



**ILLINOIS
CRIMINAL JUSTICE
INFORMATION AUTHORITY**

120 South Riverside Plaza • Suite 1016 • Chicago, Illinois 60606 • (312) 793-8550



Meeting Agenda

***Illinois Integrated Justice Information System Implementation Board
PLANNING & POLICY COMMITTEE***

December 15, 2006
120 S. Riverside Plaza, 10th Floor
Chicago, Illinois 60606
9:30 p.m. - 12:00 p.m.

- Call to Order/Introductions
- Opening Remarks – IIJIS Chairperson Levin
- Subcommittee Updates and Reports
 - Privacy Policy Subcommittee - Bob Boehmer & Wil Nagel
 - Review and approval of Volume I Privacy Policy Guidance
 - Incident/Standard Police Report Subcommittee - Dave Trupp
 - Update on ICASE/ICLEAR for Incident/Standard Police Report Subcommittee – Kirk Lonbom
 - CHRI/Booking & Rapsheet Subcommittee - PJ Jordan & Karen Levy McCanna
 - Orders of Protection & Warrants Subcommittee - Ellen Mandeltort & Deb Seyller
 - Establish and confirm operational objective for Orders of Protection & Warrants Subcommittee
- Identify Planning & Policy Committee information needs/areas of concern for Integration Survey – Wil Nagel
- Discuss development of Mid-level/Operational Plan from Strategic Plan – Herb Johnson & Carol Gibbs
- Adjourn



Privacy Policy Guidance

Volume 1

Privacy policy guidance for Illinois
integrated justice information systems

DRAFT

**ILLINOIS
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JUSTICE
INFORMATION
SYSTEM**

Implementation Board



**120 S. Riverside Plaza
Suite 1016
Chicago, Illinois 60606**

Tel: (312) 793-8550

Fax: (312) 793-8422

TDD: (312) 793-4170

www.icjia.state.il.us/ijis

December 2006

On behalf of the members of the Illinois Integrated Justice Information System (IJIS) Implementation Board, I am pleased to present *Privacy Policy Guidance for Illinois Integrated Justice Information Systems, Volume 1*. This report discusses several privacy issues confronting the integration of Illinois's justice information systems and sets forth the mandatory, prohibited, and permissible information practices under existing state and federal laws. The report also proposes a set of six privacy principles that reflect the philosophical underpinnings of the justice system's collection, use, and dissemination of the information it requires to promote the public's safety.

At its inception, the Implementation Board was charged with protecting individuals' privacy rights related to the sharing of justice information. To fulfill this obligation, the Board created the Privacy Policy Subcommittee and requested that it develop policies to guide the collection, use, and sharing of justice information in a manner that is sensitive to individual privacy interests.

Illinois's work in this regard has not gone unnoticed. Representatives of the IJIS Privacy Policy Subcommittee assisted the Global Justice Information Sharing Initiative's Privacy and Information Quality Working Group with the creation of a privacy policy development guide. The National Governors Association has also recognized IJIS's efforts in this area and awarded a grant to help fund the next volume in this important series.

This report represents a substantial step toward the development of a comprehensive set of privacy policy recommendations that can guide justice practitioners and system designers in the appropriate collection, use, and dissemination of electronic information throughout the Illinois justice system. It is a critical component of the Implementation Board's mission to create a comprehensive integrated justice strategy that will fulfill the needs of government, while protecting the privacy rights of individuals.

Sincerely,

A handwritten signature in black ink, appearing to read 'Lori G. Levin'.

Lori G. Levin
Chair

Implementation Board Membership

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Illinois Criminal Justice Information Authority

Dorothy Brown, Vice Chair

Clerk of the Circuit Court of Cook County

Ellen Mandeltort

Office of the Illinois Attorney General

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Illinois State Police

Rafael Diaz

Department of Central Management Services

Sharon Shipinski

Illinois Department of Corrections

Ellen Scrivner

Chicago Police Department

Adrienne Mebane

Cook County State's Attorney's Office

Marjorie O'Dea

Cook County Sheriff's Office

Catherine Maras O'Leary

Cook County Bureau of Information Technology
and Automation

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Illinois Juvenile Justice Commission

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Illinois Sheriffs' Association

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Illinois State's Attorneys Association

Pamela McGuire

Illinois Association of Court Clerks

Sidney DeLair

Illinois Probation & Court Services Association

Ronald Lewis

Illinois Public Defender Association

Michael Tardy

Judicial branch liaison

Skip Robertson

Judicial branch liaison

PRIVACY POLICY GUIDANCE FOR ILLINOIS INTEGRATED JUSTICE INFORMATION SYSTEMS

A Report of the Illinois Integrated Justice Information System Privacy Policy Subcommittee

Volume 1

December 2006

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**ILLINOIS
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**Privacy Policy
Subcommittee**



120 S. Riverside Plaza
Suite 1016
Chicago, Illinois 60606

Tel: (312) 793-8550
Fax: (312) 793-8422
TDD: (312) 793-4170

www.icjia.state.il.us/ijjis

Dear Members of the IJIS Implementation Board:

Just over two years ago, the Privacy Policy Subcommittee was established to examine the privacy issues created by the integration of Illinois' justice information systems. Specifically, the subcommittee was charged with developing policies to ensure that the enhanced sharing of justice information, made possible through advancing information technologies, is carried out in accordance with Illinois law and its citizens' reasonable expectations of privacy. We are pleased to present to you our first in a series of six reports that will culminate in a comprehensive set of privacy policy recommendations that will govern the sharing of critical information between justice agencies and with the public.

The subcommittee agrees that the efficient and electronic sharing of information plays a critical role in the administration of justice. We believe that the following privacy policy recommendations protect privacy while facilitating the appropriate, effective, and efficient use of justice information.

While we have focused on existing laws and regulations, several issues required the subcommittee to make recommendations it believed were necessary to ensure meaningful privacy protections throughout the Illinois justice system. The recommendations fill the gaps in existing law and were designed to create a consistent, statewide standard to facilitate the appropriate sharing of justice information across local jurisdictions.

The subcommittee's deliberations have been substantive, wide-ranging, and collegial. Members' comments and the seriousness of our discussions reflect the importance and difficulty involved with developing recommendations of this nature.

The subcommittee's work was greatly aided by individualized meetings with practitioners from government agencies across all levels of state and local government, private industry, academia, and advocacy groups. We wish to take this opportunity to thank them for their time and for sharing their substantial knowledge with us. Finally, I express my gratitude for the commitment, cooperation, and diligent work of the subcommittee members.

Sincerely,

A handwritten signature in black ink that reads "Robert P. Boehmer". The signature is written in a cursive style.

Robert P. Boehmer
Chairman, Privacy Policy Subcommittee

IIJIS Privacy Policy Subcommittee

Robert P. Boehmer, CHAIRMAN
Institute for Public Safety Partnerships

Kathleen deGrasse
Illinois State Police

Sidney DeLair
*Illinois Probation and Court Services
Association*

Paul Fields
Law Office of the Cook County Public Defender

James Ford
*Office of the Clerk of the Circuit Court of Cook
County*

James Hickey
Chicago Police Department

Robert Howlett
Illinois Sheriff's Association

Harold Krent
Chicago-Kent College of Law

Ronald Lewis
Illinois Public Defender Association

Michael McGowan
*Office of the Chief Judge, Circuit Court of Cook
County*

Rachel McKinzie
Illinois Department of Corrections

Steve Neubauer
Illinois Association of Chiefs of Police

Gerald Nora
Cook County State's Attorney's Office

Marcel Reid
Illinois State Police

Leslie Reis
John Marshall Law School

Donald Rudolph
Illinois State Police

Lyn Schollett
Illinois Coalition Against Sexual Assault

Art Sebek
Illinois State Police

Nicole Sims
*Office of the Clerk of the Circuit Court of Cook
County*

Michael Tardy
Administrative Office of Illinois Courts

Martin Typer
Illinois Association of Court Clerks

Jennifer Walsh
Office of the State Appellate Defender

Wil Nagel, Illinois Criminal Justice Information Authority
REPORTER

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Deb Plante, Illinois State Police

James Redlich, formerly Office of the Illinois Attorney General

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Scott Slonim, Law Office of the Cook County Public Defender

Contents

Introduction.....	1
Privacy Policy Subcommittee’s Creation & Charge.....	2
How to utilize the Privacy Policy Guidance report.....	3
Privacy risks presented by integrated justice information systems	4
Findings and recommendations regarding the sharing of information concerning actors in the justice system.....	6
1. Information concerning un-arrested suspects	6
2. Information concerning arrestees and those charged with crimes	10
3. Information concerning convicted persons.....	16
4. Information concerning probationers.....	20
5. Information concerning prisoners.....	25
6. Information concerning individuals on supervised release.....	30
7. Information concerning victims of crime, generally.....	32
8. Information concerning victims of sexual offenses	36
9. Information concerning victims of domestic violence.....	38
10. Information concerning victims of identity theft.....	40
11. Information concerning child victims.....	41
12. Information concerning witnesses, generally	45
13. Information concerning child witnesses	48
Recommendations for integrated justice information systems.....	50
Directly confront integrated justice privacy risks.....	50
Sound privacy principles for integrated justice information systems.....	52
Conclusion	58
Table 1: Information collected about prisoners.....	59
Table 2: Categories of information most useful for traditional crime analysis	60
Appendix A: Privacy Policy Guidance series	62

Introduction

Over the last several years, federal, state, and local justice agencies have begun implementing new information systems designed to efficiently share critical information across agencies and jurisdictions. When information sharing works, it is a powerful tool. What these agencies and others like them are learning, however, is that the policy and legal issues confronting the integration of justice information systems can be more difficult than the technical ones.

Although several technologies exist that help justice agencies exchange electronic data with one another, clear and understandable rules for collecting, using, disseminating, and retaining the vast stores of data maintained by the Illinois justice system are lacking. The *Privacy Policy Guidance* series is an attempt to establish a comprehensive set of practical privacy policy recommendations that simultaneously empower and constrain justice officials by explaining which data practices are and are not permitted.

More than simply providing a statement of information sharing rules, this report is also an exercise in good government. The public deserves to know how the Illinois justice system manages its information. This is so even if the information itself should not be publicly available. By clearly setting forth what information is collected, maintained, and shared by Illinois justice agencies, the public is invited to question those policies from a perspective that may be unavailable to those immersed in the administration of justice.

Transparency in government policy-making allows errors to be corrected through public criticism. Sometimes cogent and passionate arguments can persuade policy makers to see things in a truly new light. This report, and the others that will follow in the *Privacy Policy Guidance* series, are being placed before the public so that the information sharing policies of the State of Illinois can be improved – the ultimate goal of any integrated justice information system initiative.

Privacy Policy Subcommittee's Creation & Charge

In 2003, Governor Rod Blagojevich issued Executive Order No. 16, which created the Illinois Integrated Justice Information System (IIJIS) Implementation Board. This board is an intergovernmental effort dedicated to improving the administration of justice in Illinois by making complete, accurate, and timely information available to all justice decision-makers.

The Governor recognized the need to develop information systems that effectively support public safety efforts while protecting individuals from the inappropriate collection, use, or dissemination of their identities and sensitive information. As such, the executive order charged the Implementation Board with ensuring that the privacy and civil liberties of all citizens are enhanced rather than diminished by the expansion of integrated justice information systems in Illinois. The Privacy Policy Subcommittee, members of which are practitioners from the traditional criminal justice system, the press, schools of law, and victim services groups, was formed to fulfill this charge.

The Implementation Board sought to identify the privacy issues created by the enhanced collection, analysis, and sharing of information made possible with newly advanced computer technologies. Moreover, the board desired practical solutions to these issues in the form of a comprehensive set of privacy policy recommendations that could guide justice practitioners and system designers in the appropriate collection, use, and dissemination of electronic information throughout the Illinois justice system.

This report presents the Privacy Policy Subcommittee's first in a series of responses to these requests. It concentrates on the traditional justice information sharing because this data underlies the day-to-day operation of the justice system. Specifically, this report: (1) identifies and discusses several of the privacy issues confronting the enhanced collection, analysis, and sharing of justice information made possible by advancing computer technologies; (2) sets forth the types of information sharing that are mandated by existing federal and state requirements; and (3) contains the subcommittee's recommendations concerning the proper treatment of justice information.

The establishment of the Privacy Policy Subcommittee has been very timely for Illinois. It is common for technologies to race ahead of public policy. Our nation has already seen pilot projects that help police officials generate leads and expedite investigations by using computer information management capabilities to more quickly access, share, and analyze records. We also have seen some of these projects shut down due to their failure to address the public's privacy concerns. It is the subcommittee's hope that publishing this report now will help ensure that Illinois justice agencies consider privacy issues simultaneously with the development of their new information systems so that appropriate protections can be built into them.

How to utilize the Privacy Policy Guidance report

The Privacy Policy Subcommittee is developing its recommendations in a series of volumes for one primary reason – Illinois justice agencies are moving forward with their integrated justice systems now. It is the subcommittee’s goal to provide these agencies with some privacy policy guidance while they are developing their systems, rather than after those systems have been completed.

This report begins with a brief overview of the privacy interests implicated by the enhanced collection, analysis, and sharing of information made possible by integrated justice information systems. The report then introduces the types of personally identifying information collected about actors in the criminal justice system. For each class of actor,¹ the report describes the types of information sharing that are mandated, prohibited, and permitted by existing federal and state requirements. The report also identifies issues that agencies should address before developing or participating in an integrated justice information system; the pros and cons of each issue are addressed followed by the subcommittee’s recommendations regarding how that information should be treated. The subcommittee chose to start with traditional justice information because it is essential for the day-to-day operation of the Illinois justice system.

The Privacy Policy Guidance report does have some limitations. First, the body of the report is intended to elucidate permissible justice information practices; it does not directly address the means through which individuals access that information. The report focuses on access to information, and not on whether an individual justice practitioner is authorized to review the information in paper form or electronically. Second, while the IIJIS initiative is intended to facilitate the sharing of information across the justice system, this report focuses on executive branch agencies. The subcommittee acknowledges that not all of the necessary safeguards are within the power of the executive branch and recognizes that courts routinely protect individuals’ privacy interests on a case-by-case basis. Nevertheless, out of respect for the co-equal nature of the judiciary, the subcommittee did not make recommendations concerning how courts and court clerks should manage their information. Thus, this report does not contain recommendations regarding the information exchanges that take place under the supervision of a trial court.

Additionally, users of this document should consult their agency counsel for specific interpretations of federal and Illinois law. **As a set of recommendations, the *Privacy Policy Guidance* series is not intended to create, expand, or diminish individuals’ rights with regard to the justice system’s treatment of their information.** Federal and state laws are constantly changing and when a recommendation is in conflict with an existing or future law, the law ultimately controls the appropriate collection, analysis, and sharing of information throughout the justice system. Nevertheless, it is the subcommittee’s hope that the recommendations contained in this document and those that follow in the series will be regarded as best practices by every justice agency in the State.

¹ It is possible for an actor to have more than one status or classification at the same time. For example, a witness could, upon further suspicion, become a suspect and an arrestee could already be on probation for a prior offense.

Privacy risks presented by integrated justice information systems

By enhancing the electronic sharing of data, integrated justice information systems help to ensure that justice practitioners have efficient and timely access to the information they need to make sound decisions. These systems also have the potential to centralize a substantial amount of personally identifiable information in the government, thereby creating risks to individuals' privacy and civil liberties.

Privacy risks presented by integrated justice information systems fall into three broad categories: (1) chilling effects and other surveillance risks; (2) information processing risks; and (3) information dissemination risks. The nature and extent of these risks are dependent upon the ways in which integrated justice information systems will be used, the types of data that they will analyze, and the amount of oversight that will be applied to their use.

Chilling effects

Individuals are already compelled to disclose a great deal of information to their government. The collection and aggregation of this information, discussed below, may have a chilling effect on social and political activities. The collection of information, whether it is real-time or simply the ability to retroactively track the transactions and associations of individuals, is a form of social control. People are likely to act differently if they know or expect that their conduct could be recorded and connected, whether correctly or incorrectly, to other individuals.

While some social control is desirable, there is a risk that individuals will become more cautious in the exercise of their protected rights of expression, protest, association, and political participation. For example, an individual who is required to provide information to the justice system may be less outspoken in his dissent of government policies or refuse to report instances of criminal activity out of fear that the information could subsequently be used to his detriment. This may be especially true if there are few restrictions on the analysis or use of this information.

Information processing risks

Information processing risks arise from the storage, analysis, and use of data that has already been collected by the justice system.

Data aggregation

Several jurisdictions throughout the country have begun building integrated justice information systems that combine information about individuals from multiple sources. This aggregation of data implicates the chilling effects described above because it is a less direct form of surveillance that allows justice practitioners to track, albeit on a more limited basis, an individual's actions and associations. Additional problems may arise where the data compilation used to judge the individual is incomplete or results in a distorted portrait of the person because the information is disconnected from the original context in which it was gathered.

Data inaccuracy

Several factors contribute to the difficulties with ensuring that information about one person is correctly attributed to that individual and only that individual. The variety of ways in which a person's name can be recorded, the ability to change one's last name, and the number of people who may share the same name can raise significant challenges to connecting information to the correct individual. These issues, and many other facets of data quality, create the risk that a justice practitioner using an integrated justice information system may target one individual because of acts committed by another.

Information dissemination risks

Any information system is open to abuse or misuse by those authorized to access its contents. For example, a Los Angeles detective illegally ran a computer background check on a little league baseball coach he did not like.² In Florida, a sheriff used a restricted database to obtain the address of a woman who described him as being too fat for basic police work in a letter to the editor.³

These abuses damage the relationship between citizens and their government because the breach of confidentiality is a betrayal of the public's trust. Additionally, the unintentional disclosure of the data contained in integrated justice information systems can threaten people's security by making them more vulnerable to physical, emotional, financial, and reputational harms. For example, many people have good reasons to keep their addresses secret, including victims of stalking and domestic violence attempting to hide from those who threaten them, police officials and prosecutors concerned about retaliation from criminals, and doctors who perform abortions desiring to protect their families' safety.

Conclusion

Integrated information systems are reducing the government inefficiencies that historically protected individual rights from centralized state power. While the concentration of personally identifying information raises concerns that citizens may be chilled in the exercise of their First Amendment rights, the literature reveals that there is also substantial fear that data related to an individual will be mismanaged or misinterpreted with real-world consequences to that person. Since integrated justice information systems are being developed throughout the nation, it is vital that jurisdictions recognize these privacy risks and develop meaningful policies that address these concerns. It is hoped that the findings and recommendations that follow will assist jurisdictions with this process.

Sources

- Daniel J. Solove, *A Taxonomy of Privacy*, 154 U. PA. L. REV. 477 (Jan. 2006).
- Technology and Privacy Advisory Committee, U.S. DEP'T OF DEFENSE, *Safeguarding Privacy in the Fight Against Terrorism* (March 2004)
- K. A. Taipale, *Technology, Security And Privacy: The Fear of Frankenstein, the Mythology of Privacy and the Lessons of King Ludd*, 7 YALE J.L. & TECH. 123 (2005).

² Report: LAPD let internal cases slide, CNN.com (May 19, 2003) <http://www.cnn.com/2003/US/West/05/19/police.corruption.ap/>.

³ Sheriff apologizes to woman who described him as too fat, Local6.com (April 7, 2005) <http://www.local6.com/print/4354943/detail.html>.

Findings and recommendations regarding the sharing of information concerning actors in the justice system

In conducting the research to fulfill its charge, the subcommittee found that the State of Illinois had already made countless decisions concerning the collection, use, and sharing of justice information. These decisions exist in the form of statutes, regulations, and case law. This portion of the report attempts to compile Illinois's existing policy choices and present them in an organized and understandable manner.

The following pages also reveal instances where existing requirements either overlook a given information sharing practice or fail to provide what the subcommittee considered appropriate privacy protections. Where appropriate, the subcommittee identified these issues and formulated recommendations to address the privacy concerns implicated by the type of information being considered. Most of the recommendations are guided by the principles articulated by federal and Illinois case law. But some recommendations reach beyond these existing requirements; this is because some legitimate privacy concerns may be implicated in circumstances not yet recognized by the law.

It is hoped that the findings and recommendations contained in this part of the report will help guide state and local justice agencies in the development of sound privacy and information sharing policies.

1. Information concerning un-arrested suspects

It is necessary to distinguish between members of the general public, suspects, and arrestees. A member of the general public becomes a suspect when a police official reasonably infers from the circumstances that the person is committing, is about to commit, or has committed a crime.⁴ Once a suspect is arrested,⁵ he is deemed an arrestee and his information should be treated as discussed in the next section, *Information concerning arrestees*.

The following discussion refers to suspects who are reasonably suspected of committing an offense but are not subsequently arrested. A suspect may avoid arrest where an investigator clears him of suspicion. Other times, an investigator may not be able to compile enough evidence to justify arresting the suspect. Police officials⁶ collect information about suspects to further the investigation of a crime and ultimately to determine if probable cause exists to arrest

⁴ The standard established in *Terry v. Ohio*, 392 U.S. 1 (1968) is codified in the Illinois Code of Criminal Procedure at 725 ILCS 5/107-14.

⁵ For purposes of this report, a person ceases to be a suspect and becomes an arrestee when he has been processed and his information is collected by an arresting agency for purposes of recording his arrest.

⁶ "Police officials" is a term used throughout this report to broadly refer to peace officers including, but not limited to, federal law enforcement officials, state police, municipal police, and sheriffs.

and charge an individual with the commission of that or any other crime that comes to an investigator's attention.⁷

Mandatory information practices

(1) Police must collect suspect information – Police officials have a statutory duty to investigate crimes and criminal conduct. To fulfill this responsibility, police officials identify suspects and collect personally identifiable information about them.⁸

Prohibited information practices

(1) Police cannot provide suspect information to the public, generally – Information that personally identifies suspects is not available to members of the general public unless the suspect poses a danger to the community. Where a suspect poses a danger to the community, Illinois law permits, but does not require, the public release of a suspect's personally identifying information.

Commentary

The disclosure of police officials' investigatory records may seriously hamper enforcement efforts by discouraging or compromising confidential informants and disclosing the existence, targets, or methods of investigation. Although not fully codified by statute or rule, Illinois recognizes a limited privilege for law enforcement investigatory information.⁹ This recognition is found in Section 7 of the Illinois Freedom of Information Act, which exempts from inspection law enforcement records that would: (a) interfere with pending or actually and reasonably contemplated proceedings; (b) disclose the identity of a confidential source; (c) disclose unique or specialized investigative techniques; (d) endanger the physical safety of any person; or (e) obstruct an ongoing investigation.¹⁰ The privilege is also apparent in Illinois' policy to restrict public access to records of those individuals who have not been found guilty of a criminal offense by a court of law.¹¹ Restricting the disclosure of investigatory information serves to preserve the integrity of law enforcement techniques and confidential sources, to protect witnesses and police officials, to safeguard the privacy of individuals under investigation, and to prevent interference with the investigation.

Permissible information practices

(1) Police may collect suspect's name, address, and explanation – When a police official reasonably infers from the circumstances that an individual is committing, is about to commit, or

⁷ There was concern among some members of the subcommittee about this report's use of the phrase "probable cause." This concern arose primarily because probable cause has multiple meanings in the Illinois justice system. Specifically, there is a distinction between a police official's reasonable, subjective belief that probable cause exists to arrest an individual and a court's finding that probable cause existed to support the arrest. For the purposes of this report, the probable cause standard is used as a triggering mechanism for the collection of personally identifiable information. As such, probable cause as used throughout this report refers to a police official's reasonable, subjective belief that probable cause exists to arrest an individual.

⁸ *People v. Blitz*, 68 Ill.2d 287, 294 (1977).

⁹ *In Re Daniels*, 240 Ill.App.3d 314, 324-331 (1st Dist. 1992).

¹⁰ 5 ILCS 10/7(1)(c)(i), (iv), (v), (vii), (viii).

¹¹ See Illinois Criminal Identification Act, 20 ILCS 2630/3, /7. Section 3 distinguishes between the types of agencies that have access to arrest information and those that may only have access to conviction records. Section 7 states that criminal history records maintained by the Illinois State Police shall not be made public except as provided under Illinois law. See also, Uniform Conviction Information Act, 20 ILCS 2635/2; 2635/5 (making conviction information, but not arrest data, publicly available).

has committed a criminal offense, the official may stop the suspect for a reasonable period of time and demand his name and address as well as an explanation of his actions.¹²

(2) Police may collect public and law enforcement data about a suspect – When a police official reasonably infers from the circumstances that an individual is committing, is about to commit, or has committed a criminal offense, the official may investigate the suspect using any publicly available information and law enforcement information to determine if probable cause exists to arrest the individual.

Commentary

This discussion is limited to the collection of information about individuals who are reasonably suspected of some type of criminal conduct and merely documents current investigatory practices. It focuses on the types of information collected to establish whether probable cause exists. Police officials are not required by law to wait until they possess facts sufficient to form a reasonable inference that an individual is committing, is about to commit, or has committed a criminal offense before they can utilize law enforcement¹³ or publicly available information.

There is a difference between publicly available information and the types of data that may appear in law enforcement data systems. For instance, publicly available information such as property ownership records and court case filings may not appear in an integrated law enforcement data system that contains police incident report information and outstanding warrants.

A related issue is the extent to which police officials obtain publicly available data from commercial data brokers. Although not addressed in this report, future volumes in the *Privacy Policy Guidance* series are likely to discuss this issue in greater depth.

(3) Police may provide suspect information to prosecutors and other police agencies – Police officials may share any information they collect regarding suspects with police officials in other jurisdictions and prosecutors to aid in the determination of whether probable cause to arrest exists.

(4) Police may provide suspect information to the public, community safety exception – When police officials or prosecutors reasonably determine that a suspect poses a danger or threat of danger to the community, information about the suspect may be released to the public.¹⁴ The release of information should be limited to identifying information and any other information that could reasonably protect the public from substantial harm.

¹² 725 ILCS 5/107-14 (providing “[a] peace officer, after having identified himself as a peace officer, may stop any person in a public place for a reasonable period of time when the officer reasonably infers from the circumstances that the person is committing, is about to commit or has committed an offense as defined in Section 102-15 of [the Code of Criminal Procedure], and may demand the name and address of the person and an explanation of his actions. Such detention and temporary questioning will be conducted in the vicinity of where the person was stopped.”).

¹³ *People v. Blankenship*, 353 Ill.App.3d 322 (3d Dist. 2004).

¹⁴ See ILL. R. OF PROF. CONDUCT 3.6(c)(6); (c)(7)(ii) (permitting an attorney to warn of danger concerning the behavior of a person involved, when there is reason to believe that there exists the likelihood of substantial harm to an individual or to the public interest and if the accused has not been apprehended, to provide information necessary to aid in the apprehension of that person).

Commentary

The subcommittee has not identified any statute or case law articulating what level of danger to the community may be required before information about a suspect can be disseminated to the public. Illinois Supreme Court Rules of Professional Conduct regarding trial publicity permit the dissemination of information concerning a suspect “when there is reason to believe that there exists the likelihood of substantial harm to an individual or to the public interest.”¹⁵ For example, a police department may provide a sketch or photo of a suspected rapist at large in the community.

Issues identified

(1) Whether information collected about people no longer suspected of having committed a crime should be retained for use in subsequent investigations.

PRO: INFORMATION ABOUT SUSPECTS SHOULD BE RETAINED FOR USE IN SUBSEQUENT INVESTIGATIONS. It has long been a basic tool of criminal investigators to start with known suspects and, with proper authorization, to look for information about them and the people with whom they interact. In integrated justice information systems, investigators may appropriately identify new individuals for investigation because of their connection with the suspect. Even though some of the connections revealed by an integrated justice information system might be tenuous, it is the role of detectives and police to exhaust investigative leads.

In some instances it may be appropriate for a suspect to become the subject of an intelligence investigation. Where this occurs, law enforcement agencies already must comply with federal criminal intelligence systems’ operating policies.¹⁶

CON: INFORMATION ABOUT SUSPECTS SHOULD NOT BE RETAINED FOR USE IN SUBSEQUENT INVESTIGATIONS. When one considers the ease with which an individual can be considered a suspect, the retention and subsequent use of information collected about people who have been cleared of suspicion raises privacy concerns. In some instances a suspect may be cleared of suspicion. Simply restricting access to suspect information to police officials and prosecutors might not provide enough protection where an individual is repeatedly targeted for investigation on the basis of data that is either inaccurate (e.g., it reports that police officials still consider this person a suspect) or incomplete (e.g., it lacks the fact that the suspect was cleared of suspicion).

RECOMMENDATION: Sound privacy protections concerning the accessibility of suspect names and associations, even among police officials, may be consistent with more efficient investigations by helping investigators hone their inquiries and make them more productive. The subcommittee recommends that this issue be discussed in greater detail

¹⁵ ILL. R. OF PROF. CONDUCT 3.6(c)(6). *See also* ILL. R. OF PROF. CONDUCT 3.8 (providing that “a public prosecutor or other government lawyer in criminal litigation shall exercise reasonable care to prevent investigators, law enforcement personnel, employees or other persons assisting or associated with the prosecutor in a criminal case from making an extra judicial statement that the public prosecutor or other government lawyer would be forbidden from making under Rule 3.6”).

¹⁶ These policies can be found at 28 C.F.R. Part 23 and include a five-year retention period that can be extended with proper validation. 28 C.F.R. § 23.20(h).

as part of *Privacy Policy Guidance, Volume 2*, which will specifically address the privacy interests implicated by increased sharing of digital police incident report data.

2. Information concerning arrestees and those charged with crimes

An arrestee, for the purposes of this discussion, is an individual who was arrested and charged with the commission of a criminal offense but: (a) was not convicted; (b) was acquitted; (c) had his conviction overturned on appeal; or (d) was released by police without formal charges being filed. Once an arrestee has been convicted, he is deemed a convicted person for the purposes of this report and his information should be treated as discussed in the next section, *Information concerning convicted persons*.

The justice system collects arrestees' personally identifying information for a number of reasons. An arrestee's information is collected to investigate the charges against him and establish the elements of the offense. The arrestee's information is also used to connect him to the facts surrounding his arrest so that a court can assess the police official's determination that probable cause existed to arrest the individual. In order to maintain complete and accurate criminal history records as well as to compile crime statistics, Illinois State Police collect arrestee information.¹⁷ Courts collect arrestee information to assess the need for financial security to assure the defendant's appearance at later proceedings and set conditions of release that will protect against the risks of nonappearance and the commission of new offenses.¹⁸

Mandatory information practices

(1) Police must collect arrestee information – Police officials must collect any information that: (a) helps establish the identity of the arrestee; (b) justifies the determination of probable cause to arrest; or (c) assists in the eventual prosecution of the arrestee.

Commentary

Information that tends to help establish an arrestee's identity includes his self-reported name, address, date of birth, and Social Security number; demographic information; photographs; and fingerprints. It can also include any unique identifiers assigned to the individual by government entities such as the individual's actual Social Security number, the Illinois State Police SID number, and the FBI number.

(2) Pretrial services personnel must collect arrestee information – When an arrestee is to be presented for first appearance on felony charges, pre-trial services personnel must collect information concerning the arrestee's community ties, employment, residency, criminal record, and social background to assist the court in determining the appropriate terms and conditions of pretrial release.¹⁹

Commentary

Not every county in Illinois has a pretrial services agency; state law provides that pretrial functions can be assigned to probation and court services departments.²⁰

¹⁷ 20 ILCS 2630/2.1; 2630/8.

¹⁸ 725 ILCS 185/7(b).

¹⁹ 725 ILCS 185/7(a).

²⁰ 725 ILCS 185/3.

(3) Arresting police agencies must provide arrestee information to Illinois State Police – Police officials are required to share the identifying information and details regarding the felony and certain misdemeanor charges that they collect with the Illinois State Police for purposes of compiling a complete criminal history record.²¹

Commentary

Arrest information is an important component of criminal history record information. For instance, a court disposition will not be posted to a subject's record unless there is an underlying arrest; this is done to protect individuals from having a publicly available conviction mistakenly attached to their record. As such, arrest information is critical to decision making at virtually every juncture in the justice system because it is the foundation for the posting of subsequent criminal history record and transaction information concerning individuals.

(4) Police must provide arrestee information to prosecutors – Police officials must share any information they collect regarding arrestees with prosecutors to aid in the prosecution of the arrestees.²²

(5) Police must provide arrestee information to probation and pretrial services personnel – Pretrial services personnel are required to monitor the arrest records of local police agencies to determine whether any supervised person has been formally charged with the commission of a new offense in violation of the terms of his conditional release. Upon request, police officials must share the identifying information and charging details regarding arrestees with pretrial service personnel.²³

(6) Pretrial service personnel must provide information to parties and counsel of record – Pretrial services personnel must provide copies of the arrestee's pretrial services report to all parties and counsel of record.²⁴

(7) Prosecutors must provide charging information to Illinois State Police – Prosecutors must provide charging details to the Illinois State Police for the purpose of maintaining complete and accurate criminal history records.²⁵

Commentary

In some Illinois counties, court clerk's offices take on the responsibility of reporting state's attorney charging decisions to the Illinois State Police.

(8) Prosecutors must provide information to defense counsel – Prosecutors must share facts underlying an individual's arrest and charges with defense counsel to protect the arrestee's right to a fair preliminary hearing and trial.

(9) Illinois State Police must provide arrest information to military officials upon request – The commander of any military installation in Illinois may access arrest information concerning anyone who seeks access to that installation's arms storage facility.²⁶

²¹ 20 ILCS 2630/2.1(a); 2630/5(a).

²² 725 ILCS 5/114-13(b).

²³ 725 ILCS 185/26 (providing that pre-trial services personnel must regularly monitor the arrest records of local police agencies).

²⁴ 725 ILCS 185/17.

²⁵ 20 ILCS 2630/2.1(b).

(10) Illinois State Police must provide arrest information to other police agencies – Upon request, the Illinois State Police must provide arrest information to peace officers of the United States, of other states or territories, and to all peace officers of the state of Illinois.²⁷

(11) Illinois State Police must provide arrest information to the Department of Children and Family Services for childcare licensing purposes – Upon request, the Illinois State Police must provide childcare license applicants’ arrest information to the Department of Children and Family Services.²⁸

(12) Illinois State Police must provide arrest information to any agency authorized by law to receive it – Arrest information can be released to any individual or agency authorized to receive it under Illinois or Federal law.²⁹

Commentary

This is a catchall finding that permits arrest information to be released pursuant to acts of Congress and the Illinois General Assembly. Currently, several statutes provide agencies access to arrest information.³⁰

(13) Arresting police agencies must provide arrestee information to the news media – As soon as practicable within 72 hours of an individual’s arrest, arresting police agencies must make available to the news media the following information:³¹

- (a) The arrestee’s identity (including, when available, his name, age, address, and photograph);
- (b) Information relating to the charges for which he was arrested;
- (c) The time and location of his arrest;
- (d) The identification of the investigating or arresting agency;
- (e) The amount of any bail or bond if the arrestee is incarcerated; and
- (f) Any custodial information regarding the date and time of his receipt, discharge, or transfer from the arresting agency.

Commentary

Because the government’s power to deprive persons of their physical liberty is among its most awesome, arrest records have always been available to the American press and the public as an essential check on this power. Courts and commentators have long recognized that the public availability of arrest information deters the government from making illegal arrests, promotes nondiscriminatory use of the government’s arrest powers, promotes accurate fact finding in the government’s investigations, and, perhaps most importantly, promotes the public confidence in the fairness of our justice system.

Some members expressed concern that this finding violated Rule 3.6 of the Illinois Rules of Professional Conduct, which prohibits trial publicity that could threaten an arrestee’s

²⁶ 20 ILCS 2630/3(C).

²⁷ 20 ILCS 2630/3(A).

²⁸ 225 ILCS 10/4.1.

²⁹ 20 ILCS 2630/7.

³⁰ See, among others, 5 U.S.C. § 9101 (federal agencies for positions of national security); 230 ILCS 10/22 (Illinois Gaming Board); 815 ILCS 5/11 (Securities Department of the Office of the Secretary of State).

³¹ See 20 ILCS 2605/2605-302(a); 5 ILCS 160/4a; 50 ILCS 205/3b; 110 ILCS 12/15. Note that these statutes set the time for which arrest information must initially be made available (within 72 hours); they do not provide an expiration date after which the information is no longer available.

right to a fair trial by polluting the potential jury pool. That rule identifies certain subjects that pose a serious and imminent threat to the fairness of judicial proceedings. The types of information released to the news media, however, are specifically provided for in Rule 3.6.³²

(14) Police agencies must make arrest blotters available to the public – Chronologically maintained arrest information must be made available by local police departments for public inspection and copying.³³

Commentary

Traditionally, chronological arrest records were maintained in logs or ledger books as a routine business practice. However, in many departments, this practice has primarily been replaced by the generation of arrest blotter information from the data entered into a police department's records management system.³⁴ This means that arrest information that is potentially available to the public has the same life span as the arrest information accessible to the justice system.

Unless otherwise authorized by law, it is a civil rights violation for any employer to inquire into or use the fact of an arrest as a basis for any employment-related decision.³⁵

Prohibited information practices

(1) No public access to arrest information contained in the criminal history repository – Arrest information maintained in the State's criminal history repository cannot be released to the public, absent an explicit statutory authorization.³⁶

Commentary

Illinois law treats the arrest records maintained by the Illinois State Police as part of the State's criminal history repository differently than it treats arrest information maintained by local arresting agencies.³⁷ Certain arrest information maintained by local arresting agencies is required to be publicly available; arrest records maintained in the official repository, however, cannot be released to the public without specific statutory authorization. The differing treatment of arrest information based upon where it is stored and whether it has been compiled with information from multiple agencies implements the balance struck between two differing policies – requiring public access to make certain the government isn't abusing its arrest powers on one hand, and ensuring that individuals aren't unnecessarily harmed by prior arrests lacking convictions on the other.

³² See ILL. R. OF PROF. CONDUCT 3.6(b)(6) (permitting disclosure of the defendant's arrested and the nature of the crime charged, provided it is explained that the charge is merely an accusation and that the defendant is presumed innocent); 3.6(c)(1) (permitting disclosure of the claim, offense, or defense involved in the case); 3.6(c)(7)(iii)(permitting disclosure of the fact, time, and place of arrest); 3.6(c)(7)(iv) (permitting the identity of investigating and arresting officers or agencies and the length of the investigation to be released to the public); and 3.6(c)(4) (permitting public disclosure of the result of any step in litigation).

³³ See 5 ILCS 140/7(1)(d)(i).

³⁴ The Iowa City, Iowa police department is an excellent example of this assertion. Their arrest blotter, limited to the past 30 days, can be found at <http://www.iowa-city.org/police/arrests.asp>.

³⁵ See 775 ILCS 5/2-103.

³⁶ 20 ILCS 2630/7.

³⁷ The phrase "local arresting agencies" includes the Illinois State Police when it acts as an arresting agency. See 20 ILCS 2605/2605-302(a).

Permissible information practices

(1) Prosecutors and police officials may collect additional information concerning the arrestee – After establishing probable cause to arrest, a police officer or prosecutor may investigate the arrestee using any publicly available information, as well as law enforcement databases, to further the investigation and any prosecution of the arrestee.

(2) Police may provide arrest information to other police agencies – Police officials may share the information that they collect regarding arrestees with police officers in other jurisdictions.

(3) Defense counsel may access arrestee information in certain circumstances – When a court determines it will serve the interests of justice, defense counsel shall have access to arrest information concerning individuals other than their client.³⁸

Commentary

Currently, the trial court decides whether it is appropriate to release an individual's arrest information to defense counsel.

(4) Arresting police agencies may withhold certain arrest information from the news media – Details other than the arrestee's identity and charge information can be withheld if their disclosure would:³⁹

- (a) Interfere with any pending or reasonably contemplated law enforcement proceedings;
- (b) Place anyone's life in jeopardy; or
- (c) Place a correctional facility at risk.

(5) Leaders of local units of government may examine their police agencies' arrest records – The leader of a local unit of government may examine arrest records maintained by the police department of that governmental unit for the purpose of investigating the conduct of the officers who participated in the arrest.⁴⁰

(6) Police employers may consider arrest records for hiring purposes – Any government agency that employs police officers may access the arrest information of police applicants for use as a factor in determining the person's fitness for the position.⁴¹

Commentary

When deciding whether an individual is fit to exercise the powers of a peace officer, an employer may consider the applicant's prior history of arrests. Under Illinois law, a peace officer is any person who by virtue of his public employment is vested by law with a duty to maintain public order or to make arrests for offenses.⁴²

³⁸ See e.g., *People v. Booker*, 274 Ill.App.3d 168 (1st Dist.1995) (holding the defendant's testimony that he was aware that victim had been charged with murder was admissible in murder prosecution, in which defendant raised claim of self-defense, as relevant to defendant's belief that he was in danger, though victim was acquitted of charge; defendant's knowledge of acquittal and effect such knowledge had on him would be proper areas for cross-examination, but did not preclude admission of testimony).

³⁹ See 20 ILCS 2605/2605-302(a); 5 ILCS 160/4a; 50 ILCS 205/3b; and 110 ILCS 12/15.

⁴⁰ See 65 ILCS 5/3.1-35-20 and *People ex rel. Burgess v. City of Urbana*, 33 Ill. App. 3d 623 (4th Dist. 1975).

⁴¹ 20 ILCS 2630/3(A); 20 ILCS 415/8b.1; 15 ILCS 310/10b.1.

⁴² 720 ILCS 5/2-13.

(7) Courts may expunge or seal an arrestee’s arrest records – Illinois law permits the court to order the sealing and expungement of arrest records under certain circumstances.⁴³

(8) Expungement of pretrial service records – Two years after the date of the first interview with a pretrial services representative, the arrestee may apply to the chief circuit judge for an order expunging from the records of the pretrial services agency all files pertaining to the arrestee.⁴⁴

Issues identified

(1) The use of emerging computer technologies may undermine Illinois’s policy of limiting the public availability of compiled arrest histories.

BACKGROUND: The U.S. Department of Justice’s regulations concerning criminal justice information systems do not prohibit a state from sharing the non-conviction, arrest information contained in its criminal history repository with the public. Rather, the regulations permit each state to decide whether its arrest information should be made available to the public.⁴⁵ Analysis of Illinois statutes reveals an intent on the part of the General Assembly to restrict access to compiled arrest records.⁴⁶ Nevertheless, the only way to ensure that the government isn’t abusing its arrest powers (i.e., conducting secret arrests) was to provide the public with some limited access to arrest records. The General Assembly did this by making arrest blotters available to the public under the Illinois Freedom of Information Act⁴⁷ and granting news media certain access to arrest information within 72 hours of an arrest.⁴⁸

INTEGRATED JUSTICE INFORMATION SYSTEMS MAY UPSET THE BALANCE BETWEEN PUBLIC OVERSIGHT AND THE PRIVACY OF INDIVIDUALS ARRESTED FOR, BUT NOT CONVICTED OF, COMMITTING A CRIME. Historically, it was extremely difficult, even for the justice system, to collect and compile these arrest records from the almost 2,000 police agencies across the state. As police and sheriff’s departments provide arrest blotter information electronically, little stands in the way of an individual or corporation interested in compiling its own set of arrest histories and offering them for sale to the public.

RECOMMENDATION: The Privacy Policy Subcommittee recommends that an advisory group be convened to (1) examine Illinois’s policies concerning the public availability of compiled arrest histories and explain how they are intended to work; (2) identify specific technologies and practices that potentially undermine or expose gaps in these policies, including any instances where individuals were actually harmed; and (3) develop recommendations to ensure a sound balance between public oversight of the justice system and the privacy interests of those individuals who are arrested but not convicted.

⁴³ 20 ILCS 2630/5.

⁴⁴ 725 ILCS 185/24.

⁴⁵ 28 C.F.R. §§ 20.20(c); 20.21(b)(2).

⁴⁶ See 20 ILCS 2630/7 (restricting the disclosure of arrest records except as permitted by law) and 775 ILCS 5/2-103 (providing that unless otherwise authorized by law, it is a civil rights violation for any employer to inquire into or use the fact of an arrest as a basis for any employment-related decision).

⁴⁷ 5 ILCS 140/7(1)(d)(i) (requiring any chronologically maintained listing of arrests processed at the agency to be made publicly available).

⁴⁸ *Supra* note 31.

3. Information concerning convicted persons

Individuals who have been convicted of committing a criminal offense by a court of law are considered convicted persons for the purposes of this report; convicted persons are also called “offenders” throughout this report. Defendants placed on felony first offender probation under Section 10 of the Cannabis Control Act,⁴⁹ Section 410 of the Illinois Controlled Substances Act,⁵⁰ or Section 70 of the Methamphetamine Control and Community Protection Act⁵¹ are not considered convicted persons for the purposes of the following discussion and their information should be treated in accordance with the sections of this report discussing arrestees’ and probationers’ information.

Once an individual has been convicted, the justice system collects his personally identifiable information to maintain complete and accurate criminal history records,⁵² compile crime statistics,⁵³ assist the court in imposing an appropriate sentence,⁵⁴ and to help corrections officials make prisoner placement decisions. Criminal history records are maintained to implement sentence enhancement provisions for recidivists.⁵⁵ They are also used to ensure that civil disability statutes are properly applied. Civil disability statutes are laws that affect certain offenders’, usually felons’, rights to vote,⁵⁶ to serve as a juror,⁵⁷ to serve as a fiduciary,⁵⁸ or to hold public office.⁵⁹ These disabilities are also frequently referred to as collateral consequences of a conviction and may include selected employment disabilities⁶⁰ as well as sex offender registration.⁶¹

⁴⁹ 720 ILCS 550/10.

⁵⁰ 720 ILCS 570/410.

⁵¹ 720 ILCS 646/70.

⁵² 20 ILCS 2630/2.1.

⁵³ 20 ILCS 2630/8.

⁵⁴ Absent a negotiated agreement, a judge cannot proceed to sentencing in a felony case without a presentence investigation (PSI). PSIs must be completed for felony sex offenders being considered for probation. Even though not required in misdemeanor cases, it is within the sentencing judge’s discretion to order a PSI. 730 ILCS 5/5-3-1.

⁵⁵ See, among others, 720 ILCS 5/33B-1 (Habitual Criminal Act) and 730 ILCS 5/5-5-3(c)(8) (providing in pertinent part, “When a defendant, over the age of 21 years, is convicted of a Class 1 or Class 2 felony, after having twice been convicted in any state or federal court of an offense that contains the same elements as an offense now classified in Illinois as a Class 2 or greater Class felony and such charges are separately brought and tried and arise out of different series of acts, such defendant shall be sentenced as a Class X offender. This paragraph shall not apply unless (1) the first felony was committed after the effective date of this amendatory Act of 1977; and (2) the second felony was committed after conviction on the first; and (3) the third felony was committed after conviction on the second.”).

⁵⁶ See 730 ILCS 5/5-5-5(c) (barring voting only during incarceration).

⁵⁷ While not specifically excluding convicted felons from jury service, the Jury Act requires jurors to be “[f]ree from all legal exception, of fair character, of approved integrity, [and] of sound judgment.” 705 ILCS 305/2.

⁵⁸ See 755 ILCS 5/6-13(a), 5/9-1.

⁵⁹ See 730 ILCS 5/5-5-5(b)(barring one from holding public office during incarceration). See also Election Code, 10 ILCS 5/29-6, -10 (barring individuals convicted of mutilating election materials or perjury in an election matter from holding public office for a period of five years following completion of sentence).

⁶⁰ See 20 ILCS 415/8b.4 (candidates may be denied state employment for offenses involving “infamous or disgraceful conduct”).

⁶¹ 730 ILCS 150/1 *et seq.*

Mandatory information practices

(1) Court clerks must collect dispositions and sentences – Court clerk offices are responsible for documenting all dispositions and sentences in criminal cases.⁶²

Commentary

The term “court clerks” is used to refer to the clerk of any trial- or appellate-level court in Illinois. It is the court clerk’s duty to make and keep an accurate record of the proceedings in the court, including the dispositions of criminal cases.

(2) Court clerks must provide dispositions to Illinois State Police – Court clerk offices must furnish all reportable criminal dispositions and sentences to the Illinois State Police, within 30 days of the event, for purpose of compiling complete and accurate criminal history records.⁶³

Commentary

Disposition information is collected for each separate charge and includes all: (a) judgments of not guilty, judgments of guilty including the sentence pronounced by the court, discharges, and dismissals; (b) appellate court orders which reverse or remand a reported conviction or that vacate or modify a sentence; (c) continuances to a date certain in furtherance of an order of supervision; and (d) judgments or court orders terminating or revoking a sentence of probation, supervision, or conditional discharge and any resentencing.⁶⁴

(3) Probation officials must collect offender information, presentence investigation – When ordered to complete a presentence investigation, probation officials must collect information about the offender’s:⁶⁵

- (a) History of delinquency or criminality;
- (b) Physical and mental history and condition;
- (c) Family situation and background;
- (d) Economic status;
- (e) Education;
- (f) Occupation;
- (g) Personal habits;
- (h) Status since his arrest; and
- (i) Eligibility for various sentencing alternatives.

Commentary

A presentence investigation report is an influential document in the sentencing of criminal defendants. The information contained in the report is a crucial aid to sentencing judges and provides vital information to probation and correctional officials in determining classification and supervisory decisions.

(4) Presentence investigation reports must be filed in a sealed envelope – Presentence investigation reports must be filed with the court in a sealed envelope.⁶⁶

Commentary

There is no uniform interpretation of this practice throughout Illinois; rather, this practice is applied, with varying results, on a county-by-county basis. Some subcommittee

⁶² See 705 ILCS 105/16-4.

⁶³ 20 ILCS 2630/2.1(c).

⁶⁴ *Id.*

⁶⁵ 730 ILCS 5/5-3-2.

⁶⁶ 730 ILCS 5/5-3-4(a).

members explained that simply filing a document in a sealed envelope might not be the same as sealing a document by court order. Additionally, despite the confidential nature of presentence reports, subcommittee members described how information, once discussed in open court, becomes a matter of public record, unless the court affirmatively seals the record.

(5) Courts clerks must make conviction information available to the public – Conviction and sentence information contained in court records is available to the public.⁶⁷

(6) Illinois State Police must provide conviction information to the public – Upon request, the Illinois State Police must provide conviction information maintained in the criminal history repository to the public.⁶⁸

Commentary

Despite the legislative proclamation that conviction information is public record, conviction records contained in the Illinois criminal history repository are not as publicly available as court records. For example, if a name-check request submitted to the Illinois State Police corresponds to more than one subject in the criminal history repository, the state police are prohibited from disclosing the information.⁶⁹ Although there are exceptions that allow the information to be disseminated in an emergency or “to administer criminal laws,” these exceptions are not likely to apply to public requests for conviction information. As a result, requestors are asked to submit additional information or fingerprints so that the request can be processed.⁷⁰ Presumably there is no similar chance of a fingerprint-based request corresponding to more than one subject because fingerprints (unlike names) are unique.⁷¹

The General Assembly has divided the burden of updating criminal history record information between the criminal history repository and the requestor. Within 30 days of a request for conviction information under the Uniform Conviction Information Act, the Illinois State Police has a duty to notify the requestor of any subsequently posted or modified convictions, and the requestor may presume it is accurate.⁷² However, after that 30-day period has expired, the requestor has the duty to update the conviction information if he intends to use, rely on, or otherwise disseminate it.⁷³

Prohibited information practices

(1) No public access to sealed and expunged conviction records – Conviction records that have been sealed or expunged pursuant to a court order shall not be publicly available.⁷⁴

(2) Restricted access to presentence investigation reports – Presentence reports cannot be provided to anyone other than:⁷⁵

⁶⁷ 705 ILCS 105/16-6.

⁶⁸ 20 ILCS 2635/2(A); /5; /8.

⁶⁹ See 20 ILCS 2635/11(B).

⁷⁰ *Id.*

⁷¹ See 20 ILCS 2635/10.

⁷² 20 ILCS 2635/12.

⁷³ 20 ILCS 2635/13.

⁷⁴ See 20 ILCS 2630/12 & /13.

⁷⁵ 730 ILCS 5/5-3-4(b); see also 730 ILCS 110/12(3), (4).

- (a) The sentencing court;
- (b) The prosecutor and defense counsel;
- (c) The appellate court hearing an appeal of the conviction or sentence;
- (d) A department, agency, or institution having custody of the offender;
- (e) Probation officials providing courtesy supervision when the offender is in another jurisdiction for a period of time;
- (f) A probation department ordered by a court to conduct a presentence investigation of the offender;
- (g) A mental health professional evaluating the offender under a petition brought pursuant to the Sexually Violent Persons Commitment Act;
- (h) A prosecutor who is investigating a potential or actual petition brought pursuant to the Sexually Violent Persons Commitment Act;
- (i) A facility, licensed or regulated by the Illinois Departments of Public Health, Healthcare and Family Services, or Human Services, in which the subject of the report resides;⁷⁶
- (j) The Illinois Departments of Public Health, Healthcare and Family Services, or Human Services, when the subject of the report resides in a facility regulated by one of these departments;⁷⁷ and
- (k) Any individual by court order.

Permissible information practices

(1) Courts may expunge or seal an offender’s conviction records – Illinois law permits the court to order the sealing and expungement of conviction records under certain circumstances.⁷⁸

Issues identified

(1) Whether presentence investigation reports are public records or restricted to individuals identified in Illinois statutes.

PRO: PRESENTENCE INVESTIGATION REPORTS ARE PUBLIC RECORDS. Circuits that make presentence investigation reports part of the public record do so under the notion that Section 5-4-1 of the Illinois Code of Corrections limits the operation of Section 5-3-4, which restricts access to presentence investigation reports to certain identified individuals. Section 5-4-1 provides that the trial judge “shall specify on the record the particular evidence, information, factors in mitigation and aggravation or other reasons that led to his sentencing determination [and that the] full verbatim record of the sentencing hearing shall be filed with the clerk of the court and shall be a public record.”⁷⁹ Although the use of “shall” in Section 5-4-1 is misleading (it is actually permissive in nature⁸⁰), some counties rely on this provision for the premise that the

⁷⁶ 730 ILCS 5/3-14-1(c-5) (requiring IDOC to provide PSIs when the individual is on parole or mandatory supervised release) *but see* ILL. Pub. Act 94-0752 (2006) (removing the same requirement for probationers previously located at 730 ILCS 110/12(11)(a) and created by ILL. Pub. Act 94-0163).

⁷⁷ *Id.*

⁷⁸ 20 ILCS 2630/5.

⁷⁹ 730 ILCS 5/5-4-1(c).

⁸⁰ *See People v. Davis*, 93 Ill.2d 155 (1982) (holding that the requirement that, in imposing a sentence for a felony conviction, a judge “shall” specify reasons for his or her sentencing determination is constitutional only when “shall” is construed to be permissive rather than mandatory).

General Assembly permitted courts the public filing of those presentence investigation reports used to support the court's decision-making process.

CON: PRESENTENCE INVESTIGATION REPORTS ARE NOT PUBLIC RECORDS. There are several arguments supporting the premise that presentence investigation reports are not matters of public record. First, the position that a presentence investigation report is a matter of public record undermines the requirement that presentence reports be filed in a sealed envelope and renders it superfluous.⁸¹ Such an interpretation is contrary to accepted rules of statutory construction.⁸²

Second, Section 5-3-4 provides very specific limitations on the accessibility of presentence investigation reports.⁸³ It is well settled that where there are two statutory provisions, one of which is general and designed to apply to cases generally, and the other which is particular and relates only to one subject, the particular provision must prevail and must be treated as an exception to the general provision.⁸⁴ Section 5-3-4, entitled "Disclosure of reports," is found in the article of the Unified Code of Corrections dealing with presentence procedure. That section sets forth eight categories of individuals who may inspect presentence reports. Section 5-4-1, on the other hand, relates to the sentencing hearing, and refers generally to "evidence, information, factors in mitigation and aggravation, or other reasons" without mentioning presentence investigation reports. As the more particularized statute, Section 5-3-4 should control the analysis and determination of the non-public nature of presentence investigation reports.

Finally, as a probation record, a presentence investigation report is not a public record under the plain language of the Probation and Probation Officers Act.⁸⁵ Members of the subcommittee pointed out that those circuits that consider presentence investigation reports public records might also violate HIPAA regulations if they fail to redact physical and mental health portions of the presentence report.⁸⁶

RECOMMENDATION: The Privacy Policy Subcommittee recommends that justice agencies across the state adopt a uniform interpretation of the Illinois Code of Corrections that presentence investigation reports are not public records and that access to presentence reports is restricted to those individuals identified in Illinois statutes.

4. Information concerning probationers

Probation is a sentencing alternative that provides selected offenders the opportunity to serve a criminal sentence in the community under the supervision of a probation officer. A sentence of probation may require an offender to pay fines or restitution, to seek counseling for substance abuse, or to address health or family problems. The goal of probation is to help reintegrate offenders into the community as responsible, law-abiding individuals.

⁸¹ 730 ILCS 5/5-3-4(a).

⁸² *Astoria Fed. Savings & Loan Ass'n v. Solimino*, 501 U.S. 104, 112 (1991) (explaining that statutes should be construed "so as to avoid rendering superfluous" any statutory language).

⁸³ 730 ILCS 5/5-3-4(b).

⁸⁴ *Bowes v. City of Chicago*, 3 Ill.2d 175 (1954); *People v. Villarreal*, 152 Ill.2d 368, 379 (1992).

⁸⁵ 730 ILCS 110/12(3), (4).

⁸⁶ 45 C.F.R. Parts 160; 162; 164.

To meet this goal, probation officials⁸⁷ initially collect considerable amounts of information to identify available sentence and treatment options.⁸⁸ After an offender is sentenced to probation, probation officials collect even more information to ensure the probationer's compliance with the court-ordered conditions and to protect against the risks of the probationer committing new offenses. Information about probationers is also collected to conduct research and evaluations designed to improve the quality of probation services.⁸⁹

Mandatory information practices

(1) Probation officials must collect probationer information – To fulfill their supervisory function, probation officials collect any information about probationers that documents their compliance with the conditions of their probation.⁹⁰

(2) Probation officials must report abuse and neglect of a minor – As mandated reporters under The Abused and Neglected Child Reporting Act, probation officials must provide probationer information to the Illinois Department of Children and Family Services where they have reasonable cause to believe that a child may be abused or neglected.⁹¹

Commentary

Despite similarities in mandatory reporting laws, probation officers are not among the individuals identified as mandatory reporters under the Illinois Elder Abuse and Neglect Act.⁹²

(3) Probation officials must provide probationer information to certain public housing agencies – Where a probationer resides at an address that is owned, operated, or otherwise managed by a public housing agency, probation officials must notify the agency that the resident is on probation.⁹³

(4) Probation officials must provide probationer information to Departments, regulated housing facilities – Where a probationer resides at a facility licensed or regulated by the Illinois Departments of Public Health, Healthcare and Family Services, or Human Services, probation officials must affirmatively provide the following information to the regulating department and the regulated facility:⁹⁴

- (a) Probation orders and compliance plans; and
- (b) The name and contact information for the assigned probation official.

(5) Public access to probationer information contained in the court records – Conditions of probation are part of a court's sentencing order and are a matter of public record. Where a probationer allegedly violates the conditions of his probation, the state's attorney files a petition

⁸⁷ "Probation officials" is a term used throughout this report to broadly refer to probation officers and pre-trial services personnel.

⁸⁸ 730 ILCS 5/5-3-2.

⁸⁹ 730 ILCS 110/15(1)(g); (j); (l).

⁹⁰ 730 ILCS 110/12.

⁹¹ 325 ILCS 5/4; *see also* 18TH JUD. CIR. CT. R. 36.11(b)(4).

⁹² 320 ILCS 20/2(f-5).

⁹³ 730 ILCS 110/12(10).

⁹⁴ 730 ILCS 110/12(11).

to revoke the offender's probation. This petition is filed with the court and is set for a public hearing.

Commentary

Generally, the public only has access to probationer information when that information is the subject of an open court hearing. Victims are provided no more information about adult probationers than members of the general public. Nevertheless, victims of juvenile offenders do have more access to probationer information than the public.⁹⁵ This is interesting because Illinois law usually provides greater protections to juvenile offenders than to adult offenders.

Prohibited information practices

(1) Restricted access to probation files – Records maintained by probation officials are restricted to probation officers, judges, and any individual or agency pursuant to court order.⁹⁶

Permissible information practices

The following practices may be more properly characterized as exceptions to the Probation and Probation Officers Act rather than permissive information practices. Nevertheless, the following practices include the types of information sharing that are necessary to further the goals of probation even though they are not explicitly provided for by the Act; they balance the goals of probation (i.e., encouraging treatment and building rapport between a probation officer and his client) and the law enforcement goals of the justice system.

(1) Probation officials may provide some probationer information to police and prosecutors

– Probation officials may share with police officials and prosecutors any information about probationers that is already of public record or based on a probation official's visual public observation of the probationer.⁹⁷

Commentary

This practice permits probation officials to share information that, while it may be contained in a their protected records, is already available to the public. For example, publicly displayed tattoos that are observed by a probation official may be shared with police officials. However, address updates and *modus operandi* information are not matters of public record and could not be shared pursuant to this practice.

(2) Probation officials may provide probationer violation information to prosecutors –

Records that support an allegation that the probationer violated a court order may be shared with a prosecutor for the purpose of charging and proving the violation.⁹⁸

Commentary

Although prosecutors are responsible for proving violations of probation, the evidence to prove the alleged violation is often contained in probation officials' records. This practice addresses the necessity of sharing information when a probationer is accused of violating the conditions of his probation.

⁹⁵ See 705 ILCS 405/1-8(A)(7) (granting victims of juvenile offenders access to the name and address of the minor as well as information pertaining to the disposition or the court's alternative adjustment plan).

⁹⁶ 730 ILCS 110/12(4).

⁹⁷ 18TH JUD. CIR. CT. R. 36.11(c).

⁹⁸ 18TH JUD. CIR. CT. R. 36.11(b)(1).

(3) Probation officials may provide evidence of criminal conduct with police, prosecutors – Where probation officials possess reliable information that a probationer under their supervision is engaging in criminal conduct, probation officials may share that information and the identity of the probationer with police officials and prosecutors.⁹⁹

Commentary

This is a permissive practice that reflects probation officials' broad discretion to make difficult decisions concerning their probationers. Additionally, this information sharing may only take place where the reliable information is gathered directly by probation officials. Where police officials have collected reliable information that the probationer is suspected of criminal conduct, a court order is still required before probation officials may disseminate information about the probationer.

(4) Probation officials may provide information to anyone involved in fulfilling conditions contained in court orders – Probation officials may share information about probationers with anyone who is authorized by the probation department and involved in fulfilling the conditions contained in a court order.¹⁰⁰

Commentary

This practice provides for instances where it is impossible to comply with a court order unless certain information about probationers is shared; for example, a treatment provider may require information about the probationer to administer court-ordered treatments. Permitting probation officials to share information in these instances improves efficiency by eliminating the need to go before the judge a second time when the intent of the court's order is readily ascertainable.

Issues identified

Although the following issues are related, they are discussed separately to emphasize their different scopes. The first issue concentrates on whether probation officials have a broad duty to warn third parties (whether private citizens or other justice practitioners) when a probationer under their supervision makes a specific threat of violence. The second issue is more focused on officer safety concerns and is concerned less with directed threats than with risk factors that may place police officials in danger.

(1) Whether probation officials may provide probationer information to warn of threats of violence.

PRO: PROBATION OFFICIALS MAY PROVIDE PROBATIONER INFORMATION TO WARN OF THREATS OF VIOLENCE. Probation records are kept confidential for the same reasons various treatment records are privileged: to foster a strong relationship between the individual rendering treatment and the person being treated. In order to achieve their goals, these relationships depend upon open communication and candor. Nevertheless, the law already provides exceptions to the confidentiality inherent in these relationships.¹⁰¹

⁹⁹ 18TH JUD. CIR. CT. R. 36.11(b)(5).

¹⁰⁰ 18TH JUD. CIR. CT. R. 36.11(b)(2). Alternatively, orders having an impact upon a probationer could provide: "The Department of Probation and Court Services is authorized to divulge necessary contents from its records to comply with this Court Order."

¹⁰¹ See Restatement (Third) of Torts § 41 (2004); *Tarasoff v. Board of Regents*, 551 P.2d 334 (Cal. 1976) (both creating a duty of disclosure of otherwise confidential communications in situations where third parties could be protected from serious bodily harm).

Specifically, Illinois case law has placed public safety ahead of confidentiality for therapists,¹⁰² and it is possible that this doctrine could be extended to probation officials due to the nature of the relationship between probation officers and probationers. Moreover, the state's preference for human life over confidential information, and the nature of the threats likely to arise in the context of the probation relationship, counsel allowing (if not requiring) probation officials to provide information about their probationers when they express a firm intention to inflict serious harm on a readily-ascertainable individual. This conclusion is further supported by probation officers' training in the evaluation of probationers' behavior and the official's ability to sanction the probationer or seek termination of his probation.

CON: PROBATION OFFICIALS MAY NOT PROVIDE PROBATIONER INFORMATION TO WARN OF THREATS OF VIOLENCE. This release of information from probation files is not permitted under existing statutes; no Illinois case has extended the duty to warn to probation officials. Probation officials are not trained to evaluate probationers' behavior to the same degree as treatment providers, nor do they have any extraordinary skill in predicting an individual's dangerousness.

Providing information in this context risks blurring the distinction between probation officials, who are court employees focused on treating offenders, and police officials, who work for the executive branch and are obligated to enforce the criminal laws. This division of roles is crucial to the operation of the justice system and the courts consider it an important issue. Furthermore, efforts to change the law and make probation officials provide information to police have been unsuccessful. For example, a bill before the General Assembly that would have required the sharing of specified identifying information when the safety of the public is at risk has failed to pass.¹⁰³

RECOMMENDATION: Whether by court rule or legislative enactment, a uniform rule should be created that authorizes or prohibits probation officials from sharing otherwise confidential information when a probationer makes a specific threat of violence directed against a specific and readily identifiable person.¹⁰⁴ If the court rule or legislative enactment authorizes a warning, that authorization should: (1) specify whether the warning is permissive or mandatory; (2) identify who the probation official should warn; and (3) sets forth the types of information that should be provided with the warning.

(2) Whether probation officials may provide probationer information to police officials for officer safety purposes.

PRO: PROBATION OFFICIALS MAY PROVIDE OFFICER SAFETY INFORMATION TO POLICE OFFICIALS. A probation official may owe a duty to third persons, including police officials, because of the nature of his relationship with the probationer.¹⁰⁵ Additionally, as an officer safety measure, probation officials should be permitted to provide a warning to police officials if a probationer poses a readily ascertainable danger

¹⁰² See, *Doe I ex rel. Tanya S. v. North Cent. Behavioral Health Sys.*, 352 Ill.App.3d 284, 290 (3d Dist. 2004).

¹⁰³ H.B. 1105 94th Gen. Assembly (Ill. 2005)

¹⁰⁴ See 18TH JUD. CIR. CT. R. 36.11(b)(3).

¹⁰⁵ See generally, *Doe I ex rel. Tanya S. v. North Cent. Behavioral Health Sys., Inc.*, 352 Ill.App.3d 284, 290 (3d Dist. 2004). See also Restatement (Third) of Torts § 41 (2004); *Tarasoff v. Board of Regents*, 551 P.2d 334 (Cal. 1976).

(e.g., the probationer always carries a weapon). This practice should be permissive and probation officials should be permitted to exercise substantial discretion in selecting the appropriate steps to ameliorate probationer-created risks to officer safety.

CON: PROBATION OFFICIALS MAY NOT PROVIDE PROBATIONER INFORMATION, EVEN FOR OFFICER SAFETY PURPOSES. Releasing probationer information contained in probation files, even for officer safety purposes, is not permitted under a strict interpretation of existing statutes.

RECOMMENDATION: Due to the strong policy of providing police officials information that helps them take steps to protect themselves, the General Assembly should amend the Probation & Probation Officers Act to expressly permit probation officers to provide officer safety information pertaining to their probationers to police officials. Doing so will assist agencies in the development of integrated justice information systems designed to ensure that justice practitioners have the information they need to make sound decisions.

5. Information concerning prisoners

A prisoner is an individual who is involuntarily confined in any municipal lock-up, county jail, or facility administered by the Illinois Department of Corrections. The term, as used in the following discussion, is intentionally broad and encompasses individuals sentenced to such an institution under a criminal or civil statute as well as individuals detained pending arraignment, trial, or sentencing.

Generally, the following information practices apply regardless of the type of institution that confines the prisoner. Variations in the types of information collected, used, and disseminated by different institutions are indicated by specifying that the practice applies to the Illinois Department of Corrections (i.e., prisons), county jails, or municipal lock-ups. The differences in the amount of information collected are the result of the role of these facilities, the length of a prisoner's stay, and the types of treatment programs available. A summary of the types of information collected about prisoners is included in Table 1 located at the end of this report.

Corrections officials¹⁰⁶ collect information about prisoners to verify their identity and justify their confinement. Prisoner information related to the health, safety, and security of the facility is also collected. Although corrections officials document each prisoner's social, physical, and mental health condition, the following discussion does not address the information practices concerning these or any other types of medical information.

Mandatory information practices

*Once a prisoner leaves the custody of the correctional facility, his records are retained, used, and disseminated in the same manner as the records of individuals still in custody.*¹⁰⁷

¹⁰⁶ "Corrections officials" is a term used throughout this report to broadly refer to state correctional officers, sheriffs, and police officials administering municipal lock-ups.

¹⁰⁷ 730 ILCS 5/3-5-1(d); ILL. ADMIN. CODE tit. 20 § 107.310(d) (providing that access to the records of a person no longer in custody of IDOC shall be provided in accordance with procedures applicable to committed persons).

(1) Corrections officials must collect prisoners' information for various reasons –

Corrections officials must collect prisoner information:

- (a) To verify the identity of the person before accepting custody;¹⁰⁸
- (b) To classify prisoners and determine appropriate facilities and programs;¹⁰⁹
- (c) To ensure compliance with court sentencing orders;¹¹⁰
- (d) To identify individuals and groups of individuals who pose a threat to the safety and security of the facility;¹¹¹
- (e) To determine the prisoner's financial status for reimbursement purposes;¹¹²
- (f) To conduct research and evaluations designed to improve the quality of corrections services;¹¹³
- (g) To provide victims with information regarding the prisoner's custodial status;¹¹⁴
- (h) For the purposes of maintaining complete and accurate criminal history records as well as compiling crime statistics.¹¹⁵

Commentary

Corrections officials collect a substantial amount of information about prisoners. For example, a prisoner's IDOC master record file contains: (a) all information from the committing court; (b) his reception summary; (c) evaluation and assignment reports and recommendations; (d) reports regarding his treatment program assignment and progress; (e) any reports of disciplinary infractions and disposition; (f) his presentence investigation report; (g) any parole plans and reports; (h) the date and circumstances of his final discharge; and (i) other pertinent data concerning the prisoner's background, conduct, associations and family relationships.¹¹⁶ While medical records are not kept in a prisoner's master record file, there may be some documents, such as a presentence investigation report, that contain medical information.¹¹⁷

As part of the inmate classification process, the Illinois Department of Corrections is required to conduct a social evaluation of each prisoner's medical, psychological, educational, and vocational condition and history, including the use of alcohol and other drugs, and the circumstances surrounding his offense.¹¹⁸

(2) Corrections officials must collect inmate gang information – Corrections officials must collect information regarding the inmate gang population to control and limit gang activities within correctional facilities.¹¹⁹

Commentary

¹⁰⁸ 730 ILCS 5/3-8-1(b); *see also* 20 ILCS 2630/2.1(e).

¹⁰⁹ ILL. ADMIN. CODE tit. 20 § 503.20.

¹¹⁰ 730 ILCS 5/3-8-1; 5/5-4-1(e).

¹¹¹ 730 ILCS 5/3-2-5(c).

¹¹² *See* 730 ILCS 5/3-7-6.

¹¹³ *See* 730 ILCS 5/3-2-2(1)(g); 5/3-2-8.

¹¹⁴ *See* 725 ILCS 120/8.5 (creating the statewide victim and witness notification system administered by the Illinois Attorney General).

¹¹⁵ 20 ILCS 2630/2.1; 2630/8.

¹¹⁶ 730 ILCS 5/3-5-1(a). *See also* ILL. ADMIN. CODE tit. 20 § 107.20.

¹¹⁷ *See infra* Information concerning convicted persons, Subcommittee Recommendations.

¹¹⁸ 730 ILCS 5/3-8-2(a).

¹¹⁹ 730 ILCS 5/3-2-5(c).

Prison gangs pose a serious danger to the operation of prisons and the safety of inmates and staff. In 2003, the Illinois Department of Corrections documented approximately 50% of the entire male prison population and approximately 18% of the entire female population as affiliated with a security threat group; nearly two thirds of the population housed at maximum-security facilities aligns with a security threat and at least 88 active security threat groups have been identified in the IDOC.¹²⁰

(3) Illinois Department of Corrections must provide gang information to Governor – Personally identifying information regarding the membership and leaders of inmate gangs, and the measures taken by the Illinois Department of Corrections to segregate leaders, must be provided to the Governor annually.¹²¹

(4) Illinois Department of Corrections must provide gang information to General Assembly – The Illinois Department of Corrections gang intelligence unit must file annual reports with the General Assembly that include profiles of the inmate population associated with gangs and gang-related activities within correctional facilities.¹²²

(5) Sheriff must provide prisoner information to the court clerk – The sheriff must provide to the court clerk the number of days that the prisoner has been held in custody for the purpose of crediting that time against the prisoner’s sentence.¹²³

(6) Prosecutors must provide prisoner information to court clerks, corrections officials – Prosecutors must provide the facts and circumstances of the prisoner’s offense together with any information that may aid the correctional institution during its custody of the offender. This information must be filed with the court clerk to be transmitted to the correctional institution taking custody of the prisoner.¹²⁴

Commentary

In some counties, prosecutors provide statements of fact concerning the crime (called “pen letters”) directly to the Illinois Department of Corrections rather than filing them with the circuit court clerk.

(7) Court clerks must provide certain information to correctional institutions – When a prisoner is committed to a correctional institution, the clerk of the court must provide the following information to that institution:¹²⁵

- (a) The sentence imposed, including any statement by the court regarding the basis for imposing the sentence;
- (b) Any presentence reports;
- (c) Any sex offender evaluations;

¹²⁰ ILL. DEP’T OF CORRECTIONS, Department Overview FY 2003, Intelligence and Investigations Section http://www.idoc.state.il.us/subsections/dept_overview/2003/investigations_intelligence.shtml. A security threat group is a group of individuals with a common interest, bond, or activity characterized by criminal or delinquent conduct, engaged in either collectively or individually, with the potential to create a security threat to correctional facilities or functions; security threat groups include, but are not limited to gangs and other groups that offer protection, financial reward and access to drugs and other contraband.

¹²¹ 730 ILCS 5/3-2-2(1)(1-5).

¹²² 730 ILCS 5/3-2-5(c).

¹²³ 730 ILCS 5/5-4-1(e)(4).

¹²⁴ 730 ILCS 5/5-4-1(d).

¹²⁵ 730 ILCS 5/5-4-1(e).

- (d) Any substance abuse treatment eligibility screening and assessment;¹²⁶
- (e) The number of days, if any, which the prisoner has been in custody and for which he is entitled to credit against the sentence;
- (f) Any court finding of great bodily harm to the victim, when the sentence is imposed for: aggravated kidnapping for ransom, home invasion, armed robbery, aggravated vehicular hijacking, aggravated discharge of a firearm, or armed violence with a category I weapon or category II weapon;¹²⁷
- (g) Any statements filed by the prosecutor and defense counsel;¹²⁸
- (h) Any medical or mental health records;
- (i) The municipality where the arrest of the offender or the commission of the offense has occurred;¹²⁹
- (j) Any statements or evidence offered by victims or other qualified individuals offered in aggravation or mitigation of prisoner's sentence;¹³⁰ and
- (k) All additional matters as ordered by the court.

(8) Illinois State Police must provide prisoners' sealed records to Illinois Department of Corrections – Upon conviction for any offense, the Illinois Department of Corrections shall have access to all sealed records of the Illinois State Police pertaining to that individual.¹³¹

(9) Corrections officials must provide custodial or sentencing status information to Illinois State Police – Corrections officials must share all information concerning the custodial or sentencing status of prisoners with the Illinois State Police for the purpose of compiling a complete criminal history record.¹³²

Commentary

A prisoner's custodial or sentencing status, which must be provided to the Illinois State Police, includes all information concerning the prisoner's receipt, escape, execution, death, release, pardon, parole, commutation of sentence, granting of executive clemency or discharge.¹³³

(10) Corrections officials must provide information to other corrections officials upon prisoner transfer – When a prisoner is transferred from one custodial institution to another, information concerning the prisoner must accompany him to the new institution.¹³⁴

(11) Illinois Department of Corrections must provide information to Illinois Department of Healthcare and Family Services – Corrections officials must provide to the Illinois Department

¹²⁶ A state-designated provider must conduct the screening and assessment.

¹²⁷ 730 ILCS 5/5-4-1(c-1).

¹²⁸ 730 ILCS 5/5-4-1(d).

¹²⁹ This information is only transmitted where such municipality has a population of more than 25,000 persons.

¹³⁰ 730 ILCS 5/5-4-1(a)(7).

¹³¹ 20 ILCS 2630/13(a).

¹³² 20 ILCS 2630/2.1(e).

¹³³ *Id.*

¹³⁴ *See* 730 ILCS 5/3-5-1(c) (providing for the transfer of master record files between IDOC facilities and requiring a summary of the file to be forwarded when the prisoner is transferred to a department or agency outside of IDOC); 730 ILCS 5/3-4-4 (providing for the transfer of records between sending and receiving institutions under Article VI of the Interstate Corrections Compact); 730 ILCS 155/1 (providing for the transfer of records between municipal lock-ups and county jails); and 730 ILCS 5/3-8-1 (implemented by ILL. ADMIN. CODE tit. 20 §§ 107.20; 701.60) (providing for the transfer of records from county jails to IDOC).

of Healthcare and Family Services any information that may be necessary for the enforcement of child support orders.¹³⁵

(12) Corrections, police must provide prisoners' names and charges to the public – Upon request, corrections and police officials must provide a prisoner's name and the charges for which he is being held.¹³⁶

(13) Corrections officials must maintain dissemination logs – Corrections officials must keep a record of the following for all disclosures of prisoner information to outside personnel:¹³⁷

- (a) The identity of the requestor;
- (b) The purpose for accessing the prisoner's information; and
- (c) The information reviewed and copied.

Prohibited information practices

(1) Corrections officials cannot provide gang intelligence information to the public – Gang intelligence information collected or maintained by the Illinois Department of Corrections cannot be disclosed to the public.¹³⁸

Permissible information practices

(1) Public agencies may provide information to Illinois Department of Corrections – Upon request, public agencies may supply unprivileged information concerning prisoners committed to the Illinois Department of Corrections.¹³⁹

(2) Defense counsel may provide prisoner information to court clerks, corrections officials – Defense counsel may provide the facts and circumstances of the prisoner's offense together with any information that may aid the correctional institution during its custody of the offender; this information can be filed with the court clerk to be transmitted to the correctional institution taking custody of the prisoner.¹⁴⁰

(3) Corrections officials may provide prisoner information to corrections, welfare, or police officials – Corrections officials may provide prisoner information to corrections, welfare, or police officials.¹⁴¹

(4) Corrections officials may provide gang intelligence information to police officials – Information regarding the inmate gang population may be shared with police officials in order to assist in the investigation, prevention, and prosecution of gang activity.¹⁴²

¹³⁵ 730 ILCS 5/3-5-4.

¹³⁶ 5 ILCS 140/7(1)(d)(ii).

¹³⁷ 730 ILCS 5/3-5-1(b).

¹³⁸ 730 ILCS 5/3-2-5(c) (exempting gang information from disclosure under the Freedom of Information Act because the information is highly confidential and may be harmful if disclosed); 730 ILCS 5/3-2-2(1)(l-5) (providing that the confidential report to the governor containing gang intelligence information is not subject to public disclosure).

¹³⁹ 730 ILCS 5/3-5-1(e).

¹⁴⁰ 730 ILCS 5/5-4-1(d).

¹⁴¹ 730 ILCS 5/3-5-1(b).

¹⁴² 730 ILCS 5/3-2-5(c); ILL. ADMIN. CODE tit. 20 § 107.310(c).

(5) Correctional officials may restrict information concerning institutional security – Records that relate to or affect the security of any correctional institution or detention facility can be withheld from the public.¹⁴³

(6) Illinois Department of Corrections may provide certain prisoner information to the public – The Illinois Department of Corrections may release the following information about former and current prisoners to the public:¹⁴⁴

- (a) Name;
- (b) IDOC number;
- (c) Parent institution;
- (d) Current location or status;
- (e) Vital statistics;
- (f) Admission and release dates; and
- (g) Charging or sentencing information.

Issues identified

None.

6. Information concerning individuals on supervised release

Supervised release is not parole. Illinois abandoned the traditional, discretion-based parole system in 1978.¹⁴⁵ From then on, all individuals who committed a crime were imprisoned on determinate sentences that provided for a set period of mandatory supervised release to be served after their prison sentences.¹⁴⁶ At present, less than 350 prisoners confined by the Illinois Department of Corrections are eligible for “true” parole. This report does not discuss the types of information collected and used in making release decisions for inmates eligible for parole. Furthermore, because the information practices concerning the supervision of sex offenders are somewhat different, they will be addressed in a later volume.

Because the Illinois Department of Corrections maintains custody of all persons placed on supervised release,¹⁴⁷ the information practices concerning prisoners described above apply to individuals on supervised release. The following discussion focuses on the additional information practices that concern individuals released under the supervision of corrections officials.

Supervisory corrections officials collect information necessary to ensure the individual’s compliance with the conditions set by the Prisoner Review Board. Officials must remain informed of their clients’ conduct and protect against the risks of the released individual committing new offenses.

¹⁴³ 5 ILCS 140/7(1)(e) (permitting the correctional facility to withhold facility security information).

¹⁴⁴ Illinois Department of Corrections, <http://www.idoc.state.il.us/subsections/records/default.shtml>.

¹⁴⁵ Even though the institution of parole has been replaced with mandatory supervised release, the term “parole” is still used throughout the Illinois justice system. For example, IDOC continues to use the term in responses to its inmate query found in the IDOC website and corrections officials who supervise released individuals are still called “parole officers.” Nevertheless, there are distinctions between parole and mandatory supervised release and it is proper to use precise terms when discussing any policy issue.

¹⁴⁶ See 730 ILCS 5/5-8-1(d).

¹⁴⁷ 730 ILCS 5/3-14-2(a).

Mandatory information practices

(1) Individuals on supervised release must provide information to supervisory officials –

Individuals on mandatory supervised release must continuously provide updated information to supervisory officials. An individual on supervised release is required to, among other things, provide his employment and residence information, report any arrests, provide information regarding his adjustment in the community, and secure the supervisory official's permission before leaving the state or county.¹⁴⁸

(2) Illinois Department of Corrections must notify certain prosecutors, police officials of felon's release – When a prisoner convicted of a felony is released, the Illinois Department of Corrections must notify:¹⁴⁹

- (a) The State's Attorney, the Sheriff, and the municipal police department of the jurisdiction where the crime was committed;
- (b) The State's Attorney, the Sheriff, and the municipal police department of the jurisdiction into which the individual will be released;
- (c) The arresting police agency; and
- (d) The police department of the municipality where the individual resided at the time he committed the crime.

(3) Corrections officials must notify concerned citizens, victims of prisoner releases – Upon request, corrections officials must inform victims and any concerned citizens when individuals are released to supervision and when they are discharged from supervision.¹⁵⁰

(4) Illinois Department of Corrections must provide prisoner information to certain public housing agencies – When an individual on supervised release resides at an address that is owned, operated, or otherwise managed by a public housing agency, the Illinois Department of Corrections must notify the agency that the resident is under the supervision of the corrections officials.¹⁵¹

(5) Illinois Department of Corrections must provide prisoner information to Departments, regulated housing facilities – When an individual on supervised release resides at a facility licensed or regulated by the Illinois Departments of Public Health, Healthcare and Family Services, or Human Services, corrections officials must provide the following information to the regulating department and the regulated facility:¹⁵²

- (a) The mittimus and any presentence investigation reports;
- (b) Any social evaluations;
- (c) Any pre-release evaluations;
- (d) Reports of disciplinary infractions and dispositions;
- (e) Orders issued by the Prisoner Review Board as well as any violation reports and dispositions; and
- (f) The name and contact information for the assigned supervisory official.

¹⁴⁸ 730 ILCS 5/3-3-7; ILL. ADMIN. CODE tit. 20 § 1610.120.

¹⁴⁹ 730 ILCS 5/3-14-1(c).

¹⁵⁰ 725 ILCS 120/4.5(d) (providing that a recent photograph of the released individual may be included in the notification).

¹⁵¹ 730 ILCS 5/3-14-1(c).

¹⁵² 730 ILCS 5/3-14-1(c-5) *but see supra* note 76.

(6) Illinois Department of Corrections must provide prisoner information to Prisoner Review Board, chief police officials – Where an individual on mandatory supervised release becomes a resident of a facility licensed or regulated by the Illinois Departments of Public Health, Healthcare and Family Services, or Human Services, the Illinois Department of Corrections shall provide written notification of such residence to the Prisoner Review Board as well as to the chief of police and sheriff in the municipality and county in which the licensed facility is located.¹⁵³

Prohibited information practices

None identified.

Permissible information practices

None identified.

Issues identified

None.

7. Information concerning victims of crime, generally

In Illinois, as in many other states, victims of certain crimes are granted more privacy protections than victims of other crimes.¹⁵⁴ To better organize the subcommittee’s findings, this report separates victims into five categories – (1) victims of sexual offenses; (2) victims of domestic abuse; (3) victims of identity theft; (4) child victims; and (5) victims of all other crimes. This discussion sets forth the information practices that are applicable to all victims of crime in Illinois. The discussions regarding the more specific types of victim that follow supplement, and in some instances override, the information practices contained in this section.

Victims’ information is collected primarily to further the investigation of the crime and to assist in the prosecution of the person charged with the offense. Victims update the contact information they provide to the justice system to keep informed about the status of their case.¹⁵⁵ In some instances, victim information is used to protect the victim from further contact with the person charged with the offense.

Mandatory information practices

(1) Police must collect victim information – When a crime is discovered, reported, or investigated, police officials collect a victim’s name, address, and other identifying information in addition to information about any acts that occurred to the victim and his resulting condition.

¹⁵³ 730 ILCS 5/3-14-1(c-10).

¹⁵⁴ There was some discussion among subcommittee members regarding the distinction between individuals who allege they were the victim of a crime and those individuals who are considered “true victims” after a court convicts the offender. Although there are instances where distinguishing these types of individuals is valuable, existing laws seem to treat these individuals the same with regard to the protection of their personally identifying information. Therefore, this report does not separate the two types of individuals and considers a person who reports that she was the victim of a crime a victim.

¹⁵⁵ See 725 ILCS 120/8.5 (creating the statewide victim and witness notification system administered by the Illinois Attorney General).

Commentary

The Rights of Crime Victims and Witnesses Act offers little guidance with respect to what information about victims is kept confidential by the Illinois justice system. Although the Act requires a significant amount of information to be provided to victims concerning the offender's prosecution, its only privacy provision holds that victims should be "treated with fairness and respect for their dignity and privacy throughout the criminal justice process."¹⁵⁶

(2) Probation officials must collect victim information – For purposes of conducting a presentence investigation, probation officials must assess the effect the offense committed has had upon the victim.¹⁵⁷

Commentary

Probation officials collect information to assess how the victim was affected by the crime and to determine whether various sentencing alternatives could compensate the victim.

(3) Police must provide victim information to prosecutors – Police officials must share with prosecutors the victim information they collect as part of an investigation including, but not limited to, each victim's personally identifying information, the details of the incident, and each victim's resulting condition.¹⁵⁸

(4) Courts must provide victim information to the public – Victim information contained in court records is available to the public.¹⁵⁹

Commentary

Although some types of victim information are contained in court records, Illinois discovery rules for criminal cases provide some methods of reducing the amount of personally identifying victim information contained in the court's records. Illinois Supreme Court Rule 415 requires documents received by parties during discovery to remain in counsel's exclusive custody and further provides for protective orders when there is substantial risk to any person of physical harm, intimidation, or retribution that outweighs any usefulness of disclosing the individual's identity.¹⁶⁰ Protective orders that prohibit the parties from revealing the alleged victims' names or other identifying information to the general public are enforceable if drafted narrowly enough to protect the alleged victim and also permit both parties to engage in full pretrial investigation and discovery.¹⁶¹

Prohibited information practices

None identified.

Permissible information practices

(1) Police may share victim information with other police officials – When necessary to investigate or prosecute a crime, police officials may share a victim's identifying information,

¹⁵⁶ 725 ILCS 120/2.

¹⁵⁷ 730 ILCS 5/5-3-2(a)(3).

¹⁵⁸ 725 ILCS 5/114-13(b).

¹⁵⁹ 705 ILCS 105/16(6).

¹⁶⁰ ILL. SUP. CT. R. 415(c), (d).

¹⁶¹ *Bush v. Catholic Dioceses of Peoria*, 351 Ill.App.3d 588 (3d Dist. 2004).

the details of the crime, and the victim's resulting condition with police officials from other jurisdictions.

(2) Defense counsel may access victim information in certain circumstances – After a court hearing determines that sharing requested information will serve the interests of justice, defense counsel may have access to:

- (a) Victimization information concerning their client and other individuals;¹⁶² and
- (b) Statements regarding the crime or its circumstances made to victim counselors.¹⁶³

Commentary

Illinois Supreme Court Rule 412(a)(i) requires the State to disclose to defense counsel the names and last known addresses of persons whom it intends to call as witnesses, together with their relevant written or recorded statements, memoranda containing substantially verbatim reports of their oral statements, and a list of memoranda reporting or summarizing their oral statements. This is relevant because the State's witnesses frequently include the victim of the crime.

If a party alleges that statements made during victim counseling are necessary to the determination of any issue before the court, the court, after an *in camera* hearing about the relevance of the statements, can order the statements to be disclosed.

Issues identified

Victims are not voluntary participants in the justice process. Nevertheless, they can be required to disclose a substantial amount of sensitive information to the government solely because they were victimized.¹⁶⁴ If the justice system's treatment of this information threatens victims' privacy, they may regard not reporting a crime as the only alternative to these data collection practices.¹⁶⁵

(1) Whether privacy issues are implicated in the sharing of non-identifying incident information across jurisdictions.

BACKGROUND: Incident information is routinely used to compile crime statistics and perform analyses that aid in preventing crime, apprehending offenders, managing justice resources, training officers, and conducting research. The goals of crime analysis are to utilize incident information to identify crime patterns and series,¹⁶⁶ forecast future occurrences of crime, apprehend offenders, and recover stolen property.¹⁶⁷ A review of existing police crime analysis operations reveals that burglary, robbery, auto theft, larceny, fraud, sex crimes, aggravated assaults, and murder are the crimes most likely to

¹⁶² ILL. SUP. CT. R. 412(a)(i).

¹⁶³ 735 ILCS 5/8-802.2.

¹⁶⁴ A bill that would have allowed persons submitting information of a crime to remain anonymous failed to pass the Illinois General Assembly. See H.B. 1018, S. Amend. 1, 93d Gen. Assembly (Ill. 2004).

¹⁶⁵ ILLINOIS CRIM. J. INFO. AUTH., *The Extent and Nature of Adult Crime Victimization in Illinois* 62 (2002) (finding that 34% of those respondents who decided not to report a crime against their person did so because the victimization was "a private or personal matter or took care of it informally").

¹⁶⁶ A crime pattern is merely a set of similar offences happening in a specific geographical area while a crime series is a crime pattern that appears to be done by either the same person or group of persons. Shawn A. Hutton & Mark Myrent, *Incident-Based Crime Analysis Manual* 34 (ILL. CRIM. J. INFO. AUTH. 1999).

¹⁶⁷ Steven Gottlieb, *et al.*, *Crime Analysis: From First Report to Final Arrest* 14-16 (1994).

be solved through traditional crime analysis techniques.¹⁶⁸ The categories of data that are considered most useful for crime analysis include:

- ❑ Geographic factors¹⁶⁹
- ❑ Time factors
- ❑ Victim descriptors
- ❑ Property loss descriptors
- ❑ Physical evidence descriptors
- ❑ Specific *modus operandi* (“MO”) factors
- ❑ Suspect descriptors
- ❑ Suspect vehicle descriptors

A brief summary of the types of information that experienced analysts have found useful to determining if a crime pattern exists can be found in *Table 2: Categories of information most useful for traditional crime analysis*.

VICTIMS’ IDENTITIES ARE NOT NECESSARY FOR ALL TYPES OF CRIME ANALYSIS.

The victim descriptors utilized in traditional crime analysis are those pieces of information that are useful in determining an offender’s preferences for certain types of targets. Police officials use this understanding of an offender’s preferences to predict when, where, and against whom he will commit his next criminal offense. Thus, where police officials have not identified a suspect, it can be more helpful to collect and share a victim’s demographic and other vulnerability factors rather than their identities.

RECOMMENDATION: The subcommittee recognizes the significance of crime analysis to the justice system and recommends that integrated justice information systems take steps to make incident information that does not personally identify the victim available to practitioners for crime analysis purposes.

(2) Whether some limits should be set for the sharing of victims’ identities and victimization histories.

PRO: SOME LIMITS SHOULD BE SET FOR THE SHARING OF VICTIMS’ IDENTITIES WITH JUSTICE AGENCIES. It is clear that a justice practitioner assigned to investigate, prosecute, or otherwise work on a specific criminal matter should have access to the identities of those who were harmed during the commission of that crime. Nevertheless, it is unclear how the identities of certain types of victims should be treated in an integrated justice information system. For example, although victims of domestic and sexual violence have some privacy protections under Illinois law, existing laws do not directly apply in the context of an integrated justice information system. There is no consensus on whether existing legal protections should be expanded into integrated justice information systems. This lack of consensus cautions against sharing every victim’s personally identifying information without regard for the type of crime committed against them, with other justice agencies.

¹⁶⁸ *Id.* at 133. In 2004 there were 75,944 burglaries, 22,561 robberies, 40,780 motor vehicle thefts, 294,750 thefts (including larceny and fraud), 5,813 criminal sexual assaults, 41,806 aggravated assaults, and 776 murders. Crime in Illinois 2004 (ILL. STATE POLICE 2005).

¹⁶⁹ Although spot maps can be of great assistance to the analyst, they will only depict crime patterns. Additional information is necessary to determine if a crime pattern is also a crime series.

CON: THE SHARING OF VICTIMS' IDENTITIES WITH JUSTICE AGENCIES SHOULD NOT BE SUBJECT TO LIMITATIONS. Victims' identities are already shared across jurisdictions with few limitations. Integrated justice information systems will help police officials: (1) determine when and where victim information might need to be shared, and (2) improve the actual sharing of victim information. The potential usefulness of these information systems depends upon the information that can be entered into and retrieved from them.

For example, a person who files multiple theft reports in various jurisdictions might reasonably be suspected of committing some type of fraud. Absent an integrated justice information system, an officer taking an incident report in one city might not be aware of the reports the individual filed in another jurisdiction.

Additionally, integrated justice information systems can help identify relationships between offenders and victims across different crimes. In the context of gang violence, it is not uncommon for a victim of a battery at the hands of a rival gang member to seek revenge. The victim in this crime, or his associates, might attack members of the rival gang in retribution for the earlier attack. Electronically sharing victims' identities across jurisdictions and compiling them with offender information may reveal relationships not apparent in the paper-based world and can lead to the apprehension of more criminals and even prevent future acts of violence.

RECOMMENDATION: The subcommittee is concerned that the broad dissemination and use of victims' identities for investigative purposes may raise privacy concerns, especially among victims of sexual assault and domestic violence. Because of the vital importance of sharing victim information in the integrated justice context, the subcommittee recommends that this issue be considered at length in the second volume of the *Privacy Policy Guidance* series, which will focus on the privacy concerns that are created by the enhanced sharing of electronic police incident report information.

8. Information concerning victims of sexual offenses

Because of the fear and stigma that often result from sexual offenses, many victims hesitate to seek help even where it is readily available. The subcommittee found several protections in existing law to ensure that victims of sexual violence feel comfortable reporting the crime.¹⁷⁰ These information practices operate in addition to the protections of victims of general crimes discussed above.

Mandatory information practices

None identified.

¹⁷⁰ Callie Marie Rennison, Ph.D., US DEP'T OF J., Rape and Sexual Assault: Reporting to Police and Medical Attention, 1992-2000 3 (August 2002) (finding that most rapes and sexual assaults were not reported to the police and that when victims of rape, attempted rape, and sexual assault did not report the crime to the police, the most often cited reason was that the victimization was a personal matter).

Prohibited information practices

(1) Justice system cannot collect rape crisis records without victim consent or court order – Rape crisis service records are confidential and can be collected by the justice system only with the victim’s consent or by court order.¹⁷¹

(2) Restricted access to the identities of victims of juvenile sex offenders – A victim’s personally identifying information contained in the impounded court file is restricted to the following parties and is provided to them only when necessary for the discharge of their official duties:¹⁷²

- (a) A judge of the circuit court and members of the court’s staff;
- (b) Parties to the proceedings and their attorneys;
- (c) Victims and their attorneys, except that where there are multiple victims of sex offenses the information identifying the non-requesting victims must be redacted;
- (d) Probation officials, police officials, and prosecutors; and
- (e) Adult and juvenile Prisoner Review Boards.

Commentary

A victim of a juvenile offender has greater protections than a victim of an adult offender. Not only is the court’s file impounded because of the offender’s juvenile status, but also the victim’s identity can only be disclosed to justice practitioners in the performance of their duties.

(3) Restricted access to information about victims of juvenile sex offenders – So long as the information does not identify the victim, the details of the crime and the victim’s resulting condition contained in the court’s impounded files is restricted to the following individuals and is provided to them only when necessary for the discharge of their official duties:¹⁷³

- (a) Authorized military personnel;
- (b) Persons engaged in bona fide research;
- (c) The Illinois Secretary of State;
- (d) The administrator of a bona fide substance abuse student assistance program; and
- (e) Any entity having custody of the juvenile.

(4) Information about victims of juvenile sex offenders cannot be disclosed to the public – Information contained in law enforcement or court records that identify victims and alleged victims of sex offenses committed by juveniles shall not be disclosed or open to public inspection under any circumstances.¹⁷⁴

Commentary

Illinois law only prohibits the disclosure of information about victims of juvenile sex offenders. Nothing officially prevents the press from publishing the identities of individuals victimized by adult offenders.¹⁷⁵ Nevertheless, the Society of Professional

¹⁷¹ See 735 ILCS 5/8-802.1; *People v. Foggy*, 121 Ill.2d 337 (1988) (examining the conflict between the rape crisis counselor – victim privilege and the defendant’s right of confrontation under the Sixth Amendment).

¹⁷² 705 ILCS 405/5-901(1)(a).

¹⁷³ 705 ILCS 405/5-901(1)(b).

¹⁷⁴ 705 ILCS 405/5-905(2) (applying to law enforcement records); 705 ILCS 405/5-901(3) (applying to court records).

¹⁷⁵ A rape victim does not have a right of action against the press for publishing her identity where the publication was accurate, and the information was lawfully obtained. *Cox Broad. Co. v. Cohn*, 420 U.S. 469 (1975). This is so

Journalists' Code of Ethics cautions against identifying the victims of sex crimes and such information is traditionally not published.¹⁷⁶

Permissible information practices

(1) Courts may seal sexual assault court records – After an offender is convicted of sexual assault, the victim may request, through the prosecutor's office, that the court's records be sealed; upon a showing of good cause, the court may make sealed records available for public inspection.¹⁷⁷

(2) Petitioners for civil no contact orders may withhold address information from the court – Where the disclosure of petitioner's address would risk abuse of the petitioner or any member of the petitioner's family, that address may be omitted from all documents filed with the court.¹⁷⁸

(3) Police, prosecutors may provide victim identities to rape crisis service centers – Police officials and prosecutors may provide a sexual assault victim's identity to rape crisis service personnel for the sole purpose of referring her to the center.

Commentary

Nothing prohibits police officials and prosecutors from releasing rape victims' identities other than the concern for the victim's privacy. The exemptions contained in the Illinois Freedom of Information Act do not prohibit the dissemination of this information; rather they merely authorize agencies to withhold that information if they so desire.¹⁷⁹

Furthermore, the exemptions only apply where the release of information would pose a "clearly unwarranted invasion of personal privacy."¹⁸⁰ Here, where police officials would be providing information about rape victims to rape crisis service centers, it may be difficult to argue that such a release of the victims' identities is an unwarranted invasion of their privacy. Given the nature of sexual violence, it is reasonable for police officials and prosecutors to make efforts to provide assistance to victims who may be too traumatized to seek such assistance on their own.

Issues identified

None other than those specified in § 7 *Information concerning victims of crime, generally*.

9. Information concerning victims of domestic violence

Persons attempting to escape from actual or threatened domestic violence frequently establish new addresses in order to prevent their assailants from finding them. The following information practices reveal that Illinois law emphasizes the confidentiality of domestic violence victims'

even if the government erred in providing the press with the rape victim's name. *The Florida Star v. B.J.F.*, 491 U.S. 524 (1989).

¹⁷⁶ See http://www.spj.org/ethics_code.asp.

¹⁷⁷ 20 ILCS 2630/5(c-5). This section applies only when the offender is convicted of criminal sexual assault, aggravated criminal sexual assault, predatory criminal sexual assault of a child, criminal sexual abuse, or aggravated criminal sexual abuse. Furthermore, the sealing only applies to court records; the records maintained by the arresting agency or the Illinois State Police, such as sex offender registration information, cannot be sealed pursuant to this statute.

¹⁷⁸ 740 ILCS 22/203(b).

¹⁷⁹ *Roehrborn v. Lambert*, 277 Ill.App.3d 181, 186 (1st Dist.1995).

¹⁸⁰ 5 ILCS 140/7(1)(b).

location information. These information practices operate in addition to the protections of victims of general crimes previously discussed in this report.

Mandatory information practices

None identified.

Prohibited information practices

(1) Individuals cannot be compelled to provide certain domestic violence information – No person or domestic violence program can be compelled to disclose the location of any shelter or the identity of any domestic violence advocates or counselors. Only where a court determines that the failure to disclose this information would result in an imminent risk of serious bodily injury can the information be disclosed *in camera*, under a protective order, and the information must not be made a part of the written case record.¹⁸¹

(2) Restricted access to certified victims' address information – The Illinois Attorney General cannot provide a certified victim's actual address to anyone other than:¹⁸²

- (a) Police officials;
- (b) Prosecutors; and
- (c) Individuals identified in a court order permitting the disclosure.

(3) Disclosure of a domestic violence victim's location is prohibited – It is unlawful for any person to publish, disseminate, or otherwise disclose the location of any domestic violence victim, without the victim's consent, where there is a substantial likelihood the disclosure could result in bodily harm.¹⁸³

Permissible information practices

(1) Victims of domestic violence may provide information to Illinois Attorney General – Domestic violence victims may provide personally identifying information to the Illinois Attorney General to participate in an address confidentiality program.¹⁸⁴

Commentary

The Address Confidentiality for Victims of Domestic Violence Act requires the Attorney General to administer an address confidentiality program. Under this program, a victim of domestic violence may apply to have the Attorney General's Office serve as the victim's substitute address.¹⁸⁵ Once certified, the victim may request that State and local agencies use the substitute address designated by the Attorney General as her address when creating a new public record.¹⁸⁶

(2) Petitioners for protection orders may withhold address information from the court – Where the disclosure of petitioner's address would risk abuse or reveal the confidential address of a domestic violence shelter, that address may be omitted from all documents filed with the

¹⁸¹ 750 ILCS 60/227.1.

¹⁸² 750 ILCS 61/35.

¹⁸³ 720 ILCS 5/45-2.

¹⁸⁴ 750 ILCS 61/11, /15.

¹⁸⁵ 750 ILCS 61/15(a).

¹⁸⁶ 750 ILCS 61/25(a).

court.¹⁸⁷ Similarly, if the petitioner is seeking to have a child protected by the order, the petitioner may omit the child’s school address where the disclosure of the school’s location would risk abuse.¹⁸⁸

(3) Police, prosecutors may provide victim identities to domestic violence service centers – Police officials and prosecutors may provide a victim’s identity to domestic violence service personnel for the sole purpose of referring her to the center.

Commentary

Nothing prohibits police officials and prosecutors from releasing the identities of domestic violence victims other than the concern for their privacy. The exemptions contained in the Illinois Freedom of Information Act do not prohibit the dissemination of this information; rather they merely authorize agencies to withhold that information if they so desire.¹⁸⁹ Furthermore, the exemptions only apply where the release of information would pose a “clearly unwarranted invasion of personal privacy.”¹⁹⁰ Here, where police officials would be providing information about domestic violence victims to domestic violence service centers, it may be difficult to argue that such a release of victims’ identities is an unwarranted invasion of their privacy. Given the repetitive nature of domestic violence, it is reasonable for police officials or prosecutors to provide assistance to those victims who may be too intimidated to seek assistance on their own.

Issues identified

None other than those specified in § 7 *Information concerning victims of crime, generally.*

10. Information concerning victims of identity theft

The Illinois Identity Theft Law allows an individual who reasonably believes that he is the victim of identity theft to request a judicial determination of his factual innocence where the perpetrator of the identity theft was arrested for, cited for, convicted of, or otherwise charged with committing a crime under the victim’s identity. Individuals can also request the same relief if they believe that their identity has been mistakenly associated with a criminal conviction.

Mandatory information practices

(1) Police must collect information about identity theft victims – When an individual has learned or reasonably suspects that his personally identifying information has been unlawfully used by another, he may contact police officials who must take a police report of the matter and either begin an investigation of the facts or refer the matter to the police agency where the suspected crime was committed.¹⁹¹

Prohibited information practices

None identified.

¹⁸⁷ 750 ILCS 60/203(b). Where disclosure is necessary to determine jurisdiction or venue, the court will collect the petitioner’s address orally and *in camera*.

¹⁸⁸ 750 ILCS 60/203(c).

¹⁸⁹ *Roehrborn v. Lambert*, 277 Ill.App.3d 181, 186 (1st Dist.1995).

¹⁹⁰ 5 ILCS 140/7(1)(b).

¹⁹¹ 720 ILCS 5/16G-30(a).

Permissible information practices

(1) Individuals may provide information to courts – Victims of identity theft may provide identifying information to the court for the purpose of petitioning the court for a judicial determination of the victim’s factual innocence when the victim’s identity is wrongfully associated with an arrest or conviction.¹⁹²

(2) Courts may label, seal, or delete the names of identity theft victims in court records – After a determination of an identity theft victim’s factual innocence, the court may order the clerk of court to seal or delete the victim’s name and associated personal identifying information contained in the court clerk’s publicly accessible records, files, and indexes, or the court may order that the victim’s personally identifying information be labeled to show that the offender impersonated the victim’s identity.¹⁹³

(3) Courts may order correction of justice agency records where an individual’s identity has been stolen – Whenever a person has been convicted of a crime using the name of a person whose identity he has stolen, the court may order the correction of all official records of the arresting authority, the Illinois State Police, the prosecutor, and other criminal justice agencies. Correction may take the form of removing the identity theft victim’s name from all records concerning the arrest and conviction and inserting in the records the name of the offender, if known or ascertainable.¹⁹⁴

Issues identified

None.

11. Information concerning child victims

The objective of this report is to provide the subcommittee’s findings and recommendations concerning the collection, use, and dissemination of traditional, adult justice information. Detailed findings and recommendations concerning juvenile justice information will be provided in a future volume of the *Privacy Policy Guidance* series. Nevertheless, it is reasonable to discuss child victims in this report.

Most of the information practices identified by the subcommittee concerned missing children and child victims of sexual violence. Justice practitioners collect information about missing children to develop and improve techniques used by police officials when responding to reports of missing children, and to provide a factual and statistical base for research addressing the problem of missing children.¹⁹⁵ Illinois’s policy is to protect juveniles regardless of whether they become involved in the justice system as offenders or victims. As such, the following information practices operate in addition to the protections of adult victims of general crimes previously discussed in this report.

¹⁹² 720 ILCS 5/16G-30(b).

¹⁹³ 720 ILCS 5/16G-30(c).

¹⁹⁴ 20 ILCS 2630/5(b).

¹⁹⁵ 325 ILCS 40/6(h).

Mandatory information practices

(1) Police must collect information about missing children – When a child is reported missing, police officials must collect descriptive information including the child’s name, age, physical description, photograph, as well as the suspected circumstances of the disappearance.¹⁹⁶

(2) Illinois State Police must provide certain information about missing children to Illinois Department of Children and Family Services – When a child is reported missing, the Illinois State Police must provide the Illinois Department of Children and Family Services with the child’s personally identifying information and the geographic area from which the child was reported missing.¹⁹⁷

Commentary

The Department of Children and Family Services uses this information to determine if that child had been abandoned within the previous two months.

(3) Police must provide information about missing children to police in other jurisdictions – Police officials must enter the information they collect about missing children into the Illinois State Police LEADS system;¹⁹⁸ missing children information must also be provided to the National Crime Information Center of the U.S. Department of Justice.¹⁹⁹

(4) Illinois State Police must provide certain information about missing children to Illinois Registrar of Vital Records, child’s school – When a child is reported missing, the Illinois State Police must notify the Illinois Registrar of Vital Records and the child’s last known Illinois elementary or secondary school of the child’s disappearance.²⁰⁰

Commentary

Under the Missing Children Registration Law, the Illinois Registrar of Vital Records, as well as local government custodians, must flag the missing child’s birth certificate record. This ensures that the Registrar is made aware of any request for a copy of the missing child’s birth certificate.²⁰¹ When a written request for the birth record is received, the Registrar or local custodian must notify police officials and provide them with a copy of the request.²⁰²

When notified that one of its students has been reported missing, the school flags the child’s record. Schools must notify police officials whenever a flagged record is requested.²⁰³

The Illinois Registrar of Vital Records, and the child’s last known Illinois elementary or secondary school, are also notified when the missing child is recovered so that they can remove their flags.²⁰⁴

¹⁹⁶ 20 ILCS 2605/2605-375(b)(1); 325 ILCS 55/6 (providing that police officials must investigate all requests for birth or school records concerning missing children).

¹⁹⁷ 325 ILCS 40/3.5; ILL. ADMIN. CODE tit. 89, § 431.80(e).

¹⁹⁸ 325 ILCS 40/7; 20 ILCS 2605/2605-375(b)(3).

¹⁹⁹ 42 U.S.C. § 5779(a); 20 ILCS 2605/2605-375(b)(7)(D).

²⁰⁰ 325 ILCS 55/2.

²⁰¹ 325 ILCS 55/3.

²⁰² 325 ILCS 55/4(c).

²⁰³ 325 ILCS 55/5.

²⁰⁴ 325 ILCS 55/2; /5.

(5) Local police must provide information about missing children to Illinois State Police – When local police officials are notified that a missing child’s record has been requested, the local officials must immediately notify the Illinois State Police and investigate the request.²⁰⁵

(6) Juvenile victims must be afforded the same confidentiality protections as juvenile offenders – A minor who is the victim of a juvenile offender must be afforded the same confidentiality regarding the disclosure of his identity as the minor offender.²⁰⁶

Prohibited information practices

(1) Restricted access to the identities of child victims of sexual violence – The personally identifiable information about child victims contained in law enforcement records and court files is restricted to the following individuals, provided they are directly involved with the investigation or criminal proceedings of that victim’s case:²⁰⁷

- (a) Judges;
- (b) Prosecutors;
- (c) The defendant and his defense counsel;
- (d) Psychologists;
- (e) Psychiatrists;
- (f) Social workers;
- (g) Doctors; and
- (h) Parents.

Commentary

Under Section 3 of the Privacy of Child Victims of Criminal Sexual Offenses Act, the court may prohibit the disclosure of the child victim’s identity to any entity after giving notice and a hearing to all affected parties. The court’s decision to prohibit disclosure of the minor victim’s identity is based upon the best interest of the child and whether disclosure would further a compelling state interest.²⁰⁸

(2) Restricted access to the identities of child victims of sexual violence – When a sexual offense against a minor is committed by a school district employee or during a school-sponsored activity, the identity of the child victim must be made available to that school district’s superintendent.²⁰⁹

Commentary

The superintendent is not permitted to disclose the victim’s identity without the victim’s valid, written consent.²¹⁰

(3) Information about victims of juvenile sex offenders cannot be disclosed to the public – Information contained in law enforcement or court records that identify victims and alleged victims of sex offenses committed by juveniles shall not be disclosed or open to public inspection under any circumstances.²¹¹

²⁰⁵ 325 ILCS 55/6.

²⁰⁶ 705 ILCS 405/5-901(3).

²⁰⁷ 725 ILCS 190/3.

²⁰⁸ 725 ILCS 190/3.

²⁰⁹ 725 ILCS 190/3.

²¹⁰ 725 ILCS 190/3.

²¹¹ 705 ILCS 405/5-905(2) (applying to law enforcement records); 705 ILCS 405/5-901(3) (applying to court records).

(4) Press is prohibited from publishing child victims' identities obtained during closed hearings – When the press is permitted to attend an otherwise closed hearing, members of the press are not permitted to disclose the identities of victims that it obtains during the court hearing.²¹²

Commentary

The Juvenile Court Act provides that “the general public except for the news media and the victim shall be excluded from any hearing.”²¹³ The prohibition against publishing the victim’s identity does not apply where the press learns the identity of the minor through routine, reportorial techniques other than their attendance at the closed hearing.²¹⁴

Permissible information practices

(1) Police may provide information about missing children to the public – Police officials may activate an AMBER Alert and provide to the public descriptive information about a missing child and/or the suspected abductor where the following conditions are met:²¹⁵

- (a) The child has been confirmed as abducted;
- (b) The child is under the age of 16 or has a proven mental or physical disability;
- (c) The child is in danger of serious bodily injury;
- (d) There is enough descriptive information to believe that a broadcast alert will help.

(2) Court may impound its records – The court may impound its records in order to protect the names of child abuse victims from public disclosure.²¹⁶

Commentary

Access to public records is not absolute and is subject to the inherent power of the trial court to impound its own records. Although there is a presumption favoring public access to judicial records, a court, in its sound discretion, may impound records if it is shown that the interests asserted for restricting access outweigh those in support of access.²¹⁷

(3) Court may, in limited circumstances, close its proceedings – Where the alleged victim of a sexual offense is a minor, the court may exclude all persons who do not have a direct interest in the case. Persons may be excluded only during the child victim’s testimony.²¹⁸

Commentary

Although the Illinois Code of Criminal Procedure does not provide for the exclusion of the press from prosecutions for sex offenses where the victim is a minor,²¹⁹ the court still has the power to do so. Because a defendant’s right to a public trial is of constitutional dimension, such a closure must be based upon a compelling governmental interest, and narrowly tailored to serve that interest.²²⁰ Even though safeguarding the physical and psychological well-being of a minor is a compelling state interest, the trial judge should

²¹² *In re a Minor*, 149 Ill.2d 247 (Ill. 1992).

²¹³ 705 ILCS 405/1-5(6).

²¹⁴ *In re a Minor*, 149 Ill.2d 247, 252 (Ill. 1992).

²¹⁵ State of Illinois Amber Alert Notification Plan <<http://www.isp.state.il.us/docs/amberplanrev0803.pdf>>.

²¹⁶ *John Doe v. Carlson*, 250 Ill.App.3d 570, 574 (2d Dist. 1993).

²¹⁷ *Id.*

²¹⁸ 725 ILCS 5/115-11.

²¹⁹ 725 ILCS 5/115-11 (specifically exempting the media from its provisions).

²²⁰ *Globe Newspaper Co. v. Superior Court for the County of Norfolk*, 457 U.S. 596, 606-607 (1982).

determine, on a case-by-case basis, whether the court should be closed to the press and the public, taking into account the minor victim's age, psychological maturity and understanding, the nature of the crime, the desires of the victim, and the interests of parents and relatives.²²¹

(4) Court may prohibit individuals from disclosing the identity of child victims of sexual violence – The court may, for the child's protection and for good cause shown, prohibit any person or agency present in court from further disclosing the identity of a child victims of sexual violence.²²²

Issues identified

None other than those specified in § 7 *Information concerning victims of crime, generally*.

12. Information concerning witnesses, generally

Information about witnesses is collected to further the investigation of a crime and to prosecute the person charged with the offense. Witnesses also provide information to justice officials so that they can be kept informed regarding the status of the prosecution.²²³

Despite the crucial role that witnesses play in the justice system, most states' laws, including those of Illinois, focus on requiring witnesses to testify and not on protecting the confidentiality of their information.²²⁴ Furthermore, case law supports the notion that those involved in a crime, even inadvertently or peripherally, lose some of their privacy rights due to the newsworthiness of the event.²²⁵

Illinois's Rights of Crime Victims and Witnesses Act was passed, in part, "to increase the effectiveness of the criminal justice system by affording certain basic rights and considerations to the witnesses of violent crime who are essential to prosecution."²²⁶ However, the rights specifically afforded to witnesses do not address the confidentiality of their information. Rather, the Act essentially affords witnesses the rights to be notified about the trial, to have a waiting room away from defendants, and to have translators present if necessary.²²⁷ This is not to say that witnesses' personally identifying information is completely unprotected. Several justice

²²¹ *Id.* at 607-608.

²²² 725 ILCS 190/3.

²²³ *See* 725 ILCS 120/8.5 (creating the statewide victim and witness notification system administered by the Illinois Attorney General).

²²⁴ Some states do provide some confidentiality protections. *See* MASS. GEN. LAWS ch. 258B, §3(h) (restricting the disclosure of the residential address, telephone number, or place of employment or school of the victim or a witness upon granting a witness's request for confidentiality); CAL. PENAL CODE § 964 (requiring each county to establish procedures that "protect confidential personal information regarding any witness or victim contained in a police report..."); NEV. REV. STAT. § 178.5691 (providing that "All personal information, including, but not limited to, a current or former address, which pertains to a victim, relative, witness or other person...is confidential.").

²²⁵ 57 A.L.R.3d 16, Waiver or Loss of Rights of Privacy, §10(b); *see also* *Elmhurst v. Pearson*, 153 F2d 463 (DC Cir. 1946) (stating, "[o]ne who even unwillingly comes into public view because he is involved in a publicized criminal prosecution is subject to limitations upon his right of privacy").

²²⁶ 725 ILCS 120/2.

²²⁷ 715 ILCS 120/5.

agencies across the state indicated that they voluntarily take steps to ensure the confidentiality of witness information.

Because victims and witnesses share many of the same characteristics (i.e., even though they are not voluntary participants in the justice system, they play a significant role to the administration of justice), the justice system treats their information very similarly. To better outline the Subcommittee's findings, this report separates its discussion of witness information into two categories, adult witnesses and juvenile witnesses. The following discussion does not address the sharing of information about a witness who is participating in a witness protection program.²²⁸

Mandatory information practices

(1) Police must collect witness information – When a crime is discovered, reported, or investigated, police officials collect a witness's name, address, and other identifying information in addition to information about the conduct and conditions observed by the witness.

(2) Police must provide witness information to prosecutors – Police officials must share with prosecutors the witness information they collect as part of an investigation including, but not limited to, each witness's personally identifying information and the details of the witness's observations.²²⁹

(3) Courts must provide witness information to the public – Witness information contained in court records is available to the public.²³⁰

Commentary

Prosecutors are obliged to disclose information in its possession or control that may tend to be exculpatory to defense counsel, who has the right and duty to conduct his own investigation into the fact and circumstances surrounding the incident.

Illinois discovery rules for criminal cases provide some methods of reducing the amount of personally identifying witness information contained in the court's records. Illinois Supreme Court Rule 415 requires documents received by parties during discovery to remain in counsel's exclusive custody and further provides for protective orders when there is substantial risk to any person of physical harm, intimidation, or retribution that outweighs any usefulness of disclosing the individual's identity.²³¹ Protective orders that prohibit the parties from revealing witnesses' names or other identifying information to the general public are enforceable if drafted narrowly enough to protect the witness and also permit both parties to engage in full pretrial investigation and discovery.²³²

²²⁸ See 435 ILCS 535/15.1 (permitting the Illinois State Police to obtain a registration of a fictitious vital record to provide witnesses with new identification to protect them during and following criminal investigations or proceedings).

²²⁹ 725 ILCS 5/114-13(b).

²³⁰ 705 ILCS 105/16(6).

²³¹ ILL. SUP. CT. R. 415(c), (d).

²³² See *Bush v. Catholic Dioceses of Peoria*, 351 Ill.App.3d 588 (3d Dist. 2004).

Prohibited information practices

(1) Identities of those reporting elder abuse or neglect must remain confidential – No agency can disclose the identity of a person making a report of alleged or suspected abuse or neglect under the Illinois Elder Abuse and Neglect Act absent the person’s written consent or a court order permitting the disclosure.²³³

Permissible information practices

(1) Police may share witness information with other police officials – When necessary to investigate or prosecute a crime, police officials may share a witness’s identifying information and the details of his observations with police officials from other jurisdictions.

(2) Defense counsel may access witness information in certain circumstances – When it will serve the interests of justice, defense counsel may obtain information about witnesses including, but not limited to, their identities, criminal history records, and any statements collected by police officials or prosecutors.

Commentary

Illinois Supreme Court Rule 412(a)(i) requires the State to disclose to defense counsel the names and last known addresses of persons whom it intends to call as witnesses, together with their relevant written or recorded statements, memoranda containing substantially verbatim reports of their oral statements, and a list of memoranda reporting or summarizing their oral statements. Furthermore, the Comments to Rule 412 provide that some types of impeachment evidence tend to be exculpatory or mitigating, such as certain prior convictions of State witnesses, information concerning promises or expectations of leniency for a State witness, or prior inaccurate or unsuccessful attempts at identification of the perpetrator by an occurrence witness.

Illinois case law has established a two-step procedure for parties seeking the disclosure of privileged information or records of a witness. The party must first show that the records are material and relevant to the credibility of the witness. Once this is done, the records are discoverable but must be examined by the trial court *in camera* if the witness claims or asserts a statutory privilege.²³⁴

A witness’s mental health records are privileged against judicial disclosure; nevertheless, an interested party may request an *in camera* inspection of a witness’s treatment records.²³⁵ The privilege must yield when the mental health records are necessary for meaningful cross-examination of an important prosecution witness.²³⁶

Issues identified

Integrated justice information systems significantly improve the compilation and sharing of various forms of justice information, including the identities of witnesses. These systems also can drastically increase the number of individuals who have access to names, addresses, and other potentially sensitive information about witnesses. Apprehension over the steps taken to

²³³ 320 ILCS 20/4; /8.

²³⁴ *People v. Harlacher*, 262 Ill.App.3d 1, 9 (2d Dist. 1994).

²³⁵ 740 ILCS 110/10.

²³⁶ *People v. Williams*, 131 Ill.App.3d 597, 607 (1st Dist. 1985).

prevent unauthorized access to and misuse of this information may reduce a witness's willingness to call the police or participate in a criminal prosecution.

(1) Whether some limits should be set for the sharing of witnesses' identities across jurisdictions.

PRO: SOME LIMITS SHOULD BE SET FOR THE SHARING OF WITNESSES' IDENTITIES WITH JUSTICE AGENCIES OF OTHER JURISDICTIONS. It is clear that a justice practitioner assigned to investigate, prosecute, or otherwise work on a specific criminal matter should have access to the identities of those who observed the suspect or the commission of that crime. Nevertheless, witnesses might be less willing to come forward if they fear the information they provide to the justice system could subsequently be used to cast suspicion upon them.

Limiting how accessible witness information contained in an integrated justice information system is based upon the premise that an inquiry to the system may return some results that are not pertinent to the crime being investigated. Some members suggested that a user be asked to certify that he is a demonstrable need to know a witness's identity before it is revealed. This way, witnesses' names could be included in the system for purposes of linking and associating data, but would not be revealed to a user until his investigation revealed that he needed that information.

CON: THE SHARING OF WITNESSES' IDENTITIES WITH JUSTICE AGENCIES OF OTHER JURISDICTIONS SHOULD NOT BE SUBJECT TO LIMITATIONS. Witnesses' identities are already shared across jurisdictions with few limitations. Integrated justice information systems will help police officials: (1) determine when and where witness information might need to be shared, and (2) improve the actual sharing of witness information. The potential usefulness of these information systems depends upon the information that can be entered into and retrieved from them.

For example, if the same vehicle is seen near warehouse fires that took place in three different cities, officers might reasonably suspect the car's owner of arson and take steps to interview him. Absent an integrated justice information system, an officer investigating a fire in one city might not be aware that an individual's car was seen at two other fires that took place in other cities.

RECOMMENDATION: The subcommittee is concerned that the broad dissemination and use of witnesses' identities for investigative purposes may raise privacy concerns and reduce individuals' willingness to participate as witnesses in the criminal justice process. Because of the vital importance of sharing witness information in the integrated justice context, the subcommittee recommends that this issue be considered at length in the second volume of the *Privacy Policy Guidance* series, which will focus on the privacy concerns that are created by the enhanced sharing of electronic police incident report information.

13. Information concerning child witnesses

The following discussion focuses on the information practices that specifically apply to minor witnesses of criminal conduct. The practices that follow supplement the protections afforded to adult witnesses discussed above.

Mandatory information practices

None identified.

Prohibited information practices

None identified.

Permissible information practices

(1) Defense counsel may access juvenile justice records of a minor witness in certain circumstances

– When it will serve the interests of justice, the court may permit the use of a minor witness’s juvenile justice records for impeachment purposes.²³⁷

Commentary

The provision in Illinois statutes that protects a minor’s police record from publication is not to be construed as prohibiting access to the records of juvenile delinquents when those records are sought in order to impeach the credibility of a juvenile as a witness by showing a possible motive for testifying falsely.²³⁸ Currently, a trial court balances the importance of a youthful witness’s testimony against the State’s policy of preserving the anonymity of a juvenile offender when deciding whether juvenile justice records may be used to impeach a minor witness.²³⁹

(2) Court may, in limited circumstances, close its proceedings – The court may deny the public the right to attend a criminal trial when it is necessary to safeguard the physical or psychological well-being of a minor witness.²⁴⁰

Commentary

The court can exclude the press and public from a criminal trial to inhibit the disclosure of sensitive information such as the identity of minor witnesses. The closure must be based upon a compelling governmental interest, and narrowly tailored to serve that interest.²⁴¹ Even though safeguarding the physical and psychological well-being of a minor is a compelling state interest, the trial judge should determine, on a case-by-case basis, whether the court should be closed to the press and the public, taking into account the minor’s age, psychological maturity and understanding, the nature of the crime, the witness’s desires, the nature of his testimony regarding the crime, his relationship to the accused and to persons attending the trial, and the interests of his parents and relatives.²⁴² The court might also consider whether requiring the child to testify in open court would cause psychological harm to him, hinder the ascertainment of truth, or result in his inability to effectively communicate due to embarrassment, fear, or timidity.

Issues identified

None other than those specified in § 12 *Information concerning witnesses, generally*.

²³⁷ 705 ILCS 405/5-150.

²³⁸ *People v. Holsey*, 30 Ill.App.3d 716, 720 (1st Dist. 1975).

²³⁹ *Id.*

²⁴⁰ *People v. Holveck*, 141 Ill.2d 84 (1991).

²⁴¹ *Globe Newspaper Co. v. Superior Court for the County of Norfolk*, 457 U.S. 596, 606-607 (1982).

²⁴² *Id.* at 607-608.

Recommendations for integrated justice information systems

Agencies contemplating the development of integrated justice information systems face many challenges. One of the most significant challenges is the lack of guidance for dealing with public apprehension regarding the government's enhanced ability to collect, analyze, and share substantial amounts of personally identifiable information for law enforcement purposes. Our nation has already seen several pilot programs to share justice information fail due to their inability to address these concerns. Yet there is no comprehensive document that sets forth the public's privacy concerns and explains what justice practitioners and system designers can do to assuage these concerns.

Although it is far from comprehensive, the subcommittee hopes that this report, and the volumes that will follow in the series, is a step in the right direction. The previous section set forth Illinois's existing mandatory and permissible information sharing practices; it also provided some specific recommendations concerning the Illinois justice system's treatment of the types of information traditionally utilized to make sound decisions. The recommendations that follow, however, are broader in scope. Other documents have suggested certain processes that can be followed to develop a privacy policy.²⁴³ There is, however, little guidance concerning the recommended substance of those policies. This section is intended to begin filling this gap by providing justice agencies with some advice on the substance of their privacy policies.

Directly confront integrated justice privacy risks

It is important for individuals who develop and use integrated justice information systems to understand the risks to privacy created by the enhanced collection, analysis, and sharing of information for law enforcement purposes. It is equally important for justice agencies to address those privacy risks directly. Anything less than directly confronting the privacy risks created by integrating justice information systems endangers the success of the initiative. This discussion focuses on the privacy risks identified at the beginning of this report. Although the risks fall into three categories, they can all be addressed using similar methods, namely by holding the justice system accountable for what information it collects and how it uses that information. Failing to include sufficient oversight and transparency in a privacy policy is certain to undermine any integrated justice initiative.

Chilling effects

Integrated justice information systems increase the amount of information about individuals that is made available to justice practitioners. This is true despite the fact that the information is already available to justice officials in a non-compiled form. Combining this information creates the risk that individuals will become more cautious in the exercise of their protected rights of expression, protest, association, and political participation. Moving too fast to compile vast

²⁴³ See Global Justice Information Sharing Initiative, U.S. DEP'T OF JUST., Privacy Policy Development Guide (2005).

quantities of justice information may unintentionally reduce citizens' involvement in the justice system: they may be reluctant to report crimes, press charges, or identify themselves as witnesses. To diminish these risks, and to promote citizen participation in the criminal justice process, integrated justice information systems should be as transparent as possible and subject to clearly defined limits and effective oversight.²⁴⁴

Information processing risks

Information processing risks are implicated by the quality of data contained in source systems and the accuracy of the compilation that takes place when records about individuals are aggregated from multiple sources. Careful consideration of the types and sources of data that will be collected and analyzed by an integrated justice information system can reduce data quality risks from source systems. To ensure the accuracy of the compilation process, sophisticated data matching algorithms and procedures for testing and monitoring the accuracy of data matches should be incorporated into the integrated justice information system.²⁴⁵

A concern that emerges as integrated justice information systems compile greater amounts of data for law enforcement purposes is that the government will mismanage or misinterpret information relating to an individual with real-world consequences to that individual. Incorporating into the system procedural protections and technical features that recognize the potential for error and permit due process mechanisms to correct or discard bad data can ameliorate this aggregation risk.²⁴⁶ Less directly, an agency developing an integrated system can address this data processing risk by developing appropriate error rates for each type of analysis or matching conducted by the system. This is the same mechanism used to reduce the chilling effect discussed above.²⁴⁷

During the Privacy Policy Subcommittee's discussions, a concern arose that an integrated justice information system would function like an "electronic grand jury" (i.e. automatically analyzing its data stores to identify individuals it believes are committing crimes). To address this concern, agencies may consider making it clear to the public that these technologies are utilized only as investigative tools to allocate law enforcement resources, and that the data contained therein will not be used for evidentiary purposes.²⁴⁸ Data aggregation and analysis are not substitutes for human decision-making.

Information dissemination risks

Integrated justice information systems make substantial amounts of information available to justice decision-makers. The amount of information collected and maintained by integrated information systems also increases the potential for harm if that information is misused. Developing procedures and technological tools that limit access to sensitive data can mitigate

²⁴⁴ See Technology and Privacy Advisory Committee, U.S. DEP'T OF DEFENSE, Safeguarding Privacy in the Fight Against Terrorism 36 (March 2004) ("TAPAC Report"); K. A. Taipale, *Technology, Security And Privacy: The Fear of Frankenstein, the Mythology of Privacy and the Lessons of King Ludd*, 7 YALE J.L. & TECH. 123, 147-8 (2005) (asserting that one method to address the potential chilling effects of integrated justice information systems may be to set an acceptable error rate for a particular application in the context of its use; this is because error rates impact the public's perception as to whether information is being used appropriately).

²⁴⁵ TAPAC Report at 39.

²⁴⁶ See Taipale, *supra* note 244 at 157.

²⁴⁷ See Taipale, *supra* note 244 at 156.

²⁴⁸ See Taipale, *supra* note 244 at 157.

these risks. Additionally, tamper-proof audit trails combined with oversight in the form of real-time monitoring and subsequent analysis of system usage can provide a check on the dissemination risks posed by integrated justice information systems.²⁴⁹

In some instances, the potential for abuse of a set of data is so great that those developing an integrated justice information system might consider not even collecting it. Already Illinois law permits certain individuals to either provide alternate address information to the government or withhold the information completely. For instance, a victim of domestic violence can omit her residential address from her petition for a protective order where the disclosure would risk abuse or reveal the confidential address of a domestic violence shelter.²⁵⁰ Domestic violence victims can also participate in an address confidentiality program under which the victim can request that State and local agencies use the substitute address designated by the Attorney General as her address when creating a new public record.²⁵¹ Similarly, a police officer may furnish the address of his police headquarters instead of his residence address when registering his vehicles.²⁵² The same right extends to any family members residing with the officer.

This is not to say that excluding particular types of information from an integrated justice information system is a feasible option in all circumstances. In other cases, several technologies may provide a method of protecting exceptionally sensitive pieces of information. For instance, agencies can anonymize the personally identifying information contained in their system. By using a hash algorithm, personal data (e.g., the name and address of a sexual assault victim) can be represented in the system as an encrypted digital signature that does not reveal the victim's identity but permits the data to be exchanged or matched against other data. If a match occurs, the justice practitioner would then follow appropriate procedures before being granted access to the victim's identity. This and additional types of technologies that protect privacy will be discussed in greater detail in future volumes of the Privacy Policy Guidance series.

Sound privacy principles for integrated justice information systems

In 1973, the U.S. Department of Health, Education, and Welfare published a groundbreaking report responding to concerns that harmful consequences may result from the storing of personal information in computer systems. That report, entitled "Records, Computers and the Rights of Citizens," articulated several principles the department deemed essential to the fair collection, use, storage, and dissemination of personal information by electronic information systems.²⁵³ The report was one of the earliest acknowledgements by the federal government that the public's privacy needed to be protected against arbitrary and abusive record-keeping practices. The report also recognized the need to establish standards of record-keeping practices appropriate for the computer age.

²⁴⁹ See Taipale, *supra* note 244 at 151.

²⁵⁰ 750 ILCS 60/203(b); Similarly, if the petitioner is seeking to have a child protected by the order, the petitioner may omit the child's school address where the disclosure of the school's location would risk abuse. 750 ILCS 60/203(c).

²⁵¹ See 750 ILCS 61/1 –/45.

²⁵² 625 ILCS 5/3-405.

²⁵³ U.S. DEP'T OF HEALTH, EDUC., & WELFARE, Records, Computers and the Rights of Citizens: Report of The Secretary's Advisory Committee on Automated Personal Data Systems xx-xxi (1973), available at <http://aspe.hhs.gov/dataacnl/1973privacy/tocprefacemembers.htm>.

The Fair Information Practices are a set of standards governing the collection and use of personal data and addressing issues of privacy and accuracy. The practices include eight guiding principles that evolved from the 1973 report:

1. *Collection Limitation Principle* – There should be limits to the collection of personal data and any such data should be obtained by lawful and fair means and, where appropriate, with the knowledge or consent of the data subject.
2. *Data Quality Principle* – Personal data should be relevant to the purposes for which they are to be used, and, to the extent necessary for those purposes, should be accurate, complete and kept up-to-date.
3. *Purpose Specification Principle* – The purposes for which personal data are collected should be specified not later than at the time of data collection. Additionally, the subsequent use should be limited to the fulfillment of those purposes or other compatible purposes.
4. *Use Limitation Principle* – Personal data should not be disclosed, made available, or otherwise used for purposes other than those specified in accordance with the Purpose Specification Principle except: (a) with the consent of the data subject; or (b) by the authority of law.
5. *Security Safeguards Principle* – Personal data should be protected by reasonable security safeguards against such risks as loss or unauthorized access, destruction, use, modification or disclosure of data.
6. *Openness Principle* – There should be a general policy of openness about developments, practices, and policies with respect to personal data. Means should be readily available of establishing the existence and nature of personal data, and the main purposes of its use, as well as the identity and usual residence of the data controller.
7. *Individual Participation Principle* – An individual should have the right to: (a) obtain from a data controller, or otherwise, confirmation of whether or not the data controller has data relating to him; (b) have communicated to him, data relating to him within a reasonable time; at a charge, if any, that is not excessive; in a reasonable manner; and in a form that is readily intelligible to him; (c) be given reasons if a request made under subparagraphs (a) and (b) is denied, and to be able to challenge such denial; and (d) challenge data relating to him and, if the challenge is successful to have the data erased, rectified, completed or amended.
8. *Accountability Principle* – A data controller should be accountable for complying with measures that give effect to the principles stated above.

Although universally recognized as a solid foundation on which to build privacy legislation and policies, the fair information practices were not originally developed to operate within the context of the justice system. The National Criminal Justice Association and the Global Justice Information Sharing Initiative (Global) Advisory Committee have both considered the need to modify the practices to include the flexibility necessary to ensure public safety by providing relevant information to justice decision-makers.²⁵⁴ However, modifying the practices themselves, as opposed to creating discrete exceptions to their operation, risks stripping the fair information practices of their significance as guidelines.

²⁵⁴ See NAT'L CRIM. JUST. ASS'N, Justice Information Privacy Guideline (2002), available at <http://www.ncja.org/pdf/privacyguideline.pdf>; Global Privacy and Information Quality Working Group web page http://www.it.ojp.gov/topic.jsp?topic_id=55#3706 (indicating that some of the individual principles may not apply in all instances of an integrated justice system).

Instead of modifying the fair information practices, this report proposes a new model that can provide guidance to justice practitioners and systems designers. The six principles that follow reflect the philosophical underpinnings of the justice system's collection, use, and dissemination of the information it requires to promote the public's safety. These principles, and their accompanying commentaries, were developed in the context of electronic information sharing, and it is hoped that they can help justice agencies resolve privacy issues that might not be specifically addressed in existing laws or policies.

1. JUSTICE INFORMATION SHARING POLICIES, PROCEDURES, AND PRACTICES WILL COMPLY WITH ALL LAWS AND CONSTITUTIONAL REQUIREMENTS PROTECTING INDIVIDUALS' PRIVACY AND CIVIL LIBERTIES REGARDING THE COLLECTION, USE, AND DISSEMINATION OF THEIR INFORMATION.

Commentary

Integrated justice information systems should conform to existing and evolving notions of privacy and civil liberties. Civil liberties are fundamental individual rights such as freedom of speech, press, or religion; due process of law; and other limitations on the power of the government to restrain or dictate the actions of individuals. It is these rights that protect individuals from improper government action and arbitrary governmental interference.²⁵⁵

This is a traditional check on the justice system that is appropriately applied to the tools utilized by justice practitioners. The goal of incorporating this principle into a privacy policy is to promote the public's confidence and trust in law enforcement information systems by subjecting them to the same legislative and judicial checks and balances that legitimately constrain the administration of justice.

2. JUSTICE INFORMATION SHARING POLICIES, PROCEDURES, AND PRACTICES WILL BE MADE AVAILABLE TO THE PUBLIC TO ENSURE ACCOUNTABILITY FOR COMPLYING WITH PRIVACY AND CIVIL RIGHTS LAWS.

Commentary

There is a growing recognition that promoting public confidence in the administration of justice is one of the primary goals of good government. One way to promote public confidence is to increase the transparency surrounding how information is managed by the Illinois justice system, even if the information itself cannot be released to the public. Doing so serves two purposes: (1) it invites constructive comments regarding the operation of the justice system, and (2) it is a mechanism to hold the justice system accountable for adhering to the very rules and procedures it develops.

This principle is limited to the public disclosure of policies, procedures, and practices regulating the collection, use, and dissemination of data contained in an integrated justice information system. The level of detail contained in these documents and practices will understandably vary based upon the audience to which they are directed. For instance, a system administrator will need more detail than a mere user of the system. There may also be users with varying amounts of access to the system. A user with greater access

²⁵⁵ BUREAU OF JUSTICE ASSISTANCE, U.S. DEP'T OF JUST., National Criminal Intelligence Sharing Plan 5 (June 2005).

permissions will be subject to additional and more detailed regulations than a user with more limited access. Although agencies are not required to provide any documents that may disclose unique or specialized investigative techniques that are not generally used and known,²⁵⁶ the type of policies recommended by this report should be made publicly available.

3. ALL INSTANCES OF JUSTICE INFORMATION SHARING AND DATA MODIFICATION WILL BE RECORDED TO ENSURE ACCOUNTABILITY FOR THE TRANSACTIONS.

Commentary

In an age where information is increasingly equated with power, it is important that new information systems be developed with accountability mechanisms in place. Although the primary goal of this principle is to deter and discover users' abuse and misuse of an integrated justice information system, recording who accesses data contained in an information system facilitates notifications when that data is updated. The principle calls for immutable audit trails to be built into integrated justice information systems and implies that system audit logs will be reviewed for inconsistencies that raise a suspicion of abuse. Keeping records of who has access to what information and whether a person has modified a record might discourage some access. Nevertheless, such audit capabilities can be an effective means to discourage unnecessary or inappropriate use of the system and trace any improper uses to the wrongful party. These capabilities can also ensure that practitioners are informed when information they might have previously relied upon has been corrected or updated.

4. EVERY REASONABLE EFFORT WILL BE MADE TO ENSURE THAT JUSTICE INFORMATION IS COMPLETE, ACCURATE, AND TIMELY.

Commentary

For decades the Illinois justice system has been concerned with ensuring that the information utilized by justice practitioners is accurate, complete, and current. Nevertheless, these concerns take on added significance in the context of integrated information systems because the goal of these systems is to increase the amount of electronic information collected and shared throughout the justice system. Agencies incorporating this principle into their policies should carefully consider the accuracy of data contained in source systems and document the specific protocols that will be used to locate and correct erroneous information. Regular and systematic audits are one way of ensuring the quality of information used by justice practitioners remains high. By making these considerations and procedures available for inspection, justice agencies can forestall the public's data quality concerns.

5. EACH INDIVIDUAL IS ENTITLED TO KNOW, WITH CLEARLY DEFINED EXCEPTIONS, WHETHER CRIMINAL HISTORY RECORD INFORMATION ABOUT HIM OR HER HAS BEEN COLLECTED AND MAINTAINED BY THE JUSTICE SYSTEM AND TO REVIEW AND CHALLENGE THAT INFORMATION.

Commentary

Existing laws already provide individuals with rights to access and review their own

²⁵⁶ 5 ILCS 140/7(1)(c)(v) and *In Re Daniels*, 240 Ill.App.3d 314 (1st Dist. 1992) (utilizing exemptions contained in the FOIA as a basis for recognizing investigatory privilege to not disclose investigatory records).

criminal history record information.²⁵⁷ These rights are an acknowledgement that records compiled by name and date of birth may be improperly attributed to individuals with common names. Errors can also occur with the use of biometrics: although they have a very low error rate, automated fingerprint identification systems can also improperly compile criminal records. This principle provides individuals a right to access and challenge their criminal history records as an error correction mechanism.

Setting an appropriate level of access and review in the context of an integrated justice information system for information beyond criminal history records was a point of contention for subcommittee members. Some recommended broad rights on the grounds that greater transparency and error correction promoted public trust in the administration of justice. Others, premised upon the many ways an individual could be incidentally mentioned in an integrated justice system, advocated limiting individuals' access and review rights to instances where the government labeled that individual a suspect or offender. These members argued that it was not the justice system's purpose to provide a new service whereby individuals could request and be provided a comprehensive list of every time they are referred to in justice records; members contended that individuals could use such a service to improve their ability to commit crimes.

As a compromise, this principle gives individuals a right to access their information other than CHRI²⁵⁸ to the extent provided for under the Illinois Freedom of Information Act (FOIA).²⁵⁹ Although the Illinois FOIA gives individuals a strong right of access to information controlled by government, it permits justice agencies to withhold records that, if disclosed, would: (1) interfere with pending or actually and reasonably contemplated law enforcement investigations or proceedings; (2) deprive a person of a fair trial or hearing; (3) unavoidably disclose the identity of a confidential source or information furnished only by the confidential source; (4) disclose unique or specialized investigative techniques other than those generally used and known; or (5) endanger the physical safety of any person.²⁶⁰ The subcommittee agreed that these limitations should be incorporated into this principle.

6. VICTIMS AND WITNESSES OF CRIME SHALL BE TREATED WITH FAIRNESS AND RESPECT FOR THEIR DIGNITY AND PRIVACY THROUGHOUT THE JUSTICE SYSTEM.

Commentary

This principle has its root in the Illinois Constitution.²⁶¹ It is based upon the recognition that victims and witnesses are not voluntary participants in the justice process. The subcommittee's findings revealed that victims of different types of crimes have different

²⁵⁷ See 28 C.F.R. § 20.21(g); implemented by 20 ILCS 2630/7 and ILL. ADMIN. CODE tit. 20 § 1210.20 (providing individuals the right to review and challenge their criminal history record information contained in the state's official repository) *c.f.* Smith v. Cook County Probation Department, 151 Ill.App.3d 136 (1st Dist. 1986) (denying a probationer access to probation records concerning him under FOIA).

²⁵⁸ See 20 ILCS 2635/3(G); 5 ILCS 140/7(1)(d) (both defining CHRI as data identifiable to an individual and consisting of descriptions or notations of arrests, detentions, indictments, informations, pre-trial proceedings, trials, or other formal events in the criminal justice system or descriptions or notations of criminal charges (including criminal violations of local municipal ordinances) and the nature of any disposition arising therefrom, including sentencing, court or correctional supervision, rehabilitation and release).

²⁵⁹ 5 ILCS 140/1–11.

²⁶⁰ 5 ILCS 140/7(1)(c).

²⁶¹ Ill. Const. Art. I, § 8.1; 725 ILCS 120/2.

degrees of privacy protections. The members discussed the difficulty of classifying victims and of implementing these varying levels of protection in an integrated justice information system. Even though the subcommittee was unable to make recommendations concerning these technological and policy questions, the principle, and Illinois law, affords certain rights and considerations to victims and witnesses due to the essential nature of their role in the administration of justice.

Conclusion

Illinois justice agencies should be encouraged to use advanced information technologies to collect, analyze, and share digital information to fight crime, but should protect individual privacy while doing so. The recommendations contained in this report are intended to help agencies address the public's privacy concerns as they develop and use integrated information systems.

The Privacy Policy Subcommittee's work is far from complete; Appendix A discusses the group's continuing efforts. Ultimately, it is the Privacy Policy Subcommittee's goal to develop recommendations that will provide justice agencies with the tools they need to enhance public safety confident in the knowledge that they are respecting the public's privacy and liberty interests.

Table 1: Information collected about prisoners

The amount of information collected about prisoners depends upon whether the prisoner is housed in a municipal lock-up, county jail, or state prison. The differences in the amount and types of information collected are the result of the role of these facilities, the length of a prisoner's stay, and the available treatment programs. The types of information collected by each institution are listed below.²⁶²

State Prison	County Jail	Municipal Lock-up
<input type="checkbox"/> Identifying information <input type="checkbox"/> Emergency contact <input type="checkbox"/> Employment history <input type="checkbox"/> Offense information <input type="checkbox"/> Date and time of admission <input type="checkbox"/> Criminal history record information <input type="checkbox"/> Personal property record <input type="checkbox"/> Mittimus or judgment order including sentence and court findings concerning offender status. <input type="checkbox"/> Number of days in custody and transfer records <input type="checkbox"/> Parole plans and reports <input type="checkbox"/> Medical or mental health records or summaries <input type="checkbox"/> Health and physical condition <input type="checkbox"/> History of substance abuse <input type="checkbox"/> Educational history <input type="checkbox"/> Religion or religious preference <input type="checkbox"/> Sexual orientation <input type="checkbox"/> Gang activity, affiliations, and ranks <input type="checkbox"/> Record of disciplinary infractions and dispositions <input type="checkbox"/> Presentence reports <input type="checkbox"/> Basis for imposing sentence <input type="checkbox"/> State's Attorney's statement of facts	<input type="checkbox"/> Identifying information <input type="checkbox"/> Emergency contact <input type="checkbox"/> Occupation <input type="checkbox"/> Offense information <input type="checkbox"/> Date and time of admission <input type="checkbox"/> Criminal history record information <input type="checkbox"/> Personal property record <input type="checkbox"/> Case disposition, judge, and trial court <input type="checkbox"/> Date of release or transfer <input type="checkbox"/> Probation or parole status <input type="checkbox"/> Physical and mental health assessments <input type="checkbox"/> Health and physical condition <input type="checkbox"/> History of substance abuse <input type="checkbox"/> Education level <input type="checkbox"/> Religion or religious preference <input type="checkbox"/> Sexual orientation <input type="checkbox"/> Gang activity <input type="checkbox"/> Record of misconduct and subsequent discipline administered <input type="checkbox"/> Name and telephone number of the prisoner's attorney <input type="checkbox"/> Prisoner status: pretrial; awaiting sentence; sentenced	<input type="checkbox"/> Identifying information <input type="checkbox"/> Emergency contact <input type="checkbox"/> Occupation <input type="checkbox"/> Offense information <input type="checkbox"/> Date and time of admission <input type="checkbox"/> Criminal history record information <input type="checkbox"/> Personal property record <input type="checkbox"/> Disposition of case and authority <input type="checkbox"/> Date of release or transfer

²⁶² Sources: State Prisons (730 ILCS 5/3-2-5(c); 730 ILCS 5/3-5-1-2; 730 ILCS 5/3-8-1-2; ILL. ADMIN. CODE tit. 20 §§ 701.60; 107.20; 503.20); County Jails (ILL. ADMIN. CODE tit. 20 §§ 701.40; 701.70); Municipal Lock-Ups (ILL. ADMIN. CODE tit. 20 § 720.120).

Table 2: Categories of information most useful for traditional crime analysis

Police agencies utilize crime analysis to prevent and suppress crime, apprehend offenders, and recover stolen property.²⁶³ Crime analysis is usually conducted on offenses with discernable patterns and trends that can be prevented or reduced through the implementation of directed action plans.²⁶⁴ A review of existing police crime analysis operations reveals that burglary, robbery, auto theft, larceny, fraud, sex crimes, aggravated assaults, and murder are the crimes most appropriate for crime analysis.²⁶⁵ Experienced analysts have found that the factors listed below (the numbers in parentheses suggest the order in which the data should be searched) often help determine if a pattern exists.²⁶⁶

Residential Burglaries	Commercial Burglaries
<ul style="list-style-type: none"> <input type="checkbox"/> Geographic factors (1) <input type="checkbox"/> Time factors (2) <input type="checkbox"/> Property loss descriptors (2) <input type="checkbox"/> Victim descriptors²⁶⁷ (2) <input type="checkbox"/> Physical evidence descriptors (2) <input type="checkbox"/> Specific modus operandi factors²⁶⁸ (2) <input type="checkbox"/> Suspect vehicle descriptors (3) <input type="checkbox"/> Suspect descriptors (3) 	<ul style="list-style-type: none"> <input type="checkbox"/> Geographic factors (1) <input type="checkbox"/> Victim descriptors (1) <input type="checkbox"/> Specific modus operandi factors (1) <input type="checkbox"/> Property loss descriptors (2) <input type="checkbox"/> Physical evidence descriptors (2) <input type="checkbox"/> Time factors (3) <input type="checkbox"/> Suspect vehicle descriptors (3) <input type="checkbox"/> Suspect descriptors (3)
Thefts From Vehicles	Sexual Offenses
<ul style="list-style-type: none"> <input type="checkbox"/> Geographic factors (1) <input type="checkbox"/> Property loss descriptors (1) <input type="checkbox"/> Suspect vehicle descriptors (1) <input type="checkbox"/> Time factors (2) <input type="checkbox"/> Victim descriptors²⁶⁹ (2) <input type="checkbox"/> Physical evidence descriptors (2) <input type="checkbox"/> Specific modus operandi factors (2) <input type="checkbox"/> Suspect descriptors (3) 	<ul style="list-style-type: none"> <input type="checkbox"/> Time factors (1) <input type="checkbox"/> Victim descriptors (1) <input type="checkbox"/> Suspect descriptors (1) <input type="checkbox"/> Victim-suspect relationship (1) <input type="checkbox"/> Geographic factors (2) <input type="checkbox"/> Physical evidence descriptors (2) <input type="checkbox"/> Specific modus operandi factors²⁷⁰ (2) <input type="checkbox"/> Suspect vehicle descriptors (2)

²⁶³ Steven Gottlieb, *et al.*, *Crime Analysis: From First Report to Final Arrest* 14-16 (1994)

²⁶⁴ *Id.*

²⁶⁵ *Id.* at 133.

²⁶⁶ *Id.* at 318-320; DEP'T OF THE ARMY, U.S. DEP'T OF DEF., *Physical Security FM 3-19.30 B-8* (2001).

²⁶⁷ Victim descriptors for burglaries include the type of building that was attacked and whether it was occupied or unoccupied.

²⁶⁸ MO factors for burglaries include the point of entry (i.e., door, window, etc.) and the method of entry (i.e., unsecured door, forced door, forced window, etc.).

²⁶⁹ Victim descriptors for thefts from vehicles include whether the vehicle or property was secured or unsecured and the type of vehicle or property stolen (sports car, motorcycle, stereo, tires, etc.).

²⁷⁰ MO factors for sexual offenses include the degree of force used against the victim.

Strong-Arm Robberies	Armed Robberies
<ul style="list-style-type: none"> <input type="checkbox"/> Geographic factors (1) <input type="checkbox"/> Time factors (1) <input type="checkbox"/> Victim descriptors²⁷¹ (1) <input type="checkbox"/> Property loss descriptors (2) <input type="checkbox"/> Physical evidence descriptors (2) <input type="checkbox"/> Specific modus operandi factors²⁷² (2) <input type="checkbox"/> Suspect descriptors (2) <input type="checkbox"/> Suspect vehicle descriptors (3) 	<ul style="list-style-type: none"> <input type="checkbox"/> Geographic factors (1) <input type="checkbox"/> Time factors (1) <input type="checkbox"/> Suspect descriptors (1) <input type="checkbox"/> Victim descriptors (2) <input type="checkbox"/> Specific modus operandi factors (2) <input type="checkbox"/> Suspect vehicle descriptors (2) <input type="checkbox"/> Property loss descriptors (3) <input type="checkbox"/> Physical evidence descriptors (3)

²⁷¹ Victim descriptors for robberies include the injuries the victim suffered and any actions by the victim that contributed to his being targeted.

²⁷² MO factors for robberies include the number of perpetrators and the type of weapon used during the offense.

Appendix A: Privacy Policy Guidance series

The goal of the *Privacy Policy Guidance* series is to help Illinois justice agencies develop privacy policies for their integrated justice information systems. This report, and the volumes that will follow, describes the public's privacy concerns and provides recommendations to justice practitioners and system designers about how to address those concerns. Because many agencies are already moving forward with the development of integrated justice information systems, the subcommittee decided to publish its recommendations in a series of reports to ensure that agencies receive guidance as it becomes available.

Ultimately, the *Privacy Policy Guidance* series will consist of six volumes. The subcommittee has prioritized the issues that it will address in the hopes of keeping abreast of justice agencies' systems development. The topics that will be addressed in each volume are set forth below.

Volume 1

This report focuses on the types of information traditionally collected, used, and disseminated about the actors in the Illinois justice system. It also proposes a set of principles that should be incorporated into any integrated justice system's privacy policy.

Volume 2

Several initiatives currently are underway that will improve the electronic sharing of incident report information. Specifically, Illinois State Police is developing the Illinois Citizen and Law Enforcement Analysis and Reporting (I-CLEAR) system. A primary component of this system will be a data warehouse that will store, analyze, and disseminate various types of justice information including incident reports from municipal and county police departments across the state. Furthermore, the Federal Bureau of Investigation is continuing to develop the National Data Exchange (N-DEx) system, which will provide a nationwide capability to exchange data derived from incident and event reports with other agencies. The Department of Justice has largely left the states to determine the amount of police incident report data that will be transmitted to the N-DEx system.

Volume 2 of the series will identify the privacy concerns created by the enhanced collection, analysis, and sharing of electronic police incident report information made possible by several initiatives under development in Illinois. The report will also address these privacy concerns by developing clear guidance on how to properly treat the types of sensitive data that are frequently included in police incident reports.

Volume 3

There are several types of data that might be collected, used, and disseminated by an integrated justice system that don't fall neatly into the actor-based or incident-based discussions of the first two volumes. Volume 3 of the *Privacy Policy Guidance* series will discuss the privacy issues surrounding several of these types of information, including, but not limited to, officer safety information; Social Security numbers; fingerprints; DNA profiles; medical information; expunged and sealed records; warrants; offender registration information; and statistical data.

Volume 4

The fourth volume of the series will focus on the accountability and oversight of integrated justice information systems. Specifically, it will contain recommendations concerning privacy policy compliance audits and how to ensure the accuracy of data contained in justice information systems.

Volume 5

Privacy Policy Guidance, Volume 5 will focus on the collection, use, and dissemination of juvenile justice information in an integrated justice information system. It will discuss statutory requirements to keep juvenile data separate and to provide greater levels of privacy for minors who come into contact with the justice system.

Volume 6

Volume 6 will review the types of intelligence information gathered by the Illinois justice system and discuss the proper treatment of this information taking into account federal and state laws regulating this information.

ILLINOIS INTEGRATED JUSTICE INFORMATION SYSTEM

Strategic Plan 2003-2004



Acknowledgment of Contributors

The IIJIS Governing Board wishes to recognize and thank those who provided financial support, technical assistance, leadership, proofreading, and editing in the creation of this document. While this plan presents an Illinois-specific approach, the concepts contained within are not unique or original. Many local, state, and federal entities throughout the nation are actively planning or implementing integrated justice information systems and have shared their work with others. This nationwide effort played a significant role in the creation of this blueprint for justice information sharing in Illinois.

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Table of Contents

Endorsement Letter from the IIJIS Governing Board	2
Executive Summary	3
IIJIS Strategic Plan	6
What is Integration?	9
How Does Integrated Justice Information Benefit Me?	12
Vision/Mission Statements	13
Values	14
Guiding Principles for Integrated Justice.....	15
Strategic Issue 1	16
Strategic Issue 2.....	20
Strategic Issue 3.....	24
Strategic Issue 4.....	28
Strategic Issue 5.....	31
Strategic Issue 6.....	35
Strategic Issue 7.....	40
Glossary.....	43
Appendix 1: Committee Structure and Composition.....	49
Appendix 2: Scenario for Information Sharing in Illinois.....	59
Appendix 3: Gap Analysis Summary	66
Appendix 4: Ongoing Projects Summary	71
Appendix 5: Proposed Legislation Empowering the IIJIS Governing Body	73

Endorsement Letter from the IIJS Governing Board

To the Governor, Members of the General Assembly, and Citizens of Illinois:

We, the undersigned members of the Illinois Integrated Justice Information System (IIJS) Governing Board, believe this Strategic Plan sets forth strategies to accomplish our goal of integrating Illinois justice information. Implementation of this plan will provide justice practitioners with the tools needed to better protect our citizens by sharing complete, accurate, timely, and accessible information.

Our individual organizations collectively reaffirm our commitment to the IIJS Strategic Plan and look forward to improving the quality of justice through more informed decision-making.

As we move forward, we must continue to champion this cause, hold ourselves accountable for achieving these goals, and work together to ensure our continued success.

Respectfully,

A collection of handwritten signatures in black ink, arranged in approximately four rows and three columns. Each signature is written over a horizontal line. The signatures are: Candice M. Kane, Allen Nance, Sam Nolen, R. B. Bader, Ron Roy, Michael Sheahan, Deborah Seyller, Craig Wimberly, Joseph Callahan, Dan Huberman, Guy D. O'Rourke, Catherine Maras O'Leary, James L. Olson, Timothy Brown, David Bergschneider, Dan P. Roth, Mark J. Ford, Jesse White, Rick Berg, Jerry Ford, Steve Piroc, Michael J. Waller, Mary Reynolds, Carol A. Gibbs, Michael Tardy, and Matthew Bettenhausen.

Hon. Carla Bender
ILLINOIS ASSOCIATION OF
COURT CLERKS

David Bergschneider
OFFICE OF THE STATE
APPELLATE DEFENDER

Matthew R. Bettenhausen
DEPUTY GOVERNOR

Col. Ken Bouche
ILLINOIS STATE POLICE

Hon. Dorothy Brown
COOK COUNTY CIRCUIT
COURT CLERK

Daniel Callahan
OFFICE OF THE ILLINOIS
ATTORNEY GENERAL

Terry Ford
OFFICE OF THE STATE FIRE
MARSHAL

Norbert Goetten, Director
STATE'S ATTORNEYS
APPELLATE PROSECUTOR

Richard E. Guzman
OFFICE OF THE GOVERNOR

Ron Huberman
CHICAGO POLICE DEPT.

Candice M. Kane, Ph.D., J.D.,
Executive Director
ILLINOIS CRIMINAL JUSTICE
INFORMATION AUTHORITY

Michael Mahoney
ILLINOIS JUVENILE JUSTICE
COMMISSION

Catherine Maras O'Leary, CIO
COOK COUNTY

Allen Nance
ILLINOIS PROBATION AND
COURT SERVICES ASSN.

Sam Nolen, Director
ILLINOIS STATE POLICE

Hon. James Olson, Sheriff
ILLINOIS SHERIFFS' ASSN.

Chief Gary O'Rourke
ILLINOIS ASSN. OF CHIEFS OF
POLICE

Mary Reynolds, CTO
ILLINOIS TECHNOLOGY
OFFICE

Thomas Roth
ILLINOIS DEPARTMENT OF
CORRECTIONS

Ron Roy
DEPARTMENT OF CENTRAL
MANAGEMENT SERVICES

Hon. Deborah Seyller
KANE COUNTY CIRCUIT
COURT CLERK

Hon. Michael Sheahan
COOK COUNTY SHERIFF

Michael Tardy
JUDICIAL BRANCH LIAISON

Hon. Michael Waller
ILLINOIS STATE'S ATTORNEYS
ASSOCIATION

Hon. Jesse White
ILLINOIS SECRETARY OF
STATE

Craig Wimberly, CIO
OFFICE OF THE COOK
COUNTY CIRCUIT COURT
CLERK

Executive Summary

Overview

Justice agencies throughout Illinois recognize the central importance of sharing accurate and complete information in a timely manner. Enterprise-wide information sharing improves the quality of justice and public safety by eliminating error-prone redundant data entry, providing timely access to critical information, enabling information sharing without regard to time or space, and improving the consistency and reliability of information at key decision points.

The integration of justice, public safety, and other forms of governmental information transcends the day-to-day operational needs and priorities of justice agencies and becomes, in light of the terrorist attacks of September 11, 2001, a national security imperative. Integration, however, is needed not only to respond to threats of international terrorism, but also for domestic terrorism, major incident response, natural disasters, and to support the daily operation of our justice and public safety enterprise.

In recognition of these evolving priorities, members of state, local, and county agencies throughout Illinois began planning for a broad program of justice integration. At this group's request, the Governor signed Executive Order Number 12 (2001) creating the Illinois Integrated Justice Information System (IIJIS) Governing Board. The Governing Board is comprised of representatives from state and local justice agencies, social service agencies, and other key stakeholders.

The Governing Board was charged with coordinating and directing the State's integrated justice planning efforts. In order to provide formalized guidance, the Governing Board created two committees: the Planning Committee and the Technical Committee. A third committee, the Outreach Committee, was subsequently convened to develop general information and educational resources for the public and the justice community regarding integrated justice, to identify and garner support from statewide decision-makers, and to seek commitment from stakeholders.

The Planning Committee was convened to create a strategic plan for the integration of justice information systems throughout Illinois. In order to draft such a plan, the Planning Committee created the *Scenario for Information Sharing in Illinois*, a vision of the future state of integration in Illinois.

The Technical Committee was convened to conduct a needs assessment to investigate and analyze the existing components of the Illinois justice process in order to document any gaps between the desired state of integration, as set forth in the Scenario, and current information sharing practices in Illinois. That needs assessment included the identification of data exchange points in the Illinois justice system to determine where automation would enhance the timely sharing of accurate and complete information. This provided a foundation for future projects aimed at automating those exchanges

where participants are willing and ready. The combined work of the Planning and Technical Committees led to the identification of the following seven strategic issues.

Strategic Issues

Issue 1. A Governing Body comprised of major stakeholders to oversee and guide the development, implementation, and evaluation of effective electronic justice information sharing initiatives.

The Governing Body must be created legislatively to set goals and objectives for integrated justice information systems, to foster communication and collaboration with justice stakeholders, to coordinate the funding of integration efforts, and to maintain public accountability of the justice system.

Issue 2. Integrated collecting and sharing of justice data.

Relevant information must be collected in an automated fashion and electronically shared among appropriate justice, public safety, and governmental agencies and courts. In order to coordinate and share information electronically, the utilization of interoperable technological applications must be encouraged throughout the justice/public safety enterprise.

Issue 3. Serve justice, public safety, and homeland security needs while protecting privacy, preventing unauthorized disclosures of information, and allowing appropriate public access.

The broad interests of justice, public safety, and homeland security initiatives must be addressed while respecting individual privacy interests, preventing unauthorized disclosures of information, and enabling appropriate public access to relevant information. To prevent unauthorized disclosures of information while allowing appropriate access, a uniform Privacy Policy must be developed based upon fair information practices and adopted by all Illinois justice agencies.

Issue 4. Sufficient and coordinated funding and other resources for integration.

An integrated justice information system requires the coordination of integration funding and other resources among national, state, and local participants to promote collaboration and minimize duplication of efforts. Differences in stakeholder needs must be taken into account when allocating integration resources.

Issue 5. Established standards/regulations for data sharing and infrastructure development.

Integrated justice information sharing requires the development and implementation of information system standards and regulations for data sharing and infrastructure development. These standards and regulations must be compatible with national integrated justice initiatives.

Issue 6. Secure, reliable, effective, and efficient information technology (IT) infrastructure that facilitates justice information sharing.

To promote the availability, reliability, stability, and coverage of justice information across agency and jurisdictional boundaries, the existing IT infrastructure must be expanded, enhanced, and maintained.

Issue 7. Rapid identification through biometric technologies.

Because of the consequences of decision-making throughout the justice and public safety enterprise, positive identification of individuals must be established through the use of various biometric technologies. In order to expand the use of biometrics for rapid identification of subjects, cost-effective technological applications must be identified and any legal or public policy barriers regarding their use documented.

Conclusion

Integration and the automated sharing of relevant information throughout the justice enterprise is essential for public safety, homeland security, quality of justice, and the efficient expenditure of scarce public resources. Successful planning, implementation, and management requires disciplined and visionary leadership, strong and active support among all stakeholder agencies and branches of government, sustained financial support and effective management, technical development of standards and infrastructure, and policy development to facilitate appropriate business practices and legal policies.

The Strategic Plan presented here outlines a course of action that will enable Illinois to build general systems capabilities to get the right information to the right people at the right time. By adopting and executing this plan, we can initiate the steps necessary to develop a justice information sharing capability that will benefit all people in Illinois.

IIJIS Strategic Plan

Introduction

Justice practitioners in Illinois make countless daily decisions throughout the broad spectrum of the justice enterprise regarding traffic stops, filing of complaints, arrests, bookings, prosecutions, pretrial releases, convictions, sentencing, probation, prison admissions and releases, and parole. Many of these decisions involve offenders with violent criminal histories who may represent a threat to public safety. It is an unfortunate reality that the limited availability, timeliness and/or quality of information too often hinders informed decision-making, sometimes resulting in tragedy and frequently crippling the fair and efficient operation of the justice system.

Beyond the daily administration of justice at state and local levels, the tragic events of September 11, 2001, have profoundly changed our world. In light of these unprecedented events, a host of legislative and policy measures have been planned or implemented to bolster security at the nation's airports and international borders, as well as key government buildings and critical infrastructure. In addition to these direct enhancements of physical/plant security, there are growing calls for programs and technologies to establish and verify the positive identity of people - flight training applicants, airline passengers, airline/airport employees, visa/admissions applicants - and a need to link these systems for positive identification to critical databases for background screening.

State, local, and federal justice agencies throughout the nation have recognized the need for effective information sharing and are acting to implement communications and information systems capabilities that meet the growing needs of an ever-expanding community of stakeholders. Despite widespread public belief that justice information is immediately available and universally shared within and across jurisdictions, practitioners recognize the limitations inherent in existing systems. In reality, this information is often fragmented, collected in different forms and formats - including manual forms - and its availability is frequently limited to the organization responsible for initial collection.

By integrating the flow of justice information within Illinois, critical data can be electronically shared in a complete, accurate, and timely manner. Access to shared information will improve decision-making and the quality of justice. This shared information will also enhance public safety and security, and with the proper safeguards, the privacy and confidentiality of the information can be ensured.

Background

Recognizing the importance of electronically sharing critical data, documents, and images, representatives from various Illinois justice agencies formed a strategic

planning workgroup in December 2000. This group, with assistance from the National Governors' Association (NGA), obtained a \$973,666 grant from the United States Department of Justice (DOJ) to initiate an integrated justice planning process in Illinois.

Realizing the need for formalized guidance, this group asked the Governor to create a formal oversight body to coordinate and direct the state's integrated justice system planning efforts. As a consequence, Executive Order Number 12 was issued on December 6, 2001 creating the Illinois Integrated Justice Information System (IIJIS) Governing Board. The Governing Board is comprised of representatives of local, county, and state justice agencies and associations (Appendix 1), and was charged with several tasks, including the development of a strategic plan for the integration of Illinois justice and court information.

Strategic Planning

The IIJIS Governing Board adopted the strategic planning process to develop an integrated justice plan for Illinois. Strategic planning methods include a wide variety of analysis and decision-making tools and techniques. They are a way of answering the question: "Where should we be going and how will we get there?" Strategic planning, as distinct from more short-term planning, identifies the issues and challenges the organization must confront in the future. The plan is strategic in that it involves decisions and actions with major consequences extending over long periods of time.

The desired future state of justice integration (i.e., where we want to be) was determined by the *Scenario for Information Sharing in Illinois* (Appendix 2). A gap analysis was then employed that examined the current state of justice information management and exchanges, and revealed the obstacles to achieving the desired future state. This work was carried out through discussion groups with justice practitioners, examination of the major state justice information systems and networks, and through detailed documentation of interagency justice information exchange points (Appendix 3). This work is continuing through the adoption and development of data exchange standards, surveys of local justice agencies regarding their data management and exchange practices, and outreach to county-level integration planning efforts (Appendix 4). These methods have revealed the issues, goals, objectives, outcomes, and performance measures that have become the strategic plan (i.e., how we get there from here).

Performance Measures and Accountability

Performance measures are essential elements in designing strategic plans that have well-defined objectives, explicit and demonstrable program deliverables, and realistic timeframes. Additionally, incorporating measures into the fundamental structure of the strategic plan helps in creating baseline performance measures of existing systems and capabilities, provides a measure of discipline in evaluating the relevance and contribution of individual projects to overall program goals, and ensures accountability by creating objective measures of success.

The IIJIS Strategic Plan contains performance measures that enable stakeholders to define interim milestones in objective and measurable terms, continuously measure progress toward completion of specific project deliverables, consistently ensure that project deliverables are tightly coupled and relevant to overall program goals, and enforce accountability in individual projects and the overall program. Examples of performance measures include the number of agencies sharing justice information electronically and the number of stakeholder needs addressed.

Strategic Plan Assumptions

Because we are shaping the future vision for integration in Illinois, the IIJIS Governing Board had to make a number of important assumptions. The following three recurring assumptions should be noted:

- Although performance measurements generally assess progress toward achieving defined goals and objectives, parts of this initial plan will measure progress toward the establishment of a baseline for future measurement.
- The effective date of the proposed legislation (Appendix 5) will be July 1, 2003.
- Due to current fiscal shortfalls in Illinois, it is not our intent to seek any Illinois General Revenue funding in FY04 or FY05. Funding for the first two years of this plan will be provided by federal grant funds earmarked for integration by the Illinois Criminal Justice Information Authority, and we will continue to seek other federal and private funding sources.

Plan Organization

The core of this plan includes seven strategic issues that highlight major challenges facing the state as we work to make integrated justice in Illinois a reality. The goals associated with each strategic issue are broad statements of intent that describe the end toward which integration efforts will be directed and the objectives describe efforts that will serve to accomplish these goals, and thus, resolve the strategic issues. The performance measures and outcomes are included as a means to measure success in achieving each of the goals and objectives.

The plan begins with a discussion of integration which sets the stage for the reader by anecdotally illustrating the current state of justice information exchange. Following this description is a chart depicting the benefits of integrated justice information as it relates to all stakeholders. As a prelude to the strategic issues, the plan also includes a vision, mission, and values statement, as well as guiding principles for integrated justice. These statements and principles, which were adopted by the IIJIS Governing Board, serve to clarify and guide integration efforts in Illinois.

Vision/Mission Statements

Vision

The IIJIS Governing Board envisions Illinois becoming a recognized leader in justice information sharing, benefiting all people in Illinois and across the nation by creating a statewide justice information sharing capability that provides secure and timely access to accurate and complete information throughout the justice enterprise. Through integrated justice information sharing we will enhance the safety, security, and quality of life in Illinois; improve the quality of justice, the effectiveness of programs, and the efficiency of operations; and ensure informed decision-making; while protecting privacy and confidentiality of information.



Mission

Our purposes are to:

- Bring stakeholder organizations together to comprehensively and effectively plan justice information systems,
- Coordinate information systems development activities,
- Build and expand the range of effectiveness of information systems and sharing capabilities, and
- Improve the effectiveness, efficiency, timeliness, accuracy, and completeness of information.

The IIJIS Governing Board represents justice agencies spanning the full spectrum of the justice enterprise, including law enforcement, prosecution, defense, the judiciary, corrections, and relevant non-justice agencies, at city, county, and state levels.

Values

The IIJS Governing Board adopted the following values to guide the development of an integrated justice system for Illinois.

Efficiency of Operations/Effectiveness of Services

- Providing information that is accurate, complete, and timely
- Ensuring available and accessible information for time-critical decisions

Teamwork/Collaboration/Cooperation/Commitment

- Establishing and promoting information sharing partnerships among the practitioners of justice, public safety, and homeland security community (and with others who require close coordination with this community) to effectively serve the needs of the public
- Protecting the confidentiality/privacy of individuals according to public policy
- Maintaining information security and ensuring appropriate access

Innovation

- Promoting and embracing innovative solutions
- Adapting to and exploiting the rapid advances in information technology
- Anticipating and participating in change

Goal and Action Orientation

- Setting achievable goals and objectives
- Adopting a bias for action
- Taking the leadership initiative
- Solving problems and moving forward

Accountability

- Being accountable to the people of Illinois
- Conducting our business in a fiscally responsible manner
- Employing performance measurement and soliciting feedback
- Providing services that build public trust

Guiding Principles for Integrated Justice ³

Integration is designed to address the operational needs of justice agencies, as well as a host of outcome-based societal objectives. In spite of these varying objectives, there are several fundamental principles that guide the development of integrated justice information systems.

1. Information is captured at the originating point, rather than reconstructed later;
2. Information is captured once and reused, rather than recaptured when needed again;
3. Integrated systems fulfilling these functions are comprised of, or derived from, the operational systems of the participating agencies; they are not separate from the systems supporting the agencies;
4. Justice organizations will retain the right to design, operate, and maintain systems to meet their own operational requirements. However, as with any network capability, participants must meet agreed upon data, communication, and security requirements and standards in order to participate;
5. Whenever appropriate, standards will be defined, with user input, in terms of performance requirements and functional capabilities rather than hardware and software brand names;
6. Security and privacy are priorities in the development of integrated justice capabilities and in the determination of standards;
7. Integration builds on current infrastructure and incorporates capabilities and functionality of existing information systems, where possible; and
8. Because of the singular consequence of decision-making throughout the justice enterprise, establishing and confirming the positive identity of the record subject is crucial.

³ Source: *Concept for Operations for Integrated Justice Information Sharing*, National Association of State Chief Information Officers (NASCIO), David J. Roberts, Deputy Executive Director, SEARCH, January 2002

Strategic Issue 1: A Governing Body comprised of major stakeholders to oversee and guide the development, implementation, and evaluation of effective electronic justice information sharing initiatives

Introduction to the Issue:

Without a well-defined governance structure, existing and future integration will be fragmented and preclude a unified effort. Technology by itself cannot solve all system integration problems, and even the best-equipped integration effort will soon become bogged down without an effective Governing Body to chart its course. A well-defined governance structure will improve the justice information integration process by enhancing communication, establishing and promoting guidelines and policies, reducing turf battles, and fostering coordination and cooperation. The Governing Body can also play a crucial role in securing funding and other resources for integration efforts. The Governing Body must have not only the authority to make and execute key decisions affecting justice integration, but also the position and influence to ensure that those decisions produce the intended actions. It is important that the role of the Governing Body continues beyond the planning stage. Although its structure, membership, and primary focus may change over time, the Governing Body must face the challenge of “keeping the momentum” as IIJIS evolves from a project with a set lifespan to an ongoing way of doing business in the justice community.

Strategic Challenge:

How will we establish a Governing Body to oversee and guide the development, implementation, and evaluation of effective justice information sharing?

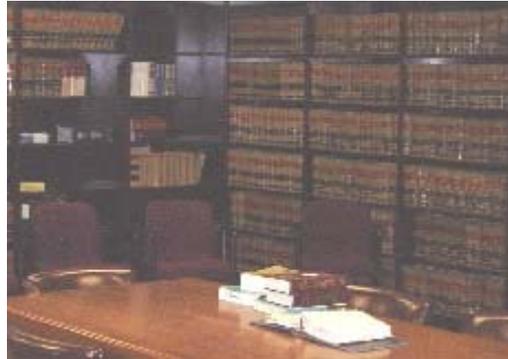
Strategic Goal 1: Enact legislation contained in Appendix 5 that creates and empowers the IIJIS Governing Body to guide Illinois integrated justice information sharing initiatives.

Objective 1.1:

By January 2003, identify legislative champions and interest groups to garner support from statewide decision-makers.

Objective 1.2:

By July 2003, secure legislation creating and empowering the IIJIS Governing Body.



Outcomes:

- Enacted legislation
- Broadened support base
- Established guidelines for integration oversight
- Coordinated and collaborative leadership
- Improved justice information integration process
- Continued momentum toward integration in Illinois

Performance Measures:

- Legislation signed by the Governor by July 2003
- Percent of legislators and interest groups supporting Governing Body legislation

Strategic Goal 2: Provide direction by setting realistic and prioritized goals and objectives.

Objective 2.1:

Establish and oversee advisory committees as needed (including but not limited to the planning, technical, and outreach committees) to research and make recommendations on a variety of integration issues.

Objective 2.2:

On an ongoing basis, oversee, prioritize, and review integration initiatives to ensure they achieve IIJIS goals and objectives.

Objective 2.3:

On an ongoing basis, devise strategies to manage risks and resolve obstacles.

Objective 2.4:

Annually update strategic plan to provide ongoing and long-term direction.

Outcomes:

- Achievement of IIJIS goals and objectives
- Collaboration of expertise on advisory committees
- Prioritized initiatives
- Consistent progress toward integration in a dynamic environment
- Minimized risks
- Resolved obstacles
- Coordinated long-term direction

Performance Measures:

- Year 1: Number of integration initiatives reviewed/approved
- Year 2: Percent increase of integration initiatives reviewed/approved
- Percent of stakeholders represented and providing input on advisory committee
- Percent of stakeholders participating in annual review
- Percent of strategic plan review completed annually
- Year 1: Number of devised strategies that reduce risk and/or eliminate obstacles
- Year 2: Percent increase of devised strategies that reduce risk and/or eliminate obstacles

Strategic Goal 3: Foster and maintain ongoing collaboration and open communication with stakeholders.

Objective 3.1:

Actively and continuously seek the input, assistance, and participation of stakeholders to collaborate on justice information sharing initiatives.

Objective 3.2:

On an ongoing basis, communicate with stakeholders to identify their needs and sustain their commitment.

Objective 3.3:

On an ongoing basis, communicate justice information sharing initiatives, progress, and successes to stakeholders to foster collaboration.

Outcomes:

- Sustained commitment and support from stakeholders
- Increased awareness and responsiveness to stakeholder needs
- More informed and involved stakeholders
- Improved communication with stakeholders

Performance Measures:

- Year 1: Number of stakeholder needs identified/resolved
- Year 2: Percent increase of stakeholder needs identified/resolved
- Percent of status reports completed and communicated to stakeholders
- Percent of stakeholders represented and providing input

Strategic Goal 4: Coordinate funding and other resources to move the business of integration forward while maintaining accountability to the public.

Objective 4.1:

By September 2003, develop sound processes to coordinate integrated justice funding and other resources.

Objective 4.2:

Annually review the processes developed to coordinate integrated justice funding and other resources.

Objective 4.3:

On an ongoing basis, allocate funding and other resources to ensure coordinated distribution.

Outcomes:

- Consistent progress toward integration
- Increased accountability to the public
- More efficient use of resources
- Better coordinated distribution of funding and other resources

Performance Measures:

- Percent of process development completed by September 2003
- Level of stakeholder satisfaction with resource allocation process
- Percent of resource requests resulting in an allocation

Strategic Issue 2: Integrated collecting and sharing of justice data

Introduction to the Issue:

Illinois has a patchwork of disparate systems that cannot easily share the information needed by justice decision-makers. IIJIS sees the need for sharing justice information for public safety and security, and incident tracking for single or multiple offenders. IIJIS must harness the resources of current and future justice databases, and develop standards/regulations allowing for strategic information to be shared efficiently, timely, accurately, and completely. IIJIS must broker identified resources of existing pools of information allowing access by authorized users yet protecting individual rights of privacy. Acquisition policies concerning the procurement of computers in justice agencies have, understandably, focused on the operational and information needs of the purchasing agency. Data regarding identification, incidents, criminal history, and current status information must not only be available real-time, but also available via land-line and wireless platforms. Stand-alone systems must be encouraged to conform to data exchange standards/regulations to facilitate justice information sharing while maintaining accurate, reliable databases.

Strategic Challenge:

How will IIJIS capture, integrate, and develop ways to share justice data?

Strategic Goal 1: Capture information once, share it appropriately, and make it available for repeated use.

Objective 1.1:

By December 2004, increase the ability to share information electronically by distributing standards to stakeholders and encouraging their use for electronic data exchanges regarding identifiers and events.

Objective 1.2:

On an ongoing basis, minimize redundant entry by electronically capturing data at the source and routing that information to other systems.

Objective 1.3:

On an ongoing basis, identify and encourage mechanisms that reduce paper-based processing, employing rapid electronic transmission from the source to authorized users of justice data.

Objective 1.4:

On an ongoing basis, identify mechanisms and encourage their use to reduce human intervention in the course of capturing and sharing justice data.



Objective 1.5:

By December 2004, devise strategies to encourage the availability of criminal/incident data within the recommended justice information sharing framework.

Objective 1.6:

By December 2004, devise strategies and develop audit guidelines to maintain timeliness, accuracy, and completeness of information.

Outcomes:

- Increased ability to share information electronically
- Minimized redundant entry
- Reduced human intervention
- Reduced paper-based processing
- Increased availability of criminal/incident data
- Improved effectiveness, efficiency, timeliness, accuracy, and completeness of information

Performance Measures:

- Year 1: Number of stakeholders receiving and using standards/regulations
- Year 2: Percent increase of stakeholders using standards/regulations
- Number of identified redundancies eliminated
- Number of mechanisms identified to reduce paper-based processes
- Number of mechanisms identified that reduce manual processing (human intervention)
- Percent increase in availability of criminal/incident data
- Number of strategies and audit guidelines developed within established time frame

Strategic Goal 2: Coordinate and share information electronically.

Objective 2.1:

On an ongoing basis, encourage participating agencies to provide information that is standards-based and consistent to increase the ability to share electronically.

Objective 2.2:

On an ongoing basis, encourage timely, accurate, and complete electronic capture and dissemination of information to authorized users of justice data.

Outcomes:

- Increased public safety and security
- Better justice decision-making
- Seamless exchange of meaningful data
- More information available
- Improved timeliness, accuracy, and completeness of information

Performance Measures:

- Year 1: Number of stakeholders adopting standards/regulations for electronic information exchange
- Year 2: Percent increase of stakeholders adopting standards/regulations for electronic information exchange
- Percent increase of agencies sharing information electronically

Strategic Goal 3: Interoperable technological applications will be used rather than closed single-institution applications.

Objective 3.1:

By January 2003, identify the common information exchanges between justice agencies and determine where interoperability between exchanges provides the greatest benefit to two or more justice agencies.

Objective 3.2:

On an ongoing basis, encourage statewide interoperable technological applications over closed single-institution applications.

Outcomes:

- Improved justice, public safety, and homeland security information
- Fewer closed single-institution applications
- More interoperable technological applications

Performance Measures:

- Year 1: Number of identified interoperable exchanges which benefit two or more justice agencies
- Year 2: Percent increase in interoperable exchanges

Strategic Issue 3: Serve justice, public safety, and homeland security needs while protecting privacy, preventing unauthorized disclosures of information, and allowing appropriate public access

Introduction to the Issue:

As justice information is more efficiently gathered, analyzed, and shared, the need to protect personal privacy becomes more apparent. This is especially important given the fact that information shared through an integrated justice system is very likely to include sensitive information that is not traditionally considered justice information. To prevent unauthorized disclosures of information while allowing appropriate access, a uniform Privacy Policy must be developed based upon fair information practices and adopted by all Illinois justice agencies. Failing to develop a uniform Privacy Policy puts the public at risk that inaccurate or incomplete justice information or private information may be inappropriately released and subsequently used to one's detriment. This risk is made greater by the fact that once personal information is publicly released, it is forever public. There is a need to develop systems and policies which preserve the integrity and effectiveness of public safety efforts while protecting individuals from inappropriate use or release of information and promoting appropriate public access for oversight of the justice process.

Strategic Challenge:

How will IIJIS promote justice information sharing that serves justice, public safety, and homeland security needs, while protecting privacy, preventing unauthorized disclosures of information, and allowing appropriate public access?

Strategic Goal 1: Establish a set of privacy principles to guide the ongoing development of Privacy Policy for integrated justice information sharing.

Objective 1.1:

By March 2003, convene a Privacy Advisory Committee to the IIJIS Governing Body composed of experts and stakeholder representatives from diverse backgrounds.

Objective 1.2:

By September 2003, review background research into fair information practices and other privacy principles.

Objective 1.3:

By November 2003, develop, distribute for review, and recommend a set of common privacy principles to be used in the development of a Privacy Policy.

Objective 1.4:

By December 2003, the IIJIS Governing Body will adopt privacy principles to be used in the development of a Privacy Policy.

Outcomes:

- Increased expert and stakeholder representative participation
- A set of principles to guide Privacy Policy development
- Adoption of Privacy Principles by the IIJIS Governing Body by December 2003

Performance Measures:

- Number of stakeholders represented and providing input on advisory committee
- Number of background research documents completed and reviewed by the Privacy Advisory Committee by September 2003
- Year 1: Number of stakeholder agencies receiving and approving Privacy Principles
- Year 2: Percent increase of stakeholder agencies approving Privacy Principles
- Number of Privacy Principles adopted

Strategic Goal 2: Develop and adopt a Privacy Policy for the sharing of justice information.

Objective 2.1:

By December 2003, the Privacy Advisory Committee to the IIJIS Governing Body will identify current practices regarding collection, use, and disclosure of information throughout the justice system.

Objective 2.2:

By December 2003, complete a comprehensive review of existing national and state privacy-related statutes and administrative regulations as well as their accompanying case law.

Objective 2.3:

By May 2004, research and identify desirable privacy practices.

Objective 2.4:

By September 2004, analyze and document any gaps and barriers among current privacy practices, current statutory and regulatory privacy requirements, and desired privacy protections.

Objective 2.5:

By November 2004, develop, distribute for review, and recommend a Privacy Policy to the IIJIS Governing Body.

Objective 2.6:

By December 2004, the IIJIS Governing Body will adopt a Privacy Policy.

Outcomes:

- Increased awareness and understanding of privacy issues
- Greater accountability to stakeholders
- A clearly stated Privacy Policy
- Increased public confidence in justice information practices
- Adoption of the Privacy Policy by the IIJIS Governing Body by December 2004

Performance Measures:

- Number of privacy practices identified by December 2003
- Number of national and state privacy-related statutes, administrative regulations, and cases collected and reviewed by December 2003
- Number of research projects on desired privacy practices completed by May 2004
- Percent of gaps and barriers identified among current justice information privacy practices, current statutory and regulatory privacy requirements, and desired privacy protections by November 2004
- Percent of the Privacy Policies adopted by December 2004

Strategic Goal 3: Promote adoption of the Privacy Policy by all justice agencies.

Objective 3.1:

Beginning January 2005, the IIJIS Governing Body will encourage justice agencies to adopt the Privacy Policy.

Outcomes:

- Increased protection of privacy
- Increased public confidence in justice information practices
- Consistent, statewide approach to privacy issues
- Fewer unauthorized disclosures of information

Performance Measures:

- Year 1: Number of agencies initially adopting the Privacy Policy
- Year 2: Increase in number of agencies adopting the Privacy Policy



Strategic Issue 4: Sufficient and coordinated funding and other resources for integration

Introduction to the Issue:

Coordination of resources for state and local integration efforts is needed to maximize resources and minimize duplication of efforts. Resources including but not limited to funding, technical assistance, and personnel should be allocated based upon priorities established by the Governing Body for integration. It is necessary to support unified strategies that make the best use of resources. Collaborative strategies must also promote regional participation in integration efforts and recognize the differences in resource availability among and within metropolitan, urban, and rural areas of the state.

Strategic Challenge:

How will IIJIS ensure sufficient and coordinated funding and other resources for integration?

Strategic Goal 1: Coordinate integration efforts among national, state, and local participants to ensure collaboration and optimal use of funding and other resources.

Objective 1.1:

By June 2003, devise strategies to coordinate available funding and other resources.

Objective 1.2:

Engage in joint planning efforts to encourage the ongoing exchange of information about integration efforts at the national, state, and local levels to minimize duplication and optimize funding and other resources.

Objective 1.3:

Ensure funding and other resources are efficiently distributed according to established priorities on an ongoing basis.

Outcomes:

- Greater fiscal accountability
- Better coordination and more effective and efficient allocation of funding and other resources
- More initiatives that include shared funding and other resources
- Increased communication regarding integration efforts
- Better coordinated planning efforts

Performance Measures:

- Number of resource allocation strategies completed by June 2003
- Percent increase in joint planning efforts
- Percent of initiatives supported with shared funding and other resources
- Funding balances (surpluses, deficits, shortfalls)

Strategic Goal 2: Ensure adequate funding and other resources to support integration efforts.

Objective 2.1:

Identify public and private funding and other resources available for integration efforts on an ongoing basis.



Objective 2.2:

Identify opportunities to encourage national and state legislative appropriations for integration efforts on an ongoing basis.

Objective 2.3:

Coordinate and support efforts to secure public and private funding and other resources available for integration efforts on an ongoing basis.

Outcomes:

- More funding and other resources for integration efforts
- Better coordinated efforts to secure public and private funding and other resources

Performance Measures:

- Year 1: Number of grants and other resources identified and secured
- Year 2: Percent increase in grants and other resources identified and secured
- Percent of identified opportunities resulting in an appropriation
- Year 1: Amount of funding and resources received for integration efforts
- Year 2: Percent increase in funding and resources received for integration efforts
- Percent increase in funded collaborative efforts

Strategic Goal 3: Recognize differences in stakeholder needs and develop strategies for resource allocation.

Objective 3.1:

By June 2003, identify the differences in needs, funding, and other resource availability among and within metropolitan, urban, and rural areas of the state.

Objective 3.2:

By June 2003, devise funding and other resource allocation strategies that recognize regional differences.

Outcomes:

- Increased ability to meet stakeholder needs
- Allocation strategies that are responsive to regional differences
- More stakeholders successfully competing for integration resources

Performance Measures:

- Percent of allocation strategies that recognize regional differences
- Percent increase in stakeholders successfully competing for integration resources

Strategic Issue 5: Established standards/regulations for data sharing and infrastructure development

Introduction to the Issue:

The primary obstacle to electronic information sharing between justice agencies is the lack of standards for information exchange; without standards, justice agencies cannot easily design or adapt systems to share data with dissimilar justice information systems. Illinois can adopt and build upon standards that have been developed at the national level to facilitate information sharing between disparate justice systems at national, state, and local levels. To enable the seamless exchange of information in a standards-based electronic justice environment, the exchanged data elements must be mapped. Since robust but secure physical transmission is required for effective and efficient information exchange, adopted standards/regulations will facilitate and guide the secure communication between agencies. In addition, officials who are charged with enacting offender transactional decisions that impact public and officer safety must be assured of having documentation of a subject's previous justice system contacts and current justice system status to support those decisions. It is, therefore, necessary to establish a baseline of such information to be collected and shared by agencies that serve as points of contact with offenders throughout the justice enterprise.

Strategic Challenge:

How can Illinois facilitate the application of universal data exchange, communications, and security standards/regulations to promote the seamless electronic exchange of data between justice agencies?

Strategic Goal 1: Recommend and implement mechanisms and processes to inventory, develop, adopt, publish, disseminate, and maintain standards/regulations that apply to justice information sharing.

Objective 1.1:

By March 2003, identify experts and stakeholder representatives to participate on the Standards/Regulations Advisory Committee to address infrastructure issues.

Objective 1.2:

By July 2003, the Standards/Regulations Advisory Committee to the Governing Body will identify procedures for evaluating, developing, approving, disseminating, and maintaining standards/regulations.

Objective 1.3:

By July 2003, empower the Governing Body to promulgate regulations to ensure secure, appropriate justice information exchange in Illinois.

Outcomes:

- Increased expert and stakeholder representative participation
- Better justice decision-making
- More information available

**Performance Measures:**

- Percent of stakeholders represented and providing input on advisory committee
- Number of standards/regulations management procedures adopted by the IIJIS Governing Body
- Percent of Illinois agencies employing justice information sharing standards/regulations

Strategic Goal 2: Inventory, adopt, and/or develop a uniform set of standards/regulations that enable secure, robust information exchanges and are compatible with national standards.

Objective 2.1:

By July 2003, review, publish, and disseminate existing state and national data exchange standards.

Objective 2.2:

By September 2003, adopt and/or develop and publish a uniform set of common description standards/regulations for data and images.

Objective 2.3:

By September 2003, adopt and/or develop and publish data communications and network security standards/regulations that are consistent with state and national standards/regulations currently governing justice data networks, both public and private.

Objective 2.4:

By September 2003, adopt and/or develop and publish functional standards to provide guidelines that promote interoperable information systems.

Objective 2.5:

By September 2003, establish a statewide Integration Certification Program to recognize those agencies which have successfully linked their information databases to other justice partners.

Objective 2.6:

By September 2003, the IIJIS Governing Body will adopt and publish standards/regulations for justice information sharing in Illinois that are based upon the recommendations of the Standards/Regulations Advisory Committee to the IIJIS Governing Body.

Outcomes:

- Increased availability of existing national data exchange standards
- Improved data sharing between justice agencies
- Increased availability of description standards/regulations for data and images
- Greater ease of gathering information from multiple justice agencies
- Improved data security
- Greater participation due to certification program
- Adoption of justice information sharing standards by the Governing Body by September 2003

Performance Measures:

- Number of stakeholders receiving data exchange standards by July 2003
- Number of stakeholders receiving standards for data and images by September 2003
- Number of stakeholders receiving data communications and network security standards by September 2003
- Number of stakeholders adopting functional standards promoting interoperability by September 2003
- Number of stakeholder agencies recognized through the certification program

Strategic Goal 3: Identify and provide a baseline of justice information for stakeholders.**Objective 3.1:**

By September 2003, determine a baseline of justice information that is provided to all Illinois justice agencies to support justice decision-making and to ensure public and officer safety.

Outcome:

- Defined baseline of justice information

Performance Measure:

- Number of agencies receiving baseline of justice information by September 2003

Strategic Issue 6: Secure, reliable, effective, and efficient information technology (IT) infrastructure that facilitates justice information sharing

Introduction to the Issue:

Infrastructure refers to a broad variety of mechanical, physical, and support technologies that enable and facilitate information and data exchange, as well as communication among and between people, organizations, and units of government. Infrastructure includes the computer hardware and operating systems that run applications and store justice data, the land-based and wireless communications facilities, and the security components that prevent unauthorized access to justice systems and information. While some agencies are employing state-of-the-art technologies, others are utilizing antiquated data systems and some lack automation. These conditions serve as barriers to effective information sharing. In order to promote the effective sharing of justice information across agency and jurisdictional boundaries, meet stakeholder requirements, and promote availability, reliability, stability, and coverage, the existing IT infrastructure must be expanded, enhanced, and maintained.

Strategic Challenge:

How will Illinois utilize technology and leverage available resources to expand, enhance, and maintain an IT infrastructure that is secure, reliable, effective, efficient, and accessible?

Strategic Goal 1: Identify and address infrastructure issues including, but not limited to expansion, maintenance, upgrades, and operations.

Objective 1.1:

By March 2003, identify experts and stakeholder representatives to participate on the Infrastructure Advisory Committee to the IIJIS Governing Body to address infrastructure issues.

Objective 1.2:

On an ongoing basis, research, identify, and devise strategies to address infrastructure issues.



Outcomes:

- Increased involvement of experts and stakeholder representatives on infrastructure issues
- Improved infrastructure-related problem resolution

Performance Measures:

- Percent of stakeholders represented and providing input on advisory committee
- Number of status reports to the IIJIS Governing Body completed and communicated
- Percent of recommended infrastructure solutions implemented

Strategic Goal 2: Meet stakeholder requirements by planning for and fostering information exchanges and communication capabilities among users of disparate networks.

Objective 2.1:

By March 2003, identify experts and stakeholder representatives to participate on the Planning Advisory Committee to determine future operational requirements.

**Objective 2.2:**

By March 2003, conduct an inventory of the justice information sharing networks that comprise the current IT infrastructure to assess the current environment.

Objective 2.3:

By April 2003, identify gaps by comparing future operational requirements and the infrastructure inventory.

Objective 2.4:

By April 2003, research, analyze, and compile the findings and best practices of justice information sharing technologies that support information exchange and communication capabilities to foster interoperability between justice information systems.

Objective 2.5:

On an ongoing basis, devise strategies to promote, pursue, and leverage existing resources to enable information exchange and communication across networks.

Outcomes:

- Increased knowledge of stakeholders' operational requirements
- More effective and efficient information exchange and communication capabilities
- Greater awareness of infrastructure gaps
- Increased knowledge of justice information sharing technology
- Better communication among disparate networks

Performance Measures:

- Percent of stakeholders represented and providing input on advisory committee
- Number of best practices that foster interoperability identified and shared
- Number of gaps identified and overcome
- Number of stakeholders receiving updates

Strategic Goal 3: Plan for and foster interoperability among mobile data networks that meet stakeholders' requirements.

Objective 3.1:

By September 2003, bring the stakeholders together to determine their requirements.

Objective 3.2:

By March 2004, research and compile a report on the mobile data environment to foster interoperability.

Objective 3.3:

By December 2004, initiate a pilot program to test and refine mobile data solutions to serve as catalyst for broader regional expansion.

**Objective 3.4:**

By December 2004, establish a technical resource center to unify/educate stakeholders regarding mobile data interoperability issues and solutions.

Outcomes:

- Greater awareness of stakeholder requirements
- Improved understanding of the mobile data environment
- More mobile data solutions to aid regional expansion
- Unified and educated stakeholders
- A technical resource center
- Increased opportunity to pilot solutions
- Greater interoperability among networks

Performance Measures:

- Percent of stakeholders participating in group discussions
- Delivery of wireless operational environment report to the IIJIS Governing Body by March 2004
- Year 1: Number of users utilizing the resource center
- Year 2: Percent increase of users utilizing the resource center
- Percent increase in regional expansion of mobile data solutions

Strategic Goal 4: Seek to preserve, protect, and restore mission-critical processes, technology resources, and data in the event of a homeland security attack, natural disaster, or other business interruption.

Objective 4.1:

By December 2003, research and document existing disaster recovery and business contingency plans to clearly assess the current environment.

Objective 4.2:

By March 2004, identify mission-critical processes and data that need to be protected and restored in the event of an interruption to ensure their availability.

Objective 4.3:

By March 2004, develop and publish minimum disaster recovery standards for justice information sharing partnerships to provide guidelines for disaster recovery initiatives.

Objective 4.4:

By March 2004, research and devise policies, plans, and guidelines that prioritize justice services for enterprise-wide disaster recovery.

Objective 4.5:

By June 2004, research and devise strategies to assist information sharing partners in meeting the minimum protection and disaster recovery standards.

Objective 4.6:

On an ongoing basis, test disaster recovery and business contingency plans to ensure recovery and resolve any problems.

Outcomes:

- Improved justice, public safety, and homeland security
- Fewer operational interruptions
- Increased resource availability
- Improved resource utilization
- Enhanced resource protection and restoration
- Increased availability of mission-critical processes

Performance Measures:

- Percent of disaster recovery and business contingency plans assessed by December 2003
- Number of identified mission-critical processes and data to be protected and restored
- Number of disaster recovery standards developed and published by March 2004
- Number of stakeholders assisted in meeting minimum disaster recovery standards
- Year 1: Number of stakeholders receiving and adopting enterprise-wide disaster recovery plans
- Year 2: Percent increase of stakeholders adopting enterprise-wide disaster recovery plans
- Year 1: Number of stakeholders performing disaster recovery tests
- Year 2: Percent increase of stakeholders performing disaster recovery tests

Strategic Issue 7: Rapid identification through biometric technologies

Introduction to the Issue:

Illinois justice decision-makers must be able to rapidly and positively identify individuals. Inaccuracies are inherent in name-based systems; this problem is further complicated by the prevalence of forged identity documents. Agencies in some jurisdictions are employing technologies that facilitate rapid identification of an individual within seconds, while others lack the ability to identify an individual in less than two weeks. To further justice, public safety, and homeland security interests, Illinois must expand its use of biometric technologies for rapid identification.

Strategic Challenge:

How can Illinois provide rapid, biometric identification to justice, public safety, and homeland security providers?

Strategic Goal 1: Expand the use of biometrics for rapid identification.

Objective 1.1:

By September 2003, identify experts and stakeholder representatives to participate on the Biometrics Advisory Committee to the IIJS Governing Body to address the expanded use of biometrics.

Objective 1.2:

On an ongoing basis, identify public and private partnerships to collaborate on the use of biometrics for rapid identification.



Outcomes:

- Increased collaboration of experts and stakeholder representatives on biometric technology
- More public and private partnerships to expand biometric identification

Performance Measures:

- Percent of stakeholders represented and providing input on advisory committee
- Percent increase in public and private partnerships regarding the use of biometrics for identification purposes

Strategic Goal 2: Research and identify the legal and policy ramifications regarding the use of biometrics for rapid identification.

Objective 2.1:

By December 2004, research and identify legally permissible uses of biometrics for rapid identification in Illinois to ensure privacy and prevent unauthorized use.

Objective 2.2:

By December 2004, research and identify policy and business practices governing the use of biometrics for rapid identification.

Outcomes:

- Increased ability to ensure privacy and prevent unauthorized use of biometric identification
- Greater knowledge of biometric policy and business practices

Performance Measure:

- Number of research projects on legally permissible uses, policy, and business practices completed by December 2004
- Number of research reports presented to the IIJIS Governing Body

Strategic Goal 3: Identify and recommend cost-effective biometric identification applications.

Objective 3.1:

By September 2004, research, identify, and recommend technological applications that support biometrics for rapid identification.

Objective 3.2:

By September 2004, research, identify, and evaluate the costs and benefits of biometric identification applications.

Outcomes:

- Increased knowledge of biometric technologies
- Improved cost-effective biometric identification solutions

Performance Measures:

- Number of research projects on biometric technological solutions completed by September 2004
- Number of research projects on costs and benefits of biometrics completed by September 2004
- Number of research reports presented to the IIJIS Governing Body



Appendix 2

Scenario for Information Sharing in Illinois

This scenario identifies the future functions, range of information exchanges, and interactions needed among primary entities throughout the justice enterprise for information sharing in Illinois. The current technology for justice information systems was validated against this scenario to identify the gaps which exist today (Appendix 3).

The common functions for information sharing used in the scenario are defined as follows:

- *Query/Response*: Information sharing in which the human user of an application program requests specific information from another information system and receives a response.
- *Push*: Information sharing in which an application program, upon sensing the occurrence of a specified event, automatically sends specified information to another information system.
- *Pull*: Information sharing in which an application program, upon sensing the occurrence of a specified event, automatically requests specified information from another information system.
- *Publish/Subscribe*: Information sharing in which the subscriber user indicates a desire to be informed/notified if certain events occur affecting a certain person, event and/or case.

Please note, *functions* appear in *italics*, **systems** appear in **bold**, and documents appear in underline.

1. Subject Not Present: A police officer preparing to conduct a traffic stop or when given an assignment prior to contact with any person, will submit a *query* to **state warrant system (LEADS) and Secretary of State (SOS)** to return information on persons and vehicles. The police officer will receive SOS and warrant data, digital photo(s), and officer protection information (i.e., field notification program, etc.) within less than 10 seconds within 24 hour currency. Additionally the officer should be notified that information exists from a variety of other sources such as: **Criminal History Record Information (CHRI), Firearms Owners Identification (FOID), Automated Victim Notification (AVN), Illinois Department of Corrections (IDOC),**

Immigration and Naturalization Service (INS), Department of Children & Family Services (DCFS), bond status/conditions, probation/parole status and conditions, etc. within 1 minute within 24 hour currency. The information should be concise and uniform.

2. First Subject Contact: Upon contact with a driver, or in cases other than traffic where a police officer's contact begins with a person, the primary objective is to identify the individual, check the **state warrant system (LEADS)** and provide officer protection information. The officer submits an inquiry containing biometric and demographic (alpha-numeric) identifiers in order to verify the subject's identity, and *query* the **state warrant system (LEADS) and SOS**. The police officer will receive SOS and warrant data, digital photo(s), and officer protection information (i.e., field notification program, etc.) within less than 10 seconds and 24 hour currency. Additionally the officer should receive a *response* that information exists from a variety of other sources such as: **CHRI, FOID, AVN, IDOC, DCFS, INS, bond status/conditions, probation/parole status and conditions** etc. within 1 minute and 24 hour currency. The information should be concise and uniform.

3. A. Non-Custodial Situation: In cases where direct filing is permitted in compliance with local rules on charge screening, the following applies. In a non-custodial situation where an officer effects an arrest, issues a summons, or notice to appear, the officer biometrically verifies the subject's identity, then digitally signs and electronically *pushes* the arrest/complaint (including a synopsis of facts) and/or crash report to the **police information system, prosecutor information system, circuit clerk information system, Illinois Department of Transportation (IDOT), probation, parole and INS information systems, and any agency subscribing to the information.**

B. Custodial Situation: In a custodial arrest, the fingerprint-based *query* is electronically submitted to the **state central repository** for positive identification. The officer will receive a fingerprint based identification and criminal history response within 5 minutes with a 24 hour currency. The arresting/booking officer completes and signs (digitally) the arrest/complaint (plus synopsis of facts) which are merged with the previously taken fingerprints and digital photos of the arrestee. Based on recipients' needs, the arrest/complaint, fingerprints/digital photos, are *pushed* to the **police information system, sheriff information system, the state central repository, the prosecutor, the circuit clerk, probation, parole, and INS information systems and any agency subscribing to the information** within 2 hours.

The officer will have the ability to electronically populate document fields with data contained in the responses received from previous queries.

In any case when an individual is arrested and released prior to charging or where prosecutorial approval is required prior to filing and subsequently charges are rejected,

the **police information system** will *push* the release decision to the **state central repository**.

4. Grand Jury/True Bill/Notice to Appear/Warrant: If an individual enters the judicial system for a reportable offense and has not been positively identified and booked for the offense, the prosecutor will request the judge to remand the individual to be booked prior to the first appearance in court.

5. Defendant Not Present, Warrant/Summons Requested: A police officer or complainant will approach the prosecutors office (in person or electronically) for a warrant/summons request on a suspect not in custody. The **police information system** will *push* the information they have on the suspect; demographic and fingerprint identification, digital photo, LEADS hot files, criminal history, gang records, SOS information, and police reports into the **prosecutor information system** for a prosecutor charging decision.

The prosecutors office uses the information *pushed* from the **police information system** and information *pulled* from the **circuit clerk information system**; probation records, orders of protection, current court orders, DCFS information system, parole, INS, and state central repository systems to make a prosecutor charging decision (statute to charge) and digitally creates a warrant/summons (with fingerprint/digital photo on the warrant for biometric verification of identity).

The **prosecutor information system** *pushes* the request for warrant/summons to the **circuit clerk information system** for judicial approval by digital signature and a court case number. The **circuit clerk information system** *pushes* the warrant/summons to **police information system, prosecutor information system, and the state warrant system (LEADS)** in real time.

Upon receiving an electronic filing of a charge, the **circuit clerk information system** will create a court case file which will require adjudication for the case to leave the system at any point. The **circuit clerk information system** will *push* court case file number to the **police information system, prosecutor information system, and the state central repository system**.

6. Bond: Upon arrest if the defendant is able to post bond at the station, that information (including bond conditions) will be entered into the **police information system** and *pushed* to the **circuit clerk, the prosecutor information system, and the state central repository** to be available immediately.

Upon arrest, if the defendant is not able to post bond he will be held in custody awaiting a bond hearing. Within 2 hours of arrest, the **police information system** will *push* booking information, citations, arrest booking document, synopsis of facts report,

fingerprints and digital photos and criminal history to the **prosecutor, circuit clerk, probation, parole, jail and INS information systems.**

Upon notification of pretrial services, the **jail information system** will *push* the information of the defendant's arrest to the **pretrial services information system** for a bond report. **Pretrial services information system** *pulls* the defendant's fingerprints, digital photos, and criminal history from the **state central repository system**. **Pretrial services information system** *pulls* information from the local criminal history housed with the **circuit clerk information system**. **Pretrial services information system** *pulls* information as to charges from the **prosecutor information system** and generates a pretrial report. **Pretrial services information system** will *push* the pretrial report to the **circuit clerk information system, prosecutor information system, and defense.**

A bond hearing will be held within 48 hours. Information as to conditions of bond will be entered into the **circuit clerk information system** and *pushed* to the **prosecutor information system, public defender information system (if applicable), probation information system, police information system, and jail information system.** Biometrically verified bond and sentencing information will be *pushed* to the **state central repository** immediately.

7. Pre-Arraignment: Prior to arraignment, preliminary hearing or grand jury, the prosecutor will *query* the **police information system** (for police reports), **circuit clerk information system**, and **state central repository system** for criminal history.

Complaints can arrive in court in two ways: in most counties, misdemeanors, traffic, and local ordinances are filed directly to the clerk, however some counties reserve prosecutorial charging decisions for all filings.

When a prosecutorial charging decision is made, they either approve the police charging documents or override them. If a decision is made to modify charges, they will then electronically create, sign, and notarize a criminal information/indictment. The **prosecutor information system** will *push* the criminal information/indictment to the **circuit clerk information system** for digital filing. The **prosecutor information system** will also *push* a copy of the digital information/indictment to the **police information system and state central repository.**

8. Arraignment Through Trial/Plea: The defendant will appear in court for arraignment. The court will arraign the suspect based upon the information/charging document in the court case file from the **circuit clerk information system**. Dates will be set by the court and the **circuit clerk information system** will *push* the dates to the **prosecutor information system** and the defense.

The electronic scheduling of dates, times, and location for hearings or trials will be in accordance with local rules. The judge electronically records the order, setting of bail,

granting/denying of petitions, continuances, pleas, findings, sentences or other related orders.

The **prosecutor information system** will *push* criminal discovery; a copy of the information, citation, criminal history, and arrest reports, to the defense. The defendant will enter a plea and a new date will be set. The **prosecutor information system** will *pull* the information as to new dates and court minutes from the **circuit clerk information system**.

Motions may be filed by the prosecution or defense. The **prosecutor information system** will generate motions, digitally sign and *push* motions to the **circuit clerk information system**, and the defense. Hearing dates set by the court will be entered into the **circuit clerk information system**. The **prosecutor information system** will *pull* the hearing dates and *push* subpoenas for testimony to the **circuit clerk information system** and the **sheriff information system** for service.

The **prosecutor information system** will receive the trial date from the **circuit clerk information system** and *push* subpoenas for testimony to the **circuit clerk information system** and the **sheriff information system** for service.

Based upon the court's entry of the order, the **circuit clerk information system** automatically generates warrants, summons, mittimus, bail bond, recognizance, probation/conditional discharge/supervision specifications, arrest warrant quash/recall, and other electronic documents as needed.

The **circuit clerk information system** receives the filings of petitions for violation of bail bond, petitions for special/additional conditions of bail, petitions for orders of protection, pretrial/pre-sentence investigation reports, evaluations or status reports, statement of facts, appearances, and other types of motions and petitions. The **circuit clerk information system** is updated in real-time and stores the document in a digitized format.

Service, notices of filing or "copies" involving private defense attorneys will be electronically filed.

Data related to court's orders and rulings will be *pushed* in real time to the systems of the **State's Attorney, Adult Probation/Social Service, Sheriff, State Department of Corrections, state central repository, FOID, local law enforcement, Secretary of State, and Department of Human Services**. When available, the **circuit clerk information system** will *push* a biometrically (fingerprint) supported disposition.

Additionally, qualifying court event data will be *published* to the **state warrant system (LEADS)** for record entry, modification, and deletion as required.

At one point the defendant may fail to appear for a court appearance and the judge issues and digitally signs an arrest warrant which the **circuit clerk information system** *pushes* to the **police information system, prosecutor information system, and the state warrant system (LEADS)**.

9. Court Disposition/Sentencing: After a trial or plea the court will order a pre-sentence investigation unless there is an agreed disposition. The **probation information system** will prepare the pre-sentence investigation report by *pulling* information from arrest report, incident report, criminal history record, pretrial services report, and other reports and *pushing* that report to the **circuit clerk information system, prosecutor information system, and to the defense**.

The court sentences the defendant or agrees to a negotiated disposition between the prosecution and defense. If the **prosecutor information system** generates a digital sentencing motion, it will be *pushed* to the **circuit clerk information system** for the judges digital signature. Depending on the sentence the digital sentencing order will be *pushed* to the **prosecutor information system** to notify victims and to the **police information system and the state central repository**.

The digital sentencing order may also be *pushed* to the **probation information system** for monitoring and compliance with court conditions. The digital sentencing order may also be *pushed* to the appropriate correctional facility (**state department of corrections or jail information system**) along with a statement of facts, and all other requested or statutorily required information for intake and classification *pushed* from the **prosecutor information system**.

The **state central repository** *publishes* the conviction, sentence, and identification information and electronically notifies appropriate justice and other required governmental agencies (e.g., **Department of Human Services, State Board of Education, Department of Children and Family Services**, etc.) who have *subscribed* to notification of relevant changes in status (e.g., the conviction for a disqualifying offense).

10. Court Events (Post Trial): Filings involving petitions for violation of probation, conditional discharge and supervision, appeals, motions to modify sentence, and petitions to expunge are *pushed* to the **circuit clerk information system**.

Filings, notices, mandates, court orders, and/or rulings and other information needed involving appeals will be *pushed* and *pulled* to the systems of the agencies subscribing to the information (**Court reporter, the State's Attorney, Attorney General, Appellate Defender, Public Defender, private attorney, Supreme Court Clerk, Appellate Clerk, Circuit Clerk, Secretary of State, State Police, State Corrections, and Sheriff.**)

11. Incarceration: Upon intake, the booking officer will complete, sign (digitally) and electronically *push* the custodial receive fingerprint-based submission to the **state central repository**. The correctional facility (**state department of corrections or jail information system**) will receive a fingerprint based identification and criminal history response within 5 minutes with a 24 hour currency. The correctional facility (**state department of corrections or jail information system**) will *push* incarceration information to any agency *subscribing* to the information.

The **state department of corrections or jail information system** will *push* a biometrically (fingerprint) supported custodial status change to the **state central repository**, when available. Custodial status changes will also be *pushed* to the **circuit clerk information system, authorized victim/witness notification programs, and any agency subscribing to the information.**

During the period of confinement, the **state department of corrections information system** will *push* parole hearing information for indeterminate sentences and projected release dates for determinate sentences to the **prosecutor information system, public defender information system, AVN**, as well as victims of the offense, so they can testify in support or opposition to release on parole, or receive notification when an offender will be released.

12. Release - Parole or Discharge: The **parole information system** will track release to and supervision within the community and will *push* this information to the systems of **AVN, the arresting and receiving community police agency, the sheriff, circuit clerk, state central repository, and INS.**

2006-2007 Planning processes

The Implementation Board is being asked to consider several recommendations concerning the development of a mid-level plan that will be more operational in nature and will bridge the gap between the strategic and tactical plans. This document provides a high-level review of these recommendations along with supporting facts and proposes several steps that, once taken, will result in a solid foundation upon which to develop the IIJIS Tactical Plan.

Revisit the Strategic Plan

PLANNING & POLICY COMMITTEE SHOULD REVISIT THE STRATEGIC ISSUES AND THEIR ACCOMPANYING GOALS AND OBJECTIVES.

- The drafters of the Strategic Plan anticipated that it would be updated on an annual basis. Strategic Issue 1, Objective 2.4
- Some of the items in the Strategic Plan are genuinely strategic while others are operational in nature.
- The majority of the performance measures included in the Strategic Plan are not indicators of whether the IIJIS initiative is making progress toward addressing the strategic issues. Improved performance measures should be incorporated into the plan.
- The revisions to the Strategic Plan should be completed in a relatively short timeframe so that work on the mid-level plan can begin.
- A report on the Implementation Board's progress toward the revised strategic goals should also be prepared shortly after the Strategic Plan is updated.

Develop a Mid-Level Plan

A MID-LEVEL PLAN SHOULD BE DEVELOPED THAT SETS FORTH OPERATIONAL OBJECTIVES, OUTCOMES AND PERFORMANCE MEASURES THAT SUPPORT EACH OF THE GOALS CONTAINED IN THE STRATEGIC PLAN.

- The Mid-Level Plan will focus on the goals contained in the Strategic Plan.
 - It can summarize each committee's work to date toward achieving the operational objectives.
- The Mid-Level Plan will also identify the operational issues facing the integration of justice systems as identified during the *Scenario* Gap Analysis.
 - Exhibit 1 outlines the 178 information exchanges contained in the *Scenario*.
 - Exhibit 2 sets forth the issues identified during the *Scenario* Gap Analysis.
- The 2005 Annual Report identified 33 of these issues as priorities. This list is attached as Exhibit 3.
 - The goal was to develop business cases for each of these 33 issues. These business cases would explain the issue in more detail than the Scenario Gap Analysis, and assist in prioritizing operational efforts to implement improvements in these areas.
 - The Planning & Policy Committee formed three subcommittees to develop business cases for three of these issues.
- The Mid-Level Plan should set forth which business cases will be developed in which order.
- Performance measures for each operational objective should also be included in the Mid-Level Plan.
- The business cases will help the Implementation Board prioritize which issues should be incorporated into the IIJIS Tactical Plan.
 - Some issues have already bypassed this process. For instance, the Standardized Police Incident Report has progressed beyond the business case and into the

development of a GJXDM-based schema due to its significance to the I-CLEAR project.

- The Mid-Level Plan should identify those issues that are so fundamental that they should not be postponed during the development of other business cases.

Develop a Tactical Plan

A TACTICAL PLAN IS NECESSARY TO COORDINATE AND PRIORITIZE THE STATE AND LOCAL PROJECTS THAT WILL RESULT IN THE INFORMATION SHARING DESCRIBED IN THE SCENARIO.

- The Tactical Plan will describe the types of projects that are necessary to meet the vision of information sharing set forth in the Scenario.
- The projects will be prioritized by taking into account risks, costs, benefits, and dependencies.
- For each project, the tactical plan will describe the scope of each project and provide the estimated duration, benefits, dependencies, costs, challenges, and the basis for these estimates.
- The Tactical plan will explain how the projects all relate to and work with one another to improve the electronic sharing of information across the justice system.
- The Tactical Plan will permit the Implementation Board to coordinate the state and local efforts that will comprise the Illinois Integrated Justice Information System.
 - This may involve an index of integrated justice efforts taking place throughout the state. Understanding which agencies are developing specific types of information sharing will allow the Implementation Board to compare those jurisdictions' needs with the priorities set forth in the Tactical Plan. The Board could then allocate resources in line with the most important needs outlined in the Tactical Plan.

Exhibit 1

Information exchanges contained in the Scenario

Whether this data exchange occurs today					
Agency	Action	Type(s) of data	Agency From or To	Exchange conditions	↓
Circuit Court Clerk	Push or Pull (based on subscription)	Appeal filings, notices, mandates, court orders and/or rulings and other appeal information.	Court Reporter		No
Circuit Court Clerk	Push or Pull (based on subscription)	Appeal filings, notices, mandates, court orders and/or rulings and other appeal information.	State's Attorney		No
Circuit Court Clerk	Push or Pull (based on subscription)	Appeal filings, notices, mandates, court orders and/or rulings and other appeal information.	Appellate Defender		No
Circuit Court Clerk	Push or Pull (based on subscription)	Appeal filings, notices, mandates, court orders and/or rulings and other appeal information.	Defense		No
Circuit Court Clerk	Push or Pull (based on subscription)	Appeal filings, notices, mandates, court orders and/or rulings and other appeal information.	Private Attorneys		No
Circuit Court Clerk	Push or Pull (based on subscription information)	Appeal filings, notices, mandates, court orders and/or rulings and other appeal information.	Supreme Court Clerk		No
Circuit Court Clerk	Push or Pull (based on subscription information)	Appeal filings, notices, mandates, court orders and/or rulings and other appeal information.	Appellate Court Clerk		No
Circuit Court Clerk	Push or Pull (based on subscription information)	Appeal filings, notices, mandates, court orders and/or rulings and other appeal information.	Circuit Court Clerk		No
Circuit Court Clerk	Push or Pull (based on subscription information)	Appeal filings, notices, mandates, court orders and/or rulings and other appeal information.	State Police		No
Circuit Court Clerk	Push or Pull (based on subscription information)	Appeal filings, notices, mandates, court orders and/or rulings and other appeal information.	IDOC		No
Circuit Court Clerk	Push or Pull (based on subscription information)	Appeal filings, notices, mandates, court orders and/or rulings and other appeal information.	Sheriff/Jail		No
Circuit Court Clerk	Push & Pull	Appeal filings, notices, mandates, court orders and/or rulings and other appeal information.	Attorney General		No

Whether this data exchange occurs today

Agency	Action	Type(s) of data	Agency From or To	Exchange conditions	↓
Circuit Court Clerk	Push	Warrant/Summons data (judges digital signature & warrant court case #)	Police	Real Time	No
Circuit Court Clerk	Push	Warrant/Summons data (digital signature & court case #)	Prosecutor	Real Time	No
Circuit Court Clerk	Push	Warrant/Summons data (digital signature & court case #)	ISP/LEADS	Real Time	No
Circuit Court Clerk	Push	Court Case file #	Police		No
Circuit Court Clerk	Push	Court Case file #	Prosecutor		No
Circuit Court Clerk	Push	Court Case file #	ISP/CHRI		No
Circuit Court Clerk	Push	Bond data & conditions (from hearing)	Prosecutor		No
Circuit Court Clerk	Push	Bond data & conditions (from hearing)	Defense		No
Circuit Court Clerk	Push	Bond data & conditions (from hearing)	Probation		No
Circuit Court Clerk	Push	Bond data & conditions (from hearing)	Police	Within 2 hours of setting bond.	No
Circuit Court Clerk	Push	Bond data & conditions (from hearing)	Sheriff/Jail	At time of remand.	No
Circuit Court Clerk	Push	Biometrically verified bond & sentencing data	ISP/CHRI	Immediately	No
Circuit Court Clerk	Push	Court Dates	Prosecutor		?
Circuit Court Clerk	Push	Court Dates	Defense		Yes
Circuit Court Clerk	Publish	Warrants, summons, bond, recognizance, mittimus, probation, conditional discharge, supervision conditions, warrant quash & recall & other documents.			No
Circuit Court Clerk	Push	Petitions for: Violation bail bond, special or additional conditions of bail, petitions for orders of protection, pretrial & pre-sentence investigation reports, evaluations or status reports, statements of facts, appearances & other motions & petitions.	Circuit Court Clerk's information system	Real time/digital storage	?
Circuit Court Clerk	Push	Court orders & rulings	Police	Real time.	No
Circuit Court Clerk	Push	Court orders & rulings	Prosecutor	Real time.	No
Circuit Court Clerk	Push	Court orders & rulings	Probation		No
Circuit Court Clerk	Push	Court orders & rulings	Sheriff		No
Circuit Court Clerk	Push	Court orders & rulings	Social Services		No
Circuit Court Clerk	Push	Court orders & rulings	Mental Health		No
Circuit Court Clerk	Push	Court orders & rulings	IDOC		No
Circuit Court Clerk	Push	Court orders & rulings	FOID		No
Circuit Court Clerk	Push	Court orders & rulings	SOS		Yes
Circuit Court Clerk	Push	Court orders & rulings	ISP/CHRI		No
Circuit Court Clerk	Push (biometric supported)	Disposition.	ISP/CHRI		Yes
Circuit Court Clerk	Publish	Court Event (entry, modification or deletion of warrant)	LEADS		Yes

Whether this data exchange occurs today

Agency	Action	Type(s) of data	Agency From or To	Exchange conditions	↓
Circuit Court Clerk	Push	Digitally signed arrest warrant (failure to appear)	Police	Real Time	?
Circuit Court Clerk	Push	Digitally signed arrest warrant (failure to appear)	Prosecutor		No
Circuit Court Clerk	Push	Digitally signed arrest warrant (failure to appear)	ISP/LEADS		?
Circuit Court Clerk	Push	Digital Sentencing Order	Prosecutor		No
Circuit Court Clerk	Push	Digital Sentencing Order	Police	Within 24 hours.	No
Circuit Court Clerk	Push	Digital Sentencing Order	ISP/CHRI		Yes
Circuit Court Clerk	Push	Digital Sentencing Order	Probation		?
Circuit Court Clerk	Push	Digital Sentencing Order & Statement of Facts	Sheriff/Jail		?
Circuit Court Clerk	Push or Pull (based on subscription information)	Appeal filings, notices, mandates, court orders and/or rulings and other appeal information.	Secretary of State		No
Circuit Court Clerk or Judge	Push	Court orders, bail, pleas, findings, sentences, continuances & granting & denying of petitions.			?
Circuit Court Clerk or Prosecutor	Push	Petitions for violation of probation, conditional discharge & supervision motions to modify sentence & petitions to expunge.	Circuit Court Clerk's information system		No
County Jail or IDOC	Query Custodial Receipt (biometric)	Notification that subject has criminal history record	ISP/CHRI	Received within 5 minutes; Data is current within 24 hours	No
County Jail or IDOC	Push	Incarceration Information	Any subscribing agency.		No
County Jail or IDOC	Push (biometric)	Custodial status change	ISP/CHRI		Yes
County Jail or IDOC	Push	Custodial status change	Circuit Court Clerk		No
County Jail or IDOC	Push (biometric)	Custodial status change	AVN		Yes
County Jail or IDOC	Push	Custodial status change	Any subscribing agency.		No
County Jail or IDOC	Query	Hot Files	ISP/LEADS		?
IDOC	Push	Parole hearing information	Defense		?
IDOC	Push	Parole hearing information	Victims		?
IDOC	Push	Parole hearing information	Prosecutor		?
ISP/CHRI	Publish/Subscribe	Conviction, sentence & ID data	DCFS		No
ISP/CHRI	Publish/Subscribe	Conviction, sentence & ID data	Board of Ed		No
ISP/CHRI	Publish/Subscribe	Conviction, sentence & ID data	Dep't Health & Human Services		No
Parole	Push	Release & supervision information	AVN	Prior to release.	?
Parole	Push	Release & supervision information	Arresting agency	Prior to release.	Yes
Parole	Push	Release & supervision information	Receiving community police agency	Prior to release.	Yes
Parole	Push	Release & supervision	Sheriff	Prior to release.	Yes

Whether this data exchange occurs today

Agency	Action	Type(s) of data	Agency From or To	Exchange conditions	↓
		information			
Parole	Push	Release & supervision information	Circuit Court Clerk	Prior to release.	No
Parole	Push	Release & supervision information	ISP/CHRI	Within 24 hrs. of release.	Yes
Parole	Push	Release & supervision information	INS	Within 24 hrs. of release.	No
Police Officer	Push (post bond)	Bond data & conditions	Police Information System	Within 2 hours of arrest	No
Police Officer	Push (post bond)	Bond data & conditions	Circuit Court Clerk	Within 2 hours of arrest	No
Police Officer	Push (post bond)	Bond data & conditions	Prosecutor	Within 2 hours of arrest	No
Police Officer	Push (post bond)	Bond data & conditions	ISP/CHRI	Within 2 hours of arrest	No
Police Officer	Push (not able to post bond)	Booking information, arrest report, citations, synopsis of offense, fingerprints, digital photo & criminal history.	Circuit Court Clerk	Within 2 hours of arrest	No
Police Officer	Push (not able to post bond)	Booking information, arrest report, citations, synopsis of offense, fingerprints, digital photo & criminal history.	Prosecutor	Within 2 hours of arrest	No
Police Officer	Push (not able to post bond)	Booking information, arrest report, citations, synopsis of offense, fingerprints, digital photo & criminal history.	Probation	Within 2 hours of arrest	No
Police Officer	Push (not able to post bond)	Booking information, arrest report, citations, synopsis of offense, fingerprints, digital photo & criminal history.	Jail	Within 2 hours of arrest	No
Police Officer	Push (not able to post bond)	Booking information, arrest report, citations, synopsis of offense, fingerprints, digital photo & criminal history.	IDOC (parole)	Within 2 hours of arrest	No
Police Officer	Push (not able to post bond)	Booking information, arrest report, citations, synopsis of offense, fingerprints, digital photo & criminal history.	INS	Within 2 hours of arrest	No
Police Officer	Query (non-biometric)	SOS driver & vehicle data & digital photo	Secretary of State	Received within 10 seconds; Data is current within 24 hours	?
Police Officer	Query	Notification of subject's mention in case/incident reports.	Local P. D.	Received within 1 minute; Data is current within 24 hours	No
Police Officer	Push	Arrest & Complaint	Police Information System		?
Police Officer	Push	Arrest & Complaint	Prosecutor		?
Police Officer	Push	Arrest & Complaint	Circuit Court Clerk		?
Police Officer	Push	Arrest & Complaint	Probation		?
Police Officer	Push	Arrest & Complaint	IDOC		No
Police Officer	Push	Crash Report	IDOT		?
Police Officer	Push	Arrest & Complaint	INS		No
Police Officer	Push	Arrest & Complaint	Other Subscribing Agency		No
Police Officer	Query (biometric)	Notification that subject has criminal history record	ISP/CHRI	Received within 5 minutes; data is current	?

Whether this data exchange occurs today

Agency	Action	Type(s) of data	Agency From or To	Exchange conditions	↓
				within 24 hours.	
Police Officer	Push	Arrest/Complaint & Fingerprints/Digital Photo	Police Information System	Sent within 2 hours.	?
Police Officer	Push	Arrest/Complaint & Fingerprints/Digital Photo	Prosecutor	Sent within 2 hours.	?
Police Officer	Push	Arrest/Complaint & Fingerprints/Digital Photo	Circuit Court Clerk	Sent within 2 hours.	?
Police Officer	Push	Arrest/Complaint & Fingerprints/Digital Photo	Sheriff	Sent within 2 hours.	?
Police Officer	Push	Arrest/Complaint & Fingerprints/Digital Photo	Probation	Sent within 2 hours.	?
Police Officer	Push	Arrest/Complaint & Fingerprints/Digital Photo	INS	Sent within 2 hours.	No
Police Officer	Push	Arrest/Complaint & Fingerprints/Digital Photo	IDOC (parole)	Sent within 2 hours.	No
Police Officer	Push	Arrest/Complaint & Fingerprints/Digital Photo	Other Subscribing Agency	Sent within 2 hours.	No
Police Officer	Push	Arrest/Complaint & Fingerprints/Digital Photo	ISP/CHRI	Sent within 2 hours.	No
Police Officer	Push	Release Decision	ISP/CHRI	Sent within 2 hours.	No
Police Officer	Query	Notification that subject has criminal history record	ISP/CHRI	Received within 5 minutes; data is current within 24 hours.	?
Police Officer	Push	Arrest/Complaint & Fingerprints/Digital Photo	Police Information System	Sent within 2 hours.	?
Police Officer	Push	Arrest/Complaint & Fingerprints/Digital Photo	Prosecutor	Sent within 2 hours.	?
Police Officer	Push	Arrest/Complaint & Fingerprints/Digital Photo	Circuit Court Clerk	Sent within 2 hours.	?
Police Officer	Push	Arrest/Complaint & Fingerprints/Digital Photo	Sheriff	Sent within 2 hours.	?
Police Officer	Push	Arrest/Complaint & Fingerprints/Digital Photo	Probation	Sent within 2 hours.	?
Police Officer	Push	Arrest/Complaint & Fingerprints/Digital Photo	INS	Sent within 2 hours.	No
Police Officer	Push	Arrest/Complaint & Fingerprints/Digital Photo	IDOC (parole)	Sent within 2 hours.	No
Police Officer	Push	Arrest/Complaint & Fingerprints/Digital Photo	ISP/CHRI	Sent within 2 hours.	No
Police Officer	Push	Arrest/Complaint & Fingerprints/Digital Photo	Other Subscribing Agency	Sent within 2 hours.	No
Police Officer	Push	Release Decision	ISP/CHRI	Sent within 2 hours.	No
Police Officer	Push	Demographic, digital photo, criminal history, gang, police reports, SOS & LEADS.	Prosecutor	Real Time	No
Police Officer	Query (non-biometric)	Officer protection information (field notification program)	ISP/LEADS	Received within 10 seconds; Data is current within 24 hours	?
Police Officer	Query (non-biometric)	Notification that subject has criminal history record	ISP/CHRI	Received within 1 minute; Data is current within 24 hours	?
Police Officer	Query (non-biometric)	Notification that subject has FOID card	ISP/FOID	Received within 1 minute; Data is current within 24 hours	?
Police Officer	Query (non-biometric)	Notification that subject has record in AVN (court date, jail status, probation, parole, work	AVN	Received within 1 minute; Data is current within 24 hours	No

Whether this data exchange occurs today

Agency	Action	Type(s) of data	Agency From or To	Exchange conditions	↓
		release, escape, home detention & mental health)			
Police Officer	Query (non-biometric)	Notification that subject has record in IDOC (custody, parole, gang)	IDOC	Received within 1 minute; Data is current within 24 hours	No
Police Officer	Query (non-biometric)	Notification of subject's immigration status (illegal immigrant)	INS	Received within 1 minute; Data is current within 24 hours	No
Police Officer	Query (non-biometric)	Notification that subject has record in DCFS (subject of abuse or neglect investigation)	DCFS	Received within 1 minute; Data is current within 24 hours	No
Police Officer	Query (non-biometric)	Notification of subject's probation status and conditions	Probation Department or Circuit Court Clerk	Received within 1 minute; Data is current within 24 hours	No
Police Officer	Query (non-biometric)	Notification of subject's bond status and conditions	Circuit Court Clerk or Pretrial Services	Received within 1 minute; Data is current within 24 hours	No
Police Officer	Query (biometric)	State Warrant System (LEADS) & SOS	ISP/LEADS	Received within 10 seconds; Data is current within 24 hours	No
Police Officer	Query (biometric)	Federal Hot Files	FBI/NCIC	Received within 10 seconds; Data is current within 24 hours	No
Police Officer	Query (biometric)	SOS driver & vehicle data & digital photo	Secretary of State	Received within 10 seconds; Data is current within 24 hours	No
Police Officer	Query (biometric)	Officer protection information (Field Notification Program)	ISP/LEADS	Received within 10 seconds; Data is current within 24 hours	No
Police Officer	Query (biometric)	Notification that subject has criminal history record	ISP/CHRI	Received within 1 minute; Data is current within 24 hours	No
Police Officer	Query (biometric)	Notification that subject has FOID card	ISP/FOID	Received within 1 minute; Data is current within 24 hours	No
Police Officer	Query (biometric)	Notification that subject has record in AVN (court date, jail status, probation, parole, work release, escape, home detention & mental health)	AVN	Received within 1 minute; Data is current within 24 hours	No
Police Officer	Query (biometric)	Notification that subject has record in IDOC (custodial, parole status; gang info)	IDOC	Received within 1 minute; Data is current within 24 hours	No
Police Officer	Query (biometric)	Notification of subject's immigration status (illegal immigrant)	INS	Received within 1 minute; Data is current within 24 hours	No
Police Officer	Query (biometric)	Notification that subject has record in DCFS (subject of abuse or neglect investigation)	DCFS	Received within 1 minute; Data is current within 24 hours	No
Police Officer	Query (biometric)	Notification of subject's probation status and conditions	Probation Department or Circuit Court Clerk	Received within 1 minute; Data is current within 24 hours	No
Police Officer	Query (biometric)	Notification of subject's bond status and conditions	Circuit Court Clerk or Pretrial Services	Received within 1 minute; Data is current within 24 hours	No
Police Officer	Query (biometric)	Notification of subject's parole status and conditions	IDOC	Received within 1 minute; Data is current	No

Whether this data exchange occurs today

Agency	Action	Type(s) of data	Agency From or To	Exchange conditions	↓
				within 24 hours	
Police Officer	Query (non-biometric)	State Warrant System (LEADS) & SOS	ISP/LEADS	Received within 10 seconds; Data is current within 24 hours	?
Police Officer	Query (non-biometric)	Federal Hot Files	FBI/NCIC	Received within 10 seconds; Data is current within 24 hours	?
Pretrial Services	Pull	Fingerprints/digital photos & criminal history.	ISP/CHRI		No
Pretrial Services	Pull	Local Court Case Data	Circuit Court Clerk		No
Pretrial Services	Pull	Charges	Prosecutor		No
Pretrial Services	Push	Pretrial Report.	Circuit Court Clerk		No
Pretrial Services	Push	Pretrial Report.	Prosecutor		No
Pretrial Services	Push	Pretrial Report.	Defense		No
Probation	Pull (pre-sentence investigation)	Arrest & incident report	Police		?
Probation	Pull (pre-sentence investigation)	Criminal History	ISP/CHRI		Yes
Probation	Pull (pre-sentence investigation)	Pre-trial Services Report.	Pre-trial Services		?
Probation	Push	Pre-sentence Report	Circuit Court Clerk		?
Probation	Push	Pre-sentence Report	Prosecutor		?
Probation	Push	Pre-sentence Report	Defense		No
Prosecutor	Query	Notification of subject's probation status	Probation	Received within 1 minute; Data is current within 24 hours.	No
Prosecutor	Query	Orders of protection & court orders	Circuit Court Clerk	Received within 1 minute; data is current within 24 hours.	No
Prosecutor	Query	Notification that subject has record in DCFS (subject of abuse or neglect investigation)	DCFS	Received within 1 minute; Data is current within 24 hours.	No
Prosecutor	Query	Notification of subject's parole status and conditions	IDOC	Received within 1 minute; Data is current within 24 hours.	No
Prosecutor	Query	Notification that subject has criminal history record	ISP/CHRI	Received within 5 minutes; data is current within 24 hours.	No
Prosecutor	Query	Notification of subject's immigration status (illegal immigrant)	INS	Received within 1 minute; Data is current within 24 hours	No
Prosecutor	Push	Warrant/Summons Request	Circuit Court Clerk	Real Time	No
Prosecutor	Query	Police Reports	Police		No
Prosecutor	Query	Court case data?	Circuit Court Clerk		?
Prosecutor	Query	Criminal History	ISP/CHRI		No
Prosecutor	Push (charging Digital criminal information or decision)	Digital criminal information or indictment	Circuit Court Clerk		No
Prosecutor	Push (charging Digital criminal information or decision)	Digital criminal information or indictment	Police	Within 24 hrs.	No
Prosecutor	Push (charging Digital criminal information or decision)	Digital criminal information or indictment	ISP/CHRI		No
Prosecutor	Push	Discovery: copy of the information, citation, criminal history & arrest reports.	Defense		Yes

Whether this data exchange occurs today

Agency	Action	Type(s) of data	Agency From or To	Exchange conditions	↓
Prosecutor	Pull	New court dates and minutes.	Circuit Court Clerk		?
Prosecutor	Push	Motions (digitally signed)	Circuit Court Clerk		?
Prosecutor	Push	Motions (digitally signed)	Defense		?
Prosecutor	Pull	Hearing Dates	Circuit Court Clerk		?
Prosecutor	Push	Subpoenas	Sheriff		?
Prosecutor	Push	Subpoenas	Circuit Court Clerk		No
Prosecutor	Push	Sentencing Motion	Circuit Court Clerk		?
Prosecutor	Push	Digital Sentencing Order	Victims (AVN)		No
Prosecutor	Push	Digital Sentencing Order & Statement of Facts	IDOC		No
Sheriff/Jail	Push	Arrest information.	Pretrial Services		No
Appellate Clerk	Push	Appellate Disposition Order	Public Defender		No
Appellate Clerk	Push	Appellate Disposition Order	Prosecutor		No
Appellate Clerk	Query	Appellate briefs & slip opinions.	Public Defender		No

Exhibit 2

Gap analysis results of the *Scenario for Information Sharing in Illinois*

- (1) **Mobile data computers** – The traffic-stop portion of the *Scenario* presumes that all police officers have in-car computers. This is not the case, particularly in many downstate areas. Running these inquiries over the police radio is not always practical.
- (2) **Vehicle registrations not connected to driver's license data** – The traffic-stop portion of the *Scenario* also assumes that the car has a license plate and that the 10-28 response has associated driver's license information. This is not always the case. Many vehicle registrations do not contain driver's license data.
- (3) **Consolidation of inquiries** –
 - (a) Acquiring LEADS, SOS, Federal Hot Files, Field Notification, CHRI, & FOID information currently requires three separate inquiries.
 - (b) Section 5 of the *Scenario* requires prosecutors to make six separate inquiries; these should be consolidated into a single inquiry.
- (4) **Information needs** – Information from AVN, IDOC, INS, and DCFS is not available to officers in their cars. Information from all of these sources should be available from one inquiry.
 - (a) DCFS could be useful before entering a residence on a domestic call; it can tell officers whether a ward of the state lives in the residence.
- (5) **Officer safety information** –
 - (a) The inquiry response should contain a summary of officer safety information from LEADS, SOS, Federal Hot Files, Field Notification, CHRI, & FOID and optional flags indicating whether information is available from AVN, IDOC, INS, and/or DCFS.
 - (b) Officer safety information should contain data on active warrants, violent crime arrests, gang participation, and firearms information.
- (6) **10-second response time** – Although a ten-second response from LEADS is possible, it does not always occur because of the demand for LEADS service.
- (7) **Data currency**
 - (a) The information contained in LEADS is usually not current within the last 24 hours.
 - (b) CHRI postings are not current within 24 hours. It could take weeks to post new arrests and dispositions to a subject's criminal history record.
 - (c) The Secretary of State's (SOS) data is not current within 24 hours; there is a 4-6 week delay in processing driver's abstracts.
- (8) **Presentation of information (response format)**
 - (a) The format of the LEADS CQH (criminal history) response needs to be improved; it is difficult to read.
 - (b) Officer safety information should be displayed first, then list other sources of available data.
- (9) **Interfaces** – An interface between license registration (10-28) and LEADS hot files would be useful.
- (10) **Incident report information**
 - (a) There should be access to local and regional incident report databases.
 - (b) Section 3(B)'s 2-hour submission time frame for police incident or case reports is not practical because supervisor must read and review reports.
- (11) **Digital photos**
 - (a) Digital photos are not available from the Secretary of State.

- (b) The Bureau of Identification digital mug shot system is not currently operational.
- (12) **Conditions of parole and probation** – Parole and probation conditions would be useful. For example, a condition of probation may prohibit a gang member from frequenting a certain location or assembling with other gang members. Failing to comply with the restriction could result in a probation violation. Knowledge of a parole or probation violation would help parole and probation officers manage their caseloads.
- (13) **Biometric field inquiry**– Biometric field inquiry is currently not available and the legal basis for requiring its use prior to arrest is unclear.
- (14) **Name inquiries** – Common names result in a flood of NCIC responses.
- (15) **Burden on police departments** – There was some concern that too much responsibility is being placed on police departments to push information.
- (16) **Interfacing to IDOT** – There is a need to develop interfaces between local agency records systems and any IDOT traffic crash reporting system to prevent double entry.
- (17) **SOS inclusion** – Section 3(A) of the *Scenario* should include Secretary of State where appropriate.
- (18) **Information flow**
- (a) The Section 3(B) of the *Scenario* requires that information be sent to many agencies simultaneously. Most counties send arrest information to the State’s Attorneys’ Office for a charging decision before it is sent to the Clerk of Court.
 - (b) The Public Defender’s Office requested greater access to information at all stages of the criminal process, however, their access is currently restricted by statute and case law.
- (19) **Livescan**
- (a) Section 3(B) of the *Scenario* also requires livescan technology, which is often cost-prohibitive for small jurisdictions. The initial purchase is approximately \$75,000 plus monthly maintenance of as much as \$800.00.
 - (b) Livescan can produce a response in minutes, but the response may take up to two hours depending upon the volume of inquiries.
 - (c) Livescan fingerprint inquiry (FPQ) and booking require two separate fingerprintings; they should be combined into one.
 - (d) Police departments without livescan machines ink-and-roll arrestees. Moreover, police departments that have Livescan machines as part of their centralized booking process still ink-and-roll arrestees at the police station when I-Bonds are granted. It takes approximately two weeks for these arrests to be posted to CHRI.
- (20) **Criminal history information**
- (a) State criminal history should be sent back with SID; this currently requires a separate LEADS inquiry.
 - (b) Possible summary notification of acts of violence including violent crimes, unlawful use of weapon, and gang activity.
 - (c) Parole conditions would be helpful.
 - (d) The primary concern of prosecutors was accurate and complete criminal history record information. CHRI Information is necessary for informed charging and bond decisions.
 - (e) Not all prosecutors report charging decisions to the Bureau of Identification. They are concerned that the number of charges that they do not approve could reflect poorly on their offices.
 - (f) Many jails do not do custodial receipt fingerprints and therefore don’t report custodial changes.
- (21) **Infrastructure** – One of the cost issues in Section 3B of the *Scenario* is wide-area-network connectivity. Additionally, some jurisdictions need more than one connection for LEADS,

frame relay, and ALERTS. There is a need to combine all functionality into one network connection as a cost-savings measure.

- (22) **Immigration status** – Checking on a subject’s immigrant status is an active telephone query process on the part of the investigator. Immigrant status is important because the State’s Attorneys’ Office is required to notify the appropriate consulate of any prosecution of a foreign citizen.
- (23) **Public Defender client** – The Public Defender’s Office should be notified of the arrest of one of its current clients.
- (24) **Fingerprinting** –
 - (a) Subsequent booking does not occur in many jurisdictions throughout the state. Many misdemeanants are summoned into court where their crimes are upgraded to felonies, tried, and convicted. These convictions are never posted to CHRI.
 - (b) Current law provides that after sentencing, the State’s Attorney shall ask the court to order the fingerprinting of those persons who have not previously been fingerprinted for the same case. 20 ILCS 2630/2.1(d). It was recommended that the statute be amended to provide for fingerprinting at an earlier point in the criminal process, such as after a finding of probable cause.
- (25) **Civil orders of protection** – Civil orders of protection are reportedly not in LEADS.
- (26) **Entering warrants into LEADS**
 - (a) Section 5 of the *Scenario* has the Court Clerk pushing warrants into LEADS; the Sheriff traditionally does this in most counties.
 - (b) Not all warrants are entered into LEADS; this could be an officer safety issue.
- (27) **Bond hearings**
 - (a) Police recommend expansion of video bond court to eliminate transportation of prisoners to courthouse.
 - (b) Currently, bond paperwork still needs to be transported to the Court Clerk’s office; this paperwork should be electronic.
 - (c) Victims should also be notified as to a subject’s release on bond.
- (28) **LEADS access**
 - (a) Many prosecutors do not have adequate access to LEADS.
 - (b) Not all probation offices have LEADS access.
- (29) **Digital signatures** – There was reluctance from the judiciary regarding the use of digital signatures.
- (30) **Evidence destruction order** – Law Enforcement wants the Court Clerk to electronically push evidence destruction orders.
- (31) **Presentence investigation reports**
 - (a) Pre-sentence investigation reports are critical to the work of the IDOC.
 - (b) The same PSI can be used in multiple cases with the same defendant.
- (32) **Mittimus** – The mittimus form approved by the Conference of Chief Judges should be used.
- (33) **Court clerk information** – court clerks are a primary source of information about people.
 - (a) Probation conditions are contained in public court records.
 - (b) Bond conditions (e.g., domestic battery restrictions) can contain important information and are available from court clerks.
- (34) **Crash reports** – Agencies reporting to IDOT currently must enter information twice.

Exhibit 3

Candidate business issues identified in the 2005 Annual Report

Information needs that can be met with improvements to LEADS

- Ensuring that the “10-28” vehicle registration response contains driver’s license numbers
- Ensuring a 10-second response to inquiries
- Ensuring 24-hour currency of information
- Interfacing the “10-28” vehicle registration inquiry with computerized hot files
- Improving “CQH” criminal history format and creating one inquiry for subject history and status
- Developing an initial response that highlights officer safety information
- Ensuring that all orders of protection and warrants are entered into LEADS
- Providing access to conditions of parole and probation as well as immigration status information
- Providing access to digital photographs

Information needs that can be satisfied through criminal history record improvements

- Ensuring that felony upgrades are posted to CHRI
- Ensuring that juvenile station adjustments and dispositions are posted to CHRI
- Improving disposition reporting to the Bureau of Identification
- Converting the CHRI repository into a relational database to facilitate inquiries
- Eliminating the separate functions for Fingerprint Inquiry and Booking
- Eliminating the separate LEADS “SID” (state ID#) Inquiry after posting arrest to CHRI
- Providing access to CHRI Live Scan photos
- Developing a system to transfer Live Scan booking data to counties to facilitate integration (i.e., Core Data Transfer)
- Creating a means for court clerks to transmit electronic documents to other justice agencies

Enhance access to incident-level information

- Developing a standard computer-aided dispatch (CAD) interface to records management systems
- Creating access to statewide incident-level information by developing and adopting a standard:
 - Incident report
 - Field contact report
 - Intelligence report
 - Traffic accident report
 - Traffic citation

Enhance access to justice information by improving statewide infrastructure

- Ensure that all police vehicles in Illinois have mobile data computers
- Ensure that all mobile data systems have sufficient bandwidth to carry photos and incident data
- Ensure that all police departments have access to Live Scan technology
- Rationalize the number of data networks

Other initiatives to facilitate the sharing of justice information

- Utilize digital signature and electronic filing technologies
- Increase the use of video bond hearings
- Explore public defender and defense bar’s access to information in an integrated justice environment
- Convert Secretary of State vehicle files into a relational database to facilitate inquiries