

B. Statistical Methods

1. Respondent universe.

Each state and territory has an agency designated by the chief executive to administer National Criminal History Improvement Program (NCHIP) grants. These fifty-six entities include the fifty states, the District of Columbia, and the U.S. territories of American Samoa, Guam, Northern Mariana Islands, Puerto Rico, and the Virgin Islands represent the universe of respondents. BJS maintains regular contact with these entities (ranging from daily to monthly) and keeps contact information up-to-date. The respondent's for the information collection are, in most instances, current grantees under the NCHIP, as a result, BJS already has developed close working relationships with each agency.

2. Information collection procedures.

a. Collection of Initial State Estimates

As indicated previously, the information gathered pursuant to this initial collection will be used to calculate the completeness of states' submission of specified records to the Attorney General for use by the National Instant Criminal Background Check System (NICS).

In accordance with Section 102 (b)(2) of the Act, states are to provide the Attorney General with reasonable estimates of certain categories of available records in the state concerning any event occurring within the prior 20 years. Therefore, the estimates requested, with the exception of two categories dealing with "active" records, pertain to the period from January 1, 1989, through December 31, 2008. For the purposes of the estimates, the term "event" means an action by a government agency that results in the creation of one or more of the following categories of records pertaining to persons prohibited from purchasing a firearm pursuant to the Federal Gun Control Act of 1968, as amended, 18 U.S.C. 921 et. seq. including the following:

- Category 1: Records that identify a person who has been convicted in any court of a crime punishable by imprisonment for a term exceeding one year (e.g., federal or state felonies), and of any state misdemeanor punishable by imprisonment for more than 2 years.
- Category 2: Records that identify a person who is under an active indictment or information returned or filed with a court, or a criminal complaint issued or verified by a prosecutor, for the crimes described in Category 1.
- Category 3: Records that identify a person who is a fugitive from justice, as demonstrated by an active felony or misdemeanor want or warrant.

- Category 4: Records that identify a person who is an unlawful user of or addicted to any controlled substance, as demonstrated by specified arrests, convictions and adjudications, not protected from disclosure to the Attorney General by federal or state law.
- Category 5: Records that identify a person who has been adjudicated as a mental defective or has been formally and involuntarily committed to any mental institution, not protected from disclosure to the Attorney General by federal or state law.
- Category 6: Records that are electronically available and identify a person subject to an active court order (e.g. issued by a criminal court or any civil court, such as divorce court, family court, magistrate or general jurisdiction court) which restrains a person from committing acts of violence against another person.
- Category 7: Records that are electronically available and identify a person convicted in any court of a misdemeanor crime of domestic violence.

Essentially, the information collection asks respondents to provide individual estimates of the number of such records available (physically and/or electronically) in the state, and the number of these records already made available to the Attorney General for use by the National Instant Criminal Background Check System (NICS). BJS will use these estimates to calculate the percentage of records already provided based on the total number of records available. This is the calculation defined in the Act.

b. Development of Estimates for Non-Respondent States

For states that choose not to provide estimates, BJS (with the assistance of an independent contractor) will calculate an estimate of record completeness. The Office of Justice Programs' Office of General Counsel has interpreted the intent of Congress in the Act to obtain/calculate estimates from every state. The penalties stipulated in the Act associated with record completeness apply to every state regardless of whether the state plans to seek grant funds or submits estimates. The estimates of record completeness will be calculated based on other available information, including:

- Estimates provided by the states who choose to submit them;
- Information on record automation and completeness provided by states in response to the Criminal History Information System Survey conducted on behalf of BJS by SEARCH Group, Inc.; and
- Counts of records in relevant FBI files in the National Crime Information Center (NCIC), Interstate Identification Index (Triple I), and the NICS Index.

The SEARCH survey provides relevant information regarding “completeness” of state criminal history records in terms of: numbers of fingerprint-based records; the number of records of arrest for which the states report having final court disposition; backlogs of arrest, prosecution and conviction records awaiting entry into information systems; extent

of automation utilized in the record submission process within the state (e.g. the extent of usage of electronic fingerprint image capture; system interfaces between law enforcement and court agencies; and, similar measures regarding state repository policy and practice.

We expect to develop record category estimates based on observed completeness rates for similar states in terms of total state criminal history records and which are proportionate to state population. However, the specific estimation methods are dependent on the availability (and distribution) of these alternative data and, therefore, are subject to change.

c. Independent Evaluation of Estimates

Depending on sufficient appropriations in FY 2009 for this purpose, BJS will employ the services of an independent contractor to: (1) develop a plan and timetable for evaluating the quality of the state estimates provided; and, (2) plan and develop record completeness estimates for non-responding states. BJS hopes to procure these contractual services by June 2009.

d. Workshops to Help Specify Estimate Development Processes

Inasmuch as the state jurisdictions vary greatly in terms of record availability, data reporting and record keeping regulations, analytical resources and abilities, and other factors, some degree of technical assistance may be required to help ensure that reliable methods are employed by respondent states for the initial collection. Therefore, in conjunction with the inaugural collection of estimates under the NICS Improvement Act, BJS will conduct at least one national workshop (in April or May 2009) targeted at state criminal record repositories and court officials to review and discuss their planned record estimation methods. Based on feedback BJS received from the states during the comment period, the following areas will likely serve as the focus for the workshop:

- Analysis of records in the state central record repository;
- Analysis of state crime and/or arrest statistics;
- Analysis of state court records;
- Surveys of local reporting agencies;
- Analyses of state court statistics programs;
- Data collection from a sample(s) of local agency records;
- Estimates derived from data quality audits of local reporting agencies and/or audits of the state central repository.

The workshop could also review activities already undertaken by at least two states that closely monitor and analyze workloads at their record repositories. BJS is working with SEARCH Group, Inc. in the planning and implementation of this workshop.

3. Procedures to maximize response rates.

The information collection will be sent via email to the fifty-six entities. The email will be sent to the agency's authorized official and an NCHIP grant contact person. Respondents will be able to submit responses via email or paper form (fax or regular mail).

The submission of record estimates is voluntary under the Act. However, the estimates must be submitted for the state to be eligible for grants under the Act.

Although appropriations for the grants have not yet been made, BJS intends to send the information collection to the NCHIP agencies as soon as it is approved in order to afford the states and territories the maximum amount of time to develop the required record estimates. In the absence of the incentive accorded by enacted appropriations, BJS will encourage state responses for the purpose of the report to Congress mandated by the Act. However, given the timeframes for public review and comment, and allowing sufficient response development time for the states, we propose a due date for the initial state estimates of May 1, 2009. Assuming an initial transmission to the states on or before February 1, 2009, a reminder email will be sent in early March and phone calls will be placed during the first week of April. A final email will be sent in mid-April.

We expect that subsequent calls for the annual state estimates will be sent in December with a due date set in March.

BJS plans to treat this first round of estimates to be collected as a pilot study. Based on the success of the response and the input of the independent contractor, some modification to the information collection may be needed. Additional training, national workshops, and/or other outreach may be warranted. The first report to Congress is due by the end of January 2009; consequently the first round of estimates will not be incorporated until the January 2010 report to Congress.

BJS has a number of efforts underway which reflect a broad strategy to improve the quality of Nation's criminal history records. In addition to providing direct grant funding to the eligible states and territories for this purpose, BJS has long supported a number of national initiatives which help focus attention on criminal history record data quality issues and encourage state efforts to address shortcomings. Current efforts in this regard include the following:

- In partnership with SEARCH and the state central repositories of criminal records, BJS has launched a "Criminal Record Repository Quality Assurance Project." For this project, BJS is collaborating with SEARCH Group, Inc. to design, develop, establish, and sustain an on-going program involving performance and reporting standards which will address, among other things, criminal history record operations (including quality assurance practices), mandatory reports and data collection/verification requests, surveys, and NICS and Sex Offender Registry information to the extent that these fall within the responsibilities of the state criminal record repositories. The project is intended to implement several of the record improvement recommendations in the Attorney General's Report to Congress on Criminal History Background Checks, which

was published in June 2006: (1) a renewed federal effort to improve the accuracy, completeness, and integration of national criminal history record system; (2) establishment of national standards relating to prompt disposition reporting and record completeness; (3) expansion of the number of repositories adopting the standardized rap sheet; (4) establishment of a national accreditation process for criminal history record repositories; and (5) development of a comprehensive ongoing data collection and research program.

- In partnership with the Justice Research and Statistics Association, BJS has launched several multi-state research projects utilizing the states' criminal history records carried out by state statistical analysis centers (SACs). These projects have provided support to the SACs to develop automated access to the state records to facilitate analyses aimed at sex offender recidivism, criminal history profiles of drug offenders, and summaries of felony case processing in state courts. A critical piece of these projects, in addition to coordinated analyses on the substantive research focus, involves providing detailed data quality and completeness reports to the state's criminal record repository. Thus, in addition to building the SACs' capabilities to access these records, BJS has been able to help the states address data shortcomings that may hinder the use of such records.
- In partnership with the FBI and Nlets, the International Justice and Public Safety Network, over which states and federal agencies share the Nation's criminal history records, BJS has launched an effort to automate its access to state and federal criminal history records for research and evaluation purposes. In addition to improving BJS statistical capabilities, this project will augment the Criminal History Data Improvement Program's activities around evaluating the quality and completeness of state and federal criminal history records, and focusing grant program resources more effectively on data quality issues.
- Also, in partnership with the FBI and Nlets, BJS has launched an effort to encourage states to adopt common data transmission and representation standards for the interstate exchange of criminal history records (i.e. RAP sheets). These efforts, based on the National Information Exchange Model, are focusing on adopting consensus standards for common coding schemes for structured data as well as instructional guidance for unstructured data fields which compose criminal history records.

4. Tests of procedures.

No such tests are planned.

5. BJS Contact person(s).

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