



**ILLINOIS
CRIMINAL JUSTICE
INFORMATION AUTHORITY**

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Meeting Agenda

PRIVACY POLICY SUBCOMMITTEE

March 31, 2004
10:00 a.m. – 12:00 p.m.

- Introductory comments
- “So you hired an axe murderer...”
- Members’ opinions regarding the uses and accessibility of criminal history information
- Introduction to the Code of Federal Regulations Breakdown
- Analysis of criminal history record information (CHRI) policies in Illinois
 - ▷ What is contained in CHRI.
 - ▷ Illinois laws authorizing access to and dissemination of CHRI
 - ▷ Data quality requirements of CHRI
 - ▷ Individual access and review provisions
- Study Proposal – unofficial sources of CHRI
- Next Meeting’s Goals
- Adjourn

This public meeting will be accessible to persons with disabilities in compliance with Executive Order #5 and pertinent State and Federal laws upon anticipated attendance. Persons with disabilities planning to attend and needing special accommodations should contact by telephone or letter Hank Anthony, Associate Director, Office of Administrative Services, Illinois Criminal Justice Information Authority, 120 South Riverside Plaza, Chicago, Illinois, 60606-3997 at (312) 793-8550. TDD services are available at (312) 793-4170.



PRIVACY POLICY SUBCOMMITTEE MEETING NOTES 17 December 2003

Present at the first meeting of the IIJIS Privacy Policy Subcommittee were:

- Robert Boehmer, Illinois Criminal Justice Information Authority;
- Lori Levin, Illinois Criminal Justice Information Authority;
- John Jesernik, Illinois State Police;
- David Biedron, DuPage County Sheriff's Office;
- David Clark, Illinois State's Attorneys Appellate Prosecutor's Office;
- Paul Fields, Law Office of the Cook County Public Defender;
- Ron Lewis, McLean County Public Defender's Office;
- Michael McGowan, Office of the Chief Judge, Circuit Court of Cook County;
- Wil Nagel, Illinois Criminal Justice Information Authority;
- Ian Oliver, Illinois Department of Corrections;
- Peggy Patty, Illinois Coalition Against Domestic Violence;
- Lyn Schollet, Illinois Coalition Against Sexual Assault (by telephone);
- Art Sebek, Illinois State Police;
- Nicole Sims on behalf of Craig Wimberly, Office of the Circuit Court Clerk of Cook County;
- Michael Tardy, Administrative Office of the Illinois Courts; and
- Martin Typer, Clerk of the Circuit Court of Ogle County.

Introductions

After the members briefly introduced themselves, Mr. Boehmer, the general counsel of the Illinois Criminal Justice Information Authority, explained why we invited such a diverse group of people and emphasized the need for practitioner involvement. Although not able to attend the meeting, groups outside the criminal justice system such as the Chicago Chamber of Commerce, the Illinois Press Association, Metropolitan Chicago Health Care Council, as well as academicians from John Marshall Law School and Chicago-Kent College of Law have all accepted invitations to participate on the subcommittee as well as several additional justice agencies. Mr. Boehmer stated that our intention in convening such a diverse group was to ensure the broadest possible coverage of privacy issues impacting the sharing of justice information in Illinois.

Goals of the Privacy Policy Subcommittee

Mr. Boehmer emphasized that, while the background paper provided to the members was somewhat theoretical in its presentation, the work of the Privacy Policy Subcommittee would be performed at a very pragmatic level. Mr. Boehmer briefly discussed the fact that the integration project is designed to eliminate barriers to the sharing of justice information that previously might have provided some privacy protections.

Mr. Boehmer briefly mentioned his and Mr. Jesernik's work on the Global Justice Information Sharing Initiative's Privacy and Information Quality Working Group and explained that Global is looking to Illinois as a leader in the area of privacy policy development in an integrated justice environment.

The work of the privacy subcommittee was also discussed. One of the primary activities of the subcommittee involves understanding the current privacy environment in Illinois. In order to accomplish this goal, Mr. Boehmer said that the members might be called upon to provide some brief background information regarding laws and regulations that effect their agency's operations and to provide insight into the privacy issues that are important to their agency. Mr. Boehmer also acknowledged some difficult subject areas in the privacy arena, such as intelligence data and juvenile justice information, that the subcommittee would address after it dealt with adult offender information sharing. He further stated that the subcommittee should recognize that the courts are simultaneously developing policies regarding the accessibility of court files and that our policy decisions should complement those of the judiciary.

Mr. Boehmer next explained the initial vision of the privacy subcommittee's final report. Specifically, he stated that the final report would contain not only an explanation of Illinois' current privacy environment, but also the subcommittee's recommendations for changing that environment. Those rationales and bases for those recommendations would also be included in the final report along with suggestions on how local agencies can comply with the recommended policies. Mr. Boehmer stated that the format of the final report had yet to be determined and that the timeline for its completion was not yet decided.

The Proposed Process for Drafting Privacy Policy in an Integrated Justice Environment

Mr. Boehmer called upon Wil Nagel of the Illinois Criminal Justice Information Authority to explain the proposed process the subcommittee would take toward completing its goals. Mr. Nagel briefly expanded upon the 5-step outline provided to the members:

- Step 1 – Participants had already accepted invitations to work on the subcommittee.
- Step 2 – The goal of the instant meeting was to review the fair information practices and their limitations when applied to justice information sharing.
- Step 3 – The work of the subcommittee for the foreseeable future will involve acquiring an understanding of the privacy policy choices already made in Illinois. Mr. Nagel stated that he expects a great deal of the privacy policy to be already written in the form of current laws and regulations; the challenge lies in compiling these statutes and understanding the policy choices contained therein.
- Step 4 – This step outlined seven issues potentially facing the integration initiative. The subcommittee will discuss Illinois' current responses to these issues during its later meetings to help support its recommendations on resolving these issues in the final report. Briefly stated, those issues are:
 - Information Life Cycle
 - Individual Access to Records Contained in Integrated Justice Information Systems
 - Accountability of the Integrated Justice System
 - Availability of Statistical Information Made Easily Available by Integrated Justice Information Systems
 - Accessibility of Victim & Witness Information
 - Accessibility of Offender and Victim Health information
 - Collection, Use, & Dissemination of Social Security Numbers
- Step 5 – Mr. Nagel noted that the goals of the final report had already been briefly explained earlier in the course of the meeting.

Mr. Nagel explained that the next meetings would focus on the statutes regulating types of justice information exchanged. For example, the focus of the next meeting would be the records contained in the criminal history repository while the following meeting might focus on information contained by probation departments or the information maintained by the department of corrections. The issues identified under Step 4 will be discussed during each of these meetings. Later meetings of the

subcommittee will focus on the individual issues in Step 4 in an attempt to resolve or otherwise address them in the final report.

The Fair Information Practices (FIPs) & their Shortcomings

After providing background on the fair information practices (FIPs), Mr. Boehmer once again called upon Mr. Nagel to expand briefly on the FIPs and their impact upon the work of the privacy subcommittee. Mr. Nagel stated that the National Criminal Justice Association's Justice Information Privacy Guideline relied heavily upon the FIPs. Summarizing the work contained in the background paper, *Privacy Schmrivacy*, Mr. Nagel said that because the FIPs were initially developed in the private sector, that they are often times too extreme when applied to the justice system. He said that the goal in reviewing the FIPs and their shortcomings during the meeting was to provide some theoretical background to what will be presented during later meetings. Mr. Boehmer added that several of the principles included in the FIPs have been enacted in several statutes regulating the sharing of justice information.

Additional Considerations

Mr. Boehmer explained that the subcommittee would be moving on to the compilation of current statutory responses to privacy concerns phase beginning with the next meeting. He asked the members for their assistance in three things:

- (1) Members were asked to identify any additional statutes that impact their agency that might not have been mentioned in the background paper.
- (2) Members were also asked to think about any additional privacy issues or sub-issues that might have been overlooked. Mr. Boehmer emphasized that this was perhaps the most important request because the privacy issues identified by the subcommittee will frame its future work.
- (3) Members were requested to provide their agency's policies and procedures for the sharing of justice information.

Some members suggested additional privacy issues to consider. The group heard brief discussion on the need to focus on information quality issues and their potential impact on the privacy policy as well as the need to address the privacy policy's interaction with Illinois' Freedom of Information Act. A member also noted that the subcommittee might need to address instances where sensitive information is made public in the regular course of justice administration.

Next Meeting's Goals

Mr. Boehmer stated that the next meeting of the subcommittee would focus on the laws and regulations regarding the state's criminal history repository starting from the federal regulations and working down through Illinois' policy choices and finally down to the implementation of those provisions at the local level. Mr. Boehmer anticipated that this meeting would involve significant discussion by group members on how they utilize criminal history information and any of their agency's privacy concerns regarding the sharing of such information both within and outside of the justice system.

Mr. Boehmer stated that a meeting date had not yet been selected for the next meeting but anticipated it taking place toward the end of February. He stated that Mr. Nagel would be in touch with each member to set and accommodating date.

Adjourn

The meeting adjourned at 11:15 a.m.

Collecting and maintaining criminal history records in Illinois

By Chris Humble

Nearly every component of the justice system relies on criminal records to provide detailed information on an individual's contact with law enforcement. This data also is used in the private sector. From employee background checks to verification prior to gun purchases, the accuracy and completeness of criminal history record information is crucial. This *Trends & Issues Update* examines the scope of adult criminal history record information in Illinois.

As mandated in the Criminal Identification Act, the Illinois State Police (ISP) is the central repository for Illinois criminal history record information. All aspects of criminal history records, including collection, maintenance, and dissemination, are handled by ISP. All law enforcement agencies, state's attorneys, and circuit clerks in each county, as well as the Illinois Department of Corrections (IDOC), must submit arrest, charge, disposition, and custodial information to the ISP within a set time frame.

Criminal history record uses

Criminal history records are crucial in many areas of decision-making. School districts use conviction data to investigate whether teachers, bus drivers, and others who have contact with children were convicted of sex offenses or other employment-barring

offenses. Social service agencies also rely on conviction information to screen prospective foster parents.

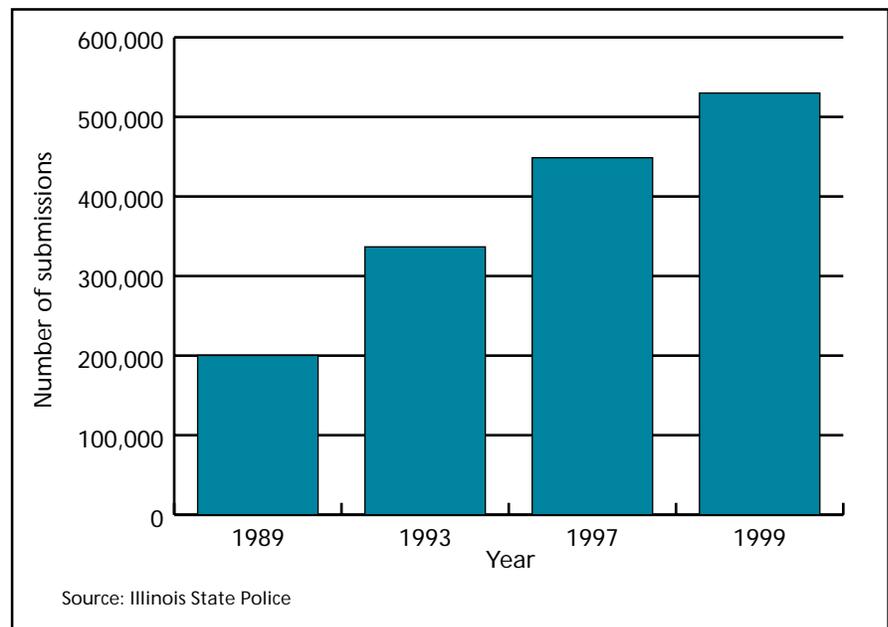
State's attorneys use criminal history records to determine whether an offender is eligible for enhanced sentencing. For example, if a person is convicted for the first time of domestic battery the offense is classified as a Class A misdemeanor. If a person is convicted again of domestic battery the

offense is prosecuted as a Class 4 felony.

IDOC officials also use criminal records to determine security levels that affect housing and work assignments. With the wrong information, a high-risk inmate may be assigned to a facility designed for low-risk offenders.

Liquor control commissions use criminal history records to determine whether an individual is qualified for a liquor license. Criminal history checks

Figure 1
Arrest fingerprint cards and livescan images submitted to Illinois State Police 1989 - 1999



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Liquor control commissions use criminal history records to determine whether an individual is qualified for a liquor license. Criminal history checks

also assist in verifying information for gun licenses.

Under the Uniform Conviction Information Act the public has access to conviction information. Residents may request conviction information for a fee. Information on an arrest is not available to the public unless a conviction is posted to the database.

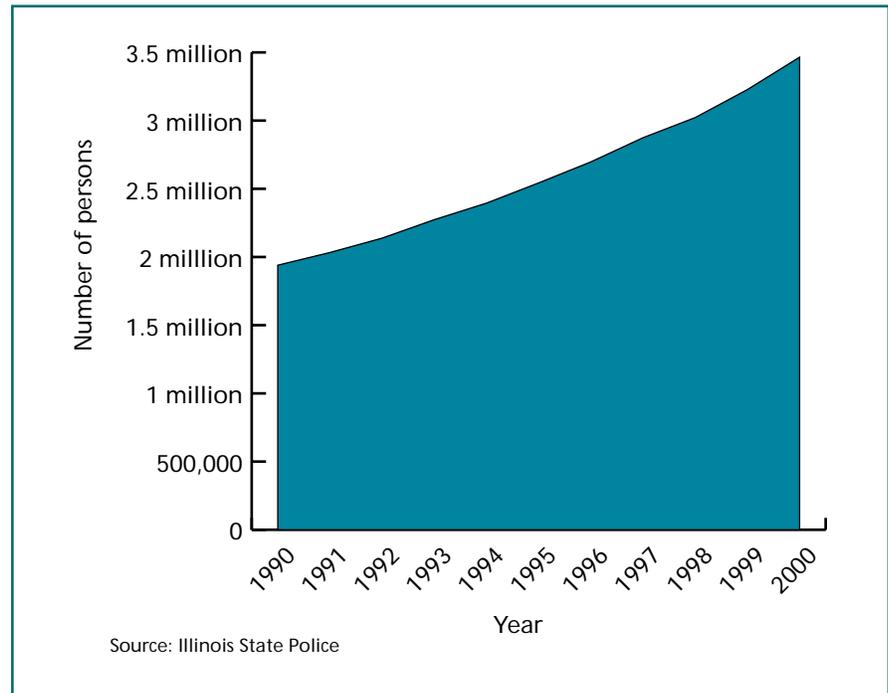
System guidelines

In 1991, the Illinois Ad Hoc Committee on Dispositional Reporting was created by the Illinois Criminal Justice Information Authority to act as a criminal history records improvement task force. Consisting of members of law enforcement, prosecution, courts, corrections, and other criminal history record users, the committee created the Illinois Criminal History Improvement Plan. The plan follows guidelines published by the U.S. Department of Justice Bureau of Justice Assistance in 1991 requiring that 95 percent of current felony arrests and fingerprints are complete. The plan also requires current felony arrest records with fingerprints to contain subsequent state's attorney and court dispositions upon termination of the cases, as well as up-to-date sentencing and prison release information.

Under the committee's direction, Illinois adopted the following principles regarding the state's criminal history records system:

- Illinois criminal history record information must be accurate, complete, and current.
- Illinois criminal history record information must be available in a timely and efficient manner.
- The Illinois criminal history record information system must make optimum use of information and communications technology.
- The Illinois criminal history record information system must be guided by, and responsive to, the needs and requirements of its users.
- Illinois criminal history record information must be readily available

Figure 2
Cumulative number of persons in the criminal history system



for research and other management and systemic analysis purposes.

- The Illinois criminal history record information program must foster and support information sharing and exchange among agencies within the criminal justice system.

Criminal history record collection

ISP's Bureau of Identification (BOI) was formed in 1929 to be the main repository of criminal records in the state. By 1932, the first criminal history records, or *rap sheets*, were produced. In the BOI's first year of existence 30,000 fingerprint cards were collected. In 1999, almost 530,000 fingerprint cards and livescan images were collected (Figure 1).

ISP began automating Illinois criminal records in the early 1970s with the Computerized Criminal History (CCH) system. Initially, fingerprint cards were classified by hand, and a manual search of the paper criminal history files was conducted. If a match, or *hit*, was

made, the fingerprints were added to the existing criminal history record. If matching records did not exist, the subject was issued a unique state identification number, and a criminal history record was created. Identifying fingerprints and linking them to a criminal history record was made easier in the 1980s and 1990s with the development of the Automated Fingerprint Information System (AFIS) and livescan, an electronic fingerprinting device.

Manual reporting

Fingerprints are the most common method of linking a person to his or her criminal justice contacts. The BOI uses state identification numbers to identify individuals with criminal history records in the computerized system.

Historically, when a person was arrested and taken into custody, his or her fingerprints were recorded on a five-part reporting form designed for the CCH system. Form 1 went to the BOI containing subject identification and arrest information. Carbon paper was used so that information placed on Form 1 was entered simultaneously

onto forms 2, 3, 4, and 5. The second form was the arresting agency's copy and was kept in the agency's files. Forms 3 and 4 were the state's attorney's and circuit court clerk's copies (respectively) and contained fields used to note subsequent charge and court disposition information. Form 5 also was the BOI's copy. Fingerprints were clearly rolled on the back of this card, with blocks identified for each finger and simultaneous impressions of both hands.

A fingerprint card was not made when an individual was entered into the criminal justice system without an arrest. Under these circumstances, the state's attorney requested that the court order the individual to be fingerprinted.

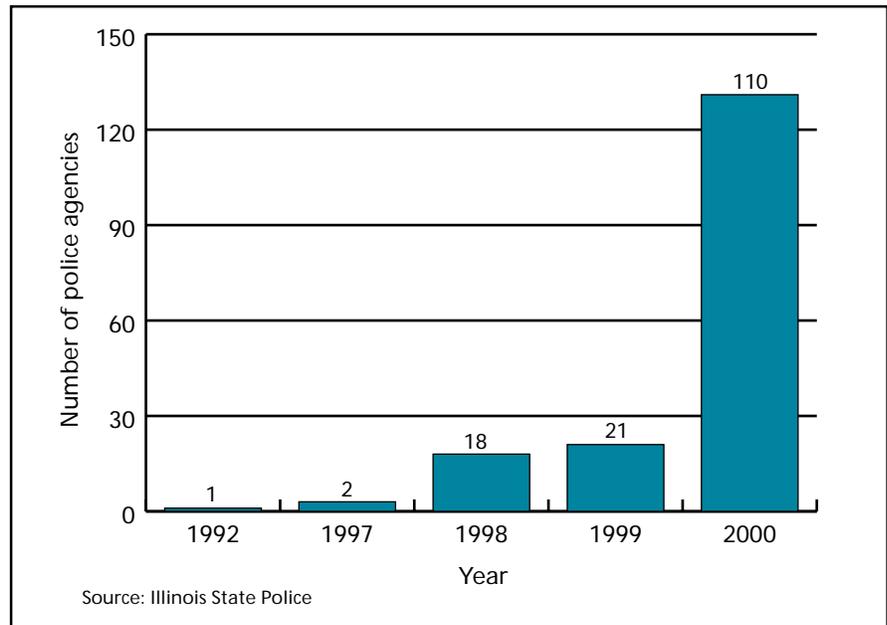
Automated fingerprint processing

AFIS reads, catalogues, and matches fingerprint images. Upon receipt of fingerprint images from livescan, AFIS will check the fingerprint image for quality. If AFIS detects a print of poor quality that has the capacity for enhancement, a technician will attempt to improve the fingerprint image. If the technician cannot enhance the quality, or if AFIS detects a print that has no capacity for enhancement, the originating agency is asked to obtain new prints.

Upon receiving data from AFIS, CCH conducts a variety of edit features. If the system detects data that could prohibit the record from being posted, such as incorrect charge information, the originating agency is notified of the error and asked to correct it.

When a match is found, AFIS notifies CCH, and the new arrest is added to the CCH database. The individual's record is updated to reflect the new arrest. CCH then notifies AFIS to archive the fingerprint submissions. When there is no match, a state identification number is assigned to the arrestee, creating a criminal history record of the individual (Figure 2).

Figure 3
Number of police agencies in Illinois submitting records through livescan 1992-2000



Since 1995, the National Criminal History Improvement Program has helped states partner with the Federal Bureau of Investigation to build an accurate and useful national system of criminal records.

With disposition or status change information, the computer system searches the existing database for the corresponding fingerprint submission. To aid in the search, all forms and submissions are given a document control number, which links related criminal justice events. For example, if an arrest submission has been posted, BOI matches it with the already existing document number and posts the disposition to the corresponding record. If a submission is not available, related event information is routed to a pending file until corresponding records are posted.

Livescan submissions

Less than 20 percent of submissions received by the BOI are mailed. Many agencies use livescan to fingerprint subjects (Figure 3). In most cases, the livescan device is connected to a terminal at the booking site. All descriptive and charge information is entered at booking. Once the data is entered into livescan, fingerprint impressions can be taken. The fingerprints and data are linked together with document and transaction control numbers. Livescan will create a package of information including demographics, digital fingerprint images, and digital photos. This information is transmitted electronically from the livescan device to AFIS for editing, and then finally to the CCH.

Funding

CCH is supported with general revenue funds generated by the state. CCH also is funded by the U.S. Department of Justice through Edward Byrne Memorial State and Local Law Enforcement Assistance Program grants. Under the Crime Control Act of 1990, states must allocate at least 5 percent of these funds for the improvement of criminal

histories until 95 percent of the records are consistently complete, accurate, and timely. Since 1995, the National Criminal History Improvement Program (NCHIP) has helped states partner with the Federal Bureau of Investigation (FBI) to build an accurate and useful national system of criminal records. Initiated with a \$100 million appropriation under the Brady Handgun Violence Protection Act and administered by the Bureau of Justice Statistics, NCHIP is designed to help states meet requirements concerning criminal histories and related records.

Illinois has used NCHIP funds to upgrade and redesign the state's criminal history records system. The state also has used NCHIP funding to assist local law enforcement agencies in purchasing livescan equipment and expanding online disposition reporting.

Record audits

The Authority conducts periodic audits of the CCH system to determine

if the criminal history records comply with government funding and statutory standards. Audits conducted in 1995 and 1999 revealed a lack of consistent compliance with statutory requirements by local agencies. In some cases, agencies were unaware of reporting requirements and procedures.

Conclusion

Criminal history record information is a crucial element in the administration of criminal justice in Illinois. Decisions ranging from whether an individual is fit for employment in certain professions to the amount of bail an arrestee should be required to post are made with criminal history data. It is important that the information stored, submitted, and disseminated is accurate, timely, and complete.

— *Chris Humble is a research analyst with the Authority's Research and Analysis Unit.*

Trends and Issues Update

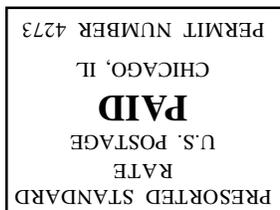
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Research Bulletin

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Criminal history record series

Results of the 2003 Criminal History Record Information Audit

By Susan Williams, ICJIA Research Analyst

The Illinois Criminal Justice Information Authority conducts periodic audits of the Criminal History Record Information (CHRI) system to assess the accuracy, timeliness, and completeness of criminal history records, while ensuring compliance with federal guidelines. Audit findings and recommendations provide the Illinois State Police (ISP) with objective information to make improvements in the develop-

The CHRI audit provided a report card on the state's progress toward compliance with federal reporting standards.

ment, operation, and administration of the CHRI reporting program. This article summarizes the methodology, findings, and recommendations for improving the quality of the CHRI reporting program as detailed in the Authority's *2003 Criminal History Records Information Audit Report*.

Audit information

The audit focused on the following areas of the CHRI program:

- **Accuracy** of ISP's Computerized Criminal History (CCH) database system records compared to source documents provided by local agencies.
- **Timeliness** in which local agencies submit required criminal history information to the state system, and the timeliness of processing that information at ISP.
- **Completeness** of the criminal history information included on the CCH record.
- **Flagging** the records of convicted felons.

Funding for the audit was provided by the U.S. Department of Justice through the Edward Byrne Memorial State and Local Law Enforcement Assistance Program. Under the Crime Control Act of 1990 (P.L. 101-647), all

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Research Bulletins are published periodically by the Illinois Criminal Justice Information Authority. They focus on research conducted by or for the Authority on a topic of interest to Illinois criminal justice professionals and policymakers. This is the first of a series of Research Bulletins reporting on criminal history record information in Illinois.

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Figure 1
Reporting requirements for the audit time period 1994-1998

An Arrest Fingerprint Card must be submitted to the Illinois State Police Bureau of Identification for adults arrested for the following charges:

- Any felony charge.
- Class A misdemeanor.
- Class B misdemeanor.
- 625 Illinois Compiled Statutes 5.0-4 (Motor vehicle anti-theft laws).
- 625 Illinois Compiled Statutes 5.0/11-204.1 (Aggravated fleeing or attempt to elude a police officer).

Charges that are not mandated to be reported include:

- Any traffic violations except those mentioned above.
- Illinois Compiled Statutes 5.0/11-501(a) 1(d) 2 (Driving under the influence of alcohol, other drug, or combination of both).
- Conservation offenses as defined in the Supreme Court Rule.
- 501(c) that are classified as Class B misdemeanors.

An Arrest Fingerprint Card must also be submitted for *juveniles* who are arrested or taken into custody for the following charges:

- Unlawful use of weapons under Section 24-1 of the Criminal Code of 1961.
- Forcible felonies as defined in Section 2-8 of the Criminal Code of 1961.
- Class 2 or greater felony under the Cannabis Control Act.
- Class 2 or greater felony under the Illinois Controlled Substances Act.
- Chapter 4 of the Illinois Vehicle Code (anti-theft laws).
- All criterion offenses applicable to adults (above) where the court has decided to try the juvenile as an adult.

states receiving Edward Byrne Memorial State and Local Assistance Formula Grant funds are required to allocate at least 5 percent of their total award toward improvement of criminal history records until certain requirements, established by the U.S. Department of Justice, Office of Justice Programs, Bureau of Justice Assistance, are met.

The requirements dictate, in part, that states must ensure that:

- 95 percent of felony arrest records and fingerprints initiated with an arrest during the last year are complete.
- 95 percent of current felony arrests records contain disposition information, if a disposition has been reached.
- 95 percent of current sentences to and releases from prison are available.

- 95 percent of current arrest records identify felonies.

The audit provides a BJA report card on Illinois' progress toward compliance with these federal standards (Table 1).

Background

ISP administers the state central repository for CHRI by compiling, maintaining, and disseminating the records. Criminal history records, commonly referred as "rap sheets", are a chronological compilation of arrest charges, state's attorney and court dispositions, sentences, and incarceration status of an individual who commits a felony or class A and B misdemeanor in Illinois, and the information is supported by fingerprint identification of the subject. CHRI is reported to ISP by criminal justice agencies responsible for processing individuals through the criminal justice system in accordance with the reporting requirements

Table 1
Bureau of Justice Assistance report card on CHRI in Illinois

BJA Standard	Illinois results
Timeliness of mailed CCH submissions, 2001	
ISP must post all felony arrests within 30 days of receipt to CCH.	Posted within 30 days: 7% Posted within 31-60 days: 61%
ISP must post all non-felony CHRI within 90 days of receipt.	Arrest posted: 73% State's attorney posted: 41% Court disposition posted: 10% Custodial status posted: 87%
Local agencies must report all fingerprint submissions to ISP within 24 hours of arrest.	Submitted within four days: 26% Submitted within five to 10 days: 39% Submitted after 10 days: 35%
Completeness of CCH records created between 1994 and 1998	
Disposition and incarceration information in 90 percent of felony arrests must be posted.	State's attorney posted: 85% Court disposition posted: 74% Custodial status posted: 97%
Dispositions in 95 percent of current felony records must be posted.	74%
CHRI on 95 percent of current sentences to and releases from prison must be available.	Custodial status: 97%
90 percent of felonies must be flagged with a felony convictions status indicator in the database.	Conviction status indicator other than "Pending or Unknown": 79%
Other CCH database improvements	
Automate all CHRI, including master fingerprint cards.	Master fingerprint cards transformed into an automated form: 100%
Automate all new CHRI files.	New files maintained in an automated form: 100%

set forth in the Criminal Identification Act [20ILCS2630].

CHRI is collected, maintained, and disseminated via the Computerized Criminal History (CCH) database system. CCH is a sophisticated system interfaced with the Integrated Automated Fingerprint Identification System, a database that stores the fingerprints in a

digital format. An estimated 3.5 million records are stored in what is the fifth-largest CHRI database in the country.

CHRI is critical data used at every stage of the criminal justice system to assist arresting agencies, prosecutors, the judiciary, and correctional officials making charging, bail, pretrial release, sentencing, and custo-

Table 2
CCH records complete according to BJA criterion, by region

Records complete	Chicago	Cook	Collar	Urban	Rural	Other	Total
Yes	387	243	80	404	204	16	1,334
	61%	71%	79%	75%	76%	80%	70%
No	243	98	21	135	64	4	565
	39%	29%	21%	25%	24%	20%	30%
Total	630	341	101	539	268	20	1,899
	100%	100%	100%	100%	100%	100%	100%

Table 3
CCH records complete according to the Illinois Statute criterion, by region*

Records complete	Chicago	Cook	Collar	Urban	Rural	Other	Total
Yes	385	242	75	272	133	10	1,117
	61%	71%	74%	51%	50%	50%	59%
No	245	99	26	267	135	10	728
	39%	29%	26%	49%	50%	50%	38%
Total	630	341	101	539	268	20	1,899
	100%	100%	100%	100%	100%	100%	100%

*BJA standards require that 95 percent of current felony arrest records contain disposition information if a disposition has been reached. Illinois law requires that state's attorneys must report *all* decisions (charges filed, added, and modified), not just declinations.

dial decisions. In addition to traditional criminal justice usage of records, Illinois allows public access to conviction information which may be used for background checks for employment, licensing, and purchasing firearms in accordance with the Uniform Conviction Information Act (UCIA) [20 ILCS 2635].

CHRI audits provide a point of reference to assess future improvements to the Illinois criminal history record program. The 2003 audit examined the technological progress and quality of CHRI reporting and served as a follow-up to the 1993-1994 statewide audit.

Methodology

To measure the quality of CHRI records, auditors assessed the accuracy, completeness, and timeliness of

CHRI submissions by using the same reverse audit methodology used in the 1995 audit. Auditors collected a statewide representative sample of 2,072 arrests from 50 randomly selected criminal justice agencies for the reporting period of 1994-1998. The final audit sample included 1,640 cases (79 percent) from police agencies, 412 cases (20 percent) from county sheriff's offices, and 20 cases (1 percent) from Illinois State Police units.

Completeness

The completeness of records is defined as having all expected state's attorney, court, and custodial dispositions associated with the arrest appear on the rap sheet. Overall 59 percent of the CCH records audited had complete CHRI information. Arrest events had a

high percentage (92 percent) posted to CCH, but the percentages decreased for state's attorney's dispositions (74 percent). *Warrant arrests* and state's attorney's *direct filing* decisions were major factors associated with incomplete criminal history records.

Warrant arrest

Audit findings indicated warrant arrests accounted for 40 percent of all arrests not found on CCH. Auditors noted a lack of clear direction among local agencies as to the appropriate method of reporting warrant arrests when multiple arresting agencies are involved. When an arrest warrant is served by an agency other than the issuing agency, the state's attorney and court disposition forms used to submit information to the state police must be forwarded to the appropriate jurisdiction responsible for reporting the event. If the state's attorney and court disposition forms are not forwarded, the submission may remain in a pending status, preventing the CHRI user from examining it in its entirety.

Direct filing

The state's attorney is required to report disposition information indicating if the charges were filed, not filed, and/or if any charge information was added, dismissed, or modified subsequent to the filing of a case. Direct filing is an intentional and systematic exclusion of the state's attorney's office (with prior written approval from the state's attorney's office) in the CHRI form routing process that occurs when arresting agencies file charges directly with the circuit court clerks. In accordance with the Criminal Identification Act (20 ILCS 2630), ISP posts dispositions to CCH based on direct filings.

One of the 2003 audit findings indicated 43 percent of the CCH records with "direct file" state's attorney decisions did not have corresponding court dispositions posted. Also, utilizing direct file, any charge modifications, such as a state's attorney's decision not to file, will not be reflected on the record, resulting in

the case remaining in an open status when, in reality, no prosecution of a particular charge was initiated. The audit found state's attorney's dispositions indicating any charge modifications were only on cases from counties where the "direct file" option is not used.

ISP can increase the percentage of complete criminal history records further by monitoring the submissions of warrant arrests and direct file cases. Education of local agencies as to the policies and procedures for CCH database submission of warrant arrest cases will reduce the number of incomplete events. Counties practicing the direct filing of arrest charges may benefit from periodic training on their responsibility to report any charge modifications that may occur before final court disposition.

Nearly three-quarters of all mailed arrest submissions were posted to CCH within 90 days, an improvement over the level of compliance observed in the 1995 audit. Custodial submissions achieved the highest timely posting rate of 87 percent.

Accuracy

CHRI accuracy was determined by comparing information reported by agencies in the arrest data fields (on a 5-part card) to the information posted by ISP on the CCH. Two arrest data fields had high rates of incomplete information: *class of offense field* (33 percent) and *offense citation field* (13 percent).

Class of offense

The statutory class of an arrest charge is a data element indicating the severity of the offense. Without the statutory class, the CHRI user may not be able to determine whether the charge is classified as a felony or misdemeanor. During the audit period, 1994-1998, the *class of offense fields* were examined for felony cases (Class M, X, 1, 2, 3, and 4) and Class A and B misdemeanor offenses reportable to ISP.

Closer examination revealed that 152 out of 160 discrepant arrest cases had a valid class of offense reported by the local agency and recorded on the 5-part card. However, during CCH processing by ISP, the offense class was changed to a "Z", meaning unknown. It appeared that automated charge tables used in CCH processing were substituting generic offense class values for the ones actually recorded in the 5-part

Table 4
Timeliness of mailed arrest records reporting to Illinois State Police

	2003 Audit cases	2003 Audit percentages	1995 Audit percentages
Within 4 days	541	24%	26%
5-10 days	924	41%	39%
11-20 days	443	19%	16%
21-30 days	97	4%	9%
31 days or more	276	12%	8%
Total	2,281	100%	98%*

*Percentages do not equal 100 percent due to rounding.

cards. The “Z” designation makes it difficult for a CHRI user to determine if the offense is a felony or misdemeanor, especially when viewing offenses such as theft and drug charge statutes that have numerous possible offense classes.

Offense citations

A majority (87 percent) of the cases audited matched entries posted on CCH. In the other 13 percent of cases, the data conflicted between the reporting agency and the CCH entry. Factors causing the error rate included criminal justice agencies incorrectly reporting the citation, and ISP data processing edits. It is critical for agencies to not only correctly identify the appropriate citation but also accurately indicate the full citation on the reporting form. Failure to separate citation subsections using parentheses or dashes can result in incorrect posting of the intended arrest charge.

Timeliness

The auditors also examined criminal justice agencies’ reporting compliance with statutory reporting timeframes of the 5-part arrest fingerprint card submissions. CHRI fingerprint-based submissions (arrest and custodial intake events) are required to be reported daily to ISP. State’s attorney, court, and custodial status changes are required to be reported within 30 days of the event date. Audit staff recorded mailed submissions that arrived at the ISP during two three-day cycles and then followed-up on these reporting

events 60 and 90 days later to determine whether they had been posted to the CCH system.

The timeliness audit consisted of 2,381 arrest events, 1,327 state’s attorney dispositions, 896 court dispositions, and 140 custodial dispositions. Nearly three-quarters of all mailed arrest submissions were posted to CCH within 90 days, an improvement over the level of compliance observed in the 1995 audit (Table 4). Custodial submissions achieved the highest timely posting rate of 87 percent, followed by state’s attorney submission (41 percent) and court disposition events (10 percent).

Timeliness of CHRI reporting and posting may be increased through the continued use of electronic submissions by local agencies. ISP can facilitate this by refocusing field training initiatives to include a quality check procedure, such as a performance audit, on local agency submissions. These activities should reflect technological advances, including electronically integrated reporting, and should enhance efforts toward uniform reporting across disparate local agency reporting policies and procedures.

Conviction status indicator

The *conviction status indicator* is a data element indicating the most serious conviction noted on an individual’s rapsheet. Only “Felony Conviction,” “Misdemeanor Conviction,” “No Conviction,” or “Pending/Unknown” status options will appear on the rapsheet.

This information reflects the cumulative conviction status of Illinois cases, as well as all cases for that individual reported from 41 participating states in the Interstate Identification Index. Maintained by the FBI, the Interstate Identification Index is an electronic information system that flags other state repositories maintaining criminal history information on individuals arrested for felonies or serious misdemeanors.

The audit task was to verify that the CCH records contained a conviction status value, and to determine whether the conviction status values accurately reflected subsequent events added to the record. The conviction status value was examined on 1,899 cases. During the initial analysis, “Felony Conviction” indicators were labeled on 1,295 cases (68 percent), “Misdemeanor Conviction” indicators were labeled on 178 cases (9 percent), “No Conviction” indicators were labeled on 22 cases, (2 percent), and “Pending and Unknown” indicators were labeled on 404 cases (21 percent).

In the final analysis, records indicating a “Misdemeanor Conviction” status or “Pending/Unknown” status in the initial sample were re-examined a year later to note any changes in the conviction status indicator. When re-examined, 154 of the 178 records assigned a “Misdemeanor Conviction” status, remained the same, however, 23 of these cases (10 percent) were changed to a “Pending or Unknown” status. From the 404 records assigned a “Pending or Unknown” status, 77 percent remained unchanged. A “Pending or

Unknown” status can result from missing class offense information, CHRI events not being reported to ISP, or CCH programming problems.

ISP can further clarify the conviction status indicator for CHRI users by using an indicator to reflect whether the status is based on an Illinois or an out-of-state conviction. This will alleviate confusion that may arise when the conviction status indicator does not match the convictions listed on the Illinois rapsheet.

Conclusion

Because of its direct impact on the daily operations of the criminal justice system, CHRI should reflect complete, accurate, and timely reporting of criminal justice events. Illinois has been implementing CHRI improvement initiatives that include regular audits by the Illinois Criminal Justice Information Authority. The audits aim to identify reporting problems and make recommendations for continuous improvement of the integrity of CHRI records. Based in part on audit recommendations, ISP has made substantial modifications and technological improvements across many aspects of the CHRI system. However, the need remains for greater communication and collaboration between ISP and the reporting agencies, which will improve the quality and timeliness in future CHRI reporting.



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Research Bulletin

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Criminal history record series

Sharing criminal history record information: the Interstate Identification Index

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and Christine Devitt, ICJIA Research Analyst

FBI officials have estimated that two-thirds of arrest subjects nationwide have prior criminal records, and further, that 25 to 30 percent of state and federal offenders are “multi-state” offenders, meaning they have both federal and state records or records in more than one state.¹ Not only is interstate criminal history record information (CHRI) necessary for the administration of justice, federal

As of March 2003, there were 45 state repositories providing access to approximately 48 million automated criminal history records.

law now requires it when determining eligibility for handgun purchases, certain sensitive employment positions, and many professional licenses.²

The FBI is charged with the responsibility of preserving identification and criminal records and has maintained duplicate criminal history records routinely submitted by the states — for felony and

serious misdemeanor offenses — on a voluntary basis since 1924.³ In the early 1980's, the FBI began the *Interstate Identification Index* (commonly called the “triple I”), an electronic index of names and personal identification information of arrested persons that allows federal, state, and local criminal justice agencies to conduct interstate criminal records searches directly, and gain almost immediate access to those records. This *Research Bulletin* provides an overview of the Interstate Identification Index, and also highlights Illinois' participation in this system for the last decade.

Access to criminal history records in other states

Illinois became the twenty-fifth state to participate in the Interstate Identification Index on August 8, 1993.⁴ By the end of 1993, there were 26 states providing



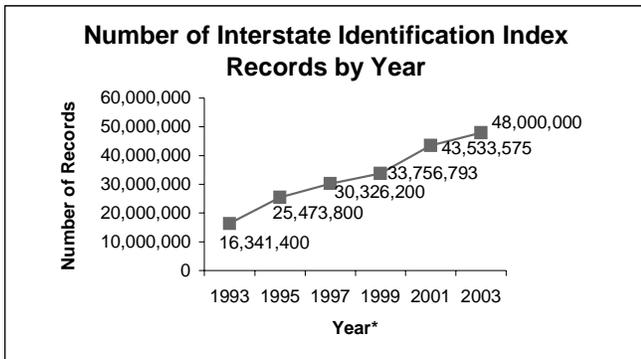
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*1993, 1995, 1997 and 2003 data are based upon estimates.⁷
 For year 1999 and 2001, the data was provided from "Survey of State Criminal History Information Systems, 1999" and "Use and Management of Criminal History Information: A Comprehensive Report, 2001 Update" respectively.⁸

access to approximately 16,341,400 automated criminal history records.⁵ Of these records, approximately 12,449,700 (76 percent) were available directly from the participating state central CHRI repositories, while the remaining 3,891,700 records (24 percent) were available from the FBI. Since that time, the number of participants and available records has increased substantially. As of March 2003, there were 45 state repositories providing access to approximately 48 million automated criminal history records.⁶ The addition of 19 states to the Interstate Identification Index has increased the percentage of available interstate criminal history records by approximately 194 percent.

Current uses for the Interstate Identification Index information

Access to the Interstate Identification Index provides authorized users with criminal history information for a variety of purposes. At this time, the Interstate Identification Index is limited to authorized criminal justice purposes.⁹ This is due to the fact that all states allow virtually unrestricted access to criminal history records for criminal justice users, while state laws governing access to criminal history records for civil purposes (such as hiring in schools and day care facilities) are not standardized with regard to the types of information that can be collected or released. Thus, to avoid legal liability issues, the Interstate Identifica-

tion Index is not used for civil inquiries in Illinois.¹⁰ The following list provides categories of agencies and the purpose for which they are allowed access to criminal history records nationwide via the Interstate Identification Index, as specified in the Privacy Act of 1974:¹¹

- **Criminal justice agencies.** The Interstate Identification Index is used for official duties in connection with the administration of criminal justice for both federal and state criminal justice agencies.
- **Criminal justice employment.** Federal and state criminal justice agencies also access the Interstate Identification Index to inquire about the criminal history record information of those individuals applying for employment with a criminal justice agency.
- **Interstate-approved non-criminal justice agencies.** The Interstate Identification Index is used by approved federal, state, and local governmental agencies for non-criminal justice employment and/or licensing.¹²
- **Weapons-related checks.** The Interstate Identification Index is one of three FBI maintained national databases that is used to determine the eligibility of potential firearm purchasers under the National Instant Criminal Background Check System.¹³
- **Domestic violence and stalking.**¹⁴ The Interstate Identification Index is used by civil or criminal courts in domestic violence or stalking cases. Civil courts are only allowed access to criminal history record information for domestic violence and stalking information, they are not allowed to access record information for any other purpose.
- **Housing agencies.** The Interstate Identification Index is used under the authority of the Housing Opportunity Program Extension Act of 1996.¹⁵ The agencies within this category are only allowed to make an inquiry to determine the existence of a record.
- **Administrative file maintenance.** An authorized participating state agency can generate an Interstate Identification Index record for internal review. Responses are limited to the inquiring state's portion of

the record maintained by the FBI and may not be disseminated for any other reason.

► **National security.** The Interstate Identification Index is used by agencies authorized under the authority of the Security Clearance Information Act¹⁶ in the investigation of individuals that have access to classified information or assignment in sensitive national security duties.

► **Visa applicants.** The Interstate Identification Index is used by the U.S. Department of State for the purpose of determining eligibility for visa applications. The U.S. Department of State is only allowed to make an inquiry to determine the existence of a record.

How the Interstate Identification Index works¹⁷

The Interstate Identification Index utilizes an “index-pointer” system that guides a request for criminal history record information, based on name and personal identifying information, to the computerized files of the FBI and to one or more state repositories, called “participating states,” from which the record or records of a specific individual may be obtained. The FBI maintains computerized criminal history record information for individuals arrested by a federal agency, arrest information voluntarily sent from states not participating in the Interstate Identification Index program, and any arrest information that Interstate Identification Index participating states are unable to provide. Participating states provide computerized criminal history record information from their own state repository upon the receipt of a notification for request from the Interstate Identification Index computer.

Local and state criminal justice agencies in Illinois begin an inquiry for criminal history record information via the Interstate Identification Index by submitting the name and relevant personal identifiers — such as gender, date of birth, social security number, assigned FBI number, or State Identification (SID) number — to the state central repository maintained by the Illinois State Police (ISP), by means of the state telecommunications network. (For more information about the creation of a criminal history record in Illinois, see the box.) The state repository then forwards the initial inquiry to the Interstate Identification Index computer through the FBI’s National Crime

Information Center (NCIC) network, a national information system that uses computers and telecommunication technology for the exchange and sharing of criminal justice information among federal, state, and local agencies. The Interstate Identification Index system will then search the records made available by the FBI and participating state agencies to determine the existence of a criminal record matching the inquiry.

A response is received back by means of the NCIC network — the Law Enforcement Agencies Data System (LEADS) in Illinois — and is seen as an entry on the LEADS terminal. In cases where an officer in the field without a mobile data terminal has requested the information, the radio dispatcher will typically

Creating an individual criminal history record in Illinois

When an individual is taken into custody, the arresting agency captures the arrest charge(s), fingerprints, and personal identifiers of the individual. As mandated by the Criminal Identification Act (20 ILCS 2630/0.01 et seq.):

- All arresting agencies are required to submit felony and class A and B misdemeanor arrest fingerprint cards to the state central repository of CHRI – the Illinois State Police (ISP) – within 24 hours of the arrest event;
- State’s Attorneys are mandated to report dispositions (i.e., charges filed or not filed) within 30 days of the decision;
- Court dispositions are mandated to be reported within 30 days of the decision; and
- Custodial dispositions are mandated to be reported within 30 days of the decision.

As ISP receives arrest, disposition, and custodial submissions, the information is systematically entered into the Illinois’ Computerized Criminal History (CCH) database. The CCH database is a large computer system that facilitates the entry and retrieval of CHRI so that the submitted information can be shared with authorized users of the information. Most importantly, the CCH database creates a criminal *history* record (commonly called a rapsheet), which links together any and all arrests, prosecution filing decisions, circuit clerk dispositions, and custodial dispositions for a specific individual, by means of fingerprints and unique identifying numbers, so that the information can be made available for further criminal justice decision-making purposes.

make the request via LEADS and communicate the response back to the officer over police channels. A positive response can mean one of three things. First, a positive response can indicate that both the FBI and one or more state repositories maintain the criminal history record information on the individual. Second, a positive response can indicate that only the FBI maintains the criminal history record information. Finally, a positive response can indicate that only one or more state repositories maintain the criminal history record information.

Any positive Interstate Identification Index response will provide the inquirer with five types of information. The response will contain additional identifying information – such as aliases, additional dates of birth, height, weight, race, fingerprint and/or pattern of classification, and tattoos — to associate the criminal history record with the individual in question. The response will also include the location of the database(s) maintaining the criminal history record information (via FBI number and/or SID); the means to be used for obtaining the record(s); registered sex offender information,¹⁸ when applicable; and firearm purchase disqualifying information,¹⁹ when applicable.

After determining the existence of an Interstate Identification Indexed record, a request for the actual criminal history record transcript can be made. To obtain a specific criminal history record via the Interstate Identification Index, a request must contain either the FBI number or SID obtained during the initial inquiry process or from other sources available to the inquiring agency, such as the local investigative file. Requests made via the Interstate Identification Index generate an automatic notification message to the record holders — the FBI or one or more state repositories — along with sufficient information enabling each holder to respond to the request. If the FBI maintains the criminal history record alone, the

The Interstate Identification Index is predominantly a name-based, descriptor system, designed originally to provide law enforcement officers in the field a “quick and dirty” mechanism for determining suspects’ identity in situations where no fingerprint or positive identification alternatives are available.

requested record will be automatically returned online via the NCIC network to the inquiring agency.

If the record is maintained by one or more states participating in the Interstate Identification Index record exchange, the state or states will respond to the request via the National Law Enforcement Telecommunications System (NLETS).²⁰ This requested record will be sent either immediately or an acknowledgement will be sent via NLETS with a notice of when the record will be provided. In cases where both the FBI and at least one participating state hold

a specific criminal history record, the requesting agency will receive multiple online responses. Here the FBI will furnish the federal and/or nonparticipating state criminal history record information *and* any participating states will furnish criminal record information they hold on a requested individual.

The entire process, from the initial inquiry to the request and receipt of criminal history record information, takes less than a minute. This is despite the fact that the entire NCIC network (of which the Interstate Identification Index is but one of 17 components) averaged 2.8 million transactions per day in 2002.²¹ Before the advent of computerized CHRI systems, FBI responses sent through the mail could take as long as two weeks to be received by the inquiring agency.²²

Name-based search

The Interstate Identification Index is predominantly a name-based, descriptor system, designed originally to provide law enforcement officers in the field a “quick and dirty” mechanism for determining suspects’ identity in situations where no fingerprint or positive identification alternatives are available.²³ For criminal justice purposes, this name-based approach is based on the understanding that law enforcement officers have the training and experience to correctly evaluate whether the suspect in question and the subject of the

criminal history record notification received through an Interstate Identification Index inquiry are one and the same.²⁴ To further minimize the many “false negatives” (in which a criminal is not identified) and “false positives” (in which an individual without a criminal record is incorrectly identified as having one) that may occur, upgrades were made to the entire NCIC system in 1999. These include enhanced name search software, which will return phonetically similar names and derivations of common names (such as William, Willie, Bill), as well as improved matches on the date of birth. The new system will allow the year of birth to fall within three years of the given date, if the month and day match exactly.²⁵ Illinois is currently working to upgrade the state’s telecommunications system to establish a link with the enhanced NCIC system to take advantage of these new features.

For uses of the Interstate Identification Index other than “in the field,” positive verification of identification, based on the SID number, or alternately, the FBI number, (which are each linked to the individual’s fingerprints) is critical. The SID and the FBI number are requested in the initial search for an offender’s criminal history record and are required in the process of requesting a specific criminal history record transcript from one or more state repository. Local agencies are encouraged to maintain SIDs of apprehended individuals in order to have that information more readily available for Interstate Identification Index searches. The 2003 Audit conducted by the Illinois Criminal Justice Information Authority (ICJIA) revealed that the SID was missing from 21 percent of arrest cards audited, an indication that this key identifier may not be readily available to local agencies.

Interstate criminal history record information on Illinois rapsheets

The criminal history information provided by the other 44 participating states have another, direct impact on the information contained within Illinois criminal history record transcripts (commonly called rapsheets). While details of arrests and convictions in other states do not appear on the rapsheet, that information is used to determine whether, overall, the subject is a convicted offender. Specifically, Illinois rapsheets include a section known as the Conviction

Key years in the FBI’s maintenance and sharing of criminal history record information

1924 – The FBI is mandated by 28 USC 534 to acquire, collect, classify, and preserve, among other things, identification and criminal records.

1967 – The FBI establishes the National Crime Information Center (NCIC) – a national information system that uses computers and telecommunication technology for the exchange and sharing of criminal justice information among federal, state, and local agencies. The NCIC made information about stolen vehicles, stolen license plates, stolen or missing firearms, other identifiable stolen articles, and wanted persons available to state and local agencies.

1971 – The FBI added the Computerized Criminal History (CCH) system, a centralized computer database of full criminal history records based upon the records voluntarily provided by federal, state, and local agencies, to the NCIC. State and local agencies now had instant access to criminal history records in addition to the original information provided by the NCIC.

1978 – Amid concerns about the feasibility, cost, and wisdom of establishing a national criminal history record system, the U.S. Department of Justice and state officials approve the concept of an Interstate Identification Index – a decentralized “index pointer” system that relies on the records provided by state repositories.

1980 – The FBI and selected states began phased testing and implementation of the Interstate Identification Index.

1983 – Interstate Identification Index is added to the NCIC, replacing the CCH system.

1993 – Illinois becomes the twenty-fifth state to participate in the Interstate Identification Index on August 8 of this year.

1998 – The National Crime Prevention and Privacy Compact was signed into law (Public Law 105-251) in an effort to alleviate the varied and conflicting state and federal rules for the exchange of criminal history records for non-criminal justice purposes.

1999 – The FBI completes a major upgrade to the entire NCIC information system developed in 1967. The new NCIC 2000 contains expanded information services and enhanced search capabilities.

Status Indicator (Indicator), created in response to certain federal initiatives such as the Brady Handgun Violence Prevention Act,²⁶ to enable authorized users to quickly identify individuals with prior convictions.

Using the individual's FBI or SID number to link the information from the Interstate Identification Index to any existing Illinois record, the Indicator on the Illinois rapsheet is updated to reflect one of four values:

- 1) Felony Conviction;
- 2) Misdemeanor Conviction;
- 3) No Conviction; or
- 4) "Pending or Unknown" (for records where disposition information on the current and/or previous offense has not been included on the rapsheet as yet).

In this way, the Indicator found on Illinois rapsheets is not limited to conviction information from Illinois alone, but can be from any of the Interstate Identification Index participating states, as well. Details of the actual conviction that occurred in another state, or in federal court, will not be seen, but the Indicator will at least alert the transcript user that the subject has been previously convicted in some criminal matter.

Summary

The Interstate Identification Index provides the criminal justice community in Illinois with almost instant access to a wealth of criminal history record information from across the nation, for a wide range of public safety purposes. Over the decade of its participation in the Interstate Identification Index program, Illinois has experienced a substantial increase in the number of interstate records available for criminal justice decision-making in the state, including the availability of interstate information for indicating conviction status on state criminal history transcripts.

NOTES

¹ Bureau of Justice Statistics. (December 2001). *Use and Management of Criminal History Record Information: A Comprehensive Report, 2001 Update*. Washington, DC: U.S. Department of Justice, 73.

² The Brady Handgun Violence Prevention Act (Public Law 103-159), The National Child Protection Act of 1993 (Public Law 103-129).

³ Under Title 28, United States Code, Section 534, the FBI is required to acquire, collect, classify, and preserve, among other things, identification and criminal records. More information about the history of the FBI's development of an Identification Division is available at <http://www.fbi.gov/libref/historic/history/lawless.htm>.

⁴ In order for a state to become an Interstate Identification Index participant, the state and specifically its repository must meet minimum standards of participation including, but not limited to, fingerprint identification matters, record content and maintenance, record response, and accountability. More information about the minimum standards of participation can be found in Federal Bureau of Investigation. (1 August 1994). *Interstate Identification Index Program Operational and Technical Manual*. Washington DC: U.S. Department of Justice.

⁵ Bureau of Justice Statistics. (1994). *Survey of Criminal History Information Systems, 1994 with Supplementary Information on Presale Firearm Checks, 1994*. Washington DC: U.S. Department of Justice.

⁶ SEARCH, The National Consortium for Justice Information and Statistics. (Accessed 16 April 2003). *Interstate Identification Index*. Available at <http://www.search.org/policy/iii/interstate.asp>.

⁷ 1993 data provided from: Bureau of Justice Statistics, *Survey of State Criminal History Information Systems, 1993 with Supplementary Information on Presale Firearm Checks, 1994*. 1995 data provided from: Bureau of Justice Statistics. (1997). *Survey of State Criminal History Information Systems, 1995*. Washington, DC: U.S. Department of Justice. 1997 data provided from: Bureau of Justice Statistics. (April 1999). *Survey of State Criminal History Information Systems, 1997*. Washington, DC: U.S. Department of Justice. 2003 data provided from: SEARCH, The National Consortium for Justice Information and Statistics, *Interstate Identification Index*.

⁸ 1999 data provided from: Bureau of Justice Statistics. (August 2000). *Survey of State Criminal History Information Systems, 1999*. Washington, DC: U.S. Department of Justice. 2001 data provided from: Bureau of Justice Statistics, *Use and Management of Criminal History Record Information: A Comprehensive Report, 2001 Update*.

⁹ National Conference of State Legislatures. (Accessed 25 April 2003). *The Questions About Criminal Background Checks*. Available at <http://www.ncsl.org/programs/pubs/599crime.htm>.

¹⁰ The exception to this are those states that have ratified participation in the civil access program of the Interstate Identification Index, known as the National Crime Prevention and Privacy Compact (Compact). To date, sixteen states have ratified the Compact, they include: Montana, Georgia, Nevada, Florida, Colorado, Iowa, Connecticut, South Carolina, Arkansas, Kansas, Alaska, Oklahoma, Maine, New Jersey, Minnesota, and Arizona. SEARCH, The National Consortium for Justice Information and Statistics. (Accessed 05 May 2003). *National Crime Prevention and Privacy Compact*. Available at <http://www.search.org/policy/compact/privacy.asp>.

¹¹ Federal Bureau of Investigation. (December 1999). *National Crime Information Center 2000 Operating Manual*. Washington DC: U.S. Department of Justice. Available at <http://www.state.oh.us/ohiostatepatrol/office/otis/WELCOME.pdf>.

¹² The National Child Protection Act of 1993 (Public Law 103-209) mandated background checks to ensure that individuals caring for children, elders, and the disabled do not have disqualifying criminal histories. As discussed (see section entitled “Current Uses for the Interstate Identification Index”), the exchange of criminal history record information for non-criminal justice purposes is currently not available via the Interstate Identification Index. The National Crime Prevention and Privacy Compact has been established as a means to facilitate such an exchange of criminal history record information.

¹³ The Brady Handgun Violence Prevention Act (Public Law 103-159). The passage of the Act provided for the

establishment of the National Instant Criminal Background Check System (NICS), which is a system used to determine the eligibility of potential firearm purchasers. The NICS utilizes three FBI maintained national databases: The Interstate Identification Index, the National Crime Information Center (NCIC) 2000, and the NICS Index. More information about the NICS is available at <http://www.fbi.gov/hq/cjisd/nics.htm> and Statement for the Record of Laurie E. Ekstrand, Director Administration of Justice Issues, United States General Accounting Office, on Improving the National Instant Criminal Background Check System, 21 June 2000. Available at www.gao.gov/new.items/gg00163t.pdf.

¹⁴ The Violent Crime Control and Law Enforcement Act of 1994 (Public Law 103-322) mandated states to improve access to protection orders and records of individuals wanted for stalking and domestic violence, which are disqualifying conditions for handgun purchases.

¹⁵ Public Law 104-120.

¹⁶ 5 U.S.C. 9101.

¹⁷ Information provided from: Bureau of Justice Statistics, *Use and Management of Criminal History Record Information: A Comprehensive Report, 2001 Update*; and Federal Bureau of Investigation, *National Crime Information Center 2000 Operating Manual*.

¹⁸ The Jacob Wetterling Crimes Against Children and Sexually Violent Offender Registration Act (42 USC 14071), The Pam Lyncher Sexual Offender Tracking and Identification Act of 1996 (42 USC 14072), and the Federal version of “Megan’s Law,” enacted in 1996 to amend the Violent Crime Control and Law Enforcement Act of 1994 (Public Law 104-145) are the mandated directives to develop or improve sex offender registries and to contribute data to a national sex offender registry.

¹⁹ Brady Handgun Violence Prevention Act, Public Law 103-159.

²⁰ The National Law Enforcement Telecommunications System (NLETS) is a high-speed message switching or

routing computer system for the criminal justice community. States are not limited to replying solely through NLETS. States can also respond to requests by mail or telephone in cases, for example, where an inquiring agency desires only a portion of a full criminal history record or in situations that lack time constraints.

²¹ FBI Press Release 2002 – New Record for National Crime Center Transactions, 23 March 2002. Available at <http://www.fbi.gov/perssrel/pressrel02/ncic032302.htm>.

²² United States Congress, Office of Technology Assessment. (December 1978). *A Preliminary Assessment of the National Crime Information Center and the Computerized Criminal History System*. Washington, DC: U.S. Congress. Available at <http://>

www.wws.princeton.edu/cgi-bin/byteserv.prl/~ota/disk3/1978/7814/7814.PDF.

²³ Statement for the Record of David R. Loesch, Assistant Director in Charge of Criminal Justice Information Services Division, Federal Bureau of Investigation, on Crime Regarding HR 3410 and Name Check Efficacy, 18 May 2000. Available at <http://www.fbi.gov/congress/congress00/loesch.htm>

²⁴ Ibid.

²⁵ Technology Talk, Police Chief, April 1998; CJIS Division Homepage, NCIC

²⁶ Brady Handgun Violence Prevention Act, Public Law 103-159.



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Criminal Identification Act

20 ILCS 2630/

2630/0.01. Short title

§ 0.01. Short title. This Act may be cited as the Criminal Identification Act.

2630/1. Powers of Department; employees or assistants

§ 1. The Department of State Police hereinafter referred to as the "Department", is hereby empowered to cope with the task of criminal identification and investigation.

The Director of the Department of State Police shall, from time to time, appoint such employees or assistants as may be necessary to carry out this work. Employees or assistants so appointed shall receive salaries subject to the standard pay plan provided for in the "Personnel Code", approved July 18, 1955, as amended.

2630/2. Records of convicted persons

§ 2. The Department shall procure and file for record, as far as can be procured from any source, photographs, all plates, outline pictures, measurements, descriptions and information of all persons who have been arrested on a charge of violation of a penal statute of this State and such other information as is necessary and helpful to plan programs of crime prevention, law enforcement and criminal justice, and aid in the furtherance of those programs.

2630/2.1. Arrest, charge, disposition, fingerprint and corrections information; notice

§ 2.1. For the purpose of maintaining complete and accurate criminal records of the Department of State Police, it is necessary for all policing bodies of this State, the clerk of the circuit court, the Illinois Department of Corrections, the sheriff of each county, and State's Attorney of each county to submit certain criminal arrest, charge, and disposition information to the Department for filing at the earliest time possible. Unless otherwise noted herein, it shall be the duty of all policing bodies of this State, the clerk of the circuit court, the Illinois Department

of Corrections, the sheriff of each county, and the State's Attorney of each county to report such information as provided in this Section, both in the form and manner required by the Department and within 30 days of the criminal history event. Specifically:

(a) Arrest Information. All agencies making arrests for offenses which are required by statute to be collected, maintained or disseminated by the Department of State Police shall be responsible for furnishing daily to the Department fingerprints, charges and descriptions of all persons who are arrested for such offenses. All such agencies shall also notify the Department of all decisions by the arresting agency not to refer such arrests for prosecution. With approval of the Department, an agency making such arrests may enter into arrangements with other agencies for the purpose of furnishing daily such fingerprints, charges and descriptions to the Department upon its behalf.

(b) Charge Information. The State's Attorney of each county shall notify the Department of all charges filed and all petitions filed alleging that a minor is delinquent, including all those added subsequent to the filing of a case, and whether charges were not filed in cases for which the Department has received information required to be reported pursuant to paragraph (a) of this Section. With approval of the Department, the State's Attorney may enter into arrangements with other agencies for the purpose of furnishing the information required by this subsection (b) to the Department upon the State's Attorney's behalf.

(c) Disposition Information. The clerk of the circuit court of each county shall furnish the Department, in the form and manner required by the Supreme Court, with all final dispositions of cases for which the Department has received information required to be reported pursuant to paragraph (a) or (d) of this Section. Such information shall include, for each charge, all (1) judgments of not guilty, judgments of guilty including the sentence pronounced by the court, findings that a minor is delinquent and any sentence made based on those findings, discharges and dismissals in the court; (2) reviewing court orders filed with the clerk of the circuit court which reverse or remand a reported conviction or findings

that a minor is delinquent or that vacate or modify a sentence or sentence made following a trial that a minor is delinquent; (3) continuances to a date certain in furtherance of an order of supervision granted under Section 5-6-1 of the Unified Code of Corrections or an order of probation granted under Section 10 of the Cannabis Control Act, Section 410 of the Illinois Controlled Substances Act, Section 12-4.3 of the Criminal Code of 1961, Section 10-102 of the Illinois Alcoholism and Other Drug Dependency Act, Section 40-10 of the Alcoholism and Other Drug Abuse and Dependency Act, or Section 10 of the Steroid Control Act, or Section 5-615 of the Juvenile Court Act of 1987; and (4) judgments or court orders terminating or revoking a sentence to or juvenile disposition of probation, supervision or conditional discharge and any resentencing or new court orders entered by a juvenile court relating to the disposition of a minor's case involving delinquency after such revocation.

(d) Fingerprints After Sentencing.

(1) After the court pronounces sentence, sentences a minor following a trial in which a minor was found to be delinquent or issues an order of supervision or an order of probation granted under Section 10 of the Cannabis Control Act, Section 410 of the Illinois Controlled Substances Act, Section 12-4.3 of the Criminal Code of 1961, Section 10-102 of the Illinois Alcoholism and Other Drug Dependency Act, Section 40-10 of the Alcoholism and Other Drug Abuse and Dependency Act, or Section 10 of the Steroid Control Act, or Section 5-615 of the Juvenile Court Act of 1987 for any offense which is required by statute to be collected, maintained, or disseminated by the Department of State Police, the State's Attorney of each county shall ask the court to order a law enforcement agency to fingerprint immediately all persons appearing before the court who have not previously been fingerprinted for the same case. The court shall so order the requested fingerprinting, if it determines that any such person has not previously been fingerprinted for the same case. The law enforcement agency shall submit such fingerprints to the Department daily.

(2) After the court pronounces sentence or makes a disposition of a case following a finding of delinquency for any offense which is not required by statute to be collected, maintained, or disseminated by the Department of State Police, the prosecuting attorney may ask the court to order a law enforcement agency to fingerprint

immediately all persons appearing before the court who have not previously been fingerprinted for the same case. The court may so order the requested fingerprinting, if it determines that any so sentenced person has not previously been fingerprinted for the same case. The law enforcement agency may retain such fingerprints in its files.

(e) Corrections Information. The Illinois Department of Corrections and the sheriff of each county shall furnish the Department with all information concerning the receipt, escape, execution, death, release, pardon, parole, commutation of sentence, granting of executive clemency or discharge of an individual who has been sentenced or committed to the agency's custody for any offenses which are mandated by statute to be collected, maintained or disseminated by the Department of State Police. For an individual who has been charged with any such offense and who escapes from custody or dies while in custody, all information concerning the receipt and escape or death, whichever is appropriate, shall also be so furnished to the Department.

2630/3. Information to be furnished peace officers and commanding officers of certain military installations in Illinois

§ 3. Information to be furnished peace officers and commanding officers of certain military installations in Illinois.

(A) The Department shall file or cause to be filed all plates, photographs, outline pictures, measurements, descriptions and information which shall be received by it by virtue of its office and shall make a complete and systematic record and index of the same, providing thereby a method of convenient reference and comparison. The Department shall furnish, upon application, all information pertaining to the identification of any person or persons, a plate, photograph, outline picture, description, measurements, or any data of which there is a record in its office. Such information shall be furnished to peace officers of the United States, of other states or territories, of the Insular possessions of the United States, of foreign countries duly authorized to receive the same, to all peace officers of the State of Illinois, to investigators of the Illinois Law Enforcement Training Standards Board and, conviction information only, to units of local government, school districts and private organizations, under the provisions of Section 2605-10, 2605-15, 2605-75, 2605-100, 2605-105, 2605-110, 2605-115, 2605-120,

2605-130, 2605-140, 2605- 190, 2605-200, 2605-205, 2605-210, 2605-215, 2605-250, 2605-275, 2605-300, 2605-305, 2605-315, 2605-325, 2605-335, 2605-340, 2605-350, 2605-355, 2605-360, 2605-365, 2605-375, 2605-390, 2605-400, 2605-405, 2605-420, 2605-430, 2605-435, 2605-500, 2605-525, or 2605-550 of the Department of State Police Law (20 ILCS 2605/2605-10, 2605/2605-15, 2605/2605-75, 2605/2605-100, 2605/2605-105, 2605/2605-110, 2605/2605-115, 2605/2605-120, 2605/2605-130, 2605/2605-140, 2605/2605-190, 2605/2605-200, 2605/2605-205, 2605/2605-210, 2605/2605-215, 2605/2605-250, 2605/2605-275, 2605/2605-300, 2605/2605-305, 2605/2605-315, 2605/2605-325, 2605/2605-335, 2605/2605-340, 2605/2605-350, 2605/2605-355, 2605/2605-360, 2605/2605-365, 2605/2605-375, 2605/2605-390, 2605/2605-400, 2605/2605-405, 2605/2605-420, 2605/2605-430, 2605/2605-435, 2605/2605-500, 2605/2605-525, or 2605/2605-550). Applications shall be in writing and accompanied by a certificate, signed by the peace officer or chief administrative officer or his designee making such application, to the effect that the information applied for is necessary in the interest of and will be used solely in the due administration of the criminal laws or for the purpose of evaluating the qualifications and character of employees, prospective employees, volunteers, or prospective volunteers of units of local government, school districts, and private organizations.

For the purposes of this subsection, "chief administrative officer" is defined as follows:

- a) The city manager of a city or, if a city does not employ a city manager, the mayor of the city.
- b) The manager of a village or, if a village does not employ a manager, the president of the village.
- c) The chairman or president of a county board or, if a county has adopted the county executive form of government, the chief executive officer of the county.
- d) The president of the school board of a school district.
- e) The supervisor of a township.
- f) The official granted general administrative control of a special district, an authority, or organization of government establishment by law which may issue obligations and which either may levy a property tax or may expend funds of the district, authority, or organization independently of

any parent unit of government.

g) The executive officer granted general administrative control of a private organization defined in Section 2605-335 of the Department of State Police Law (20 ILCS 2605/2605-335).

(B) Upon written application and payment of fees authorized by this subsection, State agencies and units of local government, not including school districts, are authorized to submit fingerprints of employees, prospective employees and license applicants to the Department for the purpose of obtaining conviction information maintained by the Department and the Federal Bureau of Investigation about such persons. The Department shall submit such fingerprints to the Federal Bureau of Investigation on behalf of such agencies and units of local government. The Department shall charge an application fee, based on actual costs, for the dissemination of conviction information pursuant to this subsection. The Department is empowered to establish this fee and shall prescribe the form and manner for requesting and furnishing conviction information pursuant to this subsection.

(C) Upon payment of fees authorized by this subsection, the Department shall furnish to the commanding officer of a military installation in Illinois having an arms storage facility, upon written request of such commanding officer or his designee, and in the form and manner prescribed by the Department, all criminal history record information pertaining to any individual seeking access to such a storage facility, where such information is sought pursuant to a federally-mandated security or criminal history check.

The Department shall establish and charge a fee, not to exceed actual costs, for providing information pursuant to this subsection.

2630/3.1. Conviction records; registration and licensing of private detectives and security officers

§ 3.1. (a) The Department may furnish, pursuant to positive identification, records of convictions to the Department of Professional Regulation for the purpose of meeting registration or licensure requirements under The Private Detective, Private Alarm, Private Security, and Locksmith Act of 2004.

(b) The Department may furnish, pursuant to positive identification, records of convictions to policing

bodies of this State for the purpose of assisting local liquor control commissioners in carrying out their duty to refuse to issue licenses to persons specified in paragraphs (4), (5) and (6) of Section 6-2 of The Liquor Control Act of 1934.

(c) The Department shall charge an application fee, based on actual costs, for the dissemination of records pursuant to this Section. Fees received for the dissemination of records pursuant to this Section shall be deposited in the State Police Services Fund. The Department is empowered to establish this fee and to prescribe the form and manner for requesting and furnishing conviction information pursuant to this Section.

(d) Any dissemination of any information obtained pursuant to this Section to any person not specifically authorized hereby to receive or use it for the purpose for which it was disseminated shall constitute a violation of Section 7.

2630/3.2. Notification of treatment of firearm injury and injury sustained in commission of or received from criminal offense

§ 3.2. It is the duty of any person conducting or operating a medical facility, or any physician or nurse as soon as treatment permits to notify the local law enforcement agency of that jurisdiction upon the application for treatment of a person who is not accompanied by a law enforcement officer, when it reasonably appears that the person requesting treatment has received:

- (1) any injury resulting from the discharge of a firearm; or
- (2) any injury sustained in the commission of or as a victim of a criminal offense.

Any hospital, physician or nurse shall be forever held harmless from any civil liability for their reasonable compliance with the provisions of this Section.

2630/4. Systems of identification

§ 4. The Department may use the following systems of identification: The Bertillion system, the finger print system, and any system of measurement or identification that may be adopted by law or rule in the various penal institutions or bureaus of identification wherever located.

The Department shall make a record consisting of duplicates of all measurements, processes, operations, signalletic cards, plates, photographs, outline pictures, measurements, descriptions of and data relating to all persons confined in penal institutions wherever located, so far as the same are obtainable, in accordance with whatever system or systems may be found most efficient and practical.

2630/5. Arrest reports; expungement

§ 5. Arrest reports; expungement.

(a) All policing bodies of this State shall furnish to the Department, daily, in the form and detail the Department requires, fingerprints and descriptions of all persons who are arrested on charges of violating any penal statute of this State for offenses that are classified as felonies and Class A or B misdemeanors and of all minors of the age of 10 and over who have been arrested for an offense which would be a felony if committed by an adult, and may forward such fingerprints and descriptions for minors arrested for Class A or B misdemeanors. Moving or nonmoving traffic violations under the Illinois Vehicle Code shall not be reported except for violations of Chapter 4, Section 11-204.1, or Section 11-501 of that Code. In addition, conservation offenses, as defined in the Supreme Court Rule 501(c), that are classified as Class B misdemeanors shall not be reported.

Whenever an adult or minor prosecuted as an adult, not having previously been convicted of any criminal offense or municipal ordinance violation, charged with a violation of a municipal ordinance or a felony or misdemeanor, is acquitted or released without being convicted, whether the acquittal or release occurred before, on, or after the effective date of this amendatory Act of 1991, the Chief Judge of the circuit wherein the charge was brought, any judge of that circuit designated by the Chief Judge, or in counties of less than 3,000,000 inhabitants, the presiding trial judge at the defendant's trial may upon verified petition of the defendant order the record of arrest expunged from the official records of the arresting authority and the Department and order that the records of the clerk of the circuit court be sealed until further order of the court upon good cause shown and the name of the defendant obliterated on the official index required to be kept by the circuit court clerk under Section 16 of the Clerks of Courts Act, but the order shall not affect any index issued by the circuit court clerk before the entry of the order. The Department may charge the petitioner a fee equivalent to the cost of processing any order to

expunge or seal the records, and the fee shall be deposited into the State Police Services Fund. The records of those arrests, however, that result in a disposition of supervision for any offense shall not be expunged from the records of the arresting authority or the Department nor impounded by the court until 2 years after discharge and dismissal of supervision. Those records that result from a supervision for a violation of Section 3-707, 3-708, 3-710, 5-401.3, or 11-503 of the Illinois Vehicle Code or a similar provision of a local ordinance, or for a violation of Section 12-3.2, 12-15 or 16A-3 of the Criminal Code of 1961, or probation under Section 10 of the Cannabis Control Act, Section 410 of the Illinois Controlled Substances Act, Section 12- 4.3(b)(1) and (2) of the Criminal Code of 1961 (as those provisions existed before their deletion by Public Act 89-313), Section 10-102 of the Illinois Alcoholism and Other Drug Dependency Act when the judgment of conviction has been vacated, Section 40-10 of the Alcoholism and Other Drug Abuse and Dependency Act when the judgment of conviction has been vacated, or Section 10 of the Steroid Control Act shall not be expunged from the records of the arresting authority nor impounded by the court until 5 years after termination of probation or supervision. Those records that result from a supervision for a violation of Section 11-501 of the Illinois Vehicle Code or a similar provision of a local ordinance, shall not be expunged. All records set out above may be ordered by the court to be expunged from the records of the arresting authority and impounded by the court after 5 years, but shall not be expunged by the Department, but shall, on court order be sealed by the Department and may be disseminated by the Department only as required by law or to the arresting authority, the State's Attorney, and the court upon a later arrest for the same or a similar offense or for the purpose of sentencing for any subsequent felony. Upon conviction for any offense, the Department of Corrections shall have access to all sealed records of the Department pertaining to that individual.

(a-5) Those records maintained by the Department for persons arrested prior to their 17th birthday shall be expunged as provided in Section 5-915 of the Juvenile Court Act of 1987.

(b) Whenever a person has been convicted of a crime or of the violation of a municipal ordinance, in the name of a person whose identity he has stolen or otherwise come into possession of, the aggrieved person from whom the identity was stolen or otherwise obtained without authorization, upon learning of the person having been arrested using his

identity, may, upon verified petition to the chief judge of the circuit wherein the arrest was made, have a court order entered nunc pro tunc by the chief judge to correct the arrest record, conviction record, if any, and all official records of the arresting authority, the Department, other criminal justice agencies, the prosecutor, and the trial court concerning such arrest, if any, by removing his name from all such records in connection with the arrest and conviction, if any, and by inserting in the records the name of the offender, if known or ascertainable, in lieu of the aggrieved's name. The records of the clerk of the circuit court shall be sealed until further order of the court upon good cause shown and the name of the aggrieved person obliterated on the official index required to be kept by the circuit court clerk under Section 16 of the Clerks of Courts Act, but the order shall not affect any index issued by the circuit court clerk before the entry of the order. Nothing in this Section shall limit the Department of State Police or other criminal justice agencies or prosecutors from listing under an offender's name the false names he or she has used. For purposes of this Section, convictions for moving and nonmoving traffic violations other than convictions for violations of Chapter 4, Section 11-204.1 or Section 11-501 of the Illinois Vehicle Code shall not be a bar to expunging the record of arrest and court records for violation of a misdemeanor or municipal ordinance.

(c) Whenever a person who has been convicted of an offense is granted a pardon by the Governor which specifically authorizes expungement, he may, upon verified petition to the chief judge of the circuit where the person had been convicted, any judge of the circuit designated by the Chief Judge, or in counties of less than 3,000,000 inhabitants, the presiding trial judge at the defendant's trial, may have a court order entered expunging the record of arrest from the official records of the arresting authority and order that the records of the clerk of the circuit court and the Department be sealed until further order of the court upon good cause shown or as otherwise provided herein, and the name of the defendant obliterated from the official index requested to be kept by the circuit court clerk under Section 16 of the Clerks of Courts Act in connection with the arrest and conviction for the offense for which he had been pardoned but the order shall not affect any index issued by the circuit court clerk before the entry of the order. All records sealed by the Department may be disseminated by the Department only as required by law or to the arresting authority, the State's Attorney, and the court upon a later arrest for the same or similar offense or for the purpose of sentencing for any subsequent felony. Upon

conviction for any subsequent offense, the Department of Corrections shall have access to all sealed records of the Department pertaining to that individual. Upon entry of the order of expungement, the clerk of the circuit court shall promptly mail a copy of the order to the person who was pardoned.

(c-5) Whenever a person has been convicted of criminal sexual assault, aggravated criminal sexual assault, predatory criminal sexual assault of a child, criminal sexual abuse, or aggravated criminal sexual abuse, the victim of that offense may request that the State's Attorney of the county in which the conviction occurred file a verified petition with the presiding trial judge at the defendant's trial to have a court order entered to seal the records of the clerk of the circuit court in connection with the proceedings of the trial court concerning that offense. However, the records of the arresting authority and the Department of State Police concerning the offense shall not be sealed. The court, upon good cause shown, shall make the records of the clerk of the circuit court in connection with the proceedings of the trial court concerning the offense available for public inspection.

(c-6) If a conviction has been set aside on direct review or on collateral attack and the court determines by clear and convincing evidence that the defendant was factually innocent of the charge, the court shall enter an expungement order as provided in subsection (b) of Section 5-5-4 of the Unified Code of Corrections.

(d) Notice of the petition for subsections (a), (b), and (c) shall be served upon the State's Attorney or prosecutor charged with the duty of prosecuting the offense, the Department of State Police, the arresting agency and the chief legal officer of the unit of local government affecting the arrest. Unless the State's Attorney or prosecutor, the Department of State Police, the arresting agency or such chief legal officer objects to the petition within 30 days from the date of the notice, the court shall enter an order granting or denying the petition. The clerk of the court shall promptly mail a copy of the order to the person, the arresting agency, the prosecutor, the Department of State Police and such other criminal justice agencies as may be ordered by the judge.

(e) Nothing herein shall prevent the Department of State Police from maintaining all records of any person who is admitted to probation upon terms and conditions and who fulfills those terms and conditions pursuant to Section 10 of the Cannabis Control Act, Section 410 of the Illinois Controlled

Substances Act, Section 12-4.3 of the Criminal Code of 1961, Section 10-102 of the Illinois Alcoholism and Other Drug Dependency Act, Section 40-10 of the Alcoholism and Other Drug Abuse and Dependency Act, or Section 10 of the Steroid Control Act.

(f) No court order issued pursuant to the expungement provisions of this Section shall become final for purposes of appeal until 30 days after notice is received by the Department. Any court order contrary to the provisions of this Section is void.

(g) Except as otherwise provided in subsection (c-5) of this Section, the court shall not order the sealing or expungement of the arrest records and records of the circuit court clerk of any person granted supervision for or convicted of any sexual offense committed against a minor under 18 years of age. For the purposes of this Section, "sexual offense committed against a minor" includes but is not limited to the offenses of indecent solicitation of a child or criminal sexual abuse when the victim of such offense is under 18 years of age.

(h)(1) Notwithstanding any other provision of this Act to the contrary and cumulative with any rights to expungement of criminal records, whenever an adult or minor prosecuted as an adult charged with a violation of a municipal ordinance or a misdemeanor is acquitted or released without being convicted, or if the person is convicted but the conviction is reversed, or if the person has been placed on supervision for a misdemeanor and has not been convicted of a felony or misdemeanor or placed on supervision for a misdemeanor within 3 years after the acquittal or release or reversal of conviction, or the completion of the terms and conditions of the supervision, if the acquittal, release, finding of not guilty, or reversal of conviction occurred on or after the effective date of this amendatory Act of the 93rd General Assembly, the Chief Judge of the circuit in which the charge was brought may have the official records of the arresting authority, the Department, and the clerk of the circuit court sealed 3 years after the dismissal of the charge, the finding of not guilty, the reversal of conviction, or the completion of the terms and conditions of the supervision, except those records are subject to inspection and use by the court for the purposes of subsequent sentencing for misdemeanor and felony violations and inspection and use by law enforcement agencies and State's Attorneys or other prosecutors in carrying out the duties of their offices. This subsection (h) does not apply to persons placed on supervision for: (1) a violation of Section 11-501 of the Illinois Vehicle Code or a similar provision of a local ordinance; (2) a misdemeanor violation of

Article 11 of the Criminal Code of 1961 or a similar provision of a local ordinance; (3) a misdemeanor violation of Section 12-15, 12-30, or 26-5 of the Criminal Code of 1961 or a similar provision of a local ordinance; (4) a misdemeanor violation that is a crime of violence as defined in Section 2 of the Crime Victims Compensation Act or a similar provision of a local ordinance; (5) a Class A misdemeanor violation of the Humane Care for Animals Act; or (6) any offense or attempted offense that would subject a person to registration under the Sex Offender Registration Act.

(2) Upon acquittal, release without conviction, or being placed on supervision, the person charged with the offense shall be informed by the court of the right to have the records sealed and the procedures for the sealing of the records. Three years after the dismissal of the charge, the finding of not guilty, the reversal of conviction, or the completion of the terms and conditions of the supervision, the defendant shall provide the clerk of the court with a notice of request for sealing of records and payment of the applicable fee and a current address and shall promptly notify the clerk of the court of any change of address. The clerk shall promptly serve notice that the person's records are to be sealed on the State's Attorney or prosecutor charged with the duty of prosecuting the offense, the Department of State Police, the arresting agency and the chief legal officer of the unit of local government effecting the arrest. Unless the State's Attorney or prosecutor, the Department of State Police, the arresting agency or such chief legal officer objects to sealing of the records within 90 days of notice the court shall enter an order sealing the defendant's records 3 years after the dismissal of the charge, the finding of not guilty, the reversal of conviction, or the completion of the terms and conditions of the supervision. The clerk of the court shall promptly serve by mail or in person a copy of the order to the person, the arresting agency, the prosecutor, the Department of State Police and such other criminal justice agencies as may be ordered by the judge. If an objection is filed, the court shall set a date for hearing. At the hearing the court shall hear evidence on whether the sealing of the records should or should not be granted.

(3) The clerk may charge a fee equivalent to the cost associated with the sealing of records by the clerk and the Department of State Police. The clerk shall forward the Department of State Police portion of the fee to the Department and it shall be deposited into the State Police Services Fund.

(4) Whenever sealing of records is required under

this subsection (h), the notification of the sealing must be given by the circuit court where the arrest occurred to the Department in a form and manner prescribed by the Department.

(5) An adult or a minor prosecuted as an adult who was charged with a violation of a municipal ordinance or a misdemeanor who was acquitted, released without being convicted, convicted and the conviction was reversed, or placed on supervision for a misdemeanor before the date of this amendatory Act of the 93rd General Assembly and was not convicted of a felony or misdemeanor or placed on supervision for a misdemeanor for 3 years after the acquittal or release or reversal of conviction, or completion of the terms and conditions of the supervision may petition the Chief Judge of the circuit in which the charge was brought, any judge of that circuit in which the charge was brought, any judge of the circuit designated by the Chief Judge, or, in counties of less than 3,000,000 inhabitants, the presiding trial judge at that defendant's trial, to seal the official records of the arresting authority, the Department, and the clerk of the court, except those records are subject to inspection and use by the court for the purposes of subsequent sentencing for misdemeanor and felony violations and inspection and use by law enforcement agencies, the Department of Corrections, and State's Attorneys and other prosecutors in carrying out the duties of their offices. This subsection (h) does not apply to persons placed on supervision for: (1) a violation of Section 11-501 of the Illinois Vehicle Code or a similar provision of a local ordinance; (2) a misdemeanor violation of Article 11 of the Criminal Code of 1961 or a similar provision of a local ordinance; (3) a misdemeanor violation of Section 12-15, 12-30, or 26-5 of the Criminal Code of 1961 or a similar provision of a local ordinance; (4) a misdemeanor violation that is a crime of violence as defined in Section 2 of the Crime Victims Compensation Act or a similar provision of a local ordinance; (5) a Class A misdemeanor violation of the Humane Care for Animals Act; or (6) any offense or attempted offense that would subject a person to registration under the Sex Offender Registration Act. The State's Attorney or prosecutor charged with the duty of prosecuting the offense, the Department of State Police, the arresting agency and the chief legal officer of the unit of local government effecting the arrest shall be served with a copy of the verified petition and shall have 90 days to object. If an objection is filed, the court shall set a date for hearing. At the hearing the court shall hear evidence on whether the sealing of the records should or should not be granted. The person whose records are sealed under the provisions

of this Act shall pay to the clerk of the court and the Department of State Police a fee equivalent to the cost associated with the sealing of records. The fees shall be paid to the clerk of the court who shall forward the appropriate portion to the Department at the time the court order to seal the defendant's record is forwarded to the Department for processing. The Department of State Police portion of the fee shall be deposited into the State Police Services Fund.

(i)(1) Notwithstanding any other provision of this Act to the contrary and cumulative with any rights to expungement of criminal records, whenever an adult or minor prosecuted as an adult charged with a violation of a municipal ordinance or a misdemeanor is convicted of a misdemeanor and has not been convicted of a felony or misdemeanor or placed on supervision for a misdemeanor within 4 years after the completion of the sentence, if the conviction occurred on or after the effective date of this amendatory Act of the 93rd General Assembly, the Chief Judge of the circuit in which the charge was brought may have the official records of the arresting authority, the Department, and the clerk of the circuit court sealed 4 years after the completion of the sentence, except those records are subject to inspection and use by the court for the purposes of subsequent sentencing for misdemeanor and felony violations and inspection and use by law enforcement agencies and State's Attorneys or other prosecutors in carrying out the duties of their offices. This subsection (i) does not apply to persons convicted of: (1) a violation of Section 11-501 of the Illinois Vehicle Code or a similar provision of a local ordinance; (2) a misdemeanor violation of Article 11 of the Criminal Code of 1961 or a similar provision of a local ordinance; (3) a misdemeanor violation of Section 12-15, 12-30, or 26-5 of the Criminal Code of 1961 or a similar provision of a local ordinance; (4) a misdemeanor violation that is a crime of violence as defined in Section 2 of the Crime Victims Compensation Act or a similar provision of a local ordinance; (5) a Class A misdemeanor violation of the Humane Care for Animals Act; or (6) any offense or attempted offense that would subject a person to registration under the Sex Offender Registration Act.

(2) Upon the conviction of such offense, the person charged with the offense shall be informed by the court of the right to have the records sealed and the procedures for the sealing of the records. Four years after the completion of the sentence, the defendant shall provide the clerk of the court with a notice of request for sealing of records and payment of the applicable fee and a current address and shall

promptly notify the clerk of the court of any change of address. The clerk shall promptly serve notice that the person's records are to be sealed on the State's Attorney or prosecutor charged with the duty of prosecuting the offense, the Department of State Police, the arresting agency and the chief legal officer of the unit of local government effecting the arrest. Unless the State's Attorney or prosecutor, the Department of State Police, the arresting agency or such chief legal officer objects to sealing of the records within 90 days of notice the court shall enter an order sealing the defendant's records 4 years after the completion of the sentence. The clerk of the court shall promptly serve by mail or in person a copy of the order to the person, the arresting agency, the prosecutor, the Department of State Police and such other criminal justice agencies as may be ordered by the judge. If an objection is filed, the court shall set a date for hearing. At the hearing the court shall hear evidence on whether the sealing of the records should or should not be granted.

(3) The clerk may charge a fee equivalent to the cost associated with the sealing of records by the clerk and the Department of State Police. The clerk shall forward the Department of State Police portion of the fee to the Department and it shall be deposited into the State Police Services Fund.

(4) Whenever sealing of records is required under this subsection (i), the notification of the sealing must be given by the circuit court where the arrest occurred to the Department in a form and manner prescribed by the Department.

(5) An adult or a minor prosecuted as an adult who was charged with a violation of a municipal ordinance or a misdemeanor who was convicted of a misdemeanor before the date of this amendatory Act of the 93rd General Assembly and was not convicted of a felony or misdemeanor or placed on supervision for a misdemeanor for 4 years after the completion of the sentence may petition the Chief Judge of the circuit in which the charge was brought, any judge of that circuit in which the charge was brought, any judge of the circuit designated by the Chief Judge, or, in counties of less than 3,000,000 inhabitants, the presiding trial judge at that defendant's trial, to seal the official records of the arresting authority, the Department, and the clerk of the court, except those records are subject to inspection and use by the court for the purposes of subsequent sentencing for misdemeanor and felony violations and inspection and use by law enforcement agencies, the Department of Corrections, and State's Attorneys and other prosecutors in carrying out the duties of their

offices. This subsection (i) does not apply to persons convicted of: (1) a violation of Section 11-501 of the Illinois Vehicle Code or a similar provision of a local ordinance; (2) a misdemeanor violation of Article 11 of the Criminal Code of 1961 or a similar provision of a local ordinance; (3) a misdemeanor violation of Section 12-15, 12-30, or 26-5 of the Criminal Code of 1961 or a similar provision of a local ordinance; (4) a misdemeanor violation that is a crime of violence as defined in Section 2 of the Crime Victims Compensation Act or a similar provision of a local ordinance; (5) a Class A misdemeanor violation of the Humane Care for Animals Act; or (6) any offense or attempted offense that would subject a person to registration under the Sex Offender Registration Act. The State's Attorney or prosecutor charged with the duty of prosecuting the offense, the Department of State Police, the arresting agency and the chief legal officer of the unit of local government effecting the arrest shall be served with a copy of the verified petition and shall have 90 days to object. If an objection is filed, the court shall set a date for hearing. At the hearing the court shall hear evidence on whether the sealing of the records should or should not be granted. The person whose records are sealed under the provisions of this Act shall pay to the clerk of the court and the Department of State Police a fee equivalent to the cost associated with the sealing of records. The fees shall be paid to the clerk of the court who shall forward the appropriate portion to the Department at the time the court order to seal the defendant's record is forwarded to the Department for processing. The Department of State Police portion of the fee shall be deposited into the State Police Services Fund.

2630/5.1. Reporting of domestic crime

§ 5.1. Reporting of domestic crime. All law enforcement agencies in Illinois which have received complaints and had its officers investigate any alleged commission of a domestic crime, shall indicate the incidence of any alleged commission of said crime with the Department through the Illinois Uniform Crime Reporting System as part of the data reported pursuant to Section 8 of this Act.

Domestic crime for the purposes of this Section means any crime attempted or committed between husband and wife or between members of the same family or household.

2630/6. § 6. Repealed by P.A. 76-444, § 2, eff. Jan. 1, 1970

2630/7. Records not to be public

§ 7. No file or record of the Department hereby created shall be made public, except as provided in the "Illinois Uniform Conviction Information Act" or other Illinois law or as may be necessary in the identification of persons suspected or accused of crime and in their trial for offenses committed after having been imprisoned for a prior offense; and no information of any character relating to its records shall be given or furnished by said Department to any person, bureau or institution other than as provided in this Act or other State law, or when a governmental unit is required by state or federal law to consider such information in the performance of its duties. Violation of this Section shall constitute a Class A misdemeanor.

However, if an individual requests the Department to release information as to the existence or nonexistence of any criminal record he might have, the Department shall do so upon determining that the person for whom the record is to be released is actually the person making the request. The Department shall establish reasonable fees and rules to allow an individual to review and correct any criminal history record information the Department may hold concerning that individual upon verification of the identity of the individual. Such rulemaking is subject to the provisions of the Illinois Administrative Procedure Act.

2630/8. Crime statistics

§ 8. The Department shall be a central repository and custodian of crime statistics for the State and it shall have all power incident thereto to carry out the purposes of this Act, including the power to demand and receive cooperation in the submission of crime statistics from all units of government. On an annual basis, the Illinois Criminal Justice Information Authority shall make available compilations published by the Authority of crime statistics required to be reported by each policing body of the State, the clerks of the circuit court of each county, the Illinois Department of Corrections, the Sheriff of each county, and the State's Attorney of each county, including, but not limited to, criminal arrest, charge and disposition information.

2630/9. Dental examinations and records

§ 9. (a) Every county medical examiner and coroner shall, in every death investigation where the identity

of a dead body cannot be determined by visual means, fingerprints, or other identifying data, have a qualified dentist, as determined by the county medical examiner or coroner, conduct a dental examination of the dead body. If the county medical examiner or coroner, with the aid of the dental examination and other identifiers, is still unable to establish the identity of the dead body, the medical examiner or coroner shall forthwith submit the dental records to the Department.

(b) If a person reported missing has not been found within 30 days, the law enforcement agency to whom the person was reported missing shall, within the next 5 days, make all necessary efforts to locate and request from the family or next of kin of the missing person written consent to contact and receive from the dentist of the missing person that person's dental records and shall forthwith make every reasonable effort to acquire such records. Within 5 days of the receipt of the missing person's dental records, the law enforcement agency shall submit such records to the Department.

(c) The Department shall be the State central repository for all dental records submitted pursuant to this Section. The Department may promulgate rules for the form and manner of submission of dental records, reporting of the location or identification of persons for whom dental records have been submitted and other procedures for program operations.

(d) When a person who has been reported missing is located and that person's dental records have been submitted to the Department, the law enforcement agency which submitted that person's dental records to the Department shall report that fact to the Department and the Department shall expunge the dental records of that person from the Department's file. The Department shall also expunge from its files the dental records of those dead and missing persons who are positively identified as a result of comparisons made with its files, the files maintained by other states, territories, insular possessions of the United States, or the United States.

2630/10. Judicial Remedies

§ 10. Judicial Remedies. The Attorney General or a State's Attorney may bring suit in the circuit courts to prevent and restrain violations of the Illinois Uniform Conviction Information Act, enacted by the 85th General Assembly and to enforce the reporting provisions of Section 2.1 of this Act. The Department of State Police may request the Attorney General to

bring any such action authorized by this subsection.

2630/11. Legal assistance and education

§ 11. Legal assistance and education. Subject to appropriation, the State Appellate Defender shall establish, maintain, and carry out a sealing and expungement program to provide information to persons eligible to have their arrest or criminal history records expunged or sealed.

2630/12. Entry of order; effect of expungement or sealing

§ 12. Entry of order; effect of expungement or sealing.

(a) Except with respect to law enforcement agencies, the Department of Corrections, State's Attorneys, or other prosecutors, an expunged or sealed record may not be considered by any private or public entity in employment matters, certification, licensing, revocation of certification or licensure, or registration. Applications for employment must contain specific language which states that the applicant is not obligated to disclose sealed or expunged records of conviction or arrest. Employers may not ask if an applicant has had records expunged or sealed.

(b) A person whose records have been sealed or expunged is not entitled to remission of any fines, costs, or other money paid as a consequence of the sealing or expungement. This amendatory Act of the 93rd General Assembly does not affect the right of the victim of a crime to prosecute or defend a civil action for damages. Persons engaged in civil litigation involving criminal records that have been sealed may petition the court to open the records for the limited purpose of using them in the course of litigation.

2630/13. Prohibited conduct; misdemeanor; penalty

§ 13. Prohibited conduct; misdemeanor; penalty.

(a) The Department of State Police shall retain records sealed under subsections (h) and (i) of Section 5. The sealed records shall be used and disseminated by the Department only as allowed by law. Upon conviction for any offense, the Department of Corrections shall have access to all sealed records of the Department pertaining to that

individual.

(b) The sealed records maintained under subsection (a) are exempt from disclosure under the Freedom of Information Act.

Current through P.A. 93-663, of the 2003 Reg. Sess.

Illinois Uniform Conviction Information Act

20 ILCS 2635/

2635/1. Short Title

§ 1. Short Title. This Act shall be known and may be cited as the "Illinois Uniform Conviction Information Act."

2635/2. Legislative Findings and Purposes

§ 2. Legislative Findings and Purposes. (A) The legislature finds and hereby declares that conviction information maintained by the Illinois Department of State Police shall be publicly available in the State of Illinois.

(B) The purpose of this Act is: (1) to establish uniform policy for gaining access to and disseminating conviction information maintained by the State of Illinois; (2) to establish guidelines and priorities which fully support effective law enforcement and ongoing criminal investigations and which ensure that conviction information is made accessible within appropriate time frames; (3) to ensure the accuracy and completeness of conviction information in the State of Illinois; and (4) to establish procedures for effectively correcting errors and providing individuals with redress of grievances in the event that inaccurate or incomplete information may be disseminated about them.

2635/3. Definitions

§ 3. Definitions. Whenever used in this Act, and for the purposes of this Act, unless the context clearly indicates otherwise:

(A) "Accurate" means factually correct, containing no mistake or error of a material nature.

(B) The phrase "administer the criminal laws" includes any of the following activities: intelligence gathering, surveillance, criminal investigation, crime detection and prevention (including research), apprehension, detention, pretrial or post-trial release, prosecution, the correctional supervision or rehabilitation of accused persons or criminal offenders, criminal identification activities, or the collection, maintenance or dissemination of criminal history record information.

(C) "The Authority" means the Illinois Criminal Justice Information Authority.

(D) "Automated" means the utilization of computers, telecommunication lines, or other automatic data processing equipment for data collection or storage, analysis, processing, preservation, maintenance, dissemination, or display and is distinguished from a system in which such activities are performed manually.

(E) "Complete" means accurately reflecting all the criminal history record information about an individual that is required to be reported to the Department pursuant to Section 2.1 of the Criminal Identification Act.

(F) "Conviction information" means data reflecting a judgment of guilt or nolo contendere. The term includes all prior and subsequent criminal history events directly relating to such judgments, such as, but not limited to: (1) the notation of arrest; (2) the notation of charges filed; (3) the sentence imposed; (4) the fine imposed; and (5) all related probation, parole, and release information. Information ceases to be "conviction information" when a judgment of guilt is reversed or vacated.

For purposes of this Act, continuances to a date certain in furtherance of an order of supervision granted under Section 5-6-1 of the Unified Code of Corrections or an order of probation granted under either Section 10 of the Cannabis Control Act, Section 410 of the Illinois Controlled Substances Act, Section 12-4.3 of the Criminal Code of 1961, Section 10-102 of the Illinois Alcoholism and Other Drug Dependency Act, Section 40-10 of the Alcoholism and Other Drug Abuse and Dependency Act, or Section 10 of the Steroid Control Act shall not be deemed "conviction information".

(G) "Criminal history record information" means data identifiable to an individual and consisting of descriptions or notations of arrests, detentions, indictments, informations, pretrial 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. The term

does not apply to statistical records and reports in which individual are not identified and from which their identities are not ascertainable, or to information that is for criminal investigative or intelligence purposes.

(H) "Criminal justice agency" means (1) a government agency or any subunit thereof which is authorized to administer the criminal laws and which allocates a substantial part of its annual budget for that purpose, or (2) an agency supported by public funds which is authorized as its principal function to administer the criminal laws and which is officially designated by the Department as a criminal justice agency for purposes of this Act.

(I) "The Department" means the Illinois Department of State Police.

(J) "Director" means the Director of the Illinois Department of State Police.

(K) "Disseminate" means to disclose or transmit conviction information in any form, oral, written, or otherwise.

(L) "Exigency" means pending danger or the threat of pending danger to an individual or property.

(M) "Non-criminal justice agency" means a State agency, Federal agency, or unit of local government that is not a criminal justice agency. The term does not refer to private individuals, corporations, or non-governmental agencies or organizations.

(M-5) "Request" means the submission to the Department, in the form and manner required, the necessary data elements or fingerprints, or both, to allow the Department to initiate a search of its criminal history record information files.

(N) "Requester" means any private individual, corporation, organization, employer, employment agency, labor organization, or non-criminal justice agency that has made a request pursuant to this Act to obtain conviction information maintained in the files of the Department of State Police regarding a particular individual.

(O) "Statistical information" means data from which the identity of an individual cannot be ascertained, reconstructed, or verified and to which the identity of an individual cannot be linked by the recipient of the information.

2635/4. Applicability

§ 4. Applicability.

(A) The provisions of this Act shall apply only to conviction information mandated by statute to be reported to or to be collected, maintained, or disseminated by the Department of State Police.

(B) The provisions of this Act shall not apply to statistical information.

(C) In the event of conflict between the application of this Act and the statutes listed in paragraphs (1), (2), (3), (4), or (5) below, the statutes listed below, as hereafter amended, shall control unless specified otherwise:

(1) The Juvenile Court Act of 1987; or

(2) Section 5-3-4 of the Unified Code of Corrections; or

(3) Paragraph (4) of Section 12 of the Probation and Probation Officers Act; or

(4) Section 2.1 of the Criminal Identification Act; or

(5) The Pretrial Services Act.

2635/5. Public Availability of Conviction Information

§ 5. Public Availability of Conviction Information. All conviction information mandated by statute to be collected and maintained by the Department of State Police shall be open to public inspection in the State of Illinois. All persons, state agencies and units of local government shall have access to inspect, examine and reproduce such information, in accordance with this Act, and shall have the right to take memoranda and abstracts concerning such information, except to the extent that the provisions of this Act or other Illinois statutes might create specific restrictions on the use or disclosure of such information.

2635/6. Dissemination Time Frames and Priorities

§ 6. Dissemination Time Frames and Priorities. (A) The Department's duty and obligation to furnish criminal history record information to peace officers and criminal justice agencies shall take precedence

over any requirement of this Act to furnish conviction information to non-criminal justice agencies or to the public. When, in the judgment of the Director, such duties and obligations are being fulfilled in a timely manner, the Department shall furnish conviction information to requesters in accordance with the provisions of this Act. The Department may give priority to requests for conviction information from non-criminal justice agencies over other requests submitted pursuant to this Act.

(B) The Department shall attempt to honor requests for conviction information made pursuant to this Act in the shortest time possible. Subject to the dissemination priorities of subsection (A) of this Section, the Department shall respond to a request for conviction information within 2 weeks from receipt of a request.

2635/7. Restrictions on the Use of Conviction Information

§ 7. Restrictions on the Use of Conviction Information. (A) The following provisions shall apply to requests submitted pursuant to this Act for employment or licensing purposes or submitted to comply with the provisions of subsection (B) of this Section:

(1) A requester shall, in the form and manner prescribed by the Department, submit a request to the Department, and maintain on file for at least 2 years a release signed by the individual to whom the information request pertains. The Department shall furnish the requester with a copy of its response.

(2) Each requester of conviction information furnished by the Department shall provide the individual named in the request with a copy of the response furnished by the Department. Within 7 working days of receipt of such copy, the individual shall have the obligation and responsibility to notify the requester if the information is inaccurate or incomplete.

(3) Unless notified by the individual named in the request or by the Department that the information furnished is inaccurate or incomplete, no requester of conviction information shall be liable for damages to any person to whom the information pertains for actions the requester may reasonably take in reliance on the accuracy and completeness of conviction information received from the Department pursuant

to this act, if: (a) the requester in good faith believes the conviction information furnished by the Department to be accurate and complete; (b) the requester has complied with the requirements of paragraphs (1) and (2) of this subsection (A); and (c) the identifying information submitted by the requester to the Department is accurate with respect to the individual about whom the information was requested.

(4) Consistent with rules adopted by the Department pursuant to Section 7 of "An Act in relation to criminal identification and investigation", approved July 2, 1931, as amended, the individual to whom the conviction information pertains may initiate proceedings directly with the Department to challenge or correct a record furnished by the Department pursuant to this subsection (A). Such correction proceedings shall be given priority over other individual record review and challenges filed with the Department.

(B) Regardless of the purpose of the request, no requester of conviction information shall be liable for damages to any person to whom the information pertains for actions the requester may reasonably take in reliance on the accuracy and completeness of conviction information received from the Department pursuant to this Act, if: (1) the requester in good faith believes the conviction information furnished by the Department to be accurate and complete; (2) the requester has complied with the requirements of paragraphs (1) and (2) of subsection (A) of this Section; and (3) the identifying information submitted by the requester to the Department is accurate with respect to the individual about whom the information was requested.

2635/8. Form, Manner and Fees for Requesting and Obtaining Conviction Information

§ 8. Form, Manner and Fees for Requesting and Obtaining Conviction Information. (A) The Department shall prescribe the form and manner for requesting and furnishing conviction information pursuant to this Act. The Department shall prescribe the types of identifying information that must be submitted to the Department in order to process any request for conviction information and the form and manner for making such application, consistent with this Act.

(B) The Department shall establish the maximum fee it shall charge and assess for processing requests for conviction information, and the Authority shall

establish the maximum fee that other criminal justice agencies shall charge and assess for processing requests for conviction information pursuant to this Act. Such fees shall include the general costs associated with performing a search for all information about each person for which a request is received including classification, search, retrieval, reproduction, manual and automated data processing, telecommunications services, supplies, mailing and those general costs associated with the inquiries required by subsection (B) of Section 9 and Section 13 of this Act, and, when applicable, such fees shall provide for the direct payment to or reimbursement of a criminal justice agency for assisting the requester or the Department pursuant to this Act. In establishing the fees required by this Section, the Department and the Authority may also take into account the costs relating to multiple or automated requests and disseminations and the costs relating to any other special factors or circumstances required by statute or rule. The maximum fees established by the Authority pursuant to this Section shall be reviewed annually, and may be waived or reduced at the discretion of a criminal justice agency.

2635/9. Procedural Requirements for Disseminating Conviction Information

§ 9. Procedural Requirements for Disseminating Conviction Information.

(A) In accordance with the time parameters of Section 6 and the requirements of subsection (B) of this Section 9, the Department shall either: (1) transmit conviction information to the requester, including an explanation of any code or abbreviation; (2) explain to the requester why the information requested cannot be transmitted; or (3) inform the requester of any deficiency in the request.

(B) Prior to a non-automated dissemination or within 30 days subsequent to an automated dissemination made pursuant to this Act, the Department shall first conduct a formal update inquiry and review to make certain that the information disseminated is complete, except (1) in cases of exigency, (2) upon request of another criminal justice agency, (3) for conviction information that is less than 30 days old, or (4) for information intentionally fabricated upon the express written authorization of the Director of State Police to support undercover law enforcement efforts.

It shall be the responsibility of the Department to retain a record of every extra-agency dissemination of conviction information for a period of not less than

3 years. Such records shall be subject to audit by the Department, and shall, upon request, be supplied to the individual to whom the information pertains for requests from members of the general public, corporations, organizations, employers, employment agencies, labor organizations and non-criminal justice agencies. At a minimum, the following information shall be recorded and retained by the Department:

- (1) The name of the individual to whom the disseminated information pertains;
- (2) The name of the individual requesting the information;
- (3) The date of the request;
- (4) The name and address of the private individual, corporation, organization, employer, employment agency, labor organization or non-criminal justice agency receiving the information; and
- (5) The date of the dissemination.

2635/10. Dissemination Requests Based Upon Fingerprint Identification

§ 10. Dissemination Requests Based Upon Fingerprint Identification. When fingerprint identification accompanies a request for conviction information maintained by the Department, an appropriate statement shall be issued by the Department indicating that the information furnished by the Department positively pertains to the individual whose fingerprints were submitted and that the response contains all the conviction information that has been reported to the Department pursuant to Section 2.1 of "An Act in relation to criminal identification and investigation", approved July 2, 1931, as amended.

2635/11. Dissemination Requests Not Based Upon Fingerprint Identification

§ 11. Dissemination Requests Not Based Upon Fingerprint Identification. (A) When a requester is not legally mandated to submit positive fingerprint identification to the Department or when a requester is precluded from submitting positive fingerprint identification to the Department due to exigency, an appropriate warning shall be issued by the Department indicating that the information furnished cannot be identified with certainty as pertaining to

the individual named in the request and may only be relied upon as being accurate and complete if the requester has first complied with the requirements of subsection (B) of Section 7.

(B) If the identifying information submitted by the requester to the Department corresponds to more than one individual found in the files maintained by the Department, the Department shall not disclose the information to the requester, unless it is determined by the Department that dissemination is still warranted due to exigency or to administer the criminal laws. In such instances, the Department may require the requester to submit additional identifying information or fingerprints in the form and manner prescribed by the Department.

2635/12. Error Notification and Correction Procedure

§ 12. Error Notification and Correction Procedure. It is the duty and responsibility of the Department to maintain accurate and complete criminal history record information and to correct or update such information after determination by audit, individual review and challenge procedures, or by other verifiable means, that it is incomplete or inaccurate. Except as may be required for a longer period of time by Illinois law, the Department shall notify a requester if a subsequent disposition of conviction or a subsequent modification of conviction information has been reported to the Department within 30 days of responding to the requester.

2635/13. Limitation on Further Dissemination

§ 13. Limitation on Further Dissemination. Unless otherwise permitted by law or in the case of exigency, the subsequent dissemination of conviction information furnished by the Department pursuant to this Act shall only be permitted by a requester for the 30 day period immediately following receipt of the information. Except as permitted in this Section, any requester still wishing to further disseminate or to rely on the accuracy and completeness of conviction information more than 30 days from receipt of the information from the Department shall initiate a new request to the Department for current information.

2635/14. Judicial Remedies

§ 14. Judicial Remedies. (A) The Attorney General or a State's Attorney may bring suit in the circuit courts to prevent and restrain violations of this Act

and to enforce the reporting provisions of Section 2.1 of "An Act in relation to criminal identification and investigation", approved July 2, 1931, as amended. The Department may request the Attorney General to bring any such action authorized by this subsection.

(B) An individual aggrieved by a violation of this Act by a State agency or unit of local government shall have the right to pursue a civil action for damages or other appropriate legal or equitable remedy, including an action to compel the Department to disclose or correct conviction information in its files, once administrative remedies have been exhausted.

(C) Any civil action for damages alleging the negligent dissemination of inaccurate or incomplete conviction information by a State agency or by a unit of local government in violation of this Act may only be brought against the State agency or unit of local government and shall not be brought against any employee or official thereof.

(D) Civil remedies authorized by this Section may be brought in any circuit court of the State of Illinois in the county in which the violation occurs or in the county where the State agency or unit of local government is situated; except all damage claims against the State of Illinois for violations of this Act shall be determined by the Court of Claims.

2635/15. Civil Damages

§ 15. Civil Damages. (A) In any action brought pursuant to this Act, an individual aggrieved by any violation of this Act shall be entitled to recover actual and general compensatory damages for each violation, together with costs and attorney's fees reasonably incurred, consistent with Section 16 of this Act. In addition, an individual aggrieved by a willful violation of this Act shall be entitled to recover \$1,000. In addition, an individual aggrieved by a non-willful violation of this Act for which there has been dissemination of inaccurate or incomplete conviction information shall be entitled to recover \$200; provided, however, if conviction information is determined to be incomplete or inaccurate, by audit, by individual review and challenge procedures, or by other verifiable means, then the individual aggrieved shall only be entitled to recover such amount if the Department fails to correct the information within 30 days.

(B) For the purposes of this Act, the State of Illinois shall be liable for damages as provided in this Section

and for attorney's fees and litigation costs as provided in Section 16 of this Act. All damage claims against the State of Illinois or any of its agencies for violations of this Act shall be determined by the Court of Claims.

(C) For purposes of limiting the amount of civil damages that may be assessed against the State of Illinois or a unit of local government pursuant to this Section, a State agency, a unit of local government, and the officials or employees of a State agency or a unit of local government may in good faith rely upon the assurance of another State agency or unit of local government that conviction information is maintained or disseminated in compliance with the provisions of this Act. However, such reliance shall not constitute a defense with respect to equitable or declaratory relief.

(D) For purposes of limiting the amount of damages that may be assessed against the State of Illinois pursuant to this Section, the Department may in good faith presume that the conviction information reported to it by a clerk of the circuit court or a criminal justice agency is accurate. However, such presumption shall not constitute a defense with respect to equitable or declaratory relief.

2635/16. Attorney's Fees and Costs

§ 16. Attorney's Fees and Costs. (A) Attorney's fees and other costs shall be awarded to any plaintiff who obtains declaratory, equitable, or injunctive relief. The amount awarded shall represent the reasonable value of the services rendered, taking into account all the surrounding circumstances, including but not limited to: the amount of attorney time and other disbursements determined by the court to be reasonably required by the nature of the case; the benefit rendered to the public; the skill demanded by the novelty or complexity of the issues; and the need to encourage the enforcement of this Act.

(B) Attorney's fees and other costs shall, consistent with subsection (A) of this Section, also be awarded to any plaintiff who obtains monetary relief for damages. However, in no event shall such an award exceed the actual amount of monetary damages awarded to the plaintiff.

(C) The court shall, consistent with subsection (A) of this Section, assess attorney's fees and litigation costs reasonably incurred by the State, a unit of local government, or government official or employee to defend against any private party or parties bringing

an action pursuant to this Act, upon the court's determination that the action was brought in bad faith or is malicious, vexatious, or frivolous in nature.

2635/17. Administrative Sanctions

§ 17. Administrative Sanctions. The Department shall refuse to comply with any request to furnish conviction information maintained in its files, if the requester has not acted in accordance with the requirements of this Act or rules and regulations issued pursuant thereto. The requester may appeal such a refusal by the Department to the Director. Upon written application by the requester, the Director shall hold a hearing to determine whether dissemination of the requested information would be in violation of this Act or rules and regulations issued pursuant to it or other federal or State law pertaining to the collection, maintenance or dissemination of criminal history record information. When the Director finds such a violation, the Department shall be prohibited from disseminating conviction information to the requester, under such terms and conditions and for such periods of time as the Director deems appropriate.

2635/18. Criminal Penalties

§ 18. Criminal Penalties. Any person who intentionally and knowingly (A) requests, obtains, or seeks to obtain conviction information under false pretenses, or (B) disseminates inaccurate or incomplete conviction information in violation of this Act, or (C) fails to disseminate or make public conviction information as required under this Act, or (D) fails to correct or update a conviction record after it is determined by audit, by individual review and challenge procedures, or by other verifiable means to be inaccurate or incomplete for the purpose of causing harm to the individual named in the request or to whom the information pertains, or (E) violates any other provision of this Act, shall for each offense be guilty of a Class A misdemeanor.

2635/19. Coordinating and Implementing Policy

§ 19. Coordinating and Implementing Policy. The Department shall adopt rules to prescribe the appropriate form, manner and fees for complying with the requirements of this Act. The Authority shall adopt rules to prescribe form, manner and maximum fees which the Authority is authorized to establish pursuant to subsection (B) of Section 8 of

this Act. Such rulemaking is subject to the provisions of the Illinois Administrative Procedure Act.

2635/20. State Liability and Indemnification of Units of Local Government

§ 20. State Liability and Indemnification of Units of Local Government. (A) The State of Illinois shall guarantee the accuracy and completeness of conviction information disseminated by the Department that is based upon fingerprint identification. The State of Illinois shall not be liable for the accuracy and completeness of any information disseminated upon identifying information other than fingerprints.

(B) The State of Illinois shall indemnify a clerk of the circuit court, a criminal justice agency, and their employees and officials from, and against, all damage claims brought by others due to dissemination by the Department of inaccurate or incomplete conviction information based upon positive fingerprint identification, provided that the conviction information in question was initially reported to the Department accurately and in the timely manner mandated by Section 2.1 of "An Act in relation to criminal identification and investigation", approved July 2, 1931, as amended.

2635/21. Audits

§ 21. Audits. The Department shall regularly conduct representative audits of the criminal history record keeping and criminal history record reporting policies, practices, and procedures of the repositories for such information in Illinois to ensure compliance with the provisions of this Act and Section 2.1 of "An Act in relation to criminal identification and investigation", approved July 2, 1931, as amended. The findings of such audits shall be reported to the Governor, General Assembly, and, upon request, to members of the general public.

2635/22. Supplementary Remedies

§ 22. Supplementary Remedies. The remedies provided in this Act are supplementary to, and in no way modify or supplant, any other applicable causes of action arising under the Constitution, statutes, or common law of the State of Illinois.

2635/23. Construction

§ 23. Construction. (A) The provisions of this Act shall be construed to afford the maximum feasible protection to the individual's right to privacy and enjoyment of his good name and reputation and shall be construed to apply to both manual and automated criminal history record information systems wherever possible.

(B) The provisions of this Act shall be construed to make government agencies accountable to individuals in the collection, use, and dissemination of conviction information based upon positive fingerprint identification relating to them.

(C) Nothing in this Act shall be construed as restricting or prohibiting the dissemination of criminal history record information to a requesting criminal justice agency or peace officer or the dissemination of local criminal history record information maintained by criminal justice agencies on behalf of units of local government to members of the general public requesting such information.

2635/24. Statute of Limitations

§ 24. Statute of Limitations. Any cause of action arising under this Act shall be barred unless brought within 3 years from the date of the violation of the Act or within 3 years from the date the plaintiff should reasonably have known of its violation, whichever is later.

Current through P.A. 93-663, of the 2003 Reg. Sess.