
Chapter 13

**Congressional Policy
Considerations, Part I**

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Congressional Policy Considerations, Part I

Chapter Summary

A wide range of policy options are available to Congress relative to a national computerized criminal history (CCH) system. The choice of an option or set of options will depend in large part on congressional judgments regarding the importance of a national CCH system relative to other priorities, and which national CCH system alternative offers the most acceptable balance between beneficial and adverse impacts.

Action or No Action

Arguments for No Action. Criminal history information is only one element in the criminal justice process. There are competing priorities for congressional attention and funding, such as expanded prison facilities or revision of the criminal code. Also, it might be argued that criminal justice decisionmakers are aware of the current deficiencies in criminal history information and take them into account, and that effective control over a national CCH system would be difficult to achieve. The benefits of a national CCH system are further constrained by the local nature of most crime, and the diversity and constitutional prerogatives of the States.

Arguments for Action. The National Law Enforcement Telecommunications System (NLETS) and the National Crime Information Center (NCIC) hot files are two examples of successful State cooperation in national systems. The lack of Federal direction has been a major barrier to a national CCH system, even though a Federal role could be justified on several grounds. Many believe that a clear decision on the future of NCIC/CCH is needed and that this requires major congressional involvement.

Perhaps the strongest argument for congressional action is that criminal history information is vital to and used at virtually every stage of the criminal justice process, and that several surveys have identified a need for more timely and complete criminal history information. This need becomes even more important in view of recent and proposed criminal justice reforms that place greater reliance on criminal history information.

Some argue that the time is ripe for a decision on a national CCH system owing to new alternatives now feasible with advanced computer and communication technology; the dramatic progress by many States in automating their own systems and enacting State statutes on criminal justice information systems; the progress of the Identification Division (Ident) in automating its own operations through the Automated Identification Division System (AIDS) program; and the early results of the Interstate Identification Index (III) pilot test and Phase I development.

Further Study

Additional study could be carried out on the use of criminal history information at the local level, the use of out-of-State criminal history information, and record quality. For example, while the OTA record quality research documented problems with record quality, Congress may wish to commission additional record quality studies to provide further statistical confirmation.

OTA did not attempt to make an independently verified estimate of the total cost of a

national CCH system. Congress may wish to commission a detailed cost analysis of any system alternatives selected for serious consideration.

Strengthen State/Local CCH Systems

Congress may wish to focus initially or solely on actions to strengthen State and local CCH systems or to strengthen such systems in parallel with the development of a national CCH system.

OTA research identified four possible priorities for strengthening State and local CCH systems. The first is funding and technical assistance to improve the management of already existing CCH systems. A second is funding and technical assistance for the development of automated systems in States that are still using a manual system. Should Congress wish to pursue these two priorities, budget action will be required since CCH-related grants previously provided through the Law Enforcement Assistance Administration (LEAA) were eliminated in fiscal year 1981.

A third priority is the clarification of title 28 regulations on privacy and security of criminal history information systems. These regulations have now been in effect for about 7 years. The time may be ripe for Congress to initiate a review of title 28. The results of this review could be reflected in a title 28 revision to be promulgated through normal rulemaking procedures or in comprehensive legislation, should Congress choose to move in this direction.

A fourth priority is the improvement of court disposition reporting. Some criminal justice decisionmakers see this as a key prerequisite for a national CCH system. Given the constitutional separation of powers, Congress is limited in what it can do to encourage reform and reorganization in the judicial branch. However, Congress could authorize financial and technical support to the States for use in developing court disposition reporting systems, and could commission a survey of the

current status and needs of the judiciary with respect to disposition reporting systems.

Select a National CCH System

Should Congress wish to select a national CCH system, OTA found that three of the many possible alternative systems could most readily evolve from current systems: 1) a national CCH repository on serious offenders; 2) a single-State/multi-State CCH system with partial message switching; and 3) a national index (III) with partial or no message switching.

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

Available evidence indicates that improvement in criminal identification and criminal history exchange by the Federal Government and most States is facilitated through computerization. Response times of 5 to 10 hours for fingerprint identification checks and a few seconds to several hours for criminal history checks are technically feasible. However, actual response times will depend on the priority assigned by the States and Federal Government, staffing and resource (including computer) limitations, and policies on record dissemination and use.

While computerization can improve response time, improvements in record quality are more difficult to achieve. Untimely or incomplete disposition reporting is a significant problem in many States. Nonetheless, the experience of three States with online CCH files—California, Minnesota, and North Carolina—shows that improvement is possible. Available evidence indicates that strengthening State

and local criminal history systems and court disposition reporting systems is a prerequisite to improving record quality, regardless of the national CCH system structure.

Despite movement among many State and Federal criminal justice officials toward agree-

ment on a national index (III) concept (along with a national fingerprint repository), questions raised with respect to policy control, non-criminal justice access, and record quality, among other issue areas discussed in the following chapter, have yet to be resolved.

Action or No Action

Congress always has the option of taking no action. Criminal history information is only one element of the criminal justice process. There are, of course, competing priorities for congressional attention and funding. These include, for example, additional trained police investigators, new or expanded prison facilities, better local community support (e.g., "neighborhood watch" programs), or revision of the criminal code.

It might be argued, furthermore, that currently available criminal history information, however imperfect (e.g., incomplete with respect to disposition reporting), is good enough since most criminal justice decisionmakers are aware of these deficiencies and take them into account. The potential benefits of a national CCH system are further constrained by the local nature of most crime.

It also might be argued that effective control over the contents and use of any national CCH system would be difficult to achieve, given the very large number of potential users and access points. Some technology experts believe that the time for a decision is not ripe because new technologies, such as small, low-cost computers with flexible programming capability and improved data security techniques, will soon offer alternatives that are inherently easier to control.

Finally, some argue that since the States, under the constitution, have basic jurisdiction over law enforcement and criminal justice within their borders, any efforts to implement a national CCH system should be undertaken by the States, not by Congress or the Federal Government in general. There is also the concern that perhaps the States are too diverse

in their criminal justice laws and practices for a national CCH system ever to be feasible.

On the other hand, NLETS is an example of successful State cooperation in the operation of a national communication system. Also, the success of the NCIC hot files is evidence that Federal, State, and local law enforcement agencies can work together effectively. Some State and local criminal justice officials claim that the major barrier to a national CCH system has been the lack of clear direction at the Federal level, although in the last 2 years there has been some movement toward a consensus on the national index (III) as a system structure.

A Federal role in a national CCH system could be justified to the extent that the system assisted in the enforcement of Federal criminal law and prosecution of Federal offenders, whether intrastate or interstate, and in the apprehension of criminal offenders who cross State and/or national borders. To the extent that crime is perceived as a national problem, the Federal Government could define its role in a national CCH system as simply another way to provide voluntary support to State and local law enforcement and criminal justice activities. From a legal standpoint, a Federal role could be based on the criminal record information needs of Federal agencies as established by various Federal statutes and executive orders, * implementation of title 28 regulations for State and local criminal justice information systems that have used Federal funding, ** the interstate commerce clause of the U.S. Constitution, and the constitutional pro-

*See ch. 6.

**See chg. 5 and 6.

visions (including the first, fourth, fifth, sixth, eighth, ninth, and 14th amendments) guaranteeing individual rights of privacy and due process.

Perhaps the strongest argument for congressional action is that criminal history information is vital to and used at virtually every stage of the criminal justice process, and that surveys conducted by OTA, the U.S. Department of Justice (DOJ), and the Florida Department of Law Enforcement identified a need for more timely and complete criminal history information.*

This need becomes even more important in view of State bail and sentencing reforms that place greater reliance on criminal history information, and the many recommendations of the U.S. Attorney General's Task Force on Violent Crime that involve criminal history records. For example, the task force recommended action to establish an NCIC file on firearms violators, to require a mandatory criminal records check on handgun purchasers, and to deny bail to persons with prior convictions for serious crimes committed while in pretrial release status.²

Incomplete disposition data is perceived as a major problem in Federal and some State criminal record systems, and this was confirmed by the OTA record quality research.** An additional problem with Ident is the slow response time, due in large part to the manual processing of fingerprint cards. These problems were noted by the Attorney General's Task Force that recommended, among other things, "swift completion" of the Ident automation program.³

Another argument in favor of action is the 12-year debate over the NCIC/CCH program.

*See SEARCH-Group, inc., *Standards for Security and Privacy of Criminal Justice Information*, Sacramento, Calif., January 1978, p. 18.

*See ch. 11.

†Attorney General's Task Force on Violent Crime, *Final Report*, U.S. Department of Justice, Aug. 17, 1981, pp. 13,29,50.

**See ch. 8

‡Task Force, *Final Report*, op. cit., pp. 11-12, 18-19, 67-69.

A number of criminal justice decisionmakers interviewed by OTA and DOJ noted the substantial time and money already expended on the NCIC/CCH debate with no real resolution of several underlying issues. Many believe that a clear decision on the future of NCIC/CCH is needed, and that this decision would require a major, if not dominant, congressional involvement.

Finally, four key trends are cited to support congressional action. First, computer and communication technology has advanced to the point where both centralized and decentralized system structures are possible. Computer hardware is less expensive than either the software or the communication links, and decentralized systems can be cost effective.* Second, many States and localities and several Federal agencies have developed their own CCH capability.** At the State level, CCH systems (when compared to manual) obtain relatively higher arrest and court disposition reporting rates and have shown significantly greater improvement.*** Many States have made dramatic progress in automating their own systems and in enacting State statutes and regulations on criminal justice information systems.**** Third, Ident has made progress in automating its own operations through AIDS. † Ident could become part of a national CCH system and could compete with, duplicate, and/or supersede the existing NCIC/CCH file. Congressional action may be necessary to determine the most cost-effective role for Ident/AIDS and NCIC/CCH as separate systems and, perhaps, as part of a national CCH system. Fourth, the early results of the III pilot test and Phase I development suggest that it is operationally as well as technically feasible. Some point to these developments as evidence that this is a propitious time for a decision on a national CCH system.

*See chs. 5 and 10.

**See ch. 4.

***See ch. 9.

****See ch. 6.

†See ch. 4.

Further Study

In the course of the OTA research, a number of areas for possible further study were identified, including the following:

Local Level Use

One possible area is the use of criminal history information at the local level. The flow of criminal history information in the United States resembles an enormous pyramid. OTA was able to identify the flow of information at the Federal and State levels in a fairly systematic way through analysis of Ident and NCIC/CCH use statistics, interviews with Federal user agencies, the comprehensive 50-State survey and telephone or written interviews with State repository personnel in 44 States (including site visits to 5 States). However, at the local level, given the vast size of the user population, OTA had to depend on the results of limited interviewing and comments received on the draft report. Should Congress seek additional information on the needs and perspectives of local criminal justice decisionmakers, a written survey could be used to cover a large number of local areas, as was done at the State level with the OTA 50-State survey.⁷

Use of Out-of-State Information

A second area of possible further study is the use of out-of-State criminal history information. A major justification for a national CCH system is the perceived need to exchange out-of-State criminal history information. However, OTA found that the usefulness of out-of-State criminal history information can be limited due to difficulties in interpreting the records, variations from State to State in the definition of many criminal offenses, wide discrepancies in local police behavior and criminal justice practices, and the substantial time and effort required to validate incomplete and/or ambiguous records. It could be advantageous to determine more precisely the nature and ex-

⁷For suggestions on a research methodology, see working paper B, sec. VII, pp. 236-240.

tent of these and other constraining factors and how they might best be overcome.

Record Quality

A third area in need of further study is record quality. The results of the OTA record quality research documented various record quality problems. Congress may wish to commission additional studies to provide statistical confirmation of present levels of record quality. In order to establish the exact implications of record quality, a sample of cases could be followed through a single jurisdiction for a period of time, with close attention given to how the records are used and interpreted.

costs

A fourth area needing further study is costs. As noted in chapter 5, quantifying the costs of a national CCH system is very difficult mainly due to the absence of systematic cost data at the State and local levels. OTA did not attempt to make an independently verified estimate of the total costs. Congress may wish to commission a detailed cost analysis of any system alternatives selected for serious consideration.

Whether or not further study in some or all of the areas discussed above is necessary at this time is a judgment best left to Congress. The U.S. Senate was concerned enough about the lack of information and analysis to have included a new study effort in the DOJ Appropriation Authorization Acts for fiscal years 1981 and 1982. Provisions of these acts called for the Attorney General, after consultation with the Committees on the Judiciary of the Senate and the House of Representatives, to arrange for "an appropriate independent entity" to prepare a report and recommendation on a national CCH system.⁸ This OTA report should provide one basis for determining whether a further comprehensive study is needed.

⁸See sec. 113 of the Department of Justice Appropriations Act of 1981 and Amendment 612 to the Department of Justice Appropriations Act of 1982 (*Congressional Record*, Nov. 12, 1981, pp. S13290-91).

Strengthen State/Local CCH Systems

Congress may wish to focus initially or solely on actions to strengthen State and local CCH systems or to strengthen such systems in parallel with the development of a national CCH system. In effect, the latter was the option exercised by Congress during the 1970's. In the absence of a clear-cut congressional decision on a national CCH system, Congress did authorize and fund both NCIC/CCH and Ident/AIDS at the national level (through the Federal Bureau of Investigation (FBI) budget), and the development and strengthening of State and local CCH systems (through the LEAA budget).^{*} Partially as a result, the States have made substantial progress and are in a much better position technically to support a national CCH system than they were 12 years ago. Nonetheless, further improvements in many States and localities appear to be necessary. The record quality problems of Ident and NCIC/CCH reflect in part underlying deficiencies at the State and local levels.

OTA research identified the following possible priorities for strengthening State and local CCH systems:

Improving Management of Already Existing CCH Systems

States vary widely in their management practices.^{**} Federal funding and technical assistance could be focused in those States most in need of improved procedures to assure the accuracy and completeness of criminal history information, to conduct audits of local users, to maintain and periodically review transaction logs, and to train CCH system employees and users.

Developing New Systems

Funding and technical assistance could be provided for the development of automated

systems in States that are still using a manual system. The purpose would be to help each State determine what kind of system would be best suited to its needs. Some States simply may not be able to justify a completely automated system. For example, several of the smaller States believe that an automated name index would be sufficient to permit their effective participation in a national system, and that computerizing the full records would not be necessary or cost effective.

Should Congress wish to pursue these two priorities, budget action would be required since CCH-related grants previously provided through LEAA were eliminated in fiscal year 1981. The termination of the CCH funding program resulted more from severe criticism leveled at LEAA as a whole than from specific problems with CCH-related grants.^{*} Indeed, it can be argued that LEAA CCH-related grants made a significant contribution to the relatively rapid development of State CCH systems during the last 12 years.^{**} Congress may wish to fund this grant program again, establish a new categorical grant program with a focus on the priorities outlined above,⁶ or assign a priority to CCH system management and development as part of a larger block grant for State and local law enforcement.

Congress could authorize States to fund their own CCH technical assistance out of Federal categorical or block grant money and/or retain a small technical assistance team in DOJ. In the past, LEAA has provided both direct technical assistance and funding for technical assistance efforts by SEARCH Group, Inc., and others. With the demise of

^{*}During the late 1970's LEAA was criticized for, among other things, subsidizing the operating budgets of local police departments, underwriting the purchase of expensive and unnecessary equipment, and in general spending tax dollars in ways that did not result in significant progress in the "war against crime."

^{**}See chs. 4, 5, and 6.

⁶The Attorney General's Task Force on Violent Crime has recommended legislation to authorize and fund a new categorical grant program. See *Final Report*, op. cit., pp. 67-69.

^{*}See ch. 5.

^{**}See ch. 9.

LEAA, Congress may wish to assign responsibility for technical assistance to the Attorney General, leaving to him the decision about which DOJ entity should carry out this function. Alternatively, Congress could explicitly provide that a technical assistance team shall be located within, for example, an existing DOJ office, the FBI, or perhaps a new Bureau of Criminal Justice Information (or the equivalent), should one be established to operate a national CCH system.

Clarifying Title 28 Privacy and Security Regulations'

Title 28 regulations have now been in effect for about 7 years. Many States and localities have accumulated several years of experience in attempting to interpret and implement the regulations. The time may be ripe for Congress to initiate a review of title 28. One aspect of the review might be to commission a survey of the implementation of title 28 by States as of 1982. The results could then be compared with the OTA survey conducted in 1979* to see to what extent States are still making progress toward its full implementation. The results of this review could be reflected either in a title 28 revision to be promulgated by DOJ through normal rulemaking procedures, or in comprehensive legislation should Congress choose to move in this direction. Presumably the results would also serve as a valuable input to setting priorities for any funding and technical assistance that may be authorized by Congress.

Improving Court Disposition Reporting

The OTA research has documented incomplete disposition reporting at the State and Federal levels.** Some criminal justice deci-

sionmakers see an improvement in court disposition reporting as a key prerequisite for a national CCH system. The improvement of court disposition reporting is closely tied to court reorganization. Minnesota is one of the States that have made the most progress in court reform. The State has implemented a State Judicial Information System that is achieving close to 100 percent court reporting. The system will track clients through the entire State court system, automatically record court dispositions, and feed them directly into the State repository. According to a Minnesota court official:⁸

In Minnesota we've got three things going for us: (1) money; (2) the power of the (State) Supreme Court backed up by the funding and political support of the State legislature; and (3) the technical know-how to put together an adequate system.

Given the constitutional separation of powers, Congress is limited in what it can do to encourage reform and reorganization in the judicial branch. However, as in the past, Congress could again authorize financial support and technical assistance to the States for use in developing court disposition reporting systems.* In addition, Congress could itself commission, or direct the Attorney General to commission, a survey of the current status and needs of the judiciary with respect to disposition reporting systems.' The survey could attempt to identify on a State-by-State basis exactly what additional judicial information systems development would be necessary to support a national CCH system.

⁸Interview in 1979 with a Minnesota court official; reaffirmed in 1982.

*During the 1970's, a portion of LEAA grant funds was provided to the States for development of offender-based transaction systems intended to include court disposition reporting and provide input to CCH systems.

'See a related study by the National Center for States Courts, *A Review of OBTS and CCH Program Requirements in the Judiciary*, Williamsburg, Va., 1979.

¹28 CFR 20; see ch. 6.

*See ch. 9.

**See chs. 8 and 9.

Range of Possible National CCH System Structures

Select a National CCH System

Should Congress wish to select a national CCH system, the five summarized in table 31 are representative of the entire range of possible structures.* All five could evolve from current systems. For example, full development of the AIDS file of Ident would constitute a national CCH repository when hooked up to NCIC (or other) communication lines to permit nationwide electronic access. The repository would include records on the roughly 21 million persons with arrests for serious offenses. If the repository was limited to records on violent and very serious offenders (FBI index crimes), then full development of AIDS with NCIC interconnection would be the equivalent of a national full record CCH system with a file size of about 9 million records.

On the other hand, nationwide implementation of Phase I of the III development plan¹⁰ would constitute a single-State/multi-State

CCH system with partial message switching. The index could also be implemented with no message switching. The central file would include records on Federal and multi-State serious offenders (about 6 million) and index entries (names and personal identifiers only; no criminal history information) on single-State serious offenders (about 15 million). Nationwide implementation of the second and third phases of the III development plan¹¹ would be the equivalent of a national index with partial message switching. The central file would include only records on Federal offenders (0.5 million), plus index entries on single- and multi-State offenders (20.5 million).

Finally, an ask-the-network CCH system could result if both the AIDS and III programs were not implemented due to some combination of technical, fiscal, administrative, and/or political factors. In this case, an alternative would be to use only the existing NLETS network (or a privately offered network) to exchange criminal history information between and among the States and the Federal Government.

*see ch. 10 for detailed discussion.

¹⁰For a discussion of the Interstate Identification Index (III) development plan, see Federal Bureau of Investigation, *III Background and Findings for July-Sept. 1981 Phase I Pilot Project*, Dec. 4, 1981, pp. 111-135. Phase I of the plan involves decentralization of single-State offender records of six of the eight States currently fully participating in NC IC/CCH. *Ibid.*, p. 116.

¹¹Phases II and III of the plan would include index entries for single-State offender records from States not currently participating in NCIC/CCH, and decentralization of multi-State offender records of the fully participating States. *Ibid.*

Table 31 .—Comparison of Possible National CCH System Alternatives

	National CCH repository	National full record CCH system (FBI index crimes)	Single-State/multi-State CCH system with partial message switching	National Index (III) with partial or no message switching	Ask-the-network system
Central file size:					
Records	21 million	8.6 million	6 million	0.5 million	0.5 million
Index entries	—	—	15 million	20.5 million	—
Central file content:					
Records	All serious offenders (Federal, single- and multi-State)	Violent and very serious offenders	Federal and multi-State serious offenders	Federal offenders	Federal offenders
Index entries	—	—	Single-State serious offenders	Single- and multi-State serious offenders	—

SOURCE: Office of Technology Assessment

Since 49 of the 50 States maintain a State identification bureau and 45 of 50 States require fingerprint submissions to this bureau on arrest,¹² records on almost all offenders will continue to be maintained by the States. Therefore, any records maintained in a national repository will incur extra operational costs to the Federal Government for storing the records and to the States for updating the records. Cost control has thus been one of the

¹²FBI, NCIC Staff Paper prepared for the Nov. 3-4, 1981, meeting of the NCIC Advisory Policy Board Subcommittee on the Interstate Identification Index, Topic #6, p. 2.

driving forces behind efforts to keep the re-ordkeeping function decentralized so that duplication between the Federal and State Governments is minimal. OTA did not conduct the detailed cost studies needed to provide specific cost estimates for the various alternatives.

From an operational point of view, OTA found that three alternative systems could most readily evolve from current systems: 1) a national repository; 2) a single-State/multi-State system with partial message switching; and 3) a national index with partial or no message switching.

Possible Impacts on the Criminal Justice Process

Importance of Complete, Timely, and Verifiable Information

The results of OTA research indicate that the more complete, timely, and verifiable (i.e., backed up by positive identification) the CCH information, the more useful it would be. While even incomplete information has some value as a "pointer" to the sources of additional information, many criminal justice decisionmakers noted the problems caused when criminal history records lack important data (e.g., on dispositions and charges), arrive too late to be useful, and/or are not based on positive identification (i.e., fingerprints or State or Federal identification numbers which are in turn based on a fingerprint check).

Available evidence indicates that improvement in criminal identification and criminal history information exchange by the Federal Government and most States is facilitated through computerization. During the period 1970-79, States with CCH record systems achieved significant increases in disposition reporting, while States with manual systems showed very little improvement. * The operating experience of the Ident AIDS program and

several State identification bureaus has documented the much shorter turnaround time possible with automated as compared to manual systems.¹³ A recently completed comprehensive Jet Propulsion Laboratory (JPL) study of AIDS concluded that full automation could reduce the overall Ident processing time for fingerprint checks from about 36 work days to about 3 hours.¹⁴ In addition, the cost per fingerprint search would drop by about 50 percent.¹⁵

Turnaround time could be further improved through the use of high-quality facsimile electronic transmission. Two States, New York and Illinois, already make relatively extensive use of this technology.¹⁶ The JPL study suggested that the five States with the largest volumes of fingerprint card submissions (and collectively accounting for about half of all submissions) could have facsimile interconnec-

¹³International Association for Identification, *Functional Requirements and Systems Development Plan for State Identification Bureaus: Executive Summary of Findings and Recommendations*, Utica, N. Y., October 1980, pp. 9-11.

¹⁴Jet propulsion Laboratory, *FBI Fingerprint Identification Automation Study: AIDS III Evaluation Report*, California Institute of Technology, Pasadena, Nov. 15, 1980, pp. 1-2 and 1-3; prepared for the U.S. Department of Justice, Federal Bureau of Investigation.

¹⁵Ibid.

¹⁶International Association for Identification, *State Identification Bureaus*, op. cit., pp. 8-9.

*See ch. 9.

tion with AIDS. JPL projects a 3-hour internal processing time for AIDS if fully implemented, and 8 hours for the residual manual files.¹⁷ Thus, use of facsimile transmission could conceivably further reduce the total response time for fingerprint checks to the range of 5 to 10 hours. New York State responds to fingerprint inquiries submitted via facsimile within an average of 1 hour and 50 minutes, and within 3 hours 90 percent of the time.

Response time for criminal history record checks could be even faster. In theory, response time for a full record CCH system would approach the 5-second or less range of the NCIC hot files. However, in order for the records disseminated to be complete and accurate the States would have to update the records in the central file on an almost continuous basis. One reason many States support a national index system is that they are unable and/or unwilling to update full records maintained in a central national CCH repository. Response time for a national index CCH alternative would likely be in the range of several hours or less. However, this will vary depending on the capability of individual States.

The III pilot test with the State of Florida has demonstrated that response times of less than an hour are possible. In the 3-month pilot test (July-September 1981), the response time was less than 1 hour 86 percent of the time and under 15 minutes 64 percent of the time.¹⁸ However, Florida is fully committed to the III concept, has an advanced online State CCH system, and operates under a State "open records" law that simplifies record dissemination decisions. Thus, the average response time for all States could be longer. Nonetheless, for the 38 States with an online CCH file or automated name index (collectively representing about 95 percent of all criminal history record activity as measured by fingerprint card submissions),* a response time of several hours or less seems technically feasible. Actual response time will also depend on the priority

assigned by participating States, staffing and resource (including computer) limitations, and State policies on record dissemination and use. In the III Phase I test (February-April 1982), the response time was less than 15 minutes 85 percent of the time and under 1 minute 48 percent of the time.¹⁹ Thus, it appears that the III response time could approach the response time achieved by individual States with on-line CCH files.

In the OTA 50-State survey, for example, California, Colorado, Delaware, Minnesota, New Jersey, Ohio, and South Carolina reported CCH response times of, respectively, 5, 3, 15, 20, 10, 9, and 5 seconds. Response time was considerably longer for States with manual files. For example, New Hampshire, New Mexico, Pennsylvania, West Virginia, and Wyoming reported manual response times of, respectively, 4, 10, 3, 14, and 2 days.²⁰ The FBI and OTA used slightly different definitions of response time. OTA defined response time as the total time from receipt of a request for criminal history information by the State repository to receipt of the CCH record (response) by the requesting agency. The FBI defined response time as the time from inquiry by the requesting agency to the time of receipt of the summary CCH record by the requesting agency.

Improving Record Quality— Difficult But Possible

While computerization can improve the response time of fingerprint and criminal record checks, improvements in record quality are more difficult to achieve. This is because high record quality depends on timely (and accurate) submissions from a large number of criminal justice agencies. Court disposition reporting is particularly important. The OTA 50-State survey found that the average record update time for courts was about 64 days compared with 20 days for law enforcement agencies, 47 days for prosecutors, 24 days for pro-

¹⁷Jet Propulsion Laboratory, *FBI Fingerprint Identification*, op. cit., p. 1-2.

¹⁸FBI, *III Background and Findings*, op. cit., p. 162.

*See table 5, ch. 4.

¹⁹FBI, *III Preliminary Findings for February-March 1982 Test*, April 1982, p. 17.

²⁰OTA 50-State Survey conducted in 1979-80.

bation/parole agencies, and 16 days for correctional agencies.²¹ Update time refers to the total time that elapses from the occurrence of a criminal history event (e.g., arrest or court disposition) to the updating of the subject's criminal history record. The average update time for the courts ranged as high as 1 year. Many States did not know what the average time was.

Nonetheless, the experience of three States with online CCH files—California, Minnesota, and North Carolina—shows that improvement is possible. In California, partly as a result of field audits and local training efforts, the statewide felony disposition reporting rate has increased from 66.6 percent in 1978 to 70.8 percent in 1980. The statewide superior court disposition reporting rate has increased from 69.1 percent in 1978 to 79.3 percent in 1980.²²

In Minnesota, a State Judicial Information System was implemented on July 1, 1980. This, coupled with mandatory reporting forms and followup from the office of the State Supreme Court administrator, has resulted in essentially 100 percent final disposition reporting.²³ Roughly 80 percent of all final dispositions are reported within 1 to 2 days after the disposition occurs, and almost all are reported within 5 days. The dispositions are checked for accuracy and completeness and then forwarded to the State CCH repository. However, due in part to problems in establishing positive identification, the actual disposition level in the State CCH file is about 85 percent and has remained essentially constant over the last 3 years.²⁴ The State repository can update records only if the update information is based on positive identification.

In North Carolina, the State identification bureau criminal history file was automated in 1976. Since that time, the disposition report-

ing rate has increased from 26 percent in 1975-76 to 48 percent in 1978-79, and is projected at 61 percent for 1981-82. As of December 31, 1981, the North Carolina Police Information Network showed a court disposition for about 75 percent of the 206,683 arrest events included in the system at that time. This improvement reflects considerable effort to update records, including the use of interns in the three largest North Carolina court districts (Wake, Guilford, and Mecklenberg) to assist in the submission of dispositions.²⁵ On January 1, 1982, a new State law went into effect requiring submission of felony arrest fingerprints and dispositions to the State identification bureau.²⁶ This will presumably contribute to further improvement in disposition reporting.

Thus, available evidence indicates that strengthening State/local criminal history systems and court disposition reporting systems is a prerequisite to further improving record quality, regardless of the national CCH system structure. Particularly important are efforts to: 1) upgrade court administration; 2) establish standardized (and perhaps even codified*) court reporting procedures; 3) improve the coordination between judicial and other criminal justice agencies (especially law enforcement) responsible for timely record update actions; 4) strengthen field audits of reporting procedures and record quality; and 5) increase funding and technical assistance to implement computer-based systems where appropriate.

To the extent that a national CCH system provides more complete, timely, and verifiable information than is presently available, the system would improve the functioning of the criminal justice process. Based on the surveys and research reviewed in chapter 11, the most

²¹ibid.

²²Based on data in Feb. 2, 1982, letter and enclosures from Fred H. Wynbrandt, Assistant Director, Criminal Identification and Information Branch, California Department of Justice.

²³Feb. 12, 1982, conversation with James Rebo, Office of the Minnesota State Supreme Court Administrator.

²⁴Feb. 11, 1982, conversation with Clayton Mellem, Criminal Justice Information System, Bureau of Criminal Apprehension, Minnesota State Department of Public Safety.

²⁵Based on data in Jan. 29, 1982, letter from William C. Corley, Director, Police Information Network, State of North Carolina Department of Justice.

²⁶General Assembly of North Carolina, House Bill 118, "An Act to Require the Reporting of Complete and Accurate Criminal Histories to the State Bureau of Investigation," July 8, 1981.

*Minnesota has promulgated a standard criminal complaint form which must be used by prosecuting attorneys and court clerks.

significant improvements are likely to be in the areas of criminal investigations, police booking and intake, pretrial release and bail decisions, and presentence investigation reports. Since criminal history information is used throughout the criminal justice process, better information is also important to sentencing, correctional, and, to a lesser extent, probation and parole decisions.

Shifting Preferences on System Structure

In general, over the last 3 to 4 years many State and Federal criminal justice officials have shifted their support from the single-State/multi-State alternative to the national index (or III) concept. This shift is illustrated in table 32.

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

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

identification or nonidentification based on fingerprint cards received from State identification bureaus or Federal agencies. It would also assign FBI identification numbers, and could enter identification data into III. The NFF concept is predicated on single-source submission policies. That is, only one agency per State would be authorized to submit fingerprint cards, and submission of only one fingerprint card per subject per State would be permitted.²⁷

OTA surveyed the States with respect to single-source fingerprint card submission and found that, as of August 1982, 18 States had implemented single-source submission (compared to 17 in a September 1981 FBI survey) and 4 more States had scheduled a late 1982 implementation for a total of 22 States. Officials from about one third of the other States indicated that implementing single-source submission could be difficult due to a potential work overload, staff and funding shortages, local agency resistance, and/or privacy concerns. Nonetheless, despite the movement towards agreement on III and NFF as the basic national CCH system concept, questions raised with respect to, for example, policy control, noncriminal justice access, record quality, and system accountability, have yet to be resolved. These and other issues are discussed in the next chapter.

²⁷ See SEARCH Group, Inc., *Essential Elements and Actions for Implementing a Nationwide Criminal History Program*, Sacramento, Calif., February 1979; and NCIC Advisory Policy Board, *A Proposed Concept for a Decentralized Criminal History Record System*, Apr. 12, 1978. See also NCIC Advisory Policy Board, *Phase I Test Interstate Identification Index: Report of the III Evaluation Committee*, June 1982, p. 4.

Table 32.—Shifting Preferences of Federal and State Criminal Justice Officials for a National CCH System

	System alternative	
	Single-State/multi-State	National Index (III)
FBI	(throughout 1970's)	(since 1980)
NCIC Advisory Policy Board	(early mid-1970's)	(since 1978)
States (DOJ survey of 10 States)	(1978)	
States (OTA survey*)	11 States (1979)	24 States (1979)
SEARCH Group, Inc.	(1970-78)	(1979 to present)
NLETS, Inc.		(1981)
U.S. Attorney General's Task Force on Violent Crime.		(1981)

*Two States preferred ask-the-network; one preferred a national repository; and four indicated no preference. Forty-two States responding.

SOURCE: Office of Technology Assessment, Federal Bureau of Investigation, Department of Justice, SEARCH Group, Inc., and National Law Enforcement Telecommunications System