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Chapter 9

**State and Local Management  
of Criminal History  
Information Systems**

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# State and Local Management of Criminal History Information Systems

## Chapter Summary

State and local agencies are the largest users of the National Crime Information Center (NCIC) and Identification Division (Ident) criminal history files. These files in turn largely rely on information generated by States and localities. Thus, it is important to assess the extent to which Federal and State statutes and regulations governing the management of criminal history information are in fact being implemented at the State and local levels.

In 1979-80, OTA conducted a 50-State survey of management policies and practices (to which 48 States and 1 territory responded).<sup>1</sup> A written questionnaire was sent by OTA to the State Governors and completed by State criminal record repository personnel. \* In 1982, OTA conducted a follow up telephone survey (to which 50 States and 1 territory responded) to determine if changes had occurred in key areas. \*\*

*Locus of Authority:* In 40 States, there was a single State agency responsible for the development of a statewide privacy and security plan for criminal history information, but the nature of this authority appeared to be highly variable.

<sup>1</sup>Office of Technology Assessment 50-State Survey conducted in 1978-80. Written questionnaires were sent to the Governors of all 50 States and Puerto Rico and the Mayor of the District of Columbia. As of March 1980, the final extended deadline, responses had been received from 48 States and Puerto Rico. For purposes of analysis, Puerto Rico was treated as a State.

\*See app. B for a list of the State officials who completed written questionnaires for the 1979 OTA 50-State survey.

\*\*The OTA followup survey was conducted by telephone during August 1982. See app. D for a list of State officials contacted.

*Arrest and Disposition Reporting:* As of 1979, about 78 percent of arrests and 65 percent of court dispositions were reported to State repositories, on an average. The reporting rates of computerized States were significantly higher than States with manual criminal history systems. As of 1982, reporting rates had improved marginally to 82 percent for arrests and 66 percent for dispositions.

*File Content:* In more than one-third of the States, there were no statutory limitations on criminal history file content. In another third, all offenses which are fingerprintable or result in incarceration were reported.

*Access, Review, and Challenge Procedures:* While most States had these procedures, more than half of the States did not maintain data on the frequency of requests for access, review, and challenge of criminal history records. Data that were collected indicated infrequent requests.

*Dissemination of Criminal History Information:* Almost three-quarters of the States had a dissemination policy that applied to all criminal justice and other agencies that use or maintain criminal justice information. In more than half the States, the policy was based on specific statutes.

*Sealing and Purgings:* State policies for sealing and purging vary significantly. Some States (e.g., New York) seal arrest events that do not result in conviction; other State systems maintain any police contact information as a permanent part of a criminal history record.

*Record Accuracy and Completeness:* As of 1982, about two-thirds of the States (35 out of 46 States responding) indicated that they did routinely employ a set of procedures to assure the accuracy of criminal history information. This represented a significant improvement over 1979, when only 23 out of 46 States employed such procedures. About three-quarters of the States had never conducted a record quality audit of either computerized or manual criminal history record systems, with no significant change between 1979 and 1982.

*Court Disposition Monitoring:* Only 17 States in 1979 and 19 States in 1982 had auto-

mated procedures for monitoring court dispositions to help ensure record completeness. All but one of these States had computerized systems.

*Transaction Logs and Local Audits:* Almost all States maintained logs of criminal history information disseminated by the State agency, although nearly two-thirds reviewed these transaction logs only when a specific abuse was indicated. Frequent systematic review was more prevalent in States with computerized systems. Only 12 States reported systematic audits of user agencies, and here the procedures varied widely.

## Locus of Authority

In 48 States (out of 49 responding), as of 1979, there was a single State agency responsible for developing a statewide privacy and security plan for criminal history information, but the nature of this authority appeared to be highly variable. The authority was based on State statutes in about one-half (26) of the States; in another 20 the basis is executive policy (13) or order (7). The authority was unofficial or nonexistent in three States. Other structures, such as other State agencies and

commissions on privacy and security, shared the authority with the designated agency in over half of the States. The responsible State agencies exercised considerable discretion in the development of regulations and management practices to implement title 28.<sup>2</sup>

<sup>2</sup>Title 28, Code of Federal Regulations, pt. 20, "Criminal Justice Information Systems," subpt. B, "State and Local Criminal History Record Information Systems."

## Arrest and Court Disposition Reporting

To a considerable extent, the accuracy and completeness of criminal history information depends on the ability of State CCH systems to assure the reporting of arrests by local police and the reporting of dispositions by courts. State managers indicated that as of 1982, 82 percent of reportable arrests and 66 percent of all court dispositions were reported to State repositories, as shown in table 19.

This represented a marginal improvement over 1979 reporting levels. In 1979, only about half of the States had statutes to support an institutional basis for court disposition reporting; the other half operated by formal agreement or informally according to custom and tradition, as indicated in table 20. Between 1979 and 1982, the number of States with disposition reporting statutes increased from

**Table 19.—Arrest and Court Disposition Reporting**

All States	Computerized <sup>a</sup>	Noncomputerized <sup>b</sup>	
<b>Arrest reporting</b>			
1979 (N = 43) 78.3%	(N = 30) 83.00%	(N = 13) 67.70%	
1982 (N = 47) 81.50%	(N = 32) 86.1%	(N = 15) 71.80%	
Percent of arrest		Number of States	
<b>Distribution of arrest reporting</b>			
	1979	1982	1982
0-25	2	1	1
26-50	7	6	6
51-75	4	5	5
76-100	30	31	35
	43	47	
All States	Computerized	Noncomputerized	
<b>Court disposition reporting</b>			
1979 (N = 41) 64.80%	(N = 29) 70.97%	(N = 12) 49.7%	
1982 (N = 47) 66.40%	(N = 33) 70.60%	(N = 14) 56.3%	
Percent of disposition reporting		Number of States	
<b>Distribution of court disposition reporting</b>			
	1979	1982	1982
0-25	8	7	8
26-50	6	3	5
51-75	7	10	12
76-100	20	21	22
	41	47	

<sup>a</sup>computerized name index and/or CCH file

<sup>b</sup>Manual index and file

SOURCE Office of Technology Assessment 50-State Survey and 1982 followup

26 to 29. Both arrest and court disposition reporting were significantly higher for States with CCH systems (with an automated name index and/or CCH file) compared with States with manual systems.

When compared with the results of a 1973 General Accounting Office study (based on 1970 Law Enforcement Assistance Administration data), the OTA results indicate significant improvement over the 1970-79 period as shown in table 21, but little improvement since 1979.

**Table 20.—Institutional Basis for Court Disposition Reporting**

	1979 Number of States	1982 Number of States
A formal system mandated by statute . . .	26 (53.1%)	29 (59.2%)
A formal system by agreement with courts . . . . .	7 (14.3%)	6 (12.2%)
An informal system . . . . .	6 (12.2%)	5 (10.2%)
No system; depends on jurisdiction . . . . .	10 (20.4%)	9 (18.4%)
Total . . . . .	49 (100.0%)	49 (100.0%)

SOURCE Office of Technology Assessment 50-State Survey and 1982 followup

**Table 21.—Court Disposition Reporting: Comparison of GAO and OTA Findings**

Disposition reporting rate	1973	1979	1982 OTA study'	
	GAO study <sup>a</sup> (1970 data) N = 49	OTA study <sup>b</sup> (1978-79 data) N = 41	N = 41	N = 47
Less than 65% <sup>0</sup> :				
Number of States . . . . .	31.0	19.0	17.0	22.0
Percent . . . . .	63.30/o	46.30/o	41.5%	46.80/o
65 to 90% <sup>0</sup> :				
Number of States . . . . .	11.0	10.0	11.0	12.0
Percent . . . . .	22.40/o	24.40/o	26.80/o	25.50/o
More than 90% <sup>0</sup> :				
Number of States . . . . .	7.0	12.0	13.0	13.0
Percent . . . . .	14.3% <sup>0</sup>	29.30/o	31.7%	27.70/,

<sup>a</sup>U.S. Comptroller General. *Development of a Nationwide Criminal Data Exchange System—Need to Determine Cost and Improve Reporting*, General Accounting Office, January 1973, p. 10

<sup>b</sup>OTA 50-State Survey Disposition reporting rates provided by State repository of officials

<sup>c</sup>OTA 50. State Survey, 1982 followup

SOURCE Office of Technology Assessment and General Accounting Office

## File Content

A major finding of the OTA survey was the considerable variability in the nature of crimes reported to State systems. In more than a third of the States there were no statutory limitations on criminal history file content, and in another third all offenses that are fingerprinted or result in incarceration were reported (table 22). In some States, misdemeanors were considered to be fingerprintable offenses that create a criminal record, but in others the vast majority of misdemeanors were not so considered.

**Table 22.—Statutory Limitations on the Content of Criminal History Files**

Statutory limitations on file content	Number of States
Felony or NCIC criterion	
felony only . . . . .	2 (4.1% <sup>0</sup> )
Felony and gross, indictable or serious misdemeanors only . . . . .	12 (24.50/o)
For all adult offenses which are fingerprintable or result in incarceration . . . . .	17 (34.7%)
No statutory limitations on criminal history file content . . . . .	18 (36.70/o)
	49 (100% <sup>0</sup> )

SOURCE Office of Technology Assessment 50. State Survey

## Access, Review, and Challenge Procedures

Most States had procedures for access and review, challenge, appeal, and the like, as outlined in table 23. There appeared to be no significant differences between computerized and noncomputerized States in this regard.

However, data on the frequency of use of these procedures, where collected, indicated infrequent use. During 1978, the number of access requests ranged from 110 in Delaware, to 44 in Oregon, 43 in Maine, 32 in Minnesota, to 12 in Florida, 2 in Arizona, 1 in Vermont, and none in Virginia.

**Table 23.—State Procedures for Access, Review, and Challenge of Criminal History Records**

Procedures	Number of States using procedures (N = 49)
Individual access and review . . . . .	45
Challenge . . . . .	44
Appeal . . . . .	43
Correcting information . . . . .	41
Informing public of right to access and review . . . . .	32
None . . . . .	4

SOURCE Office of Technology Assessment 50-State Survey

# Dissemination of Criminal History Information

Regulating the dissemination of criminal history information is another strategy employed by the States to protect the privacy of individuals, while at the same time retaining the maximum amount of information deemed necessary for their own needs. Nearly all States include dissemination regulations in their statutes, but the degree of detail varies.

## Institutional Basis for Dissemination Policy

Over half of the 49 States responding indicated that State statutes with specific reference to criminal history or criminal justice information formed the bases for their dissemination policies, as shown in table 24.

## Applicability of Dissemination Policy

Seventy-one percent of the States responded that their dissemination policy applied to all criminal justice and other agencies that use or maintain criminal justice information, as shown in table 25. The dissemination policy applied only to the central State Repository in 22 percent of the States responding.

**Table 24.—Institutional Basis for State Criminal History Dissemination Policy**

Institutional basis	Number of States (total 49)
State statutes with specific reference to criminal history or criminal justice information . . . . .	27
State repository enabling legislation . . . . .	16
Public or open records law . . . . .	8
State repository agency policy . . . . .	15
Executive order . . . . .	4
Administrative procedure . . . . .	12
Don't know . . . . .	1

SOURCE Office of Technology Assessment-50-State Survey

**Table 25.—Applicability of State Policies on Dissemination of Criminal Justice Information**

	Number of States
Central State repository only . . . . .	11 (22.40%)
Central repository and some local agencies . . . . .	2 ( 4.1%)
All criminal justice and other agencies that use or maintain criminal justice information . . . . .	35 (71 .4%)
None . . . . .	1 ( 2.0%)
	49 (100%)

SOURCE Office of Technology Assessment 50 State Survey

## Sealing and Purging<sup>3</sup>

An important aspect of criminal history information policy is the ability of a system to: 1) purge or seal records for selected persons and/or offenses; 2) remove the punitive effects of a criminal history record for selected persons (removal of disqualifications); and 3) permit individuals under selected circumstances to freely state the nonexistence of a record. The sealing and purging capabilities within a system are important for the protection of in-

dividual rights, as well as for the efficient management of large record files.

### Definition

State statutes on sealing and purging reveal a rather confusing variety of terminology used as well as the type of information that is sealed or purged. Terms like "deleted," "annulled," "returned to the individual," and "expunged" are used, sometimes interchangeably with purging and sealing. Where the meaning is clear, purging is generally defined as taking

<sup>3</sup>For a detailed discussion, see SEARCH Group, inc., *Sealing and Purging of Criminal History Information*, Sacramento, Calif., April 1981.

place when records are physically destroyed or returned to the individual; sealing is defined as taking place when they are not destroyed, but are not accessible to the public at large, or perhaps even to the criminal justice community.

### Variation Among States

States vary widely in terms of statutory and management purge and seal policies. Some States seal arrest events that do not result in conviction (e.g., New York), whereas other State systems maintain any police contact in-

formation as a permanent part of a criminal history record.

As of mid-1981, 35 States had statutes or regulations on purging nonconviction information, and 24 States had laws on purging conviction information. Statutes or regulations on sealing nonconviction information had been enacted in 20 States, and on sealing conviction information in 22 States.<sup>4</sup>

<sup>4</sup>SEARCH Group, Inc., *Trends in State Security and Privacy Legislation*, Sacramento, Calif., November 1981, p. 5.

## Record Accuracy and Completeness

As noted in the research on record quality in State and Federal systems, the level of record quality varies enormously from one State to another. In the 50-State survey, as of 1982, about two-thirds of the States (35 out of 46 responding), both computerized and non-computerized, indicated that they did routinely employ a set of formal procedures (generally known as quality control checks or validity checks on input data) to assure the accuracy of criminal history information. This represented a significant improvement over 1979, when only 23 out of 46 employed such procedures on a routine basis. The 12 additional States with quality control checks are all either computerized (with an automated name index and/or CCH file) or in the process of computerizing.

While most State CCH repositories now have procedures to assure the reliability of in-

formation put into the system, as of 1979 about three-quarters had never conducted an audit of the quality and validity of information stored in CCH repositories, as indicated in table 26. A 1982 followup indicated no significant change. States implementing a record quality audit since 1979 were offset by States cutting out or drastically reducing their existing audit function, primarily due to budget and staff reductions.

**Table 26.—State Agencies That Have Conducted Record Quality Audits of Criminal History Information Stored in State Repositories**

	Number of States
Conducted quality audit . . . . .	13 (26.50%)
Never conducted quality audit . . . . .	36 (73.50%)
	49 (100%)

SOURCE Office of Technology Assessment 50-State Survey, and 1982 followup

## Court Disposition Monitoring

The most significant record quality problem in State systems, which is reflected in Federal NCIC and Ident files, is record incompleteness—the failure to capture court disposition information.

As shown in table 20, in about two-fifths of the States responding to the survey, as of 1982

there were no statutes to support a formal system of court disposition reporting. Seventeen of the States in 1979 and 19 States in 1982 indicated that they had automated procedures for the routine review of disposition completeness, as shown in table 27. With the exception of one, all of these had computerized systems.

**Table 27.—Procedures Used by State Agencies to Monitor Court Dispositions**

	1979 Number of States	1982 Number of States
Automated review of file . . . . .	17 (34.7%)	19 (38.80/o)
Manual review of file . . . . .	8 (16.30/o)	11 (22.40/o)
Sometimes inquire of courts before dissemination . . . . .	5 (10.2%)	4 (8.20/o)
No review of delinquent dispositions . . . . .	18 (36.80/o)	14 (28.60/o)
Don't know . . . . .	1 (2.0%)	1 (2.00/o)
	49 (100%)	49 (100°/0)

SOURCE Office of Technology Assessment 50-State Survey and 1982 followup

## Transaction Logs and Local Audits

One intent of Federal and State regulations is to ensure that the flow of CCH information can be accounted for—who received what information, what was the purpose, what was the type of information, and what happened to the information after its use. Implementing this intent of the regulations requires formal transaction logging procedures and audits of local users to ensure that the procedures are being followed.

Only two of the 49 responding States reported that as of 1979 they did not maintain dissemination logs, and one other indicated that it was in the process of developing a dissemination log. Logs of most States contain information on the name or identification number of the requesting agency and the type of information disseminated, as shown in table 28. Logs in about two-thirds of the States also contain information on the purpose of the request, the requestor's terminal identification number, and the name or identification number of the person requesting information. While nearly all States maintained logs of criminal history information disseminated by the State agency (as of 1982 only one State did not maintain a log), nearly two-thirds reported that they reviewed transaction logs only when a specific abuse was indicated, as shown in table 29. Frequent systematic monitoring of transaction logs was more prev-

**Table 28.—information Contained in Dissemination Logs**

Type of information	Number of States (N == 49)
Name or I.D. of requesting agency	46
Purpose of request . . . . .	34
Requester's terminal code I.D. . . . .	32
Type of information disseminated . . . . .	43
User agreement or authority base code, . . . . .	13
Name or I.D. of person requesting information. . . . .	32

SOURCE Office of Technology Assessment 50-State Survey

**Table 29.—Procedures Used to Review Dissemination Logs**

	Number of States
Frequent, systematic monitoring of user activity . . . . .	12 (24.50/o)
Annual monitoring of user activity . . . . .	3 (6.1 %/o)
Review of logs generally only when a specific abuse indicated . . . . .	29 (59.20/o)
None . . . . .	6 (12.2°/0)
	49 (100.0%)

SOURCE Office of Technology Assessment 50 State Survey

alent in States with computerized systems than in those with manual systems.

In the 12 States that reported systematic audits of user agencies, these procedures varied from occasional visits by State audit teams to, in some cases, the completion of questionnaires by local officials testifying to their compliance with State and Federal regulations.