

Supporting Statement

Survey of State Criminal History Information Systems, 2018 and 2020

Overview

The Bureau of Justice Statistics (BJS) is requesting clearance to conduct the Survey of State Criminal History Information Systems (SSCHIS) for reference years 2018 and 2020. The SSCHIS report, the most comprehensive data available on the collection and maintenance of information by state criminal history record systems, describes the status of such systems and record repositories on a biennial basis. Data collected from state record repositories serves as the basis for estimating the percentage of total state records that are immediately available through the FBI's Interstate Identification Index (III), and the percentage of arrest records that include dispositions. Other data presented include the number of records maintained by each state, the percentage of automated records in the system, and the number of states participating in the National Fingerprint File and the National Crime Prevention and Privacy Compact which authorizes the interstate exchange of criminal history records for noncriminal justice purposes.

The SSCHIS also contains information regarding the timeliness and completeness of data in state record systems and procedures employed to improve data quality. The 2018 collection is the fifteenth in the series of collections that began with data collected for 1989. The 2018 collection proposes to collect data, similar to previous years, to assess the evolving criminal history record information environment including varied state laws and practices, covering such topics as procedures for submitting final dispositions to the FBI, the types and use of biometric and image capture devices, processing of noncriminal justice name-based check, state use of criminal justice and noncriminal justice Rap Back services, and other topics that are of significant interest to state and federal stakeholders.

A. Justification

1. Necessity of Information Collection

Among the many operations related to the criminal justice statistics function of the BJS is the administration of the National Criminal History Improvement Program (NCHIP), established by the Brady Handgun Violence Prevention Act of 1993 (Brady Act) and the NICS Record Improvement Program (NARIP), established by the NICS Improvement Amendments Act of 2007 (NIAA). Since 1989, BJS has sponsored the biennial survey of state criminal history information systems through a cooperative agreement with SEARCH, Group Inc. *The Survey of State Criminal History Information Systems* has provided state and federal lawmakers, policymakers, state criminal record agency administrators, researchers and others with the only comprehensive data available on the number and completeness of state-maintained criminal history records, the backbone of the nation's criminal record information sharing network. Survey information has supported and helped gauge the efficacy of initiatives, NCHIP and NARIP among them, designed to improve criminal history records and to support firearm suitability determinations, and sex offender and domestic violence protection order registries.

The criminal history record is the underpinning for wide ranging decision making within the criminal justice system. It is also of critical importance for employment, licensing and volunteer screening, and most especially as it relates to safety of children, the elderly and other vulnerable populations and homeland security efforts. The value of the SSCHIS data has increased in recent years as lawmakers at all levels of government continue to implement programs that rely on criminal history record background checks to improve public safety and to support a growing number of homeland security initiatives. By helping to inform these legislative efforts by providing lawmakers with invaluable data on the status of state-maintained criminal history records, the survey has played a critical role in the success of these public safety initiatives. Through an extensive process of review of prior surveys and analysis of current or emerging issues (described below under Adherence to 5 CFR 1320.8(d) and Outside Consultation) the forthcoming survey, as in the past, is a unique opportunity to capture information of interest to contributors, federal criminal justice agencies, and other state and federal policymakers.

The *Survey of State Criminal History Information Systems* is essential to assessing the impact of the NCHIP and NARIP programs nationally. The survey supports the BJS mission under Title 34 U.S.C. Section 10132(c)(19), to provide for improvements in the accuracy, quality, timeliness, immediate accessibility, and integration of state criminal history and related records. It also supports the development and enhancement of national systems of criminal history and related records including the National Instant Criminal Background Check System (NICS), the Interstate Identification Index (III), the Next Generation Identification system (NGI, formerly Integrated Automated Fingerprint Identification System), the National Incident-Based Reporting System (NIBRS), and the records contained in the National Crime Information Center (NCIC). The survey also draws attention to state participation in national records and information systems by providing regular data to BJS and the FBI reporting progress on criminal record and fingerprint automation and disposition completeness, and supports statistical research for critical analysis of the improvement and utilization of criminal history records.

Over the last decade, BJS launched an effort to enhance its statistical infrastructure by more fully integrating federal and state criminal history records into its operations. Through a partnership with the FBI's Criminal Justice Information Services Division, Nlets, the organization which operations the national telecommunications network over which criminal records are shared, and the National Opinion Research Center at the University of Chicago, BJS developed an automated means of acquiring, processing, and analyzing these records to support ongoing recidivism research and evaluation. The *Survey of State Criminal History Information Systems* is also an essential element of this work by helping to assess the differential impact that varied state laws and regulations and reporting practices have on observed rearrest, reconviction and reincarceration estimates which are derived from the records.

Data from the collection are used frequently by policymakers, the media, and the general public to cite improvements by states in the level of automation and disposition completeness. The U.S. Attorney General cited individual state data from the 2016 report in a recent letter to state Governors and Attorneys General emphasizing the importance of

making records available to NICS and the Department of Justice's priority to improve reporting of state and federal records to NICS. The SSCHIS is the only report that collects national level data on state criminal history record repository operations and volumes of arrests and dispositions.

2. Uses of Information

Data for this collection will be obtained through a voluntary biennial survey administered to state criminal record agency administrators. State and Federal lawmakers use the collected statistics to identify areas of needed funding and to gauge the efficacy of programs implemented to improve criminal record quality at the state and national levels. The General Accountability Office (GAO) relied heavily on the most recently published data (*Survey of State Criminal History Systems, 2016*) for their review of the use of criminal history record checks for noncriminal justice purposes. State Police, Public Safety offices and Attorney Generals, the agencies that typically administer the state criminal records that repositories maintain, use the SSCHIS data to compare their progress with that of other states; to learn the status of operational and technological trends; to become aware of methods implemented by other states to improve record quality by promoting increased reporting from local justice jurisdictions; and as the impetus for examining their own operations and services. Researchers use the data to support scholarly investigations into issues associated with the use of criminal history records for both criminal and noncriminal justice purposes. The survey also provides users with comparative and trend data, providing the ability to track changes in certain databases and follow other trend information of value for state-to-state analysis, such as variances in fees charged for background checks, variances in length of time from occurrence of disposition to posting on a criminal history record, increases in percentage of fingerprints submitted via livescan, and use of livescan systems in courtrooms/courthouses.

BJS frequently uses SSCHIS data to assess record automation, completion, and accessibility by state and over time. The data collected from this survey is compared with data provided by the FBI systems to assess the extent of gaps in reporting of arrests and dispositions available nationally. Several key performance measures for the NCHIP and NARIP programs are dependent on data obtained from this survey (such as, trends in percentage of automated records to total number of records, and percentage of arrests in state systems with linked final dispositions).

Finally, the survey is also increasingly used by BJS to help inform its evaluations of the quality of criminal history record data. Such data quality assessment is being undertaken from a two-part framework: (1) issues that may affect the production of recidivism estimates derived from the records, and (2) issues that may affect the operational use of the records (i.e. fitness for statistical use versus fitness for operational use). Statistical use issues are those that may create differential probabilities of an offender's rearrest, reconviction, or return to custody. Examples of such issues include: varied state laws for (a) reporting criminal history record information (content, responsible entity, etc.), correctional supervision, the states' definition and classification of crimes and offenses,

the expunction and/or sealing of records; and, the handling of reported deaths of record subjects. These issues also include the existence of varied state practices around the creation of criminal record information including the use of citations in place of formal booking, and the reporting of warrant-based arrests. Much information derived from the survey helps BJS identify issues that may affect the operational use of the records by law enforcement, prosecutors, judges and correctional supervision specialists and other consumers of these records. Future iterations of the survey can shed light on issues identified in these data quality research and evaluations.

3. Efforts to Minimize Burden

Similar to past surveys and initiated under the 2006 data collection effort, survey respondents continue to be able to access online, password-protected reporting forms. Respondent data are electronically entered and transmitted to a secure database where they are analyzed by assigned project staff for accuracy and completeness before being compiled for inclusion into the biennial *State Criminal History Information Systems Report* to BJS. Online edit functionality is also employed by the online reporting tool to detect common errors in data reporting and anomalies against data reported in previous cycles.

Changes have been made in the organization of for the 2018 survey. First and foremost, significant effort was made to reduce or eliminate questions that tend to yield the same responses each year or where the information requested can be obtained from other sources. Additions to the survey include expanded questions concerning arrest and disposition reporting and inquiries that are associated with repository budget and staffing levels, internal and external data quality reviews, record retention periods and arrest citation/cite and release practices. To account for known information received in 2016 and to eliminate the need for asking for it again, several questions were deleted from Sections V and VI and remaining questions from each were consolidated into one remaining Section V: In-State Rap Back Services.

Documents outlining the changes between the 2016 and proposed 2018 survey are part of this package as Attachments 1 and 2. The proposed 2018 survey is Attachment 3. While there are no current plans to make changes to the survey between 2018 and 2020, it is possible. If substantive changes are planned, BJS will put out of 30 day notice in the Federal Register to announce the revisions.

4. Efforts to Identify Duplication

There is no duplication of effort based on the nature and scope of this survey, information previously obtained through the survey in prior years has been removed if it is already available from another source. The state criminal record repositories are the only source of the information sought for this collection.

5. Minimizing Burden on Small Businesses

Not applicable. No information will be gathered from small businesses.

6. Consequences of Less Frequent Collection

As noted previously, the *Survey of State Criminal History Information Systems* is the only source for complete and comprehensive data on the status of state-maintained criminal history records. As such, users at both the state and federal levels have come to depend on its production on a regular basis to gauge the efficacy of programs designed to improve criminal record quality and to identify potential funding targets. Past versions of the report have been widely disseminated through the National Criminal Justice Reference Service and rank among the most cited publications produced by SEARCH, The National Consortium for Justice Information and Statistics. Collecting information every two years is a reasonable timeframe to measure change in state record improvement efforts.

SEARCH is the technical assistance provider under the National Criminal History Improvement Program. SEARCH routinely uses the survey data to monitor state level transaction and performance indicators. These data are often part of the analysis that forms the basis for recommendations resulting from on-site technical assistance conducted at the request of state record repository administrators.

7. Special Circumstances

There are no special circumstances in conducting this information collection. Collection is consistent with the guidelines as listed in 5 CFR 1320.6. These data will be collected in a manner consistent with 5 CFR 1320.6.

8. Adherence to 5 CFR 1320.8(d) and Outside Consultations

On October 31, 2018, the Bureau of Justice Statistics published in the Federal Register a 60-Day notice of information collection under review: Survey of State Criminal History Information Systems. The announcement invited comments, especially on the estimated public burden or estimated associated response time. Comments were specifically encouraged on the practical utility of the information to be collected; the accuracy of the estimated burden of the proposed collection of information; the quality and clarity of the information to be collected, and minimizing the burden of the collection of information on those who are to respond. The 30 day notice was published in the Federal Register on February 4, 2019.

BJS received one comment from a member of the public in response to the 60 day notice. The commenter initially requested a copy of the survey instrument. After reviewing the instrument, the commenter inquired as to the possibility of asking a question getting to the percentage of inaccurate dispositions between the court records and the repository. The commenter referenced 5 USC Section 9101(e)(4) and the importance for the public to know the quality and reliability of the information being relied on to complete federal

government background checks. While, BJS agrees that this information is very important to know, the data requested to be collected is not achievable with this survey. In an informal discussion with several state record repositories, the question was raised as to whether this information was adequately tracked. The universal answer was no. If this question was added to the survey, the most frequent response would be N/A. While most repositories have procedures in place to prevent/detect errors, it is not neatly tracked. Reviewing change logs at the state repository level would only indicate how often dispositions get changed, but most of the time it is an update rather than correcting an error. There is no way for states to parse out the reason for the change. The bigger problem surrounds the issue of missing dispositions for which this survey has been tracking over time. BJS will continue to assess the ability to track inaccuracies in criminal history information through supporting frequent audits of record systems and technology-based solutions.

The survey population is limited to the state record repositories of the 50 states, the District of Columbia and the U.S. territories (56 jurisdictions). The current data collection agent, SEARCH, is a membership organization of governor appointees from the 50 states, District of Columbia and the territories. Most of the SEARCH members have within their scope of responsibilities either direct or oversight responsibility for operation of the state record repository. Subsequent to the announcement in the Federal Register, SEARCH notified its membership of the solicitation of comments by BJS.

In the course of disseminating past survey questionnaires and compiling survey responses, BJS and the data collection agent have benefited from a process of continuous consultation and feedback. For example, the two parties met recently to review the proposed 2018 survey. At this meeting, they considered each question's continued value and utility. Consequently, they determined that several questions from the 2016 survey should be eliminated because the data could now be obtained from other sources or had limited utility. While each SEARCH member was invited to provide feedback, specific suggestions to enhance the survey instrument were received from members from Idaho, Montana, New York, South Carolina, and Washington. Also, staff from the FBI's Criminal Justice Information Services Division provided additional detail that focused on efforts to improve arrest and disposition reporting. Survey enhancements from responding state and FBI CJIS Division feedback included expanded questions concerning arrest and disposition reporting and records that are associated with domestic violence protection orders, wanted persons, mental health adjudications, and persons who are ineligible to purchase firearms.

9. Provision of Payments or Gifts to Respondents

Not applicable. The Bureau of Justice Statistics will not provide any payment or gift of any type to respondents. Respondents participate in the survey on a voluntary basis.

10. Assurance of Confidentiality

The data collected are in the public domain and not subject to confidentiality guarantees. Collected data are primarily statistics of an administrative nature, and do not allow for the identification of any individual. Each responding state will be provided with a unique password to ensure that only its representatives provide information to the survey.

11. Justification for Sensitive Questions

There are no questions of a sensitive nature included in the data collection.

12. Estimate of Respondent Burden

The survey will be sent to state record repositories in 56 jurisdictions including the 50 States, the District of Columbia, American Samoa, Guam, the Northern Mariana Islands, Puerto Rico and the U.S. Virgin Islands. The average time required for each agency to complete the survey is estimated at 6.75 hours. The total respondent burden is estimated at 378 hours. The estimated burden is based on the average amount of time reported by five states that reviewed the survey as follows: Iowa = 6.75 hours, Idaho = 7 hours, New York = 6 hours, South Carolina = 7 hours, Virginia = 7 hours

13. Estimate of Respondents' Cost Burden

This collection will primarily require information that is already generated and maintained by the respondents. Based on estimates provided during previous cycles by the reviewing states, the average cost burden per state is \$193 (ranging from \$25 to \$40 per hour as provided by the reporting states).

14. Costs to the Federal Government

The total cost to the Federal government for this survey is estimated at \$180,508 all to be borne by the Bureau of Justice Statistics. Office costs are based on 5 percent full-time work of a GS-15 Supervisory Program Manager salary (\$8,000 and benefits (28 percent of salary) per employee administrative costs of the Bureau of Justice Statistics.

Summary of Cost Estimates

Bureau of Justice Statistics Employees

| | |
|---|---------|
| 5% of GS 15 Supervisory Program Manager = | \$8,000 |
| Benefits = | \$2,240 |
| Other Administrative Costs = | \$3,000 |

Data Collection Agent Costs

SEARCH is the current data collection agent for this survey. Their total costs are estimated to be \$167,268 for data collection instrument development and implementation, data collection, data processing and verification, and technical assistance.

Total Cost **\$ 180,508**

15. Reasons for Change in Burden

Changes have been made in the organization of the current survey. Significant effort was made to reduce or eliminate questions that tend to yield the same responses each year or where the information requested can be obtained from other sources. For example, Section V and VI of the 2016 survey, “Criminal Justice Rap Back Services” and “Non-Criminal Justice Rap Back Services” were consolidated to form a single Section V: In-State Rap Back Services. Also, additions to the survey include expanded questions concerning arrest and disposition reporting and inquiries that are associated with repository budget and staffing levels, internal and external data quality reviews, record retention periods and arrest citation/cite and release practices.

16. Publication Plans and Project Schedule

As in previous iterations of the survey, the data collected will be compiled into spreadsheets and a report will be produced discussing the results. The product resulting from this survey will be similar to previous reports, the most recent of which was published in February 2018 (<https://www.ncjrs.gov/App/Publications/abstract.aspx?ID=273696>).

The final published reports (*Survey of State Criminal History Information Systems, 2018* and the *Survey of State Criminal History Information Systems, 2020*) will be hosted on the National Criminal Justice Reference Service website and accessible through links from both the BJS and SEARCH websites. Users at both the state and federal level have come to depend on the release of the data to gauge the efficacy of programs designed to improve record quality and to identify potential funding targets. While the report is released in full in the fall/winter following the yearend collection, subsets of the data are used post release to develop charts and spreadsheets to supplement program information on the SEARCH and BJS website.

After securing approval from OMB, the projected schedule for the 2018 and 2020 data collection, compilation and data release is as follows:

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|--------------------------|----------------------------------|
| Survey Preparation | Complete |
| Data collection | March-May 2019 and 2021 |
| Data processing/analysis | June-August 2019 and 2021 |
| Review and Verification | September-November 2019 and 2021 |
| Publication release | December 2019 and 2021 |

The data collection agent for the 2020 collection period (reference period of December 31, 2020) will be selected through a competitive bid process; however, the publication plan and schedule are anticipated to be on par with the 2018 timeline. The current data collection agent, SEARCH, has a current award to administer and analyze the 2018 survey.

17. Display of Expiration Date

Three years from the date of approval.

18. Exceptions to the Certification Statement

There are no exceptions to the certification statement.