess we share the views that have been expressed both by you and the previous speaker on the matter of the quality and timeliness.

The Advisory Policy Board—and you will hear Mr. Wynbrandt speaking in a few minutes—has been very good in looking at what we can do to improve the quality of the data which is in the system.

One thing that we are starting, and Mr. Nemecek has just come back from it, is an onsite audit where the FBI will go down and work with the States to determine what can be done to improve quality of records.

Another area is what can be done to improve disposition reporting. We have looked at the sample States to find out, is there any commonality between what a State with good disposition reporting has and one which does not.

We find that there are common characteristics in the good systems. The first is the use of a multiple part form where the form can go with the person as he travels through the criminal justice system.

That form also has a number so that in the event the charge is charged, particularly through plea bargaining, this helps to follow it so that you are not trying to match a person's name and an offense charged and then later a name which may or may not be the same and a different charge under which a person has been convicted.

Also, another thing we found is mandatory disposition reporting time including followup. We, of course, do not have a national legislation about disposition reporting. We are in the NCIC section following up dispositions to make sure that as best we can the information does get back and into the system accurately.

These are a few of the initiatives that we have undertaken. We look forward to working with the committee and others in the hope to improve the III system as it goes from first its stage with just one State into the present 15 States, and we hope eventually to all States.

At this time I would be happy to respond to any questions of the chairman.

Senator MATHIAS. I would like to start by considering the rate of progress that goes on here. I just met at lunch with a group of lawyers, and we were talking about how the Constitution is going to look in the 21st century when computers do even more things than they can do today. What sort of constitutional questions will come up as a result of the use of computers?

With the advent of the microcomputer, more and more agencies have the capability of storing information, and it is certainly a lot easier to transmit information from one computer to another.

So that information gleaned from one authorized user of the new system, for example, a police headquarters, State police, could be instantly redisseminated to all of the local police around the State, obviously including a whole bunch of people who actually had no need to know in that particular case. It could be picked up and stored in sheriff's computers and may be there long after it has any relevance or value.

Could you outline the FBI's policy and how you plan to monitor NCIC users to insure compliance?

Mr. BOYD. All right. There are standards for the NCIC system as a whole which includes the first CCH and now the III file as to who is able to access it and the means by which they access it.

These are standards which are placed on the users and I mentioned a few minutes ago, we will perform audits to make sure they are working.

As far as the information getting to someone who——

Senator MATHIAS. There is no physical way to block them. You can audit and see who is observing, but there is no kind——

Mr. BOYD. You cannot block them. However, you can go back into the system and see, for instance, who has accessed a particular record; because on the NCIC system you have a log tape. Whoever inquires against that file, we have the identifier of the agency which has made that inquiry. We know when the inquiry was made, what the inquiry was, and what the answer is.

So you can go back and through a system of taking some of these, obviously, you cannot take all of them, but taking some of these, you can go back to determine if these were legitimate requests made of the system.

Senator MATHIAS. But then you would have to go to that user, that recipient, and determine what they did with the information, whether they simply stored it or whether they transmitted it further.

Mr. BOYD. You would have—you would know to whom it went, specifically what he did with it. I would say you're down now to the State level.

Dave, would you have any comments, working closer with the users than I do, as to their desire and capability to take it merely beyond the technical point of the information being placed at a user terminal?

Mr. NEMECEK. I believe I could make several comments in response to the chairman's question. One of the minimum standards for participation in the III test is that you would not store in and/

maintained not just the identifying data on an individual, but also his criminal record.

The system probably at its height had maybe 12 States participating, but it obviously was not what was needed. In 1978, the concept of the III was brought into existence. The first test with that was with the State of Florida. We subsequently enlarged that to other States who have been in the old CCH system; to date, we are just beginning—in fact, we began at the beginning of this month an expanded system where 15 States and the Federal Government will participate.

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One thing that we are starting, and Mr. Nemecek has just come back from it, is an onsite audit where the FBI will go down and work with the States to determine what can be done to improve quality of records.

Another area is what can be done to improve disposition reporting. We have looked at the sample States to find out, is there any commonality between what a State with good disposition reporting has and one which does not.

We find that there are common characteristics in the good systems. The first is the use of a multiple part form where the form can go with the person as he travels through the criminal justice system.

That form also has a number so that in the event the charge is charged, particularly through plea bargaining, this helps to follow it so that you are not trying to match a person's name and an offense charged and then later a name which may or may not be the same and a different charge under which a person has been convicted.

Also, another thing we found is mandatory disposition reporting time including followup. We, of course, do not have a national legislation about disposition reporting. We are in the NCIC section following up dispositions to make sure that as best we can the information does get back and into the system accurately.

These are a few of the initiatives that we have undertaken. We look forward to working with the committee and others in the hope to improve the III system as it goes from first its stage with just one State into the present 15 States, and we hope eventually to all States.

At this time I would be happy to respond to any questions of the chairman.

Senator MATHIAS. I would like to start by considering the rate of progress that goes on here. I just met at lunch with a group of lawyers, and we were talking about how the Constitution is going to look in the 21st century when computers do even more things than they can do today. What sort of constitutional questions will come up as a result of the use of computers?

With the advent of the microcomputer, more and more agencies have the capability of storing information, and it is certainly a lot easier to transmit information from one computer to another.

So that information gleaned from one authorized user of the new system, for example, a police headquarters, State police, could be instantly redisseminated to all of the local police around the State, obviously including a whole bunch of people who actually had no need to know in that particular case. It could be picked up and stored in sheriff's computers and may be there long after it has any relevance or value.

Could you outline the FBI's policy and how you plan to monitor NCIC users to insure compliance?

Mr. BOYD. All right. There are standards for the NCIC system as a whole which includes the first CCH and now the III file as to who is able to access it and the means by which they access it.

These are standards which are placed on the users and I mentioned a few minutes ago, we will perform audits to make sure they are working.

As far as the information getting to someone who——

Senator MATHIAS. There is no physical way to block them. You can audit and see who is observing, but there is no kind——

Mr. BOYD. You cannot block them. However, you can go back into the system and see, for instance, who has accessed a particular record; because on the NCIC system you have a log tape. Whoever inquires against that file, we have the identifier of the agency which has made that inquiry. We know when the inquiry was made, what the inquiry was, and what the answer is.

So you can go back and through a system of taking some of these, obviously, you cannot take all of them, but taking some of these, you can go back to determine if these were legitimate requests made of the system.

Senator MATHIAS. But then you would have to go to that user, that recipient, and determine what they did with the information, whether they simply stored it or whether they transmitted it further.

Mr. BOYD. You would have—you would know to whom it went, specifically what he did with it. I would say you're down now to the State level.

Dave, would you have any comments, working closer with the users than I do, as to their desire and capability to take it merely beyond the technical point of the information being placed at a user terminal?

Mr. NEMECEK. I believe I could make several comments in response to the chairman's question. One of the minimum standards for participation in the III test is that you would not store in and/

or disseminate information from your State data bases, so I think we can start with certain policies that are in existence.

Senator MATHIAS. It would be a policy violation at the outset if they did it?

Mr. NEMECEK. It will be a policy violation at the outset, yes.

With regard to being aware of unauthorized or possible unacceptable uses, I think a very good argument can be made for the fact that this increased technology provides opportunity to log and monitor utilization of the information.

On the one hand we talk in terms of increased efficiency and delivery of information, but we also have the ability to log all transactions that are made on the system; and, in fact, good data processing practices require that you make this accounting.

But this is really not something new regarding to NCIC's system because the logging of transactions has been in existence since the late sixties when we started up the first file.

We do have requirements down to the terminal level itself, that transactions must be logged including the name of the individual that is accessing the record and the purpose for which the record is being accessed.

There is also a requirement that there be logging at the State level. There is also logging at the national level. There are, of course, I think Mr. Boyd intimated, a number of edits and controls that can be effected through the system. He did talk about, in terms of blocking, and I think the answer to your question is you can block certain types of access. There is capability to control who can have access to the information.

Senator MATHIAS. Now, on auditing, would these be random audits, unannounced, without notice?

Mr. NEMECEK. Well, the actual procedures are being finalized now. We have carefully considered what is the Federal Government's legitimate role. Having followed the history of these discussions, you may recall that what authority or control the Federal Government has over the States was a very sensitive issue.

We have generally defined our role as an audit of compliance by the State control terminal agency itself which is responsible for certain NCIC policies and procedures within the State; and really is the focal point in State for NCIC matters.

We are also requiring as a part of the minimum standards for participating in the III, that these States also have very specific efficiency and effectiveness audits throughout the State.

We questioned whether it was our role in fact to go down to every area of the State itself and likely intrude into the State and local business. Nevertheless, to insure that our policies are being complied with, we will be looking for such things as, is there a data quality program established at the State level; are they in fact running a data quality program? There are a number of areas that we are looking into.

The most difficult part about that is, do you rely on the State agency's assurances, or do you select some agencies below the State control terminal level to audit and thereby validate compliance with that policy? I think the answer is that you probably have to cross into a semigray area. In the audit tests that we just completed, we actually went with the representative of the State to four agencies in the State, for a minimal compliance type look.

Neither resources nor legitimacy dictates that we go to the detail level that we do feel that the States should be looking at.

Senator MATHIAS. No. 1, do you have all the authority that you need for these audits? Is there anything that you want from the Congress by the way of additional authority?

Mr. NEMECEK. Mr. Chairman, at this point I would like to reserve the answer to that question for about 6 months until we get that first audit up. We have two additional tests that we are going to attempt. I do know that what we have found so far is that the element has made NCIC work for the last 17 years—cooperation by the State and local agencies with the FBI with very minimal authority over the States—is again the primary vehicle to obtain State and local consent for us to come into the State to audit.

We were welcomed as an opportunity for the State to find out how they were doing. I think as long as we are careful how much we intrude into the States, we are in pretty good shape.

Now, of course, there are 50 States. We have 50 different governments to approach. And we obviously selected some of the least troublesome States first. It could be that in the future, Senator, that you could be of some assistance. I am not sure.

Senator MATHIAS. I think the committee would be interested in hearing from you at any time.

Mr. NEMECEK. Yes, sir.

Senator MATHIAS. As you describe it, really, you say you depend on cooperation, but there is also that little hint of a sanction there.

Mr. NEMECEK. What we have designed, Mr. Chairman, is, absent statutory sanctions other than for prosecution of a Privacy Act violation for an unauthorized dissemination of information, for example, an audit report which will provide for communication of the audit information throughout the State, up to and including the Governor's level in the State for the appropriate review and oversight by that State.

Among the ideas being considered by the NCIC Advisory Policy Board's committees working on this particular project are a classifying of levels of participation among the States, up to and leading to termination of services or exclusions similar to the types of sanctions that we have had in the past.

Senator MATHIAS. It is a sobering prospect.

Mr. NEMECEK. Yes, sir. Theoretically, it is possible that there might be a State which at some time would say to the Federal Government, "You have no authority over us." I think our ultimate sanction will be, as it always has been, to terminate the service. But as you are aware, there are some criminal sanctions. There are a number of State and local laws which assist us in prosecuting violations. Frequently, the answer is in the State itself.

Senator MATHIAS. Now, your Advisory Policy Board has suggested that the FBI conduct a study of the problem of noncriminal justice access to the interstate identification index. How are you going to do that? Who are you going to talk to? Whose opinions are you going to seek?

Mr. NEMECEK. OK. That particular subject of noncriminal justice access has been reserved to these later stages of the III testing.

What we have recently done within the last month is award one consulting contract to an attorney who has substantial experience with regard to the Federal law itself.

We are in the process now of reviewing a proposal that has been presented to us by Search Group, Inc. In acknowledgment of their expertise over a number of years in the States with regard to State and local law, we would be looking to awarding a contract to them for a similar type study pertaining to State and local law.

Now, the objective of the study is not to tie ourselves to any preconceived, philosophical, or other type notions that have pervaded within the last 15 to 17 years. We are asking that all authority be collected regarding what is law and what is policy, be it at the State, Federal, or local level.

We then ask that an array of alternatives be generated with pros and cons and, as we have been doing in our interstate identification index test, we would then deliver that particular study data including alternatives to all of the various groups that have been conducting the review, including the NCIC Advisory Policy Board. All of this data, of course, has been provided to the congressional oversight committees. We have attempted and hope that through this approach which is different from our ill-fated experiences with the computerized history file, to develop facts and data to be present for review.

I think there are a number of personal feelings, at least for some of us that have been involved for a number of years, that many philosophical, or preconceived notions of use of criminal history records or other ideas or thoughts have been the basis for battles rather than a factual battle. I know the chairman acknowledged earlier in opening this group, that it is the facts that should be the basis for this determination.

We are hopeful that we can deliver these facts through this controlled III test. The study goal most certainly would be to develop the facts and present them for review by all the policy makers.

Senator MATHIAS. Let me move on to a kind of a philosophical question.

OTA concentrates a good deal of attention on record quality and content. Whether, for example, the arrest record ought to be available if the charge was dismissed finally.

The FBI wrote a letter to a resident of Maryland some time ago saying that arrest data should remain available to at least the criminal justice agencies and the Federal agencies conducting employment checks because restricting access to this data would deny those agencies "the preponderance of criminal history information relevant to the determination of individual character traits, reliability and trustworthiness."

The letter continues:

> Remember, an arrest record is only an indicator that the trained investigator utilizes to conduct his further investigation. If the further investigation shows that the person did not commit the crime with which he was charged, that ends the matter. On the other hand, if that further investigation indicates that, yes, he did this deed, this is reflective of his character.

Does this raise any question about the very deeply held principle of presumption of innocence?

Mr. BOYD. I believe there is still a presumption of innocence there. I think the letter reflects the law enforcement view, and those who grant such things as security clearances, that this information is something which is useful and should be checked into.

Here, of course, we are relying primarily on the process being able to resolve the issue: did the person in fact commit the crime, and we are relying on the judgment of people to look at that to the overall view of what the investigation shows.

I do not think that there are any black and white answers in here. I do think the view that is expressed in that letter is one that would represent by far the majority view of those people who do look into suitability questions.

Senator MATHIAS. Well—accepting that for the moment—as far as trained investigators are concerned, this committee, for example, asks the advice of the Federal Bureau of Investigation on all judicial candidates, and your investigators who make those personnel checks for us are trained investigators.

They know what leads to follow and what weight to give those leads. But what happens if and when noncriminal justice agencies have access to the records?

Where do we go then?

Mr. NEMECEK. If I might partially respond to that, Mr. Chairman. Up to this point on the NCIC system, we have not disseminated criminal history information directly to a noncriminal justice agency. There has been a theory, at least, that there is a different level of sophistication as far as the utilization of these records is concerned. I believe that that is the point that you are emphasizing.

I am not sure of the particular facts or circumstances in the letter that you mentioned, but I am not convinced that the criminal NCIC justice community that we deal with would advocate necessarily direct NCIC dissemination of information to the licensing bureaus at this point; you have a clearinghouse through criminal justice agencies, and I suspect that much of that could be accomplished through the criminal justice agency.

I think we have to acknowledge a different level of sophistication.

Senator MATHIAS. Well, that was really my point, that you have got two levels, at least two levels.

Mr. NEMECEK. Yes, sir, most certainly.

Senator MATHIAS. And I think the same is true with the FBI policy, which is not to disseminate arrest data that is more than 1 year old to noncriminal justice users—certainly if there is no disposition data. That is my understanding of the policy.

Mr. NEMECEK. Yes, sir, that is a policy that we implemented voluntarily, I believe in 1973. It was an acknowledgment—possibly a shifting of, if you want to say, a shifting of preponderance, at least. It is hard, I think, for the criminal justice community to not advocate the dissemination of arrest data when it is very current, say within the first couple of months. However, you will hear an argument that it should never be disseminated without the arrest or disposition data, but it has been repeatedly emphasized by the users of this information that to know that someone has been ar-

rested a month ago most certainly is a factor in licensing of employment decisions.

In establishing our policy we felt that after a year there was a certain balance that had to be struck, and we would just arbitrarily, quite frankly, not disseminate it without disposition data after that point.

Senator MATHIAS. OTA has suggested that your 1-year rule ought to be reduced to 6 months. What kind of problems would that then create?

Mr. NEMECEK. In our studies of our data bases, we find that the majority of disposition reporting occurs up to about 2 years. We find, although recently we have seen a speedy trial act enacted at the Federal level and in some States, we still find some rather protracted delays in final disposition actions occuring.

It gets very hard to say whether 6 months is better than 12 or 3 months is better than 6. I think at this point I probably would stand behind the current regulation that we have.

We most certainly, though, would welcome any legislation in this area that would clarify, at least for us, what is a legitimate time to not disseminate the information.

Senator MATHIAS. I knew we would get some work out of this before it was all over.

I think the same question applies to a charge that has been dismissed, at least as far as dissemination to noncriminal justice users.

Mr. NEMECEK. You could make a very good argument that if the charge is dismissed, that that is not relevant to a licensing employment decision. If you take that beyond to the criminal community utilization of the information, at that point I want to start making some strong arguments that either with or without disposition data, I believe that it most certainly is useful in many criminal justice processes. But as long as we are talking about licensing and employment, you could at least make that argument, and it does have some merit.

I might defer, though, to my other tablemates on that point.

Senator MATHIAS. Since they do not seem to disagree with you, we will go on.

The FBI has proposed a dangerous persons file in NCIC, in which you would identify, perhaps, several hundred people who, by virtue of one circumstance or another, might be considered as threats to public figures. Is that correct?

Mr. BOYD. Yes. The Secret Service file.

Senator MATHIAS. The Secret Service would then be notified of any inquiry from local law enforcement agencies about people who are in the dangerous persons file. NCIC would also notify the requesting officer that the subject is considered dangerous, as I understand the proposed procedure.

Are we getting into muddy waters on this one? Is it a useful or dangerous precedent to use a national computer network to monitor the movements of persons who are not suspected of crimes—in the sense that you could not really go before a judge and swear out a warrant for them?

Mr. BOYD. We looked at this request very carefully. It came to us, as I recall, in the fall of 1981. It came from Secret Service. This

was debated at some length by the Advisory Policy Board on two consecutive sessions.

We did have hearings over on the House side. We realized that we are in a new area; however, we do have caveats, both at the beginning of the message and at the end which we try to set this in perspective, that we are not saying that the person is a criminal; merely, this is somebody who in the best judgment of the Secret Service we should be aware of where they are.

I might add, the file did go into existence on April 27, and the one case so far has been successful.

Senator MATHIAS. Well, I am sympathetic with the goals that you are reaching for here. And I know it is a terribly difficult area, and we have too many tragic chapters in our national history not to try everything that is humanly possible to avoid any repetition.

I can see that the plan has some utility. I think the danger, perhaps the grievous danger, in it would be notifying the local law enforcement official that the person about whom he has inquired is on the dangerous persons list. I do not know how you get around that problem.

Mr. BOYD. The thinking on that was that many of the people on that list are not only against a Secret Service protectee, but also generally antilaw enforcement or antiauthority.

The Secret Service gave a number of examples of when their agents went out, as they do periodically to interview these people, they were attacked. It was believed that we would be remiss in our duty if we had somebody like this that we did not have a caveat in there for the officer so that he could be more on his guard when he is dealing with somebody like this.

Mr. NEMECEK. I might add, Mr. Chairman, that warning notices, as far as the dangerousness of individuals, as you are probably well aware, have been a commonly accepted practice in the criminal justice for years and provide that when an individual is armed or dangerous, whether he is suicidal, he may have various other particular attributes that the officer should be warned regarding.

There are even those occasions where—and it is provided for the safety of the person as well as the officer—and I would not want to sit here and advocate that we are just doing it to help that person.

The primary reasoning behind this file is not that we would be disseminating that information out to the law enforcement officer so that they can put it in a file and keep it or take some other more appropriate action, because I think we can document that we have gone to rather lengthy trying efforts to make this a different type of file, a different type of message, a different type of warning to insure that the officer is aware.

I believe that if you talk to the local law enforcement officer, you will find that they do have a certain sophistication in terms of dealing with this type of person, in terms that they do not always pull out their weapon and fire the first time they are told someone is dangerous.

I think the officer lives with that every day, but we most certainly felt that we had an obligation to the officer to let them know themselves. There are also lesser extent benefits in that it also facilitates the identification of the individual himself. It is saying that it is not a fingerprint match; it is a name and identifier type

of match, and we want to insure that we do have the right individual, if for no other reason that we do not give the Secret Service hundreds of thousands of leads, and you probably are aware of the post-Reagan effort which generally indicated that every bit of information by any law enforcement agency in the country ought to be sent to the Secret Service, and they just indicated an inability to keep up with that magnitude of information.

And, in fact, they most certainly did not want it all. So we tried very hard to balance how much good information we give to the Secret Service and how much is useful to them.

Senator MATHIAS. What it comes down to, really, is the kinds of judgments that go into compiling that list. We have here on Capitol Hill, and you know as well as I, a kind of lunar cycle, bizarre episodes which sometimes involve the same people and sometimes different ones.

At what point do you bring one of those regulars, full mooners, onto the list and at what point do you ignore them?

Mr. BOYD. That is a very——

Senator MATHIAS. That is a very, very delicate question.

Mr. BOYD. The judgments that the Secret Service make are based on multilevel review, plus the availability of consultants in the mental health field, plus based on their experience.

Mr. NEMECEK. We might point out, Mr. Chairman, that based on the figures that were furnished us by Secret Service, of over 9,100 individuals that they investigate every year, at any given time, there are only approximately 400 individuals on this list.

The Secret Service even went so far as to only enter those individuals who are currently on the street; some 250 are generally incarcerated in some way.

I think you have to acknowledge that a great deal of selectivity has gone into who is on this list, and most certainly there are a number of safeguards with regard to utilization of that information in the NCIC file.

Senator MATHIAS. I think that is one area that we—I hope I can speak for the committee as saying we want to work together with you on, keep in close touch with. It is such a volatile, dangerous subject, and yet the possibility, the difficulties, as we have discussed, are always great.

So we will be following very closely. Rather than hold you any longer, I appreciate your patience and your testimony. I will keep the record open and there may be some further questions that we will submit to you in writing and request your answers.

Thank you.

[The prepared statement of Mr. Boyd and additional material, subsequently supplied for the record, follow:]

PREPARED STATEMENT OF KIER T. BOYD

THE OFFICE OF TECHNOLOGY ASSESSMENT REPORT ENTITLED, "AN ASSESSMENT OF ALTERNATIVES FOR A NATIONAL COMPUTERIZED CRIMINAL HISTORY SYSTEM"

Mr. Chairman, we appreciate the opportunity to appear before the subcommittee to discuss the National Crime Information Center (NCIC) and, more specifically, issues related to a national computerized criminal history system for the criminal justice community. With me today are Deputy-Assistant Director Conrad S. Banner, FBI Identification Division, and David F. Nemecek, the Chief of the NCIC. NCIC

was created pursuant to statutory authority contained in 28 U.S. Code, Section 534, and was placed on line in January, 1967. The System is a cooperative effort among city, county, state, and Federal criminal justice agencies which maintain this cost-effective computer-based information system. NCIC now contains over 14,000,000 active records with a daily average of 360,000 transactions. The mean inquiry time is approximately three seconds to the user agency, and the cost to the Federal Government is less than five cents per transaction. The FBI also has served as the repository for fingerprint identification and criminal history record storage and dissemination since 1924 when the FBI was requested by the International Association of Chiefs of Police to provide this service to the nationwide criminal justice community.

During the late 1960's and early 1970's, a need was identified for rapid and efficient exchange of this criminal history information, not possible through the existing manual system. Various efforts were begun to apply computer technology and telecommunications to this need. Despite the best efforts of a number of dedicated individuals, a common viewpoint on how to accomplish this task was not achieved. Attempts to develop a viable automated system, using NCIC, became stagnated in the mid 70's. As I am sure you are aware, at that time the Office of Technology assessment (OTA) was requested to review certain issues related to the creation of a national Computerized Criminal History (CCH) File. Although the goals of the study were worthy, I believe that a combination of factors minimize the report's usefulness as a decision-making tool. Unless reviewed with caution, this report may serve less as an expeditor and more as a deterrence to current successful efforts in developing a national system which meets user needs and properly elevates the role of data quality assurance.

As a result of efforts by the NCIC Advisory Policy Board in 1978, a new initiative known as the Interstate Identification Index (III) was begun. The manner of operation as well as balance of authority and responsibility differs from either the centralized Identification Division operation or the previous NCIC CCH File. With the cooperation, advice, and concurrence of FBI Congressional oversight committees (including the Senate Judiciary), the FBI embarked on a phased testing of the III concept. The approach to this test has been different than other initiatives to implement a national CCH File. With the strong recommendation of the NCIC Advisory Policy Board, as well as the apparently unanimous support of the States, the FBI began to test the concept which relies upon existing computerized resources in the states to be the repositories for and disseminators of criminal history records. The concept requires that an index be maintained at the national level with sufficient identification data on individuals so that when an inquiry is made the inquiring agency can be notified of the likely match as well as the location of the record in a state. For positive identification, the FBI continues to function as a national identification repository through the processing of fingerprint cards. Under the III concept the FBI continues to be the repository of Federal arrest data and will serve as a surrogate for those states who are unable to assume record-keeping responsibility. The first phase of testing has been successfully conducted regarding single-state offenders. The results have been evaluated by the NCIC Advisory Policy Board, a broad-based group of other interested experts, and have been presented to Congressional oversight committees. Based upon the successful completion of the first phase of testing the FBI was advised by the advisory Policy Board to continue to Phase II which tests the decentralization of records on individuals arrested in more than one state. The testing began on May 1, 1983, and will continue for a period of 60 days. Initial results are encouraging and, upon completion of the data collection, the above-described groups will again be asked to evaluate the test and advise regarding future testing. The scope of the testing is to address III's operational, fiscal, managerial, and political acceptability. The decision-making process regarding the establishment of a national system is based upon empirical data evaluated by a broad base of user representatives and other interested parties. I believe that the result which are not being achieved are in consonance with the purpose for which the OTA study was originally requested in 1978.

There have been many drafts of the OTA reports—much correspondence—many discussions—and many frustrating moments during the last five years while trying to assist OTA in its difficult task. As an example of the many difficulties I would like to introduce for the record a brief written analysis of the last draft before the report was published. It was prepared by a consultant employed by the FBI.

Rather than dwelling upon the past, I am pleased to advise the Committee of substantial successes which have been achieved in the resting of the III concept and the recognition of this effort by the states, every segment of the criminal justice community; the Attorney General's Task Force on Violent Crime; Search Group, Incorpo-

rated; and others. This should not be interpreted as saying that all problems are resolved. They are not. But through the current scope of testing, I believe that in a controlled and objective manner, data related to remaining issues will be presented for all persons involved in a decision-making process to develop a national criminal justice information system so important to the criminal justice community at this time. Many initiatives are now being explored in the areas of mandatory sentencing, bond and bail reform, career criminal programs, and identification of and emphasis on violent offenders; however, unless accurate, complete information can be provided, within a matter of hours in many cases, informed decisions cannot be made.

In addition to the III testing, the FBI has also embarked on other pilot projects to develop more effective ways to obtain disposition data, improve data quality and timeliness, and to the maximum extend possible, assure protective of individual privacy. I will be pleased to provide more details during this hearing. As a final check on these efforts, the FBI is implementing a nationwide Audit Program to ensure all NCIC policies are adhered to include those pertinent to the III. Your review in this area is welcome. I am confident that when you have completed the review the subcommittee will also be very encouraged at the progress which has been made and the strides which are soon to be undertaken.

U.S. DEPARTMENT OF JUSTICE,
FEDERAL BUREAU OF INVESTIGATION,
Washington, D.C., July 20, 1983.

Hon. CHARLES MCC. MATHIAS, Jr.,
Chairman, Subcommittee on Patents, Copyrights and Trademarks, Committee on the Judiciary, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: In your letter dated May 27, 1983, regarding the May 12, 1983 testimony of Kier T. Boyd, Acting Assistant Director, Technical Services Division, you provided several follow-up questions concerning matters raised at the hearing. Attached are the FBI responses to those questions.

On May 27, 1983, Mr. Steve Metalitz of the Subcommittee staff contacted the FBI's Congressional Affairs Section and advised that the Subcommittee was interested in including in the hearing record certain information previously provided to the Subcommittee. Specifically, Mr. Metalitz asked that the following documents concerning the history and establishment of the Interstate Identification Index be included: my January 7, 1980 letter to Senator Kennedy; my March 2, 1981 letter to Chairman Thurmond; my August 3, 1982 letter to Chairman Thurmond; my February 4, 1983 letter to Chairman Thurmond; and the NCIC Advisory Policy Board Quality Assurance Subcommittee, Sacramento, California, December 7, 1982, NCIC staff paper, Topic No. 3, Methods to Improve Disposition Reporting. With regard to the four letters, I have no objection to their publication if the addressees concur. Further, the FBI has no objection to the incorporation of the NCIC staff report into the hearing record.

If I can be of any further assistance please do not hesitate to contact me.

Sincerely yours,

WILLIAM H. WEBSTER, *Director.*

FOLLOW-UP QUESTIONS AND ANSWERS

Question 1. Are the existing sanctions for poor record quality—predominantly, the threat of exclusion from FBI information services—realistic? Has any state ever been excluded for this reason? Do you have thoughts on other sanctions which might be more effective?

Answer. As you are aware, the question of appropriateness of sanctions as applied in the NCIC System has been addressed for a number of years. The unique nature of combined Federal, state, and local relationships which make NCIC such an effective crime-fighting tool makes the answer to the question somewhat complicated. As you note, the predominant sanction for poor record quality for criminal history records is the termination of services to states. Two states currently are denied access to the Interstate Identification Index (III) because of the nonexistence of appropriate management and security control.

To ensure good record quality, a substantial number of record reviews are conducted by the NCIC staff as well as state and local criminal justice agencies. In those instances where the NCIC Advisory Policy Board has determined that record errors are major in nature, "serious errors" are removed from the system by the

FBI if not removed within 24 hours of notification by the entering agency. A substantial FBI commitment of resources has been made to identify and correct these errors. Additional record quality programs engaged in by the FBI and state agencies include periodic record validations and synchronizations, error trend analysis, and research to establish computer edits. Our first line of defense is computer edits which exclude any record entries not in the correct format, using incorrect codes, or not meeting any of the hundreds of other edits designed for each type of entry. The increased effectiveness and responsibility for data quality by NCIC and state control terminal agencies are the most productive efforts to ensure good record quality which the FBI can make at this time.

Question 2. In your testimony on the NCIC/Secret Service "dangerous persons file," you testified that "the one case so far has been successful." Please explain.

Answer. The NCIC U.S. Secret Service (USSS) Protective File was activated at approximately 12:05 p.m. on April 27, 1983. That same date, the Secret Service was advised that an individual from the West Coast who was considered dangerous to its protectees and whose whereabouts had been unknown since early April, had been arrested by local law enforcement officials on unrelated charges in a southern state. As previous established by the NCIC System, USSS Headquarters was advised via its NCIC terminal of the inquiry as the local officer was being advised of USSS interest. During the USSS interview of this individual, he threatened the President and advised that he was en route to Washington, D.C. The USSS does not desire any publicity be given this event since experience dictates that publicity often encourages similar acts. We would point out that, since the activation of the File (April 27–May 30, 1983), there have been 15 valid hits against the File.

Question 3. On the same subject, please explain how the notification to the inquiring officer that a subject is considered dangerous to the President or another Secret Service protectee "facilitates the identification of the individual," as noted in your testimony.

Answer. Over and above the duty to warn a law enforcement officer of the potential dangerousness of individuals whom he may encounter, e.g., caution statements such as "armed and dangerous," "suicidal tendencies," etc., there is an operational need to verify the individual as being the same as the subject of the record. NCIC policy requires any inquiring agency to insure this identity through physical description and unique number verification, as well as subsequent confirmation of the accuracy of the data with entering data. This acts as a backup on the accuracy of the record.

Question 4. What is the basis for the assertion that "many people on that (dangerous persons) list are not only against a Secret Service protectee, but also generally anti-law enforcement or anti-authority"?

Answer. The evaluations putting these individuals on the list are made by the USSS based on its professional judgment concerning dangerousness to protected persons. Practically all, if not actually all, of those contained in this File have had treatment and/or been confined by the mental health and/or criminal law enforcement system in addition to demonstrating a threatening interest in individuals protected by the USSS. The USSS provided examples of where individuals on this list have assaulted its personnel.

Question 5. NCIC has done some research to determine why some states do a better job of reporting disposition data on arrests than do others. You've identified some of the elements that might improve disposition reporting, and recommended that these serve as a model for the states which need improvement.

Could you explain what NCIC has done to encourage states to adopt the elements of this model disposition reporting system?

Answer. The model disposition reporting system is still in the process of being finalized. Once completed, the system will be communicated to all states and will be the subject of the regular NCIC Regional Working Group and Advisory Policy Board meetings. Many states now claim that scarce resources prohibit additional effort and suggest Federal funding as the solution.

Question 6. With respect to the FBI–APB study on the question of non-criminal justice access to criminal history records:

(a) How do the Bureau and the Board plan to conduct this study? What outside views will be solicited?

(b) Will you be looking at possible technological solutions to this problem—for instance, ways to make certain information accessible for some purpose but not for others?

(c) When do you anticipate that the study will be concluded? Would you make the results available to this subcommittee at that time?

Answer. (a) The study will be contracted to consultants who are knowledgeable in this area. Data regarding existing Federal/state law and policy will be collected and alternatives to provide for statutorily-mandated noncriminal justice uses will be developed. Selection of alternatives will be accomplished by the Advisory Policy Board and its Evaluation Group mentioned during testimony. The results will then be furnished to oversight committees and other interested parties.

(b) Technological solutions will be considered. Making "certain information accessible for some purposes but not for others" was previously used in the NCIC Computerized Criminal History File to prohibit the dissemination of arrest data more than one year old but lacking disposition data.

(c) The study will likely continue into 1984. Results of the study will be available to the Subcommittee.

Question 7. What are your plans for the status of the system for interstate exchange of criminal history records five years from now? Or ten years from now? Who has the responsibility for long-range planning for the system?

Answer. No long-range plans are being made for the III until such time as the concept is fully tested. Primary responsibility for long-range planning is the domain of the NCIC Advisory Policy Board in its advisory role to the FBI. The input of a broad group of interests will continue to be solicited.

Question 8. Do you have any indication that some states will not be interested in joining the 3–I system, either because of inability to meet the technical requirements, or concerns about conflicts between state laws and the requirements of the system?

Answer. No. Many states are following the phased III testing to compare with states' participation with their own capabilities. No firm commitment from states evaluating future participation has been requested until they have the opportunity to evaluate Phase II results and findings. However, state/local support for and interest in III appear unanimously favorable. Having built the phased testing to the maximum extent possible on existing Federal/state resources, only minimal expenditures are required to test the concept fully.

Question 9. With regard to the NCIC Secret Service File, the Secret Service already has access to NCIC. Presumably, it could make periodic inquiries about the persons on its "dangerous" list, and thereby learn about any inquiries which had been made. NCIC could also be programed to notify Secret Service if any of a designated list of individuals were arrested.

Were these alternatives considered in discussions between the FBI and Secret Service? Given these alternatives, why was it considered necessary to establish the NCIC/Secret Service File?

Answer. The goal of the NCIC USSS Protective File was to utilize the NCIC as a tool in locating those evaluated as dangerous. This instantaneous notification of their location and ability to facilitate the exchange between the USSS and local law enforcement authorities who come in contact with these individuals has, in just this short period, proved invaluable. Although some other technical means as described could have been used, the timeliness of notification, and completeness of the identification process would not be accomplished. The suggestion that the Secret Service already had access to NCIC and therefore presumably, it could make periodic inquiries about the persons on its "dangerous" list is incorrect. It is not possible to make an online NCIC inquiry and determine if any other agency has made an inquiry on a specific person. The listed alternatives and variations thereof were considered and discarded as unresponsive to USSS needs.

Senator MATHIAS. Now, Mr. Fred Wynbrandt, chairman of the NCIC Advisory Policy Board, and assistant director, Criminal Information and Identification Branch, California Attorney General's Division of Law Enforcement, the man who has made the longest trip to be here.

STATEMENT OF FRED WYNBRANDT, CHAIRMAN, NCIC ADVISORY POLICY BOARD, AND ASSISTANT DIRECTOR, CRIMINAL INFORMATION AND IDENTIFICATION BRANCH, CALIFORNIA ATTORNEY GENERAL'S DIVISION OF LAW ENFORCEMENT

Mr. WYNBRANDT. Thank you, Mr. Chairman.

I would ask that the formal statement that I submitted be included in the record.

Senator MATHIAS. Your full statement will be included in the record.

Mr. WYNBRANDT. I would also ask that a letter that was given to me today from a member of the policy board who felt very compelled that I request that it also be added to the record, which I will.

Senator MATHIAS. It will also become a part of the record of testimony.

Mr. WYNBRANDT. Thank you.

Rather than read my statement, I will make a few opening remarks in regard to my statement and state that the relationship of the policy board to the FBI is covered in the statement. In a protocol-type of way, it has been an excellent relationship.

We have moved ahead with III starting back about 1978 and felt that at the time, the CCH system was not going to succeed. We feel that even in the pilot phases the policy that the interstate identification index is an expression that the time for discussing any other alternatives has passed.

There is a clear consensus and demonstrated feasibility of the complete decentralization of criminal history records.

III, as we term it, is structured around the concept that the records generated by the States are the property of the State and fall under the jurisdiction of that State's privacy and security laws, and that the States, as well as the Federal Government, have a right to decide whether that record should go into the index and at the same time decide whether or not that record should be disseminated.

In the area of record quality, the policy board shares that concern as do the previous speakers. We wish that we had 100 percent of all the arrests and all the dispositions. We feel that that can only be resolved by the States, and we would welcome any assistance that the Congress would give us in regards to improving automation or exploring other mechanisms or alternatives.

I have heard it iterated twice already, and say that in California, for which I can speak, the problem really lies not in the desire to have complete records, but really, as I see it, the inability to.

When you have human resources who have to enter this information, whether it is into the computer or whether they are filling out the form, and you balance these against the fluctuating resources, that is the tax dollars, and the economy, and you put them in a series of priorities as the counties and the courts see them, there is where we have the deterioration.

The problem really comes to resources to accomplish the job. The policy control in regards to the interstate exchange of criminal history information is one of mutual participation between the policy board and the FBI. Policy oversight comes from the policy board, management and operational responsibilities comes from the FBI.

I appreciate the opportunity to be here today, and I am available to answer any of your questions.

Senator MATHIAS. Perhaps by way of identification, I should ask you to identify the author of the letter.

Mr. WYNBRANDT. The author is W. Gray Buckley, agent in charge of the Crime Information Center, Colorado.

Senator MATHIAS. Fine. That will be included.

[The following letter was subsequently supplied for the record.]

COLORADO BUREAU OF INVESTIGATION,
Denver, Colo., May 10, 1983.

National Crime Information Center.

Senator CHARLES MATHIAS,
Chairman, Subcommittee on Copyrights, Patents and Trademarks, Committee on the Judiciary, U.S. Senate, Washington, D.C.

Dear SENATOR MATHIAS: We regret being unable to present our thoughts personally to the Subcommittee on Copyrights, Patents and Trademarks concerning the fine services of the National Crime Information Center (NCIC). We welcome this opportunity to commend the NCIC to you as a model for cooperative federal-State relationships. Sensitive to the lawful needs of the respective states, fulfilling an invaluable mission in interagency law enforcement cooperation and coordination, the NCIC has to be one of the most cost effective services provided by the Federal Government.

NCIC is to local law enforcement the most frequently used and depended upon FBI service. Yet its mission is absolutely simple: Provide and index/reference file for law enforcement officers obliged to deal constantly with an ever increasing, ever more mobile, ever more violent criminal population.

The NCIC functions as the nervous system for peace officers whose duty it is to identify fugitives and stolen property that cross state and county lines. When NCIC is out of service for any reason, officers nationwide are partially blind and deaf to the identity of fugitives and stolen/wanted property.

We have worked with the NCIC staff for years, along with our counterparts in the other states, in the continuous improvement of the nature and quality of NCIC services. The necessarily complex inter-state criminal record exchange relationships, the management of criminal records in compliance with a variety of applicable state and federal laws and regulations, and the ever present FBI/NCIC sensitivity to the need for management of a practical, economical, responsible and accountable record keeping system . . . are intrinsic to the nature of continuing NCIC operation and coordinate activity.

We encourage the Subcommittee to become thoroughly familiar with the NCIC success story and its steadily growing list of significant accomplishments in the apprehension of violent offenders and the recovery of millions of dollars worth of stolen property monthly. Please let us know if we may provide any further information or assistance.

Sincerely,

JOHN R. ENRIGHT,
Director
(By Gray Buckley, Agent in Charge, Crime Information Center).

Senator MATHIAS. You point out that the quality of records in criminal history is better, but as I hear you, you say it is still not good enough.

Mr. WYNBRANDT. Correct.

Senator MATHIAS. NCIC's study last year showed that about a third of the arrests lacked disposition data, which is a pretty high record of incompleteness; that is what it was.

Mr. WYNBRANDT. Yes. I agree, sir. In California, as an example, we are a little bit higher than that, but I have three full-time people who do nothing but go around the entire State and quote a cliche, "beat the bushes" mainly with the courts to get the criminal histories into the system.

That is one method we have used to increase the submission. It is still a problem. I wish we had 100 percent.

Senator MATHIAS. What do you think we ought to do to get the States to improve the quality?

Mr. WYNBRANDT. Well, I think the first line comes in providing resources to the States so that they can add these records, fill out the forms, add them to the computer. It has been my experience in

the law enforcement field that when priorities become a push because of dollars, we find that recordkeeping is one of those that falls out the bottom. And what we need is assistance, assistance to those States that are not fully automated, assistance to those that are automated, so that we can make a big push and get the dispositions in.

Senator MATHIAS. The Justice Department, as I understand it, has regulations that provide that noncomplying States be excluded from the service.

Is this a realistic kind of sanction? It is a tough kind of sanction to work in other ways, and I've seen it through the work of this committee, for example. If there is a State that is not complying on civil rights in education, you can cut off the school funds. But that is such a self-defeating kind of sanction that you do not usually use it.

Is there the same kind of problem with sanctions on the States for noncompliance in the area of record quality?

Mr. WYNBRANDT. One, it is self-defeating; secondly, at what level do you draw compliance? Is it 25 percent, 50 percent, 80 percent?

It is very, very difficult to say what level we are going to cut it off at. I have not, in talking to members of the policy board and the regional groups, not found anyone who does not want 100 percent reporting. We have talked about sanctions within the States, but that is very difficult.

One State, I think Pennsylvania, pays—the State pays each county or county clerk 50 cents for each disposition that they submit. I could say that in California, as an example, the economy is such, and the State budget is such that we cannot afford 50 cents.

But people have tried various alternatives. We have improved, no question. The States have improved. How far we can go, I do not know.

Senator MATHIAS. What about nonjustice access? You say your board is going to look into that question.

Mr. WYNBRANDT. Yes, we are looking into noncriminal justice access. We have asked the FBI to conduct the study to look at the various alternatives: We have recommended and it has been followed, that noncriminal justice access not be allowed to III, and that is the policy we have followed.

I followed this area very closely, as I outlined in my statement, because California is the largest requester of the FBI for noncriminal justice records. California has a great, extensive program by statute for noncriminal justice access.

This area is very complex. It is complex because some States allow only access for criminal justice purposes. Some States are open; what we call open-record States. You can get anyone's record for $2.

Senator MATHIAS. Employment agencies, credit agencies?

Mr. WYNBRANDT. Anyone. You can get your next door neighbor's criminal history record. You can apply to the State and get that record for a minimal fee. In other States, like California, it is controlled very strictly by statute. The statutes detail who has access. It is a very complex issue.

Senator MATHIAS. The States that give you a criminal record for $2 are going to take all the fun out of gossip. Is your board established by regulation?

Mr. WYNBRANDT. Yes. It is established by the Advisory Policy—Federal Advisory Committee Act.

Senator MATHIAS. Do you feel any lack of authority? Do you think you would feel more comfortable if you were a statutory board, if you were established by an act of Congress?

Mr. WYNBRANDT. My feeling is that the board feels very comfortable now. Our relationship with the FBI and Director Webster and the executive assistant directors has been excellent. They have accepted 100 percent of our recommendations. I operate under the adage, "If it is not broken, don't fix it."

I think we are doing very well right now.

Senator MATHIAS. What about the proposals to enlarge your membership? For instance, have some representation from the defense bar, from civil liberties, organizations, perhaps from victims?

Mr. WYNBRANDT. We have expanded the board recently from 26 to 30 members. Those board members are from special organizations such as National Sheriff's, International Chiefs of Police.

In regards to the III, we have an evaluation committee. I have enclosed with my statement a list of the members of that committee. We have had people from the ACLU partipate, invited members of the Senate Judiciary, and the House side, Mr. Berman represents the ACLU; I have spoken with him personally.

We have tried to make this as an expansive a group as possible in order to get input from as many sectors as we can. I think we have done a very good job of broadening it.

Senator MATHIAS. How do you staff the board?

Mr. WYNBRANDT. I'm sorry?

Senator MATHIAS. How do you staff the board?

Mr. WYNBRANDT. How do we staff?

Senator MATHIAS. The board. Who handles your——

Mr. WYNBRANDT. The FBI–NCIC acts as staff to the board, staff to the evaluation committee.

Senator MATHIAS. Do you feel any—are you at all uncomfortable without an independent staff of your own? That is a dangerous question to ask around Washington these days when we are riffing people rather than hiring people, but would there be any virtue in having an independent staff? And I ask that question really because of the high degree of importance that I put on your work and on the independence of your judgments.

Mr. WYNBRANDT. Thank you.

I do not see that there would be any benefit to having an independent staff reporting to the board. The board members are all working practitioners.

When you have a full-time staff, it is very difficult to determine who is going to supervise and spend all that time working on directives. We have been very satisfied with the staff work that comes out of NCIC to the board.

I would say that, if anything, they would need an increase in staff to have all of the material staffed out that we presently request of them. We make an awful lot of requests to the technical services division. There resources are limited, and so sometimes

things get perhaps a bit slow. But as the staff work comes back, it is excellent.

Senator MATHIAS. In another aspect of this committee, the copyright side, I find that it is very difficult to keep up with technological change. We are a long way from the concept of a copyright which covers a printed book being able to protect a whole book on a chip. It is a constantly changing world. How do you keep up with the technological changes?

Let me tell you at the outset that I do not do very well keeping up.

Mr. WYNBRANDT. Neither do I.

The technological changes that take place in regards to the computers themselves and some of the applications are handled, at least, let us say in the California Department of Justice, by our data center, which is not an entity that is under me.

We do get briefings from time to time. We are invited to demonstrations, and so forth, and that is about the limit that I have time for.

I think the technological improvements are coming. We see speed. We see applications. And what we have to do is to have some time to fit those applications into our processes and see whether we can utilize them.

I have the same problem you have. I am not technically oriented, and I have a difficult time staying with it.

Senator MATHIAS. But you do go to trade fairs and whatnot?

Mr. WYNBRANDT. No; I do not. No, sir.

Senator MATHIAS. Does anybody on the board keep up with it?

Mr. WYNBRANDT. Oh, yes. Oh, yes. We have people on the board who are responsible for data centers and attend the trade fairs. I have seen them around the country. They keep up with the technical advances, yes.

Senator MATHIAS. In your written statement you recommend that Congress commit to the III program by assisting States in automating their records and entering additional records in the III system.

Now, if we put up the money, should we call the tune? Should we provide guidance? Should we set standards? Should we, for instance, enforce record quality standards?

Mr. WYNBRANDT. I think at this point I would ask that that question be asked me at a later data. Certainly, we can use the funds to add records to the system and make it more viable. However, I would want to look at all of the data of the pilot project.

I would want to look at the study for noncriminal justice access before stating that this Congress must come through with guidelines.

Senator MATHIAS. Well, we will ask you that at a later date.

Mr. WYNBRANDT. I would be very honored to come back and answer that.

Senator MATHIAS. Thank you.

[Material submitted by Mr. Wynbrandt follows:]

PREPARED STATEMENT OF FRED H. WYNBRANDT

CHAIRMAN MATHIAS, MEMBERS OF THE COMMITTEE, I AM PLEASED TO APPEAR HERE TODAY ON BEHALF OF THE NATIONAL CRIME INFORMATION CENTER ADVISORY POLICY BOARD, COMMONLY REFERRED TO AS THE "APB". THE APB ACTS AS A BOARD OF DIRECTORS FOR ALL OF THE STATE MEMBERS AS WELL AS THE LOCAL CRIMINAL JUSTICE REPRESENTATIVES. THE COUNTRY HAS BEEN DIVIDED INTO FOUR WORKING REGIONS TO ASSIST IN REVIEWING PROPOSED TECHNICAL CHANGES AND POLICY. THEY ARE THE NORTH CENTRAL, NORTH EASTERN, SOUTHERN, AND WESTERN REGIONAL WORKING GROUPS. REGIONAL MEMBERSHIP IS COMPRISED OF THE STATE CONTROL OFFICER AND MEMBERS OF LOCAL LAW ENFORCEMENT AGENCIES ELECTED BY EACH REGION.

EACH REGION ELECTS FIVE OF ITS MEMBERS TO SERVE ON THE ADVISORY POLICY BOARD. IN ADDITION TO THE TWENTY ELECTED BY THE REGIONS, THE DIRECTOR OF THE FBI MAY APPOINT TEN ADDITIONAL MEMBERS REPRESENTING THE COURTS, CORRECTIONS, PROSECUTORS, AS WELL AS REPRESENTATIVES FROM THE NATIONAL SHERIFF'S ASSOCIATION, NATIONAL DISTRICT ATTORNEYS ASSOCIATION, THE NATIONAL CORRECTIONAL ASSOCIATION, AND THE INTERNATIONAL ASSOCIATION OF CHIEFS OF POLICE.

THE APB IS COMPRISED OF A WORKABLE NUMBER OF MEMBERS WHO REPRESENT THE STATES AS A CONSORTIUM DEALING WITH THE INTERSTATE EXCHANGE OF CRIMINAL HISTORIES AND THE OTHER AUTOMATED DATA BASES MAINTAINED IN THE NATIONAL CRIME INFORMATION CENTER (NCIC). A LIST OF THE APB MEMBERS IS ATTACHED.

FOR THE RECORD I WOULD ALSO ADD THAT I AM ASSISTANT DIRECTOR OF THE CRIMINAL IDENTIFICATION AND INFORMATION BRANCH UNDER THE CALIFORNIA ATTORNEY GENERAL'S DIVISION OF LAW ENFORCEMENT. MY AREA OF RESPONSIBILITY IN CALIFORNIA INCLUDES MAINTENANCE OF

CRIMINAL HISTORY RECORDS, AS WELL AS ALL OTHER ON-LINE DATA BASES, AND ALL TELECOMMUNICATIONS INCLUDING THE CALIFORNIA LAW ENFORCEMENT TELECOMMUNICATIONS SYSTEM, NATIONAL CRIME INFORMATION CENTER, AND NATIONAL LAW ENFORCEMENT TELECOMMUNICATIONS SYSTEM.

THE RELATIONSHIP OF THE APB TO NCIC OPERATIONS ENCOMPASSES TECHNICAL PROTOCOL ABD OVERALL POLICY SETTING. BECAUSE OF THE DIVERSITY OF TECHNICAL CAPABILITIES WITHIN THE STATES, A THOROUGH AIRING IS MADE OF ALL TECHNICAL CHANGES. THESE CONSIDERATIONS AND DELIBERATIONS ARE NECESSARY TO AVOID TECHNICAL CHANGES WHICH WOULD REQUIRE COSTLY PROGRAMMING CHANGES OR ADDITIONAL HARDWARE PURCHASES TO EITHER THE STATE OR THE FEDERAL GOVERNMENT.

IN THIS ERA OF DWINDLING RESOURCES, CONSIDERATION IS GIVEN BY THE FBI AND THE STATES, AS WELL AS LOCAL LAW ENFORCEMENT, TO CHANGES WHICH ARE COSTLY AND PRODUCE ONLY MARGINAL GAINS.

POLICY CONSIDERATIONS ARE SUGGESTED BOTH BY THE PARTICIPANTS IN THEIR REGIONS AND THE FBI. MANY OF THE POLICY CONSIDERATIONS ARE REFERRED TO A VARIETY OF APB COMMITTEES WHICH HAVE BEEN ESTABLISHED TO DEAL WITH SPECIFIC AREAS. OCCASIONALLY THERE IS AN OVERLAP OF MORE THAN ONE COMMITTEE IN THE CONSIDERATION OF A TOPIC. AS AN EXAMPLE, THE QUALITY ASSURANCE COMMITTEE HAS REQUESTED THEIR MEETING BE ATTENDED BY THE CHAIRMAN OF THE INTERSTATE IDENTIFICATION INDEX COMMITTEE TO DISCUSS PROBLEMS REGARDING DISPOSITION REPORTING.

THE DELIBERATIONS BETWEEN THE REGIONAL WORKING GROUPS AND POLICY BOARD COMMITTEES HAVE NECESSITATED A CLOSE WORKING RELATIONSHIP WITH NCIC STAFF. THIS RELATIONSHIP, AT LEAST OVER THE PERIOD OF TIME I HAVE BEEN ASSOCIATED WITH THE POLICY BOARD, HAS BEEN A GOOD ONE. THE DIRECTOR OF THE FBI HAS ACCEPTED 100% OF THE RECOMMENDATIONS MADE BY THE ADVISORY POLICY BOARD.

ADDITIONALLY, THE DIRECTOR AND THE TWO EXECUTIVE ASSISTANT DIRECTORS HAVE MET WITH THE CHAIRMAN OF THE APB TO DISCUSS AREAS OF MUTUAL CONCERN. I HAVE FOUND THAT THESE GENTLEMEN WISH TO COOPERATE AND ASSIST LOCAL LAW ENFORCEMENT TO THE EXTENT THEY CAN.

THE MAIN AREA OF INTEREST IN THE PRESENT HEARINGS CONCERNS THE IMPLEMENTATION OF THE PILOT PROJECT OF THE INTERSTATE IDENTIFICATION INDEX (TRIPLE I). THE ADVISORY POLICY BOARD MEMBERS FELT THAT THE COMPUTERIZED CRIMINAL HISTORY (CCH) SYSTEM WOULD NEVER SUCCEED BECAUSE OF LIMITATIONS ON RESOURCES, DUPLICATION OF RECORDS, AND LOSS OF CONTROL OF THOSE RECORDS SENT TO THE FBI. IN ADDITION, DURING THE PERIOD CCH WAS IN OPERATION, MANY OF THE STATES REVEALED THAT THOUGH NOT PARTICIPATING IN CCH, THEY HAD IMPROVED THEIR SYSTEMS THROUGH AUTOMATION. THIS INCREASE IN SOPHISTICATION AT THE STATE LEVEL IS ANOTHER FACTOR WHICH LED TO THE CONCLUSION THAT A FULLY DECENTRALIZED CRIMINAL HISTORY SYSTEM CONTROLLED BY THE STATES WAS FEASIBLE AND PRACTICAL.

THE ADVISORY POLICY BOARD, THROUGH THE TRIPLE I SUBCOMMITTEE, BEGAN DEVELOPING PLANS FOR IMPLEMENTATION OF A PILOT PROJECT IN 1978 TO DEMONSTRATE THE FEASIBILITY OF A DECENTRALIZED SYSTEM. AS YOU MAY WELL KNOW, THIS STARTED WITH PHASE I AND INCLUDED ONLY THE STATE OF FLORIDA. PHASE I WAS SUCCESSFUL.

PHASE II ENCOMPASSED THOSE STATES WHICH WERE PART OF THE CCH SYSTEM. PHASE II ALSO PROVED SUCCESSFUL.

PRESENTLY WE ARE INVOLVED IN PHASE III OF THE PILOT PROJECT WHICH ENCOMPASSES 15 STATES AND APPROXIMATELY 7 MILLION RECORDS. THOSE STATES PARTICIPATING IN PHASE III ARE:

CALIFORNIA
COLORADO
FLORIDA
GEORGIA
MICHIGAN
MINNESOTA
NEBRASKA
NEW JERSEY
NEW YORK
NORTH CAROLINA
PENNSYLVANIA
SOUTH CAROLINA
TEXAS
VIRGINIA
WYOMING

THOUGH I DO NOT HAVE ANY OVERALL, UP-TO-DATE STATISTICS, CALIFORNIA IS RESPONDING TO APPROXIMATELY 40 REQUESTS PER DAY FROM THROUGHOUT THE UNITED STATES. THE SYSTEM INDICATES ABOUT 34% OF THE HITS AND REQUESTS ARE FROM THE STATE OF TEXAS.

IN REVIEWING THE STATISTICS FROM PHASE II AND IN EXAMINING THE REQUESTS WHICH ARE BEING RECEIVED DAILY, IT IS OBVIOUS THAT INDIVIDUALS WHO COME IN CONTACT WITH LAW ENFORCEMENT AGENCIES IN STATES OTHER THAN WHERE THEY WERE ARRESTED ARE VERY MOBILE. I HAVE BEEN INFORMED THAT THE PRESENT HIT RATE ON PHASE III IS APPROXIMATELY 25%. THIS IS SIGNIFICANTLY HIGHER THAN HAS BEEN ANTICIPATED.

THE TRIPLE I COMMITTEE AND THE APB HAVE HAD SUBSTANTIAL INVOLVEMENT IN THE IMPLEMENTATION OF THIS PILOT PROJECT.

DURING 1982, THE APB APPROVED MINIMUM STANDARDS FOR PARTICIPATION. IT REQUIRED THAT A STATE WISHING TO PARTICIPATE MUST AGREE TO RESPOND TO TRIPLE I RECORD REQUESTS WITH A RECORD OR AN ACKNOWLEDGMENT AND NOTICE WHEN THE RECORD WOULD BE RETURNED. STATE RESPONSES TO TRIPLE I REQUESTS MAY BE MADE BY MAIL AS LONG AS A MESSAGE WAS SENT TO ACKNOWLEDGE THE REQUEST AND ADVISE WHEN THE RECORD WOULD BE MAILED.

THE APB REQUIRED THAT TRIPLE I RECORDS ESTABLISHED AND MAINTAINED FOR THE STATES IN THE INDEX WOULD BE REPRESENTED BY RECORDS IN THE FBI'S AUTOMATED IDENTIFICATION DIVISION SYSTEM (AIDS). THIS PROCEDURE WOULD ENSURE THE AVAILABILITY OF DATA FROM NON-PARTICIPATING STATES WHEN THE RECORDS BECOME MULTI-STATE.

THE APB FURTHER ESTABLISHED THE POLICY OF ONE TYPE OF RECORD RESPONSE WHICH WOULD BE AVAILABLE VIA TRIPLE I. STATE AGENCIES WITH AN ESTABLISHED SYSTEM MAY USE THEIR EXISTING RECORD FORMAT.

THE APB FURTHER ESTABLISHED THAT INQUIRIES FOR EMPLOYMENT AND LICENSING PURPOSES WOULD BE PROHIBITED DURING THE PHASE III TESTING. THESE TYPES OF INQUIRIES HAVE BEEN PROHIBITED FROM THE ONSET OF THE PROJECT. THE TRIPLE I DEVELOPMENT SCHEDULE INCLUDES THE REQUIREMENT THAT A SIX-MONTH STUDY AND ANALYSIS BE MADE WHICH INCLUDES THE NEED OF NON-CRIMINAL JUSTICE USERS. THIS STUDY WOULD ADDRESS THE PROBLEM OF NON-CRIMINAL JUSTICE ACCESS TO THE INDEX. I HAVE SPECIFIC COMMENTS REGARDING THIS ISSUE WHICH I WILL ADDRESS LATER.

I ANTICIPATE THAT FUTURE CONSIDERATIONS BY THE TRIPLE I COMMITTEE AND THE APB WILL INCLUDE EXAMINING THE FEASIBILITY OF ADDING ADDITIONAL RECORDS TO TRIPLE I. MANY OF THE STATES PARTICIPATING IN PHASE III OF THE PROJECT HAVE RECORDS WHICH ARE AUTOMATED AT THE STATE LEVEL AND NOT ON FILE IN THE FBI IDENTIFICATION DIVISION.

AT A LATER DATE THE APB WILL BE EXAMINING THE FEASIBILITY OF ADDING ADDITIONAL STATES WHICH HAVE EXPRESSED A DESIRE TO PARTICIPATE BUT ARE NOT PREPARED TO DO SO AT THIS TIME. OTHER TECHNICAL INNOVATIONS SUCH AS CROSS-INDEXING WILL BE DISCUSSED. CROSS-INDEXING CONCERNS AN INQUIRY INTO THE INDEX WHICH COULD ALSO TRIGGER AN INQUIRY INTO THE WANTED PERSONS SYSTEM. THUS INDIVIDUALS WITH OUTSTANDING WARRANTS COULD BE IDENTIFIED BY TRIPLE I INQUIRIES.

THE AREA OF COST BENEFIT IS VERY IMPORTANT AND HAS BEEN DISCUSSED BY THE PARTICIPANTS IN TRIPLE I AS WELL AS THE POLICY BOARD. IMPLEMENTATION OF THE INDEX ELIMINATES THE COST OF MAINTAINING DUPLICATE RECORDS. THAT IS, A RECORD MAINTAINED AT THE STATE LEVEL IS NOT DUPLICATED IN WASHINGTON. THIS, COUPLED WITH THE GOAL WHEREBY ONLY THE FINGERPRINT CARD REPRESENTING AN INDIVIDUAL'S INITIAL ENTRY INTO THE CRIMINAL JUSTICE SYSTEM WILL BE FORWARDED TO THE FBI BY THE STATE OF RECORD, WILL RESULT IN

CONSIDERABLE RESOURCE SAVINGS AT BOTH THE STATE AND FEDERAL LEVEL.

SAVINGS HAVE ALREADY BEEN ACHIEVED BY SOME STATES BECAUSE OF PROCEDURES DEVELOPED DURING PHASE I OF THE PROJECT. PROTOCOL WAS DEVELOPED WHEREBY THE FBI IDENTIFICATION DIVISION UNDER ITS AIDS PROGRAM FORWARDS A TAPE TO THE STATE OF RECORD WHICH CONTAINS THE FBI NUMBERS ASSIGNED TO NEW OFFENDERS. THIS PERMITTED THE STATE TO ENTER THE FBI NUMBERS VIA A COMPUTER AS OPPOSED TO MANUAL ENTRY GENERATED BY A PIECE OF PAPER. RECENT PROCEDURES ALLOW THE ON-LINE ENTRY OF FBI NUMBERS DIRECTLY FROM NCIC. AS AN EXAMPLE, WHEN THIS PROCEDURE IS IMPLEMENTED IN CALIFORNIA, SAVINGS WILL AMOUNT TO APPROXIMATELY $30,000 ANNUALLY.

EVEN IN THE PILOT PHASES THE INTERSTATE IDENTIFICATION INDEX IS AN EXPRESSION OF THE APB THAT TIME FOR DISCUSSION OF ALTERNATIVES HAS PASSED. THERE IS A CLEAR CONCENSUS AND DEMONSTRATED FEASIBILITY OF THE COMPLETE DECENTRALIZATION OF CRIMINAL HISTORY RECORDS. TRIPLE I IS STRUCTURED AROUND THE CONCEPT THAT THE RECORDS GENERATED BY THE STATES ARE THE PROPERTY OF THAT STATE AND FALL UNDER THE JURISDICTION OF THAT STATE'S PRIVACY AND SECURITY LAWS.

THE STATES, AS WELL AS OUR COUNTERPARTS IN THE FEDERAL GOVERNMENT, HAVE THE RIGHT TO DECIDE WHETHER THAT RECORD SHOULD GO INTO THE INDEX AND AT THE SAME TIME, DECIDE WHETHER OR NOT THAT RECORD MAY BE DISSEMINATED.

I DO NOT MEAN TO IMPLY THE APB AND THE TRIPLE I SUBCOMMITTEE HAVE ATTEMPTED TO ANSWER ALL OF THE PROBLEMS ASSOCIATED WITH THE INTERSTATE EXCHANGE OF CRIMINAL HISTORY INFORMATION. WE HAVE, HOWEVER, TAKEN FIRM, POSITIVE STEPS IN DEALING WITH THE ISSUES AND OVERSEEING A PILOT PROJECT WHICH APPEARS TO BE VERY SUCCESSFUL. I AM CERTAIN THE APB, IN CONJUNCTION WITH NCIC, WILL

CONTINUE TO ADDRESS THE ISSUES, MOVE FORWARD, AND TAKE INTO CONSIDERATION INDIVIDUALS' RIGHTS TO PRIVACY.

AS STATED PREVIOUSLY, THE APB IS COGNIZANT OF THE PROBLEMS ASSOCIATED WITH NON-CRIMINAL JUSTICE ACCESS OF INFORMATION IN THE INDEX. THE POLICY BOARD HAS RECOMMENDED THAT DURING THE PILOT PHASE NO NON-CRIMINAL JUSTICE ACCESS BE ALLOWED. WE HAVE REQUESTED THAT THE FBI, IN CONJUNCTION WITH THE APB, UNDERTAKE A STUDY TO EXAMINE THE FEASIBILITY AND PROBLEMS ASSOCIATED WITH NON-CRIMINAL JUSTICE ACCESS TO THE RECORDS IN VIEW OF ESTABLISHING A NATIONAL INDEX. THE PROBLEMS ASSOCIATED WITH THIS STUDY CONCERN NOT ONLY THE INDEX BUT THE POSSIBLE TRANSFER OF CRIMINAL HISTORY INFORMATION BETWEEN STATES FOR NON-CRIMINAL JUSTICE PURPOSES.

THIS PROBLEM, IN COMPARISON TO OTHERS, IS VERY COMPLEX AND DIVERSIFIED. CALIFORNIA, AS AN EXAMPLE, IS THE LARGEST CONTRIBUTOR OF NON-CRIMINAL FINGERPRINTS TO THE FBI IDENTIFICATION DIVISION. ALL OF THESE SUBMISSIONS ARE MADE PURSUANT TO STATUTES ENACTED BY THE CALIFORNIA LEGISLATURE. THE LEGISLATURE RECOGNIZES THE NEED FOR THIS TYPE OF INFORMATION FOR THE SPECIFIC PURPOSE OF LICENSING, EMPLOYMENT, AND CERTIFICATION.

FOR EXAMPLE, THE CALIFORNIA LEGISLATURE FEELS THAT TEACHERS WHO ARE LICENSED TO TEACH SHOULD BE SUBJECT TO A CRIMINAL HISTORY CHECK TO ENSURE THEY ARE NOT INDIVIDUALS WHO HAVE BEEN INVOLVED IN INCIDENTS OF CHILD ABUSE OR SEX CRIMES.

THE INTERSTATE EXCHANGE OF CRIMINAL HISTORY INFORMATION FOR NON-CRIMINAL JUSTICE PURPOSES IS COMPLEX BECAUSE SOME STATES, SUCH AS CALIFORNIA, HAVE SPECIFIC STATUTES; OTHER STATES HAVE TOTALLY OPEN RECORDS, AND SOME STATES PROHIBIT THE USE OF CRIMINAL HISTORY INFORMATION FOR ANY PURPOSE OTHER THAN CRIMINAL

JUSTICE PURPOSES. I AM CERTAIN THE STUDY WILL ADDRESS THE MANY ALTERNATIVES WHICH MAY BE USED IN RESOLVING THIS PARTICULAR ISSUE. SOME STATES, INCLUDING CALIFORNIA AND NEW YORK, CHARGE A FEE FOR NON-CRIMINAL JUSTICE INQUIRIES. THESE REQUIREMENTS MUST BE TAKEN INTO CONSIDERATION.

THE STUDY MUST ALSO LOOK AT WHETHER FINGERPRINT CARDS WILL BE REQUIRED FOR NON-CRIMINAL JUSTICE CRIMINAL HISTORY CHECKS. THOUGH THIS CONCERN HAS NOT BEEN RAISED BEFORE, A NUMBER OF STATES REQUIRE FINGERPRINT CARDS FOR NON-CRIMINAL JUSTICE CHECKS TO ELIMINATE THE POSSIBILITY OF MISIDENTIFICATION. MISUSE MAY RESULT SHOULD AN IMPROPER IDENTIFICATION BE MADE ON THE BASIS OF NAME ONLY. LICENSING AND EMPLOYMENT AGENCIES DO NOT HAVE THE SAME LEVEL OF INVESTIGATIVE PROTOCOL OR TRAINING AS LAW ENFORCEMENT AGENCIES.

IN THE AREA OF RECORD QUALITY AND CONTENT THE BOARD FEELS ANY CRIMNAL HISTORY SYSTEM SHOULD CONTAIN 100% OF THE ARRESTS AND 100% OF THE DISPOSITIONS ASSOCIATED WITH THOSE ARRESTS. A SYSTEM WHICH INVOLVES HUMAN BEINGS, TOGETHER WITH FLUCTUATION IN FINANCIAL SUPPORT, IS ALWAYS SUSCEPTIBLE TO A PERFORMANCE LEVEL WHICH IS LESS THAN 100%. SIGNIFICANT STRIDES HAVE BEEN MADE BY THE STATES IN THE COLLECTION OF DISPOSITION INFORMATION, ESPECIALLY STATES HAVING AUTOMATED SYSTEMS.

RECORD QUALITY ISSUES ASSOCIATED WITH A DECENTRALIZED NATIONAL PROGRAM ARE ISSUES THAT CAN ONLY BE RESOLVED BY THE STATES. FEDERAL PARTICIPATION WOULD BE WELCOMED IN ASSISTING THE STATES TOWARD IMPROVING AUTOMATION AND THE EXPLORATION OF MECHANISMS FOR MESHING COURT DATA SUBMISSIONS INTO THE CRIMINAL HISTORY PROGRAM. A FEDERAL COMMITMENT TO THIS PROGRAM IS LACKING AND THOUGH IT HAS BEEN BEFORE CONGRESS ON PRIOR OCCASIONS, NOTHING HAS BEEN DONE. THE PROGRESS MADE HAS BEEN MADE BY THE STATES THEMSELVES.

RESOLUTION OF THIS PROBLEM IS NOT A SIMPLE ONE. EXAMINATION OF SUBMISSIONS OF ARREST INFORMATION INDICATES THE POLICE AGENCIES ARE SUBMITTING INFORMATION IN OVER 80% OF THE CASES. PERHAPS THIS MAY BE ATTRIBUTED TO THE QUASI MILITARY ENVIRONMENT OF A LAW ENFORCEMENT AGENCY. DISPOSITIONS, MANY OF WHICH ARE SUBMITTED BY THE COURTS, ARE COLLECTED AND SUBMITTED IN A TOTALLY DIFFERENT ENVIRONMENT. CRIMINAL JUSTICE INFORMATION PRACTITIONERS HAVE DISCUSSED THIS PROBLEM AT GREAT LENGTH. THOUGH STATE LAWS MAY REQUIRE REPORTING OF ARREST AND DISPOSITION INFORMATION, THERE ARE NO SANCTIONS THAT CAN BE APPLIED FOR NON COMPLIANCE.

AS PREVIOUSLY NOTED, THE APB HAS APPROVED A STANDARD FORMAT FOR RECORDS WHICH WOULD BE TRANSMITTED OVER TRIPLE I. A GREAT DEAL OF DISCUSSION WENT INTO DEVELOPING THE RECORD CONTENT FORMAT. THIS FORMAT WOULD BE THE MINIMUM REQUIRED WHEN TRANSMITTING INFORMATION FROM STATE TO STATE.

POLICY CONTROL IN REGARDS TO THE INTERSTATE EXCHANGE OF CRIMINAL HISTORY INFORMATION MUST BE ONE OF MUTUAL PARTICIPATION BETWEEN THE STATES AND THE FBI. THIS IS NECESSARY BECAUSE THE MAJORITY OF THE RECORDS LISTED IN THE INDEX ARE FROM THE STATES; YET THE FEDERAL OFFENDER FILE AND THAT INFORMATION IN THE AIDS PROGRAM (WHICH ACTS AS A SURROGATE FOR NON-PARTICIPATING STATES) ARE ALL EQUALLY IMPORTANT. POLICY OVERSIGHT COMES FROM THE APB. MANAGEMENT AND OPERATIONAL RESPONSIBILITY FOR THE TRIPLE I SYSTEM ARE THE RESPONSIBILITY OF THE FBI.

THE POLICY BOARD HAS BEEN APPRECIATIVE OF PRIVACY CONSIDERATIONS INVOLVING THE EXCHANGE OF CRIMINAL HISTORY INFORMATION. THE APB HAS, DURING ITS PILOT PROGRAM, RESTRICTED USAGE OF THAT INFORMATION UNTIL ISSUES CONCERNING NON-CRIMINAL JUSTICE USERS HAVE BEEN RESOLVED.

THE RECOMMENDATIONS OF THE POLICY BOARD HAVE BEEN ACCEPTED BY THE

DIRECTOR OF THE FBI. I HAVE MET WITH DIRECTOR WEBSTER AND THE EXECUTIVE ASSISTANT DIRECTORS TO EXPRESS BOTH THE BOARD'S APPRECIATION FOR MUTUAL COOPERATION AND TO INDICATE AREAS OF CONCERN. THE ONLY AREA OF CONCERN INVOLVES PROGRAMS COMPETING FOR THE LIMITED RESOURCES OF THE TECHNICAL SERVICES DIVISION.

THE APB HAS RECOMMENDED THE EXPANSION OF THE BOARD TO INVOLVE THE CRIMINAL JUSTICE SYSTEM IN AS BROAD A PERSPECTIVE AS POSSIBLE. A TRIPLE I EVALUATION COMMITTEE, APPOINTED BY THE CHAIRMAN, FUNCTIONS AS AN ADVISORY GROUP TO THE SUBCOMMITTEE. I HAVE ATTACHED A COPY OF THE MEMBERSHIP ROSTER OF THIS EVALUATION COMMITTEE AND WISH TO EMPHASIZE THAT NOT ONLY DO WE HAVE INDIVIDUALS FROM THE CRIMINAL JUSTICE SYSTEM, BUT HAVE INCLUDED MEMBERS OF THE HOUSE AND SENATE JUDICIARY STAFF. MEMBERS OF THE NAACP AND THE ACLU ALSO PARTICIPATE. THE ADVICE FROM THIS GROUP HAS BEEN VERY VALUABLE. THE APB, IN CONJUNCTION WITH THE FBI, HAS EFFECTIVELY REPRESENTED THE INTERESTS OF THE DIVERSE USERS OF A NATIONAL SYSTEM AND HAVE DEMONSTRATED A STRONG POLICY ROLE.

IN CONCLUSION, I WOULD LIKE TO REITERATE THAT THE TIME FOR DISCUSSING ALTERNATIVES IS BEHIND US. THE TRIPLE I HAS SHOWN ITSELF, EVEN IN ITS PILOT PROGRAM, TO BE COST BENEFICIAL, EFFECTIVE, AND EFFICIENT. IT IS NOW TIME FOR CONGRESS TO COMMIT TO THIS PROGRAM. CONGRESS COULD ASSIST PARTICIPATING STATES IN ENTERING ADDITIONAL RECORDS WHICH ARE NOT IN THE FBI. CONGRESS COULD ASSIST THOSE STATES WHOSE LEVEL OF AUTOMATION SHOULD BE IMPROVED. ADDITIONAL FUNDS, AS NEEDED, COULD BE BUDGETED FOR THE FBI. A COMMITMENT BY CONGRESS, IN THIS VEIN, WOULD SHOW A CLEAR DIRECTION ON THE PART OF THE FEDERAL GOVERNMENT IN REGARDS TO THE DEVELOPMENT AND IMPLEMENTATION OF A PROGRAM WHICH HAS ALREADY DEMONSTRATED ITSELF.

I APPRECIATE THE OPPORTUNITY TO HAVE PRESENTED MY VIEW AND WOULD BE HAPPY TO ENTERTAIN QUESTIONS THE SUBCOMMITTEE MAY HAVE.

22-817 O—83——7

END