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Report to the Chairman, Committee on the Judiciary, House of Representatives

February 2004

NATIONAL CRIMINAL HISTORY IMPROVEMENT PROGRAM

Federal Grants Have Contributed to Progress

GAO-04-364

February 2004

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Highlights

Highlights of GAO-04-364, a report to the Chairman, Committee on the Judiciary, House of Representatives

NATIONAL CRIMINAL HISTORY IMPROVEMENT PROGRAM

Federal Grants Have Contributed to Progress

Why GAO Did This Study

Public safety concerns require that criminal history records be accurate, complete, and accessible. Among other purposes, such records are used by the Federal Bureau of Investigation's (FBI) National Instant Criminal Background Check System (NICS) to ensure that prohibited persons do not purchase firearms.

Initiated in 1995, the National Criminal History Improvement Program represents a partnership among federal, state, and local agencies to build a national criminal records infrastructure. Under the program, the Department of Justice's Bureau of Justice Statistics (BJS) annually provides federal grants to states to improve the quality of records and their accessibility through NICS and other national systems maintained by the FBI.

GAO examined (1) how states have used program grant funds, particularly the extent to which such funds have been used for NICS-related purposes; (2) the progress—using program grants and other funding sources—that states have made in automating criminal history and other relevant records and making them accessible nationally; and (3) the various factors that are relevant considerations for policymakers in debating the future of the program.

www.gao.gov/cgi-bin/getrpt?GAO-04-364.

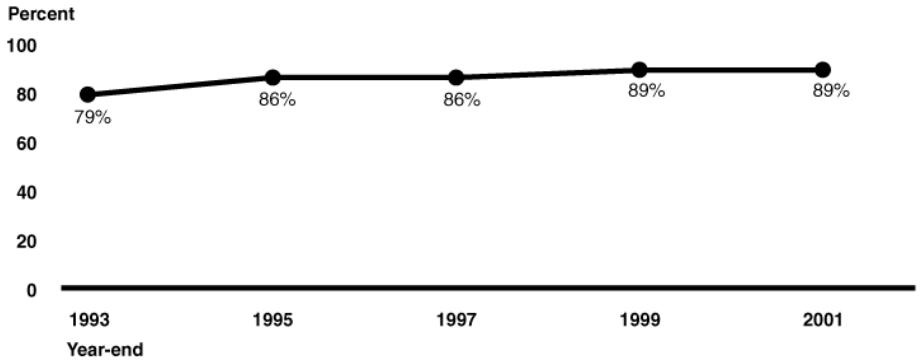
To view the full product, including the scope and methodology, click on the link above.
For more information, contact Laurie Ekstrand at (202) 512-8777 or ekstrandl@gao.gov.

What GAO Found

States have used program grants primarily to support NICS in conducting presale background checks of firearms' purchasers. BJS data show that over 75 percent of the total $164.3 million in program grants awarded in fiscal years 2000 through 2003 was used for NICS-related purposes. These uses encompassed a broad range of activities, such as converting manual records to automated formats and purchasing equipment to implement computerized systems or upgrade existing systems. All other uses of program grants, according to BJS, also had either direct or indirect relevance to building an infrastructure of nationally accessible records.

Using their own funds, in addition to the program and other federal grants, states have made progress in automating criminal history records and making them accessible nationally. As the figure shows, the percentage of the nation's criminal history records that are automated increased from 79 percent in 1993 to 89 percent in 2001, according to BJS's most recent data. Also, the number of states participating in the Interstate Identification Index—a "pointer system" to locate criminal history records anywhere in the country—increased from 26 at year-end 1993 to 45 by May 2003. But, progress has been more limited for some NICS-related purposes. A national system for domestic violence misdemeanor records is not available. Also, as of May 2003, only 10 states had made mental health records available to NICS, and only 3 states had provided substance abuse records.

Percentage of Criminal History Records Automated (as of calendar year-end)



Source: BJS data.

One of the most relevant factors for policymakers to consider when debating the future of the program is the extent of cumulative progress (and shortfalls) to date in creating national, automated systems. While states have made progress, more work remains. Also, the demand for background checks is growing, and technology is not static, which necessitates periodic upgrades or replacements of automated systems. Continued progress toward establishing and sustaining a national infrastructure inherently will involve long-term commitments from all governmental levels. Justice commented that GAO's report fairly and accurately described the program and its accomplishments.

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Abbreviations

BJS	Bureau of Justice Statistics
FBI	Federal Bureau of Investigation
IAFIS	Integrated Automated Fingerprint Identification System
III	Interstate Identification Index
NCHIP	National Criminal History Improvement Program
NCIC	National Crime Information Center
NICS	National Instant Criminal Background Check System
NSOR	National Sex Offender Registry
RQI	records quality index
USA PATRIOT ACT	United Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act

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Accountability * Integrity * Reliability

United States General Accounting Office
Washington, DC 20548

February 27, 2004

The Honorable F. James Sensenbrenner, Jr.
Chairman, Committee on the Judiciary
House of Representatives

Dear Mr. Chairman:

Public safety concerns require that criminal history records and the systems that maintain them be accurate, complete, and accessible. Such records and systems are important for traditional criminal justice purposes, such as positively identifying, prosecuting, and sentencing repeat offenders. Moreover, they are used to conduct background checks for various noncriminal justice purposes,[1] such as (1) ensuring that prohibited individuals do not purchase firearms, (2) preventing convicted pedophiles from working with organizations that serve children, and (3) meeting requirements associated with evolving homeland security concerns. For most purposes, the background checks are conducted using fingerprints. An exception is presale background checks of firearms' purchasers, who are screened by a name-based system—the National Instant Criminal Background Check System (NICS).

Initiated in 1995, the National Criminal History Improvement Program (NCHIP) represents a partnership among federal, state, and local agencies to build a national criminal records infrastructure. Under NCHIP, the Department of Justice's Bureau of Justice Statistics (BJS) annually provides federal grants to states to improve the quality and availability of criminal history records and their accessibility through various national systems maintained by the Federal Bureau of Investigation (FBI). Such systems include NICS—which has electronic links to (1) the National Crime Information Center (NCIC), which contains information on fugitives or wanted persons and individuals subject to court protection orders and (2) the Interstate Identification Index (III), which serves as a "pointer system" to locate criminal history records anywhere in the country—as well as the Integrated Automated Fingerprint Identification System

[1]The term "noncriminal justice purposes" refers to the uses of criminal history records for purposes authorized by federal or state law other than purposes relating to criminal justice activities. For example, authorized purposes may include employment suitability, licensing determinations, and national security clearances.

(IAFIS), which is a computerized system for storing, comparing, and exchanging fingerprint data in a digital format.

As agreed with your office, this report presents information on

- how states have used NCHIP grant funds, particularly the extent to which they have been used by states for NICS-related purposes;
- the progress—using NCHIP grants and other funding sources—that states have made in automating criminal history and other relevant records and making them accessible nationally; and
- the various factors that are relevant considerations for policymakers in debating the future of NCHIP.

As further agreed with your office, appendix IV of this report presents summary information on two supplemental topics: (1) the use of NCHIP funds by the 5 "priority states"[2] and their progress in automating records and (2) whether any of the 50 states have used NCHIP funds to develop or implement a ballistics registration system—that is, a system that stores digital images of the markings made on bullets and cartridge casings when firearms are discharged.

To address the primary objectives, we (1) reviewed BJS documentation that describes NCHIP spending activities, (2) analyzed BJS's biennial national survey data or reports on the automation status of all states' criminal history records, and (3) interviewed NCHIP managers at BJS and NICS managers at the FBI's Criminal Justice Information Services Division (Clarksburg, W.Va.). In addition, given that NCHIP consolidates criminal records improvement funding authorized by various federal laws, we reviewed these laws, such as the Brady Handgun Violence Prevention Act,[3] and related legislative histories. Also, to provide supplemental and more in-depth perspectives, we conducted case studies of 5 recipient states—California, Maryland, Mississippi, Texas, and West Virginia. We selected these states to reflect a range of various factors or considerations—that is, the amounts of grant funding received, status of NICS participation, and levels of automation, as well as to encompass different geographic areas of

[2]In 1994, BJS identified 5 states—Maine, Mississippi, New Mexico, Vermont, and West Virginia—as having the lowest levels of criminal history record automation. These 5 states were designated as priority states, making each eligible to receive an additional $1 million in funding during NCHIP's first year.

[3]Pub. L. No. 103-159, 107 Stat. 1536 (1993).

the nation.[4] We conducted our work from April 2003 to January 2004 in accordance with generally accepted government auditing standards. Appendix I presents more details about our objectives, scope, and methodology.

Results in Brief

States have used NCHIP grants primarily to support NICS in conducting background checks of firearms' purchasers. According to BJS data, of the total $165.2 million in NCHIP grants awarded in 4 recent fiscal years (2000, 2001, 2002, and 2003), over 75 percent was used for NICS-related purposes.[5] Such uses or purposes encompassed a broad range of activities, such as converting manual records to automated formats and purchasing equipment to implement computerized systems or upgrade existing systems. All other uses of NCHIP grants, according to BJS, also had either direct or indirect relevance to building an infrastructure of nationally accessible records, such as implementing technology to support the automated transfer of fingerprint data to IAFIS.

Using their own funds, in addition to NCHIP grants and other federal funds, states have made progress in automating criminal history records and making them accessible nationally. For example, the percentage of the nation's criminal history records that are automated increased from 79 percent at the end of 1993 to 86 percent at the end of 1995 and to 89 percent at the end of 2001, according to BJS's most recent biennial survey of states. To facilitate national compatibility and accessibility of records, BJS requires that all enhancements funded under NCHIP conform to the FBI's standards for national data systems—including, as applicable, NICS, NCIC, III, and IAFIS. Such conformance is important, for example, because III is the primary system used to access state-held data for NICS checks. The number of states participating in III increased from 26 at the end of 1993 to 30 at the end of 1995 and to 45 by May 2003. On the other

[4]Regarding status of NICS participation, the FBI categorizes states as follows: (1) Full participant states are those where a designated state agency conducts background checks of persons purchasing any firearm, both handguns and long guns; (2) partial participant states designate a state agency to conduct presale background checks for handgun purchases, with the FBI conducting background checks for long gun purchases; and (3) nonparticipant states are those where the FBI conducts presale background checks for purchases of both handguns and long guns. Sometimes, these categories are referred to as point-of-contact states, partial point-of-contact states, and FBI states, respectively.

[5]The $165.2 million total is based on NCHIP grant awards to the 50 states, the District of Columbia, and 5 territories for the 4 fiscal years.

hand, progress has been more limited for some NICS-related purposes. For example, automated information on the disposition of older felony and other potentially disqualifying arrests—that is, information regarding whether the criminal charges against the arrested individual were dropped or proceeded to be prosecuted and resulted in a conviction or acquittal—is critical for conducting background checks of persons purchasing firearms but is not always widely available. Also, automated information is not always available to identify other prohibited purchasers, such as persons convicted of misdemeanor crimes of domestic violence, adjudicated as mental defectives, or who are unlawful users of controlled substances.

One of the most relevant factors for policymakers to consider when debating the future of NCHIP is the extent of cumulative progress (and shortfalls) to date in creating national, automated systems. While states have made progress, more work remains—such as for the NICS-related purposes mentioned above. Another relevant factor to consider is that the demand for background checks is growing, with increases in recent years driven by screening requirements for employment and other noncriminal justice purposes. Furthermore, technology is not static, which necessitates periodic upgrades or replacements of automated systems to remain functional.

Background

Each state has a central repository for receiving criminal history information contributed by law enforcement agencies, prosecutors, courts, and corrections agencies throughout the state. Each repository compiles this information into criminal history records (commonly called "rap sheets"), which are to be made available to criminal justice personnel for authorized purposes. Typically, a criminal history record is created for each individual offender (each "subject"). The record is to contain relevant identifiers (including fingerprints) and information about all arrests and their dispositions, such as whether the criminal charges were dropped or resulted in an acquittal or a conviction.

Efforts to improve criminal history records nationwide predate NCHIP by more than 2 decades.[6] For example, the development of computerized criminal history systems in the states was a priority of the Law

[6]See Office of Technology Assessment, *An Assessment of Alternatives for a National Computerized Criminal History System*, October 1982. Also, see BJS, *Use and Management of Criminal History Record Information: A Comprehensive Report, 2001 Update* (NCJ 187670), December 2001.

Enforcement Assistance Administration, established by the Omnibus Crime Control and Safe Streets Act of 1968. Also, during much of the 1970s, 1980s, and early 1990s—largely without specifically appropriated funds—BJS (or its predecessor, the National Criminal Justice Information and Statistics Service) took the lead in encouraging states to computerize criminal records and ensure conformity with evolving FBI standards.

In the 1990s, efforts to improve the accuracy, completeness, and accessibility of criminal history records received an impetus with passage of various federal statutes, particularly

- the Brady Handgun Violence Prevention Act ("Brady Act"),[7] which, among other things, authorized grants for the improvement of state criminal history records and amended the Gun Control Act of 1968;[8]
- the National Child Protection Act of 1993,[9] which was enacted to provide national criminal background checks for child care providers; and
- the Violent Crime Control and Law Enforcement Act of 1994,[10] which, among other things, strove to improve access to court protection orders and records of individuals wanted for stalking and domestic violence.

With initial grant awards to states in 1995, NCHIP was designed by BJS to implement these federal mandates to improve public safety by enhancing the nation's criminal history records systems. In 1998, NCHIP's scope was expanded in response to federal directives to develop or improve sex offender registries and to contribute data to a national sex offender registry.

[7]Pub. L. No. 103-159, 107 Stat. 1536 (1993).

[8]The Gun Control Act, as amended, prohibits the purchase or possession of a firearm by any person who (1) has been convicted of a crime punishable by a prison term exceeding 1 year, (2) is a fugitive from justice, (3) is an unlawful user of controlled substances, (4) has been adjudicated as a mental defective, (5) is an illegal or unlawful alien, (6) has been discharged dishonorably from the armed forces, (7) has renounced his or her U.S. citizenship, (8) has been convicted of a misdemeanor crime of domestic violence, or (9) is subject to certain outstanding court protection orders.

[9]Pub. L. No. 103-209, 107 Stat. 2490 (1993). Amendments in 1994 further provided for background checks of those caring for the elderly and individuals with disabilities.

[10]Pub. L. No. 103-322, 108 Stat. 1796 (1994).

Also, in 1998, the "permanent" provisions of the Brady Act went into effect with the implementation of NICS—the computerized system designed to instantly (as the name indicates) conduct presale background checks of purchasers of any firearm (both handguns and long guns). In contrast, the "interim" provisions of the Brady Act (effective from 1994 to 1998) applied to handgun purchases only, and law enforcement officers were allowed a maximum of 5 business days to conduct presale background checks for evidence of felony convictions or disqualifying information. The effectiveness of NICS depends largely on the availability of automated records—including the final dispositions of arrests, such as whether the criminal charges resulted in convictions or acquittals. In this regard, many criminal justice agencies, from police departments to the courts, are generators of records relevant to NICS.

Over the years, BJS has tried to ensure that the use of NCHIP funds was closely coordinated with the federal Edward Byrne Memorial Grant Program, which requires that states use at least 5 percent of their awards for improving criminal history records. All 50 states, the District of Columbia, and the U.S. territories have been recipients of NCHIP grant awards, which totaled more than $438 million during fiscal years 1995 through 2003.

Also, as mentioned previously, to ensure national compatibility and accessibility of records, recipients' uses of NCHIP funds must conform with the FBI's standards for national data systems—including, as applicable, NICS, NCIC, III, and IAFIS. Regarding IAFIS, for example, most states have some type of automated fingerprint identification system (AFIS); a state can use NCHIP funds to enhance its AFIS by purchasing Livescan equipment, if the state has implemented (or is implementing) procedures to ensure that the AFIS is compatible with FBI standards.[11] More details about the national data systems are presented in appendix II.

[11]Livescan equipment can record and transmit fingerprints in a digital format. The equipment is used to capture fingerprint images directly from an individual's fingers, which are rolled onto glass scanning plates.

States Have Used NCHIP Grants Primarily to Support NICS

For the recent fiscal years we studied, states used NCHIP grants primarily to support NICS in conducting background checks of firearms' purchasers. According to BJS data, a total of $165.2 million in NCHIP grants was awarded during fiscal years 2000 through 2003.[12] Of this total, a majority—over 75 percent—was used for NICS-related purposes that encompassed a broad range of activities, such as converting manual records to automated formats and purchasing equipment to implement computerized systems or upgrade existing systems. All other uses of NCHIP grants during this period, according to BJS, also had either direct or indirect relevance to building an infrastructure of nationally accessible records, such as implementing technology to support the automated transfer of fingerprint data to IAFIS. We found that a state's participation status in NICS—whether the state was a full participant, partial participant, or nonparticipant—made little difference in how NCHIP funds were used by states.

For the Recent Fiscal Years We Studied, the Majority of NCHIP Funds Was Used to Support NICS-Related Activities

As indicated in table 1, NCHIP award amounts can be grouped into six spending categories in which BJS awarded a total of $165.2 million in NCHIP grants for fiscal years 2000 through 2003. A majority of these funds was used for NICS-related purposes. For example, the two largest categories of spending—NICS/III/criminal records improvements and disposition reporting improvements—accounted for over 75 percent of total program awards during this period. Both categories directly affected NICS. The NICS/III/criminal records improvements category affected NICS by focusing on activities for improving records related to federal firearms disqualifiers and enhancing access to these records through III.

Similarly, the disposition reporting improvements category provided access to information about the disposition of arrests—information that is critical for determining whether persons are legally prohibited from purchasing firearms. Regarding this category, BJS encourages states to focus on making systemic improvements rather than using staff to manually research records to determine dispositions. Nonetheless, according to BJS, states may use NCHIP funds to research arrest dispositions in response to specific NICS-related queries, if the information is subsequently added to the automated system. BJS officials could not quantify the NCHIP grant amounts that all states have allocated

[12]The $165.2 million total is based on NCHIP grant awards to the 50 states, the District of Columbia, and 5 territories for the 4 fiscal years.

for staff to research arrest dispositions. Officials in 2 of the 5 case-study states indicated that their states had used NCHIP funding to research missing arrest dispositions and update criminal history records in response to specific NICS-related queries. One of these states (Maryland) used $41,000 of its fiscal year 2002 NCHIP award to fund a full-time position for researching the state's archived criminal history records.

Table 1: NCHIP Funds Awarded by Spending Category, Fiscal Years 2000 through 2003

NCHIP spending category	Examples of grant fund uses by spending category	Total grant award amounts for 2000-03	Spending category as a percentage of 4-year total
NICS/III/ criminal records improvements	• Purchase equipment for major automated criminal records systems or overall upgrades. • Convert and automate manual records, develop policies, and fund other activities required to bring states in compliance with the FBI's standards for national data systems. • Develop nonfelony databases for mental health records. • Develop nonfelony databases for domestic violence related misdemeanor records.	$68,625,673	42
Disposition reporting improvements[a]	• Upgrade and automate records management systems to capture data on dispositions from courts, district attorney offices, and parole/probation systems. • Develop protocols and standards for transferring disposition data to the state central repository, linking disposition data with arrest records. • Install electronic fingerprinting equipment in courts to identify defendants and facilitate record linkage. • Research missing dispositions in response to NICS inquiries. • Update "arrest only" records to include case disposition information.	58,317,260	35
AFIS/ Livescan activities	• Purchase and install electronic fingerprinting equipment that conforms to FBI technical standards. • Implement technology to support the automated transfer of fingerprint data to IAFIS.	23,884,385	15
Sex offender registry enhancements	• Establish a state sex offender registry system that complies with FBI standards and supports an interface with the FBI's National Sex Offender Registry. • Classify state legislation relevant to sex offender registration. • Continually review registrants' addresses and status.	5,638,410	3
Protection order activities	• Establish state-level protection order systems. • Establish protocols and record linkages to the NCIC Protection Order File.	5,265,250	3

NCHIP spending category	Examples of grant fund uses by spending category	Total grant award amounts for 2000-03	Spending category as a percentage of 4-year total
National security/anti-terrorism activities[b]	• Develop linkages to the state repository used for background checks on persons employed in sensitive positions. • Purchase electronic fingerprinting equipment. • Develop policies governing the use of equipment to ensure privacy and compliance with applicable regulations regarding noncriminal justice background checks.	3,472,141	2
Total		**$165,203,119**	**100**

Source: GAO analysis of BJS data.

Note: The data are based on NCHIP grant award amounts to the 50 states, the District of Columbia, and 5 territories. As of January 2004, the recipients had not yet spent all of the funds awarded. There is overlap between some of the categories, but funds for any given activity were included in only one category and were not double counted. In cases where expenditures could be included in more than one category, BJS judgmentally selected the category that was most descriptive of the activity. Details do not add to 100 percent due to rounding.

[a]For disposition reporting improvements, BJS used three spending categories—(1) funding to state courts, (2) funding to other judicial components, and (3) funding for disposition improvements not related to state courts. For purposes of this table, we combined these three into one spending category.

[b]BJS did not recognize national security/antiterrorism activities until 2002 (after the events of September 11, 2001).

Also, table 1 shows that BJS awarded 3 percent of NCHIP funding specifically for protection order activities to improve records related to this firearms-purchase disqualifier. The other categories in table 1—AFIS/Livescan activities, sex offender registry enhancements, and national security/antiterrorism activities—were for records improvement efforts that do not directly impact NICS. However, according to BJS, even if not NICS-related, each of the six spending categories in table 1 had either direct or indirect relevance to building an infrastructure of nationally accessible records, such as implementing technology to support the automated transfer of fingerprint data to IAFIS.

Appendix III presents more information about the use of NCHIP funds in the 5 case-study states, and appendix IV presents information about the use of NCHIP funds in the 5 priority states.[13]

[13]In 1994, BJS identified 5 states—Maine, Mississippi, New Mexico, Vermont, and West Virginia—as having the lowest levels of criminal history record automation. These 5 states were designated as priority states, making each eligible to receive an additional $1 million in funding during NCHIP's first year.

No Apparent Differences in NCHIP Awards Based on States' Participation Status in NICS

As mentioned previously, for purposes of NICS background checks of persons purchasing firearms, states are categorized as full participants, partial participants, or nonparticipants. As table 2 shows, we found little difference in the use of NCHIP funds by states based on their participation status in NICS. With relatively minor exceptions, the relative order of spending across categories was the same in all three types of states. Of the various spending categories, NICS/III/records improvements reflected the largest difference in percentage points—that is, a difference of 12 percentage points between the partial participant states (47 percent) and the full participant states (35 percent). A BJS official stated that this difference is not substantial and might occur because some states have legislation with slightly different prohibitors for purchasing firearms.

Table 2: NCHIP Awards by Spending Category and States' Participation Status in NICS, Fiscal Years 2000 through 2003

	Full participant states	Partial participant states	Nonparticipant states
Number of states	14	10	26
Total NCHIP awards	**$56,553,315**	**$34,533,439**	**$68,781,449**
NCHIP spending category (in percent)			
NICS/III/criminal records improvements	35	47	41
Disposition reporting improvements	40	35	34
AFIS/Livescan activities	15	12	16
Sex offender registry enhancements	3	3	4
Protection order activities	4	1	3
National security/antiterrorism activities[a]	3	2	2
Total percent	**100**	**100**	**100**

Source: GAO summary of BJS data.

Note: The data are based on NCHIP grant award amounts. The recipients have not yet spent all of the funds awarded. There is overlap between some of the categories, but funds for any given activity were included in only one category and were not double counted. In cases where expenditures could be included in more than one category, BJS judgmentally selected the category that was most descriptive of the activity.

[a]BJS did not recognize national security/antiterrorism activities until 2002 (after the events of September 11, 2001).

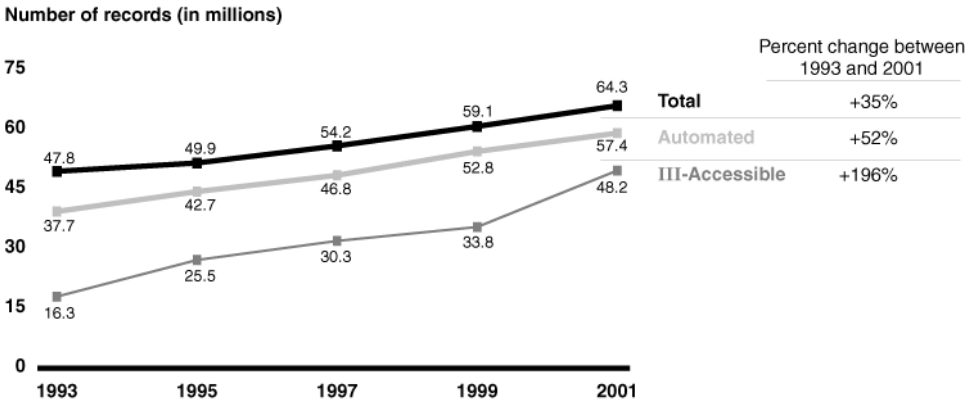
Progress Has Been Made—Using State, NCHIP, and Other Federal Funds—in Automating Records and Making Them Accessible Nationally

Using their own funds, in addition to NCHIP grants and other federal funds, states have made progress in automating criminal history records and making them accessible nationally. For example, the percentage of the nation's criminal history records that are automated increased from 79 percent at the end of 1993 to 86 percent at the end of 1995 and to 89 percent at the end of 2001, according to BJS's most recent biennial survey of states. To ensure national compatibility and accessibility of records, recipients' uses of NCHIP funds must conform with the FBI's standards for national data systems—including, as applicable, NICS, NCIC, III, and IAFIS. Such conformance is important, for example, because III is the primary system used to access state-held data for NICS checks. The number of states participating in III increased from 26 at the end of 1993 to 30 at the end of 1995 and to 45 by May 2003, indicating growth in compatible automated records. On the other hand, progress has been more limited for some NICS-related purposes. For example, automated information on the disposition of felony and other potentially disqualifying arrests is not always widely available. Also, automated information is not always available to identify other prohibited purchasers of firearms, such as persons convicted of a misdemeanor crime of domestic violence, persons adjudicated as mental defective, or persons who are unlawful users of controlled substances. In fiscal year 2004, BJS plans to begin using a new, performance-based tool for making NCHIP funding decisions.

Progress Made in Automation and Accessibility of Criminal History Records

In recent years, with the use of state and federal funds, criminal history record automation levels in the states and the accessibility of these records nationally have improved. BJS survey data from the end of 1993 to the end of 2001 (the most recent data) show that increases in automation levels have outpaced increases in the number of criminal history records. Specifically, while the number of total records increased 35 percent during this period, the number of automated records increased 52 percent—which indicates progress in automating older criminal history records. Also, the number of records accessible by the III system increased 196 percent (see fig. 1).

Figure 1: Trend in Automation and III Accessibility of Criminal History Records



Source: BJS data.

Note: Data for total records and automated records are as of calendar year end for the respective years. Data for III-accessible records are as of the following respective dates: December 31, 1993; December 31, 1995; September 30, 1997; June 30, 1999; and March 1, 2003.

Overall, the percentage of the nation's criminal history records that are automated increased from 79 percent at the end of 1993 to 86 percent at the end of 1995 and to 89 percent at the end of 2001. The number of states participating in III increased from 26 at the end of 1993 to 30 at the end of 1995 and to 45 by May 2003.

Also, according to BJS, other indicators of improved automation levels and accessibility are as follows:

- In 1997, the FBI established the NCIC Protection Order File to provide a repository for protection order records. As of May 2003 (within 6 years of implementation), 43 states and 1 territory had contributed more than 778,000 records to this system.
- In 1999, in response to mandates in the amendments[14] to the Jacob Wetterling Crimes Against Children and Sexually Violent Offender Registration Act,[15] the FBI established a national sex offender database for states to register and verify addresses of sex offenders. As of May 2003 (within 5 years of implementation), 50 states, the District of

[14]Pam Lychner Sexual Offender Tracking and Identification Act of 1996, Pub. L. No. 104-236, 110 Stat. 3093, (1996).

[15]Pub. L. No. 103-322, 108 Stat. 1796, 2038 (1994).

Columbia, and 3 territories had contributed all of their then-applicable records (over 300,000 records) to the National Sex Offender Registry.
- In 1999, the FBI implemented IAFIS—a computerized system for storing, comparing, and exchanging fingerprint data in a digital format. As of April 2003 (within 4 years of implementation), 44 states, the District of Columbia, and 3 territories had submitted some portions of their fingerprint files electronically to the FBI for entry into IAFIS.

BJS officials told us that NCHIP funds played a role in leading states to these and other accomplishments. Similarly, officials in the 5 case-study states we visited told us that the criminal history record improvements in their states would not have been possible without NCHIP funds. According to BJS officials, NCHIP is best viewed as being an "umbrella" program that pools or coordinates various streams of monies. The officials noted that NCHIP grants generally should not be viewed in isolation, apart from funds that the states themselves spend for these initiatives. That is, the NCHIP grants generally provide the seed money or the supplemental funds that the states need to undertake major system upgrades or to implement an overall plan for modernizing their information systems. While NCHIP requires that states provide a 10 percent match to the federal funds awarded, officials in the case-study states told us that their states typically have invested much more than the required 10 percent. For example, 1 state that has received over $5 million in NCHIP funds estimated that over $20 million of its own funds have been invested in system improvements since 1995. Another state, receiving almost $7 million in NCHIP grants, estimated that $35.4 million in state resources have been spent on improving and automating its systems.

In addition to NCHIP and state-provided funds, other federal programs provide funds that can be used to improve criminal history records. For example, the Bureau of Justice Assistance provides funds to states through Byrne grants, a block grant program that requires states to set aside 5 percent of any award for criminal justice information systems to assist law enforcement, prosecution, courts and corrections organizations. In addition to criminal history record improvements, Byrne grants may be used for a variety of other system-related activities that are not related to NCHIP. Examples include activities involving systems to collect criminal intelligence and systems to collect driving-under-the influence data. According to Bureau of Justice Assistance data for fiscal years 2001 through 2003, almost $73 million in Byrne grants were set-aside to improve criminal justice information systems.

Grants are also now available for antiterrorism purposes under the Crime Identification Technology Act of 1998,[16] as amended by the United Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act (USA PATRIOT Act) of 2001.[17]

Besides characterizing NCHIP as an umbrella program, BJS officials also described it as being a "partnership" program—among BJS, the FBI, and the states and localities—for building a national infrastructure to facilitate the interstate exchange of information. The officials explained that such exchanges or accessibility are needed to support a variety of both criminal justice purposes (e.g., making decisions regarding pretrial release, sentencing, etc.) and noncriminal justice purposes (e.g., conducting background checks of firearms' purchasers, child-care providers, etc.). The BJS officials noted that NCHIP funds often are spread across a variety of long-term initiatives undertaken by the states' executive and judicial branch agencies to upgrade the architecture and coverage of criminal records information systems.

Limited Progress for Some NICS-Related Purposes

For some NICS-related purposes, limited progress had been made in the automation and accessibility of relevant records. For example, automated information on the disposition of older felony and other potentially disqualifying arrests—that is, information regarding whether the criminal charges against the arrested individual were dropped or proceeded to be prosecuted and resulted in a conviction or acquittal—is critical for conducting background checks of persons purchasing firearms but is not always widely available. Also, automated information is not always available to identify other prohibited purchasers, such as persons convicted of misdemeanor crimes of domestic violence, adjudicated as mental defectives, or who are unlawful users of controlled substances.

Information on Dispositions of Arrests Not Always Widely Available

In conducting background checks of firearms' purchasers, automated information on whether the criminal charges against arrested individuals were dropped or proceeded to be prosecuted and resulted in a conviction or acquittal is not always widely available. For example, 23 of the 38 states that responded to a question on final dispositions in BJS's most recent biennial survey reported that 75 percent or less of their arrest records had final dispositions recorded (see table 3).

[16]Pub. L. No. 105-251, 112 Stat. 1870 (1988).

[17]Pub. L. No. 107-56, 115 Stat. 272 (2001).

Table 3: Percent of Arrest Records in State Repositories That Had Final Dispositions Recorded (as of Dec. 31, 2001)

Percent	Number of states	States
0 to 25	3	Colorado, Indiana, and Mississippi
26 to 50	6	Arizona, Kansas, Louisiana, Nevada, New Mexico, and Oklahoma.
51 to 75	14	California, Delaware, Florida, Georgia, Idaho, Kentucky, Minnesota, Missouri, Nebraska, North Dakota, Ohio, Oregon, Rhode Island, and Utah
76 to 99	14	Alaska, Arkansas, Connecticut, Hawaii, Iowa, Maryland, Michigan, New Jersey, New York, North Carolina, South Dakota, Virginia, Wisconsin, and Wyoming
100	1	Massachusetts
Not reported[a]	12	Alabama, Illinois, Maine, Montana, New Hampshire, Pennsylvania, South Carolina, Tennessee, Texas, Vermont, Washington, and West Virginia

Source: BJS data.

Note: The percentages are based on all arrest records in state respositories, whether maintained in automated or manual formats.

[a]Percentages are "not reported" by states for various reasons, including a lack of state personnel and/or computer program time to submit survey responses, or states' inability to track the data needed to respond to the survey.

It is important to draw a distinction between old and new arrest records with respect to disposition reporting. The BJS Director told us that, given limited resources, the agency has always emphasized to the states the importance of making certain that records of recent criminal activity are updated and compatible with FBI standards. In this regard, the Director explained that many states adopted a "day 1" approach in using NCHIP funds to improve records—that is, improve new records first—and left a number of old, inactive records archived in state repositories. The Director noted that BJS research, with FBI assistance, has indicated that older arrest records account for much of the "open arrest" problem. That is, of the criminal history records for which missing disposition information was never recorded, about one-half involve arrests that occurred before 1984 and three-quarters pre-date NCHIP.

Nonetheless, while states have made progress in automating newer disposition information—and automating disposition information discovered when conducting research of older records—achieving

universal automation of disposition information continues to present challenges, as table 3 indicates.

BJS has recognized that, whenever criminal history records show arrests without final dispositions, there is the potential for delays in responding to presale firearms inquiries because, in most instances, disqualifications result from convictions rather than arrests. Since 1995, BJS has encouraged states to contact court representatives and determine how NCHIP funds can be used to improve disposition reporting. Further, since 2000, BJS has required that such contacts be documented in the states' application packages for NCHIP funds. For example, in the *Fiscal Year 2003 Program Announcement* (Mar. 2003), BJS specified that "all applications will be required to demonstrate that court needs have been considered, and if no funds for upgrading court systems capable of providing disposition data are requested, applicants should include a letter from the State court administrator or Chief Justice indicating that the courts have been consulted in connection with the application."

Automated Information Not Always Available to Identify Other Prohibited Purchasers

The Gun Control Act of 1968, as amended,[18] specifies four nonfelony or noncriminal categories that prohibit an individual from owning or purchasing a firearm—that is, persons who (1) have been convicted of a misdemeanor crime of domestic violence, (2) are subject to certain outstanding court protection orders, (3) have been adjudicated as mentally defective, or (4) are unlawful users of controlled substances. Generally, states have used NCHIP funds to provide information for only one of these four categories—court protection orders. For fiscal years 2000 through 2003, states received a total of approximately $5.3 million in NCHIP funds to develop systems for reporting information to the FBI to be included in the NCIC Protection Order File as indicated in table 1. As of May 2003, states had made more than 778,000 records of court protection orders available to the national file.

However, the availability of information regarding domestic violence misdemeanor convictions, mental health commitments, and controlled substance abusers is problematic for various reasons. For example, according to BJS, problems in identifying domestic violence misdemeanor convictions are twofold—(1) misdemeanor data traditionally have not been maintained at the state level in an automated format and (2) misdemeanor assault charges rarely specify the victim-offender

[18]Pub. L. No. 90-618, 82 Stat. 1213 (1968).

relationship unless domestic violence is specifically charged. That is, domestic violence-related offenses can be difficult to distinguish from misdemeanors broadly classified as assaults. Since fiscal year 1996, BJS has encouraged states to use NCHIP funds to improve access to domestic violence records. BJS has provided direction, for example, to the states to set "flags" on the records of persons known to have a conviction for domestic violence.

Records regarding mental health commitments are often not available nationally for reasons beyond the control of NCHIP. For instance, state mental health laws, privacy laws, or doctor-patient considerations may preclude federal law enforcement officials from routinely accessing some of these records. According to BJS, the area of mental health records and their shareability is a very difficult area—and is an area in which BJS has encouraged states to do more with NCHIP funds since fiscal year 1996. The FBI's strategy—which BJS encourages the states to use—has been to create a Denied Persons File in the NICS Index where the reason for denial is not given unless the denial is appealed.

In reference to substance abuse, BJS noted that federal law is very unclear regarding who is a prohibited person, which makes it very difficult for states to make records available to the FBI for NICS checks. Also, BJS noted that states have no central registries of active drug users or addicts. Given the complications of federal definitions, BJS emphasized that it would be a very challenging undertaking to develop such registries and keep them current.

Overall, as table 4 indicates, a national system for domestic violence misdemeanor records is not available, only 10 states have provided mental health records to the NICS Index, and only 3 states have provided substance abuse records. According to BJS, most states have chosen to use NCHIP awards to automate criminal history records overall and improve criminal history record systems, rather than focus on improving access to these four specific types of records. BJS recognizes that ensuring the availability of additional nonfelony or noncriminal records involves various considerations or challenges that extend beyond simply providing more money to improve records. For example, as mentioned previously, BJS noted that federal law is very unclear regarding who is a prohibited person in reference to substance abuse.

Table 4: Summary of Nonfelony or Noncriminal Information Available Nationally (as of May 2003)

Nonfelony or noncriminal disqualifying factor	Systems providing information and number of records available	Challenges affecting the availability of additional records	Examples of state actions to address challenges
Persons convicted of domestic violence misdemeanors	• National system for domestic violence misdemeanor records is not available. • States rely on criminal history records for information pertaining to domestic violence misdemeanor convictions.	• Definition in federal statute is complex.[a] • States report domestic violence misdemeanors as assaults and often do not include information regarding perpetrator's relationship to victim. • Arrest may lack disposition information.	• Eight states have begun developing systems designed to identify domestic violence records during background checks. • One case-study state plans to install a domestic violence flagging capability when its computerized criminal history system is reprogrammed during fiscal year 2004.
Persons who are subjects of court protection orders	• NCIC Protection Order File contains more than 778,000 court protection orders submitted by 43 states.	• Difficult to keep protection order information up-to-date because orders can be rescinded and/or reinstated.	• Most states are providing this information to national systems.
Persons who have been adjudicated as mentally defective	• NICS Index contains a file—the Mental Defective Commitment File—where mental health records are maintained.[b] • Ten states have provided 58,721 mental health records to the NICS Index Mental Defective Commitment File.	• State privacy and doctor/patient confidentiality laws prohibit contributing this information to national systems.	• States that have applicable privacy or doctor/patient confidentiality laws have begun considering using the NICS Index Denied Persons File.[c]
Persons who are unlawful users of or addicted to controlled substances	• NICS Index contains a file—the Controlled Substance Abuse File —where substance abuse records are maintained. • Three states have provided 66 substance abuse records to the NICS Index Controlled Substance Abuse File.	• The associated definition of the term "addict" contains various criteria that are subjective in nature. • State privacy and doctor/patient confidentiality laws may prohibit contributing this information to national systems.	• No states are developing systems to track substance abusers.

Source: GAO analysis of BJS and FBI data.

[a]The Gun Control Act of 1968, as amended, defines a "misdemeanor crime of domestic violence" as an offense that is a misdemeanor under federal or state law and has, as an element, the use or attempted use of physical force or the threatened use of a deadly weapon, committed by (1) a current or former spouse, parent, or guardian of the victim; (2) a person with whom the victim shares a child in common; (3) a person who is cohabiting with or has cohabited with the victim as a spouse, parent, or guardian; or (4) a person similarly situated to a spouse, parent, or guardian of the victim.

[b]The NICS Index was created solely for presale background checks of firearms' purchasers and contains disqualifying information contributed by local, state, and federal agencies on individuals who are prohibited from purchasing firearms for various reasons, such as being (1) dishonorably discharged from the armed forces, (2) involuntarily committed to a mental institution, or (3) an unlawful user of a controlled substance.

[c]The NICS Index Denied Persons File allows a state to flag an individual as prohibited from purchasing a firearm without providing the specific reason for the prohibition.

BJS has recognized that the absence of widely accessible information on domestic violence misdemeanors and noncriminal disqualifying factors is among the most important issues affecting the accuracy and timeliness of presale background checks of firearms purchasers. Thus, for several years, BJS has been encouraging states to use NCHIP funds to make improvements. Recently, for example, in providing NCHIP guidance in the *Fiscal Year 2003 Program Announcement* (Mar. 2003), BJS encouraged states to develop systems that would make this information available nationally.

BJS Is Developing a Tool for Measuring NCHIP Performance

As mentioned previously, NCHIP's goal is to improve public safety by enhancing the quality, completeness, and accessibility of the nation's criminal history and sex offender record systems and the extent to which such records can be used and analyzed for criminal justice and authorized noncriminal justice purposes. To better measure progress toward this goal, BJS is developing a tool—a criminal history records quality index (RQI)—to uniformly characterize and monitor performance across jurisdictions and over time. RQI is to be based on a series of key indicators or outcome measures, such as the proportion of fully automated criminal history records in a state's repository, the proportion of court dispositions transmitted electronically to the repository, and the extent to which the state submits data electronically to the FBI. According to BJS, RQI will be used to assess the progress of records quality at both the state and national levels, identify critical records improvement activities by pinpointing areas of deficiency and permit BJS to target specific problems and deficiencies for allocating future funding at the individual state level.

After RQI is operationalized, BJS plans to begin using it for NCHIP funding decisions. Initial RQI development—and pilot testing in 10 states—was completed in 2003. As of January 2004, according to BJS, collection of the underlying RQI measures data from the other 46 jurisdictions (40 states, the District of Columbia, the 5 U.S. territories) was still ongoing. BJS hopes to receive RQI data submissions from all jurisdictions by April 30, 2004.

Various Factors Are Relevant Considerations for Policymakers in Debating the Future of NCHIP

One of the most relevant factors for policymakers to consider when debating the future of NCHIP is the extent of cumulative progress (and shortfalls) to date in creating national, automated systems that cover all needed types of information. While states have made progress, more work remains. For NICS-related purposes, as discussed previously, automated information is not always widely available on the disposition of felony and other potentially disqualifying arrests, nor on other prohibited purchasers, such as persons convicted of a misdemeanor crime of domestic violence. Another relevant factor to consider is that the demand for background checks is growing, with increases in recent years driven by screening requirements for employment and other noncriminal justice purposes. Furthermore, technology is not static, which necessitates periodic upgrades or replacements of automated systems for them to remain functional.

Progress Has Been Made, but More Work Remains

As discussed previously, much progress has been made in automating records in recent years. On the other hand, some areas reflect a continuing need for improvements. For instance, the availability of and access to arrest disposition information—necessary for timely presale background checks of persons purchasing firearms—continues to be problematic. Such information is important for preventing or minimizing the sale of firearms by "default proceed." That is, by statute, if a background check is not completed within 3 business days, the sale of the firearm is allowed to proceed by default, sometimes to prohibited persons.

In 2000, we reported that default proceeds occurred primarily due to a lack of arrest dispositions in states' automated criminal history records and that many of these transactions involved individuals—2,519 purchasers during a 10-month period—who were later determined by the FBI to be prohibited persons.[19] We further reported that firearms being transferred to prohibited persons presented public safety risks and placed resource demands on law enforcement agencies in retrieving the firearms. More recently, according to the FBI, over one-third (1,203) of the total 3,259 firearms retrieved in 2002 by the Bureau of Alcohol, Tobacco,

[19]U.S. General Accounting Office, *Gun Control: Options for Improving the National Instant Criminal Background Check System*, GAO/GGD-00-56 (Washington, D.C.: Apr. 12, 2000).

Firearms, and Explosives occurred because disposition information for felony arrests could not be determined within 3 days.[20]

Another one-third (1,052) of the total retrievals in 2002 involved background checks whereby FBI examiners were unable to timely determine from available records that misdemeanor assault convictions involved domestic violence. A national system for domestic violence misdemeanor records is not available (see table 4). To further support NICS, table 4 also indicates that there is still much opportunity for improving the availability of records regarding persons who have been adjudicated as mentally defective and persons who are unlawful users of controlled substances.

Additional examples (not exhaustive) of opportunities for further progress in automating records and/or enhancing national systems include the following:

- 5 states (Hawaii, Kentucky, Louisiana, Maine, and Vermont), the District of Columbia, and the 5 U.S. territories (American Samoa, Guam, Northern Mariana Islands, Puerto Rico, and the U.S. Virgin Islands) still do not participate in III;
- 7 states (Hawaii, Mississippi, Nevada, New Jersey, Utah, Virginia, and West Virginia), the District of Columbia, and 4 U.S. territories (American Samoa, Guam, Northern Mariana Islands, and Puerto Rico) have not contributed any data to the NCIC Protection Order File; and
- 6 states (Arkansas, Delaware, Missouri, Nevada Vermont, and Wyoming) and 2 U.S. territories (Northern Mariana Islands and Puerto Rico) have not submitted any files electronically to IAFIS.

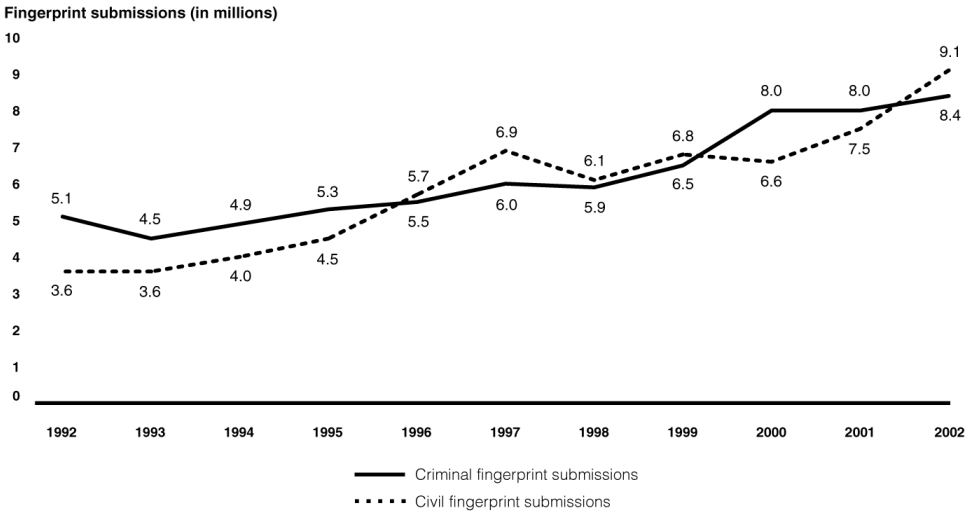
Demand on Systems Is Increasing, Especially for Noncriminal Justice Purposes

In debating the future of NCHIP, another relevant factor for policymakers to consider is that the demand for background checks is growing, with increases in recent years driven by screening requirements for employment and other noncriminal justice purposes. Generally, background checks for these "civil" purposes are based on fingerprint submissions—in contrast to the "name-based" searches conducted under NICS. The number of civil fingerprint submissions to the FBI has increased

[20]Generally, the number of default proceeds (including those that subsequently involve retrievals of firearms) represents a small fraction of total NICS transactions. For example, the 3,259 firearms retrieved in 2002 constituted about 0.04 percent of the approximately 8.4 million NICS transactions conducted that year. Also, BJS noted that the number of retrievals in 2002 was about 33 percent fewer than in 2000, which indicates that NICS is becoming more effective with improvements in record keeping.

substantially in recent years. As figure 2 shows, for 5 of the 7 years during 1996 to 2002, the number of civil fingerprint submissions exceeded the number of criminal fingerprint submissions (i.e., fingerprints of criminal suspects or arrestees). In the most recent year (2002), civil fingerprint submissions totaled 9.1 million, whereas criminal fingerprint submissions totaled 8.4 million.

Figure 2: Annual Number of Criminal and Civil Fingerprint Submissions Received by the FBI (fiscal years 1992 through 2002)



Source: FBI data.

The growth in civil fingerprint submissions is partly attributable to 1993 federal legislation that encouraged states to have procedures requiring fingerprint-based national searches of criminal history records of individuals seeking paid or volunteer positions with organizations serving children, the elderly, or the disabled.[21] As of February 2004, according to BJS, 47 states had enacted legislation authorizing these record checks.

Further, in 2003, federal legislation was enacted that establishes, in general, a pilot program in 3 states to conduct fingerprint-based background checks on individuals seeking volunteer positions involving

[21]National Child Protection Act of 1993, Pub. L. No. 103-209, 107 Stat. 2490 (1993), as amended.

interactions with children.[22] Within 6 months of the date of the 2003 Act's enactment, the Attorney General is to conduct a feasibility study to determine, among other things, the number of background checks that would be required if the pilot were implemented nationwide and the impact these additional checks might have on the FBI and IAFIS. If this pilot program is implemented nationally, BJS officials estimate that millions of additional background checks would be required annually.

Homeland security concerns are another factor that has increased the demand for fingerprint-based background checks. Since the events of September 11, 2001, Congress passed legislation to protect the nation from future terrorist attacks. These laws require that individuals employed in sensitive positions undergo background checks to qualify for employment. FBI and BJS officials expect the number of applicant background checks to be in the millions, as homeland defense laws are fully implemented. Examples of federal homeland defense legislation and the number of checks anticipated follow:

- USA PATRIOT Act of 2001[23]—Requires background checks on commercially licensed drivers who transport hazardous materials.[24] Officials from the FBI's Criminal Justice Information Services Division estimated that 800,000 to 1,000,000 individuals held commercial licenses at the time the USA PATRIOT Act was passed. Under the act, license renewals, in addition to new licensees, will need background checks to qualify for commercial licenses.
- Aviation and Transportation Security Act of 2001[25]—Requires background checks of those individuals in security screener positions or other positions such as those with unescorted access to aircraft or secured areas of an airport. New background checks are required for those employees already hired at the time of the Aviation and Transportation Security Act's passage as well as for individuals seeking employment. This act further requires background checks of foreigners

[22]Prosecutorial Remedies and Other Tools to End the Exploitation of Children Today Act of 2003 (PROTECT Act), Pub. L. No. 108-21, 117 Stat. 650 (2003).

[23]Pub. L. No. 107-56, 115 Stat. 272 (2001).

[24]The USA PATRIOT Act defines "hazardous materials" as any material defined as a hazardous material by the Secretary of Transportation and any chemical or biological material or agent determined by the Secretary of Health and Human Services or the Attorney General as being a threat to the national security of the United States.

[25]Pub. L. No. 107-71, 115 Stat. 597 (2001).

seeking enrollment in flight schools. The Transportation Security Administration has requested over 105,365 background checks since passage of the act in November 2001. In addition to these checks, FBI officials estimated that flight school checks alone could result in up to 50,000 fingerprint checks annually.

- Public Health Security and Bioterrorism Preparedness and Response Act of 2002[26]—Requires the Attorney General to conduct background on persons possessing, using, or transferring various toxins and biological agents. FBI officials estimated that this law could result in 30,000 checks annually.

Technology Is Not Static

Another factor for consideration is that technology is not static and can change rapidly, which necessitates periodic upgrades or replacements of automated systems. For example, 1 case-study state used fiscal year 1995 NCHIP funds to purchase Livescan equipment for its major metropolitan areas. According to state officials, this equipment is now outdated and fiscal year 2003 NCHIP funds will be used to purchase new equipment. According to state officials, the 1995 machines will be retained for installation in other areas, such as the state's less populous or more rural counties.

Another relevant factor is how long-term funding needs will be met. Replacing outdated equipment and automating records can be expensive. States advocate that steady or long-term funding streams are important for implementing technological advances. In this regard, states do not rely entirely on NCHIP grants for system improvements. That is, states view NCHIP funding as "seed" or supplemental money and contribute from their own coffers to fund these upgrades. For instance, as noted previously, officials in the case-study states told us that their states typically have invested much more than the 10 percent matching funds required by NCHIP.

Conclusions

The overarching goal of NCHIP—building a national infrastructure to facilitate the interstate exchange of criminal history and other relevant records—is important for many purposes. Without such an infrastructure, individuals who are, in fact, prohibited but whose records are inaccessible, or do not reflect such a prohibition may be allowed to purchase firearms, creating safety concerns not only for the general public, but also for the

[26]Pub. L. No. 107-188, 116 Stat. 594 (2002).

law enforcement officials responsible for retrieving these firearms after the prohibited status is ascertained. Further, inaccurate, incomplete, or inaccessible records and systems do not help to prevent persons who have been convicted of crimes to be hired in paid or volunteer positions with organizations serving children, the elderly, or the disabled, putting these populations at risk for abuse or worse. Also, accurate, complete, and accessible records and systems are necessary to respond to the needs and requirements of homeland security and to avert terrorism, particularly with respect to individuals employed in sensitive positions.

Since its initiation in 1995, NCHIP has provided more than $438 million in federal grants nationwide. Using their own funds, as well as NCHIP and other federal grants, states have made much progress in automating their records and making them accessible nationally by conforming with the FBI's standards for applicable national data systems—such as NICS, NCIC, III, and IAFIS. Continued progress toward establishing and sustaining a national infrastructure inherently will involve a partnering of federal, state, and local resources and long-term commitments from all governmental levels.

Agency Comments

On January 28, 2004, we provided a draft of this report for comment to the Department of Justice. In a response letter, dated February 13, 2004, the Assistant Attorney General (Office of Justice Programs) commented that the report fairly and accurately described NCHIP, its accomplishments, and the continued need to promote state and local participation in national criminal history records systems. Also, the Assistant Attorney General commented that the following issues mentioned in the report should be highlighted:

- Given limited resources, it is important to draw the distinction between old and new arrest records with respect to disposition coverage. BJS has always emphasized to the states the importance of making certain that records of recent criminal activity were updated and compatible with FBI standards.
- In many cases, state laws prohibit sharing mental health information because of confidentiality and doctor-patient privacy laws. The strategy for the FBI, and one which BJS has encouraged the states to use, has been to utilize the Denied Persons File in the NICS Index where the reason for denial of a firearm purchase is not given unless the denial is appealed.
- Most states do not fingerprint misdemeanants, and misdemeanor assault charges rarely specify the victim-offender relationship (unless

domestic violence is specifically charged). BJS has given strong direction to the states to set flags on the records of persons known to have a conviction for domestic violence.

- No state has a central registry of active drug users or addicts. It will be challenging to develop such registries and to keep them current.
- In perspective, the number of problematic firearms sales—that is, default proceeds that result in a need to retrieve firearms from prohibited purchasers—is very small compared to the 8 million to 9 million background checks conducted each year.
- RQI, a metric developed by BJS, is a major step forward and may provide a significant opportunity for evaluating performance over time and establishing a basis for targeting future assistance to state and local participants in federal funding programs.

The full text of the Assistant Attorney General's letter is presented in appendix V.

As arranged with your office, unless you publicly announce the contents of this report earlier, we plan no further distribution until 30 days after the date of this report. At that time, we will send copies of this report to interested congressional committees and subcommittees. We will also make copies available to others on request. In addition, this report will be available at no charge on GAO's Web site at http://www.gao.gov.

If you or your staff have any questions about this report or wish to discuss the matter further, please contact me at (202) 512-8777 or Danny Burton at (214) 777-5600. Other key contributors to this report are listed in appendix VI.

Sincerely yours,

Laurie E. Ekstrand
Director, Homeland Security and Justice

Appendix I: Objectives, Scope, and Methodology

Objectives

As requested by the Chairman, House Committee on the Judiciary, our overall objective was to broadly review the National Criminal History Improvement Program (NCHIP). Managed by the Department of Justice's Bureau of Justice Statistics (BJS), NCHIP is a federal grant program to build a national infrastructure to facilitate the interstate exchange of criminal history and other relevant records—that is, to improve the accuracy, completeness, and accessibility of records used by various national systems. One of the primary systems is the National Instant Criminal Background Check System (NICS), which is managed by the Federal Bureau of Investigation (FBI) and is used to conduct presale background checks of persons purchasing firearms. As agreed with the requester's office, this report presents information on

- how states have used NCHIP grant funds, particularly the extent to which they have been used by states for NICS-related purposes;
- the progress—using NCHIP grants and other funding sources—that states have made in automating criminal history and other relevant records and making them accessible nationally; and
- the various factors that are relevant considerations for policymakers in debating the future of NCHIP.

Regarding the use of NCHIP grant funds, as further agreed with the requester's office, this report also presents information on (1) the use of such funds by the priority states [1] and their progress in automating records and (2) whether any of the 50 states have used NCHIP funds to develop or implement a ballistics registration system—that is, a system that stores digital images of the markings made on bullets and cartridge casings when firearms are discharged.

Scope and Methodology

In addressing the objectives, to the extent possible, we focused on obtaining national or programwide perspectives. For example, we reviewed BJS's biennial national survey data or reports on the automation status of all states' criminal history records. Further, we interviewed NCHIP managers at BJS and NICS managers at the FBI's Criminal Justice Information Services Division (Clarksburg, W. Va.). Also, we reviewed BJS program documentation that describes allowable NCHIP spending

[1] In 1994, BJS identified 5 states—Maine, Mississippi, New Mexico, Vermont, and West Virginia—as having the lowest levels of criminal history record automation. These 5 states were designated as priority states, making each eligible to receive an additional $1 million in funding during NCHIP's first year.

activities. In addition, given that NCHIP consolidates criminal records improvement funding authorized by various federal laws, we reviewed these laws, such as the Brady Handgun Violence Prevention Act,[2] and related legislative histories.

Also, to provide supplemental or more in-depth perspectives, we conducted case studies of 5 recipient states (California, Maryland, Mississippi, Texas, and West Virginia). We selected these states to reflect a range of various factors or considerations—the amounts of grant funding received, status of NICS participation, and levels of automation, as well as to encompass different geographic areas of the nation (see table 5).

Table 5: Five States Selected for Case Studies of Use of NCHIP Funds

	NCHIP funding for fiscal years 1995 through 2003			
Selected states	**Amount (in millions)**	**Funding rank**	**NICS participation status[a]**	**Priority state**
California	$32.9	1	Full Participant	No
Maryland	$7.4	20	Partial participant	No
Mississippi	$5.9	29	Nonparticipant	Yes
Texas	$22.9	3	Nonparticipant	No
West Virginia	$5.4	35	Nonparticipant	Yes

Source: GAO analysis of BJS and FBI information.

[a]Regarding the status of NICS participation, the FBI categorizes states as follows: (1) Full participant states are those where a designated state agency conducts background checks of persons purchasing any firearm, both handguns and long guns; (2) partial participant states designate a state agency to conduct presale background checks for handgun purchases, with the FBI conducting background checks for long gun purchases; and (3) nonparticipant states are those where the FBI conducts presale background checks for purchases of both handguns and long guns. Sometimes, these categories are referred to as point-of-contact states, partial point-of-contact states, and FBI states, respectively.

How States Have Used NCHIP Grant Funds, Including NICS-Related Purposes

To obtain an overview of how all jurisdictions (the 50 states, District of Columbia, and 5 U.S. territories) have used NCHIP grant funds, we requested that BJS provide us information on total awards for each of the 4 most recent fiscal years (2000 through 2003)—with the amounts disaggregated into applicable spending categories. Generally, NCHIP spending can be grouped into six spending categories: (1) NICS/Interstate

[2]Pub. L. No. 103-159, 107 Stat. 1536 (1993).

Identification Index (III)[3]/criminal records improvements, (2) disposition reporting improvements,[4] (3) Automated Fingerprint Identification System (AFIS)/Livescan activities,[5] (4) sex offender registry enhancements, (5) protection order activities, and (6) national security/antiterrorism activities. In cases where expenditures could be included in more than one category, BJS judgmentally selected the category that was the most descriptive of the activity.

We reviewed BJS documentation and interviewed BJS officials to determine which of these spending categories involved NICS-related purposes. In addition, we analyzed the spending category information in reference to the 50 states' participation status in NICS (full participant, partial participant, or nonparticipant) to determine any general differences in the types of NCHIP-funded projects undertaken. Similarly, we analyzed the spending category information to determine how the 5 priority states had used NCHIP grant funds (see app. IV).

For more in-depth perspectives, we reviewed data on the use of NCHIP grant funds by the 5 states we selected for case studies. Preliminarily, we reviewed information in grant files maintained by the Office of the Comptroller (a component of the Department of Justice's Office of Justice Programs). Then, we visited each of the 5 states and interviewed state officials responsible for NCHIP-funded projects. At our request, using definitions provided by BJS, the officials grouped their respective state's grant awards into applicable spending categories (see app. III). For some NCHIP-funded activities, officials in the case-study states indicated that expenditures could be included in more than one category. In these cases, based on input from state officials, we selected the category that was most descriptive of the activity. For each of the case-study states, these

[3]The III system, maintained by the FBI, is a pointer system used to locate criminal history records anywhere in the nation.

[4]For disposition reporting improvements, BJS used three spending categories: (1) funding to state courts, (2) funding to other judicial components, and (3) funding for disposition improvements not related to state courts. For purposes of our analyses, we combined these three into one spending category.

[5]Most states have some type of AFIS. A state can use NCHIP funds to enhance its AFIS by purchasing Livescan equipment, if the state has implemented (or is implementing) procedures to ensure that the AFIS is compatible with FBI standards. Livescan equipment can generate and transmit fingerprints in a digital format. The equipment is used to capture fingerprint images directly from an individual's fingers, which are rolled onto glass scanning plates.

spending category analyses covered NCHIP grant awards for fiscal year 1995 (when the program was initiated) through fiscal year 2002 (the most current data available at the time of our visits).

Regarding ballistics registration systems, we interviewed NCHIP managers to determine if NCHIP guidelines allow NCHIP funds to be used to develop and implement such systems and, if so, the extent to which states have used or are planning to use NCHIP funds for this purpose. In addition, in visiting the 5 case-study states, we asked state officials if NCHIP money had been or would be used to develop and implement ballistics registration systems.

States' Progress in Automating Records and Making Them Accessible Nationally

We reviewed BJS's biennial survey data and/or reports (for 1993, 1995, 1997, 1999, and 2001) on the automation status of states' criminal history records. We contacted BJS managers to clarify (when necessary) the survey data and discuss automation progress, including the contributing roles played by NCHIP and other federal grants and by the states' use of their own funds. Further, we reviewed BJS and FBI information regarding the progress of states in making criminal history and other relevant records accessible nationally by, for example, conforming with the FBI's standards for national data systems—including, as applicable, NICS, the National Crime Information Center (NCIC), III, and the Integrated Automated Fingerprint Identification System (IAFIS). Also, in each of the 5 case-study states, we discussed these issues with state officials.

Relevant Considerations for Policymakers in Debating the Future of NCHIP

To determine various factors that are relevant considerations for policymakers in debating the future of NCHIP, we interviewed NCHIP and NICS managers, as well as officials in the 5 case-study states. We also contacted officials from other organizations, such as SEARCH (The National Consortium for Justice Information and Statistics) and the American Prosecutors Research Institute. Further, we relied on insights gained in addressing the objectives of this work.

Data Reliability

To assess the reliability of BJS's data (by spending category) on NCHIP funds awarded to all jurisdictions for fiscal years 2000 through 2003 (see table 1) and to the 5 case-study states for fiscal years 1995 through 2002 (see tables 6 through 11), we

- reviewed existing documentation related to the data sources,

- electronically tested the data to identify obvious problems with completeness or accuracy, and
- interviewed knowledgeable agency officials about the data.

We determined that the NCHIP funds data were sufficiently reliable for the purposes of this report.

To assess the reliability of data reported by BJS based on its biennial surveys of state criminal history information systems for 1993, 1995, 1997, 1999, and 2001, we (1) reviewed the published survey results and (2) interviewed officials knowledgeable about the surveys. We determined that the biennial survey data were sufficiently reliable for the purposes of this report.

Appendix II: Overview of National Criminal History Records Systems

BJS strives to create national criminal history records systems that contain accurate, complete, and accessible information. To accomplish this, since 1995, BJS has awarded approximately $438 million in NCHIP grants to states, the District of Columbia, and U.S. territories to help these jurisdictions improve their records and establish automated capabilities that enhance participation in national criminal history records systems.

Each state operates a central criminal history records repository that receives information regarding individuals' criminal histories from a number of sources throughout the state, including state and local law enforcement agencies, prosecutors, courts, and corrections agencies. For each individual, the repository compiles the information from these sources into a comprehensive criminal history record for that person. These records are commonly referred to as "rap sheets." By means of statewide telecommunications systems, the repositories make these records available to criminal justice personnel for authorized purposes, such as pretrial release and sentencing decisions. The repositories also provide criminal history records for authorized noncriminal justice purposes. For example, with increasing frequency, state and federal laws are requiring local law enforcement agencies to conduct criminal history background checks on persons seeking employment in sensitive positions (such as child and elder care) and for occupational license authorizations.

The FBI has historically maintained criminal history record files on all federal offenders and on state offenders to the extent that states voluntarily submit state criminal history information. The FBI also maintains a nationwide telecommunications system that enables federal, state, and local criminal justice agencies to conduct national record searches and to obtain criminal justice related-information, for example, about individuals who are arrested and prosecuted in other states. Criminal record services are also provided to noncriminal justice agencies authorized by federal law to obtain such records.

The practice of maintaining duplicative state offender records at both the state and federal levels is being replaced by efforts to build an automated infrastructure that will make all criminal history records accessible nationally. To fully participate in the national systems that are to comprise this infrastructure, a jurisdiction must have an automated criminal history record system that meets FBI standards for participation. For example, the state's automated system must be compatible with the federal systems and be capable of responding automatically to requests for records. The principal national, federal systems are discussed in the following paragraphs.

NCIC

Prior to 1967, the FBI's criminal history records were manual files. In 1967, the FBI established NCIC, an automated, nationally accessible database of criminal justice and justice-related records. NCIC provides automated information on wanted and missing persons, as well as identifiable stolen property, such as vehicles and firearms. Each state has a central control terminal operator, who is connected to NCIC through a dedicated telecommunications line maintained by the FBI. Authorized local agencies use their state's law enforcement telecommunications network to access NCIC through the respective operator. An investigator can obtain information on wanted and missing persons and stolen property by requesting a search by name or other nonfingerprint-based identification. Information provided can include graphics, such as mug shots, pictures of tattoos, and signatures in a paperless, electronic format. Using this system, an investigator can also perform searches for "sound alike" names, such as "Knowles" for "Nowles." The system has an enhanced feature for searching all derivatives of names, such as Jeff, Geoff, Jeffrey. NCIC includes the National Sex Offender Registry and a Protection Order File (discussed later). NCIC data may be provided only for criminal justice and other specifically authorized purposes. For example, authorized purposes include presale firearms checks, as well as checks on potential employees of criminal justice agencies, federally chartered or insured banks or securities firms, and state and local governments.

III

Maintained by the FBI, the III system is an interstate, federal-state computer network, which currently provides the means of conducting national criminal history record searches to determine whether a person has a criminal record anywhere in the country. This system is designed to tie the automated criminal history records databases of state central repositories and the FBI together into a national system by means of an "index-pointer" approach. The FBI maintains an identification index of persons arrested for felonies or serious misdemeanors under state or federal law. The index includes identification information (such as name, date of birth, race, and sex), FBI numbers, and state identification numbers from each state holding information about the individual. Criminal justice agencies nationwide can transmit search inquiries based on name or other identifiers automatically through state law enforcement telecommunications networks and the FBI's NCIC telecommunications lines. According to the FBI, the III system responds to search inquiries within seconds. If the search results in a "hit," the system automatically requests records using the applicable FBI and state identification numbers, and each repository holding information on the individual forwards its

records to the requesting agency. The FBI provides responses for states that are not yet participants in III.

NICS

Under Brady Handgun Violence Prevention Act requirements, the FBI established NICS to provide instant background checks of individuals applying to purchase firearms from federally licensed dealers. Federal law prohibits the purchase or possession of a firearm by any person who (1) has been convicted of a crime punishable by a prison term exceeding 1 year, (2) is a fugitive from justice, (3) is an unlawful user of controlled substances, (4) has been adjudicated as mental defective, (5) is an illegal or unlawful alien, (6) has been discharged dishonorably from the armed forces, (7) has renounced his or her U.S. citizenship, (8) has been convicted of a misdemeanor crime of domestic violence, or (9) is subject to certain domestic violence protection orders.[1]

The three primary, component databases searched by NICS are III, NCIC (including the Protection Order File and a file of active felony or misdemeanor warrants), and the NICS Index. This third database was created solely for presale background checks of firearms purchasers and contains disqualifying information contributed by local, state, and federal agencies. For example, the database contains information on individuals who are prohibited from purchasing firearms because they are aliens unlawfully in the United States, are persons who have renounced their U.S. citizenship, have been adjudicated as mental defectives, have been committed to a mental institution, have been dishonorably discharged from the armed forces, or are unlawful users of or addicted to controlled substances.

National Sex Offender Registry

The FBI established the National Sex Offender Registry (NSOR) to enable state sex offender information to be obtained and tracked from one jurisdiction to another. In 1994, the Jacob Wetterling Crimes Against Children and Sexually Violent Offender Registration Act (the Jacob Wetterling Act) required that states create sex offender registries within 3 years or lose some of their federal grant funds.[2] The law further provided that—when any offender convicted of committing a criminal sexual act

[1]18 U.S.C. § 922.

[2]Pub. L. No. 103-322, 108 Stat. 1796, 2038 (1994).

against a minor or committing any sexually violent offense—is released from custody or supervision into the community, he or she must register with law enforcement agencies for a period of 10 years. The act was amended in 1996[3] to require the FBI to establish a NSOR and to register and verify addresses of sex offenders when a state's registry does not meet the minimum compliance standards required by the Jacob Wetterling Act. According to the *FBI Law Enforcement Bulletin*, all 50 states currently have sex offender registration laws, and all states require a registration period of at least 10 years, with some states requiring lifetime registration.[4] State registry information typically includes the offender's name, address, Social Security number, date of birth, physical description, photograph, and fingerprints. NSOR is a component of NCIC that serves as a pointer system to identify a sex offender's records in the III system. When agencies request authorized fingerprint-based criminal history background checks, NSOR will flag the subjects who are registered sex offenders.

NCIC Protection Order File

The FBI established the Protection Order File in 1997 to provide a repository for protection order records. The purpose of this NCIC component is to permit interstate enforcement of protection orders and the denial of firearms transfers to individuals who are the subjects of court protection orders. Such orders include civil and criminal court orders issued to prevent a person from committing violent, threatening, or harassing acts against another individual. A protection order can preclude the person from contacting, communicating with, and being in physical proximity to a named individual. State and federal law enforcement agencies can submit protection orders to the NCIC Protection Order File.[5]

IAFIS

In 1999, the FBI implemented IAFIS, a computerized system for storing, comparing, and exchanging digitized fingerprint data. Most fingerprint data submitted to IAFIS originate when a local or state law enforcement agency arrests a suspect. At that time, the agency takes the suspect's fingerprints manually (using ink and paper fingerprint cards) or electronically (using optical scanning equipment). The agency forwards a

[3]Pub. L. No. 104-236, 110 Stat. 3093 (1996).

[4] Allan D. Scholle, M.S., "Sex Offender Registration Community Notification Laws," *FBI Law Enforcement Bulletin* (July 2000): 17-24.

[5]28 U.S.C. § 534.

copy of the fingerprints—along with nonbiometric data such as name and age—through its state repository to the FBI. Electronic submissions are automatically entered into IAFIS, and paper submissions sent through the mail are scanned into an electronic format for entry. When a set of fingerprints is submitted, IAFIS searches for a prior entry in the system that matches the suspect's nonbiometric personal identifying data. If a prior entry is not found, the system compares the submitted fingerprints with those previously stored in the computer's memory to determine if the suspect has an entry under another name. This information can be used for a number of purposes, including positively identifying arrestees to prevent the premature release of suspects who use false names and are wanted in other jurisdictions. To support crime scene investigations, the system can also compare a full or partial fingerprint from a crime scene with the prints stored in the database to identify a suspect.

Appendix III: Use of NCHIP Funds by 5 Case-Study States

This appendix presents information about the use of NCHIP funds by 5 case-study states—California, Maryland, Mississippi, Texas, and West Virginia—for fiscal years 1995 through 2002. As mentioned previously, we selected these states to reflect a range of factors or considerations—that is, the amounts of grant funding received, status of NICS participation, and levels of automation, as well as to encompass different geographic areas of the nation (see app. I).

NCHIP funding amounts can be grouped into six categories of spending established by BJS to track the use of program funds. These six categories are (1) NICS/III/criminal records improvements, (2) disposition reporting improvements, (3) AFIS/Livescan activities, (4) sex offender registry enhancements, (5) protection order activities, and (6) national security/antiterrorism activities.[1]

Overview of 5 States' Use of NCHIP Funds

Table 6 shows that since the inception of NCHIP in 1995, 4 of the 5 case-study states have devoted the majority of their grant awards for the first two BJS spending categories—NICS/III/criminal records improvements and disposition reporting improvements. Expenditures in the first category include overall system upgrades, equipment purchases, database development, and other activities required to bring states in compliance with FBI standards so that the states may participate in national systems maintained by the FBI. Expenditures in the second category include efforts to automate disposition records and provide linkages for reporting these records to the state's central records repository. Maryland, the only case-study state that did not devote the majority of its funds to the first two categories, still allocated nearly half (48 percent) of its total grant awards for these two areas. Maryland devoted a large amount (40 percent) of its NCHIP funding to AFIS/Livescan activities, as did Texas (45 percent).

[1]These six categories are the same as those used in table 1 to categorize NCHIP awards to all 50 states, the District of Columbia, and 5 U.S. territories for fiscal years 2000 through 2002. For the tables in this appendix, we relied on state officials to categorize their NCHIP spending based on the definitions provided by BJS for these six categories. BJS originally grouped NCHIP awards into eight categories. However, we combined three similar categories into one (disposition reporting improvements)—resulting in the six categories we present here.

Table 6: Overview of Case-Study States' Use of NCHIP Funds by Spending Category, Fiscal Years 1995 through 2002

	Case-Study States					
	California	Maryland	Mississippi	Texas	West Virginia	Total
Total NCHIP award amounts (in millions)	**$29.9**	**$6.8**	**$5.3**	**$19.5**	**$4.7**	**$66.2**
NCHIP spending category (in percent)[a]						
NICS/III/criminal records improvements	66	36	76	52	50	**58**
Disposition reporting improvements	13	12	8	2	35	**11**
AFIS/Livescan activities	13	40	5	45	9	**24**
Sex offender registry enhancements	9	8	11	1	5	**6**
Protection order activities	0	3	0	0	1	**0**
National security/antiterrorism activities	0	0	0	0	0	**0**
Total	**100**	**100**	**100**	**100**	**100**	**100**

Source: BJS and state data.

Note: The data are based on amounts reported by case-study state officials. For some NCHIP-funded activities, officials in the case-study states indicated that expenditures could be included in more than one category. In these cases, based on input from state officials, we judgmentally selected the category that was most descriptive of the activity. Details may not add to 100 percent due to rounding.

[a]Case-study state numbers represent percent of dollars spent for each state.

For all 5 case-study states, the NCHIP funding detailed in table 6 represented "seed" or "catalyst" money and, therefore, accounted for only a portion of the total criminal records improvement spending. For example, according to California officials, state resources accounted for 85 percent of records improvement funding in California during fiscal year 2002-03. The remaining 15 percent consisted of NCHIP grants (6 percent) and other federal sources (approximately 9 percent). Three of the other 4 states provided data indicating that NCHIP grants accounted for less than a majority of the criminal records improvement funding in the respective state.

More details on each case-study state's use of NCHIP funds are presented in the following sections.

California

During fiscal years 1995 through 2002, BJS awarded California a total of $29.9 million in NCHIP funds—the most of any state. As shown in table 7, California allocated approximately two-thirds (66 percent) of its NCHIP awards for NICS/III/criminal records improvements. For example, the state devoted over $4.9 million of program funds to projects for converting manual fingerprint and palm print cards to an electronic format and

matching records maintained by the FBI's III system to those maintained by the state repository. According to California officials, these efforts will improve overall criminal record keeping and benefit NICS by improving the state's response to queries on prospective gun purchasers.

Table 7: California NCHIP Spending by Category, Fiscal Years 1995 through 2002

NCHIP spending category	Grant fund uses by spending category	Grant award amounts by spending category	Spending category as a percentage of state total
NICS/III/ criminal records improvements	• Matching of III and state records. • Reviewing manual criminal and applicant records up to 5 years old and adding any criminal activity to the automated system. • Converting manual fingerprint cards to automated format. • Flagging of each automated criminal record with firearms qualification status. • Programming to provide non-U.S. citizen background checks for firearms purchases. • Automating fingerprint/arrest records from the Department of Corrections. • Providing electronic access to booking photos. • Paying miscellaneous staff costs. • Conducting other activities (acquiring hardware and software, performing programming tasks, upgrading and enhancing systems, linking data, etc.).	$19,586,722	66
Disposition reporting improvements	• Automating disposition reporting from courts to the central repository. • Updating automated criminal records with missing dispositions from manual records. • Assisting county courts report dispositions by magnetic tape. • Developing pilot project to provide real-time, automated reporting of court dispositions to the central repository. • Developing pilot project for courts to place thumbprints on disposition documents for proper identification. • Conducting other activities (acquiring hardware, etc.).	3,899,414	13
AFIS/ Livescan activities	• Purchasing Livescan devices for juvenile facilities, the courts, and law enforcement agencies. • Updating AFIS to support increased workload due to full implementation of electronic transmission.	3,798,000	13
Sex offender registry enhancements	• Improving California's sex offender registry database, in addition to programming and interface efforts to allow reporting to the FBI's national registry.	2,599,958	9
Protection order activities	• No projects in this category.	0	0
National security/ antiterrorism activities	• No projects in this category.	0	0
Total		**$29,884,094**	**100**

Source: BJS and state data.

Note: Details do not add to 100 percent due to rounding.

Officials also said that the state has used NCHIP funds to improve the reporting of case dispositions to the state's central repository. For example, officials have used program funds to improve disposition reporting in the 28 counties that represent 70 percent of the disposition volume for the entire state. As a result, these 28 counties report 100 percent of their dispositions to the state central repository via a magnetic tape batch process occurring three times a week. In addition, California officials are conducting an NCHIP-funded pilot project in one county to test the feasibility of moving to a real-time updating system for disposition reporting rather than the current batching approach.

Maryland

During fiscal years 1995 through 2002, BJS awarded Maryland $6.8 million in NCHIP funds. As shown in table 8, Maryland allocated the largest percentage (40 percent or $2.7 million) of its NCHIP awards for AFIS/Livescan activities. This category, together with NICS/III/criminal records improvement, accounted for over three-fourths (76 percent) of the state's use of NCHIP funds. Regarding the first category in table 8, Maryland devoted a sizeable portion of its NCHIP award ($1.2 million) to make the state's automated systems compatible with the FBI's NCIC database, which was updated and expanded in 2000. In addition, Maryland is using nearly $200,000 of program funds to convert over 700,000 historical arrest records (older than October 1998) to a format compatible with the FBI's III system. This effort will make older records accessible to the FBI, which will improve NICS background checks. In the category of disposition reporting, Maryland has also implemented a $360,000 NCHIP project to automate reporting from the courts (including case dispositions) to the central records repository on a daily basis. Maryland currently reports dispositions from courts to the state's central records repository through weekly magnetic tape updates.

Table 8: Maryland NCHIP Spending by Category, Fiscal Years 1995 through 2002

NCHIP spending category	Grant fund uses by spending category	Grant award amounts by spending category	Spending category as a percentage of state total
NICS/III/ criminal records improvements	• Converting older arrest records to III format to make them available nationally. • Developing audit program to identify missing criminal history records and making them available to III. • Implementing updates in Maryland to support the FBI's NCIC system. • Conducting other activities (conducting design studies and system audits, training, paying indirect costs, etc.).	$2,460,142	36
Disposition reporting improvements	• Developing automated capabilities for the courts to electronically transmit dispositions and other court data to the state's central repository. • Researching disposition requests received from the FBI for NICS checks (Maryland State Archives).	829,013	12
AFIS/ Livescan activities	• Upgrading the state's AFIS. • Establishing arrest booking system workstations (including Livescan devices) at local jurisdictions. • Establishing a system for transmitting fingerprint card images electronically from local jurisdictions to the central repository.	2,743,428	41
Sex offender registry enhancements	• Automating Maryland's sex offender registry. • Studying the feasibility of placing the state's sex offender registry on the Internet.	521,277	8
Protection order activities	• Entering protection orders (manually) into state database. • Providing statewide entry of warrant data (to include protection orders) by state police.	224,219	3
National security/ antiterrorism activities	• No projects in this category.	0	0
Total		**$6,778,079**	**100**

Source: BJS and state data.

For purposes of NICS, Maryland is a partial participant state. That is, a designated state agency (Maryland State Police) conducts background checks for handgun purchases, whereas the FBI conducts such checks for long gun purchases. For both types of firearms purchases (handguns and long guns), another state agency (Maryland State Archives) provides support (researching the disposition results of arrests) for criminal history records generated before 1982. In fiscal year 2002, the Maryland State Archives received $41,000 in NCHIP funds to conduct disposition research for NICS queries from the FBI. Earlier, due to a lack of state funding, this state agency had discontinued such research for a period of approximately 3-1/2 months (March 18 to July 2, 2002). According to Maryland and BJS

officials, the $41,000 award in 2002 was the first distribution of NCHIP funds to the Maryland State Archives since the inception of the grant program.

Mississippi

As shown in table 9, for fiscal years 1995 through 2002, Mississippi allocated approximately three-fourths (76 percent) of its NCHIP funds for projects in the category of NICS/III/criminal records improvements. NCHIP projects in this category centered on creation of and support for the state's computerized criminal history database.

Table 9: Mississippi NCHIP Spending by Category, Fiscal Years 1995 through 2002

NCHIP spending category	Grant fund uses by spending category	Grant award amounts by spending category	Spending category as a percentage of state total
NICS/III/ criminal records improvements	• Working with the vendor to provide systems support for the state's computerized criminal history database. • Correcting the state's data and making other changes to the data and software mandated by state and federal laws, policies, and procedures. • Providing hardware/software for the computerized criminal history database. • Conducting other activities (paying travel expenses, purchasing supplies, automating backlogged manual records, etc.).	$4,071,636	76
Disposition reporting improvements	• Acquiring hardware/software for automated disposition reporting. • Developing disposition reporting system for prosecutors. • Purchasing workstations for court clerks.	405,000	8
AFIS/ Livescan activities	• Purchasing Livescan devices for local and state agencies.	284,540	5
Sex offender registry enhancements	• Providing hardware and software for the state's sex offender registry. • Working with consultants to design, test, implement, and support the sex offender registry. • Conducting other activities (e.g., purchasing supplies and providing copier support).	581,620	11
Protection order activities	• No projects in this category.	0	0
National security/ antiterrorism activities	• No projects in this category.	0	0
Total		**$5,342,796**	**100**

Source: BJS and state data.

According to state officials, prior to the rollout of the state's new automated criminal history database in March 1998, Mississippi was without any type of arrest record automation. After the rollout, Mississippi was one of fewer than 10 states with an automated system whereby every arrest record was automatically associated with a fingerprint record and made available to authorized inquirers across the state and the nation. Mississippi officials told us that, without NCHIP, this advance in records automation would not have been possible.

On the other hand, in responding to BJS's latest biennial survey (2001), Mississippi reported that 3 percent of its automated criminal records included final dispositions—the lowest among the responding case-study states. However, as indicated in table 9, Mississippi is using NCHIP funds for various projects to improve disposition reporting.

Texas

During fiscal years 1995 through 2002, BJS awarded Texas $19.5 million in NCHIP funds—the third highest total among all states, behind only California and New York. As shown in table 10, Texas allocated about half (52 percent) of its NCHIP funds for NICS/III/criminal records improvements. A significant project in this category is an ongoing upgrade of the state's computerized criminal history system. According to state officials, this upgrade will "rewrite" the system to meet new demands and expectations. For example, the rewrite will allow Texas to "flag" domestic violence misdemeanors (a category for prohibiting firearms sales under NICS) at the arrest, prosecution, and court levels.

Table 10: Texas NCHIP Spending by Category, Fiscal Years 1995 through 2002

NCHIP spending category	Grant fund uses by spending category	Grant award amounts by spending category	Spending category as a percentage of state total
NICS/III/ criminal records improvements	• Scanning old manual fingerprint cards into the state's automated database for subsequent transmission to the FBI. • Upgrading the state's computerized criminal history database to meet new demands and expectations. • Expanding the state's participation in the National Incident-Based Reporting System (an FBI system designed to collect data and compile comprehensive statistics on crime for use by law enforcement, researchers, governmental planners, students of crime, and the general public). • Conducting other activities (updating state records in III, providing file storage for incomplete criminal data, etc.).	$10,095,000	52
Disposition reporting improvements	• Implementing pilot project in one county for the direct electronic transmission of disposition data from the courts to the central repository.	400,000	2
AFIS/ Livescan activities	• Purchasing Livescan devices for electronic reporting of arrest records to the central repository. • Upgrading state's automated fingerprint identification system. • Conducting other activities (providing telecommunication lines, purchasing hardware and software, etc.).	8,827,155	45
Sex offender registry enhancements	• Developing the state's sex offender registry.	185,075	1
Protection order activities	No projects in this category.	0	0
National security/antiterrorism activities	No projects in this category.	0	0
Total		**$19,507,230**[a]	**100%**

Source: BJS and state data.

[a]The total dollar amount reported by Texas state officials was $534,045 less than the total award amount reported by BJS ($20,041,275). Texas and BJS officials attributed this difference to two factors: (1) a $334,045 savings in the purchase of Livescan equipment in year one and (2) a $200,000 savings in year five by hiring temporary workers.

During this period, Texas also allocated 45 percent of its NICHIP funds for AFIS/Livescan activities—the highest percentage for this category among the 5 case-study states. To implement electronic reporting of arrest data, Texas used NCHIP funds to purchase Livescan equipment for placement in 4 major cities and 27 of the state's 254 counties. According to Texas officials, these cities and counties account for a majority of the state's total arrests.

Also, as shown in table 10, Texas allocated 2 percent of its NCHIP awards for disposition reporting improvements—the lowest among the 5 case-study states. However, according to Texas officials, criminal case disposition reporting is recognized as an area in need of improvement and will be addressed by future projects funded by NCHIP. Also, as an example of recent progress in Texas, BJS noted that NCHIP funds were used to automate approximately 52,600 court disposition records from Harris County—which includes Houston, the most populous city in Texas—for inclusion in the state's central repository.

West Virginia

During fiscal years 1995 through 2002, BJS awarded West Virginia approximately $4.7 million in NCHIP funds. As shown in table 11, West Virginia allocated half of its NCHIP funds for NICS/III/criminal records improvements. Also, the state allocated 35 percent for disposition reporting improvements—the highest percentage for this category among the 5 case-study states. The purpose of the ongoing projects in this category is to automate the reporting of court data (including case dispositions) to the state's central records repository.

Table 11: West Virginia NCHIP Spending by Category, Fiscal Years 1995 through 2002

NCHIP spending category	Grant fund uses by spending category	Grant award amounts by spending category	Spending category as a percentage of state total
NICS/III/ criminal records improvements	• Reducing the backlog of manual criminal records submitted to the state repository by adding these data to the automated database. • Establishing a jail management information system for inmate tracking. • Conducting other activities (working with a contractor on records improvement, providing a data quality audit, establishing an offense code, purchasing software for jails, etc.).	$2,320,442	50
Disposition reporting improvements	• Automating court records, including dispositions.	1,644,378	35
AFIS/ Livescan activities	• Purchasing Livescan devices for regional jails. • Purchasing hardware and software for Livescan reporting to the state's central repository. • Conducting AFIS cost analysis/requirements study.	419,762	9
Sex offender registry enhancements	• Upgrading the state's sex offender registry.	236,744	5
Protection order activities	• Developing a database of domestic violence protection orders.	41,660	1
National security/ antiterrorism activities	• No projects in this category.	0	0
Total		**$4,662,986**[a]	**100**

Source: BJS and state data.

[a]The total dollar amount budgeted for NCHIP projects, as reported by West Virginia officials, was $160,000 less than the total award amount reported by BJS ($4,822,986). A state official told us that this difference consisted of two components: (1) $60,000 not yet distributed by the West Virginia Department of Military Affairs and Public Safety (the agency designated to receive West Virginia's NCHIP funds) to the state agency that was to spend these funds and (2) $100,000 deobligated and returned to BJS.

According to its 2003 NCHIP grant application, West Virginia was the last state to implement an AFIS. NCHIP funding assisted the state to implement its system by financing a study to determine AFIS requirements and costs. West Virginia officials noted that plans call for placing Livescan equipment in each of the state's nine regional jails, which are to be booking sites for all persons entering the state's criminal justice system.

Appendix IV: NCHIP Grants Contributed to Progress in Priority States; No NCHIP Funds Used for Ballistics Registration Systems

This appendix provides information on the 5 states that BJS identified as having the lowest levels of criminal history record automation in 1994. Maine, Mississippi, New Mexico, Vermont, and West Virginia were designated as priority states, making each eligible to receive an additional $1 million in funding during NCHIP's first year. NCHIP was tasked with implementing statutory grant provisions that required the states with the lowest levels of criminal history record automation receive priority funds from the program to give them some extra help in automating their records. This additional funding for priority states applied to only the first year of NCHIP grant awards.

Also, this appendix provides information about whether any of the 50 states have used NCHIP funds to develop or implement a ballistics registration system—that is, a system that stores digital images of the markings made on bullets and cartridge casings when firearms are discharged.

Priority States' Use of NCHIP Grant Funds

For fiscal years 2000 through 2003, table 12 shows that the priority states allocated 70 percent of their NCHIP awards for NICS/III/criminal records improvements and disposition reporting improvements. The remaining 30 percent of the priority states' NCHIP award amounts was allocated for AFIS/Livescan activities, sex offender registry enhancements, and protection order activities. None of the priority states allocated NCHIP award amounts for national security/antiterrorism activities.

Table 12: Priority States Uses of NCHIP Funds by Spending Category, Fiscal Years 2000 through 2003

	NCHIP grant award amounts by fiscal year					
NCHIP spending category	**2000**	**2001**	**2002**	**2003**	**Total grant award amounts for 2000-03**	**Spending category as a percentage of 4-year total**
NICS/III/criminal records improvements	$929,651	$998,910	$562,466	$860,983	$3,352,010	33
Disposition reporting improvements	647,346	920,189	1,019,070	1,278,917	3,865,522	37
AFIS/Livescan activities	317,080	146,095	550,557	427,835	1,441,567	14
Sex offender registry enhancements	574,637	225,427	186,036	224,983	1,211,083	12
Protection order activities	158,807	114,415	70,557	98,863	442,642	4
National security/antiterrorism activities[a]	Not applicable	Not applicable	0	0	0	0
Total	**$2,627,521**	**$2,405,036**	**$2,388,686**	**$2,891,581**	**$10,312,824**	**100%**

Source: GAO analysis of BJS data.

Note: The data are based on NCHIP grant award amounts to Maine, Mississippi, New Mexico, Vermont, and West Virginia. The recipients have not yet spent all of the funds awarded. There is overlap between some of the categories, but funds for any given activity were included in only one category and were not double counted. In cases where expenditures could be included in more than one category, BJS judgmentally selected the category that was most descriptive of the activity.

[a]BJS did not recognize national security/antiterrorism activities until 2002 (after the events of September 11, 2001).

Priority States' Progress in Automating Records

The priority states have made progress in automating their criminal history records. Prior to NCHIP, these states had approximately 1.4 million records in manual formats and very few automated records. By 2003, BJS estimated that these 5 states had over 1 million automated records.

More specifically, as shown in table 13, biennial surveys of state criminal history record repositories also indicate the priority states have made progress in automating their records. For example, New Mexico and Mississippi progressed from little or no automation in 1993 to 100 percent automation in 2001. The other priority states also have made progress in automating their records but have not yet achieved full automation.

Table 13: Trend in Automation Status of Priority States' Criminal History Files

	Percent of state's criminal history records automated (as of Dec. 31)				
Priority state	1993	1995	1997	1999	2001
Maine	0	0	0	43	34[a]
Mississippi	7	Not reported[b]	7	100	100
New Mexico	0	100	100	93 c	100
Vermont	0	0	36	52	66
West Virginia	0	1	13	22	Not reported[b]

Source: BJS.

Note: The data are based on biennial surveys of the administrators of state criminal history record repositories. The surveys are conducted by SEARCH (The National Consortium for Justice Information and Statistics), under a cooperative agreement with BJS.

[a]In Maine, according to SEARCH officials, the decrease in automation percentages from 1999 to 2001 was due to the transition from a manual to an automated system, which resulted in some records being rejected and/or deleted.

[b]Automation levels are "not reported" by states for various reasons, including a lack of state personnel and/or computer program time or the state's inability to track the data needed to respond to the survey.

[c]In New Mexico, according to SEARCH officials, the decrease in automation percentages from 1997 to 1999 was due to a backlog in automating records. The officials noted that the backlog cleared in 2001 and that all records are now automated.

According to Mississippi officials, NCHIP played a critical role in the state's successes in automating and sharing criminal history information. The officials noted, for instance, that receiving the "priority" designation and the accompanying additional funds enabled Mississippi to begin automating its criminal history records and take advantage of the latest technology developments. Similarly, a West Virginia official commented that the additional priority funding helped the state establish and begin implementing an automated fingerprint identification system, the backbone of West Virginia's entire records improvement and automation project.

Another indicator of progress is participation in III, the system used for a number of law enforcement-related purposes, including background checks of persons purchasing firearms. As of May 2003, 3 of the 5 priority states participated in III, with New Mexico joining the program in 1997 and Mississippi and West Virginia joining in 1998. At the time of our review, Maine and Vermont were not participating in III. According to BJS, Maine's participation may not occur until some time in 2004 because the state is in the process of undertaking a major revision of its entire criminal justice

information technology infrastructure. Vermont officials reported to BJS that the state is currently using NCHIP funds to install a new system that is fundamental to III participation and that the state will be III-compliant by January 2004. States must ensure that their computerized criminal history records systems meet specific FBI criteria and that these systems are compatible with the FBI's national data systems before the FBI will allow states to provide records nationally through III.

The 5 priority states have also increased their participation in other national systems. According to BJS officials, all 5 states participate in the National Sex Offender Registry, 4 of the 5 states have provided some portion of their criminal fingerprints electronically to IAFIS, and 3 states have submitted protection order records to the NCIC Protection Order File.

No NCHIP Funds Used for Ballistics Registration Systems, According to BJS

BJS officials said that no NCHIP funds have been used to develop or implement a ballistics registration system—a system typically used as an investigative tool to compare crime scene evidence to the stored images. Also, according to BJS officials, NCHIP funds are to improve the availability of information on the "person," rather than to improve investigative tools. BJS does not plan to expand the scope of NCHIP funding to include investigative tools because improvements are still needed in the ability to identify prohibited purchasers of firearms, such as individuals with domestic violence misdemeanor convictions. Of the 5 case-study states we visited, only 1 (Maryland) had developed a ballistics registration system. According to BJS and state officials, federal funding was not used to develop or implement this system.

Appendix V: Comments from the Department of Justice

U.S. Department of Justice

Office of Justice Programs

Office of the Assistant Attorney General

Washington, D.C. 20531

FEB 13 2004

Laurie E. Ekstrand
Director, Homeland Security and Justice Issues
General Accounting Office
441 G Street, N.W.
Mail Stop 2440A
Washington, DC 20548

Dear Ms. Ekstrand:

This letter responds to the General Accounting Office (GAO) draft report entitled, "*NATIONAL CRIMINAL HISTORY IMPROVEMENT PROGRAM: Federal Grants Have Contributed to Progress" (GAO-04-364)*. We believe that the GAO fairly and accurately described the program and its accomplishments and the continuing need to promote State and local participation in the Federal Bureau of Investigation's (FBI) national systems for sharing information. There were several issues mentioned in the report that we believe should be highlighted.

It is important to draw the distinction between old and new arrest records with respect to disposition coverage—with limited resources. The Bureau of Justice Statistics (BJS) has always emphasized to the States the importance of making certain that records of recent criminal activity were updated and fully compatible with FBI standards. Many States adopted a Day One approach to improving records when the National Criminal History Improvement Program (NCHIP) funds began to flow, leaving a number of old, inactive records archived in State repositories. The BJS' research, with the FBI's assistance, indicated that older arrest records account for much of the "open arrest" problem. Half of the open arrests studied were from 1984 or earlier, and three-quarters of the arrests predated the NCHIP Program.

2. **State laws in many cases prohibit sharing information on mental health backgrounds (confidentiality and doctor-patient privacy).** The strategy for the FBI, and one which BJS has encouraged the States to use, has been to utilize the Denied Persons File in the NICS Index where the reason for denial of a firearm is not given unless the denial is appealed. The area of mental health records and their accessibility for a background check is a very difficult and challenging area of records development. Since Fiscal Year 1996, BJS has made this a target area and we have encouraged the States to do more with NCHIP Program funds.

3. **Misdemeanants in most States are not systematically fingerprinted and misdemeanor assault charges rarely specify the victim-offender relationship unless domestic violence is specifically charged.** Like the mental health area, this is a difficult area since legal labels rather than victim-offender relationship contingencies characterize record-keeping practices and requirements. The BJS has given strong direction to the States to set flags on the records of those known to have a conviction for domestic violence.

4. **There are no central registries in each of the States of active drug users or addicts.** Central registries will need to be created, however, it will be challenging to develop and keep current (i.e., under the Gun Control Act, a former drug user can purchase a firearm--when is someone a former drug user?). This topic is also impacted by issues of medical privacy and the public release and use of doctor-patient information.

5. **The GAO may want to consider putting the number of problematic firearms sales in perspective.** Although the report mentions default-proceed sales and the number of times the Bureau of Alcohol, Tobacco, and Firearms (ATF) must retrieve a firearm from a prohibited purchaser, it does not examine the low error rate (.04% according to the report) in the context of overall performance associated with the firearms checks. There are about eight to nine million checks each year with a very small number of default-proceeds which then result in ATF having to reacquire the illegally purchased firearm. Similarly, there are very few prohibited sales which are subsequently overturned following an appeal of the denial. Together these two types of errors probably account for two errors in every 1,000 checks conducted.

6. **The Records Quality Index (RQI) briefly mentioned in the report is a major step forward in the quantitative estimation of performance changes over time.** This metric, developed by BJS, may provide a significant opportunity for both evaluating performance over time and for establishing the basis for targeting future assistance to State and local participants in Federal funding programs. We believe the States will benefit enormously from a tool such as RQI which helps to assess, in a uniform manner, both progress and need.

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The OJP appreciates the opportunity to comment on the draft report. In addition, we appreciate the careful and thoughtful manner in which the GAO team approached its evaluation responsibility and we look forward to working together on important public safety projects in the future.

Sincerely,

Deborah J. Daniels
Assistant Attorney General

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cc: Lawrence A. Greenfeld, Director
Bureau of Justice Statistics

Cynthia J. Schwimer
Comptroller, OJP

LeToya A. Johnson
Audit Liaison, OJP

Vickie L. Sloan
Audit Liasion, DOJ

OAAG Executive Secretariat
Control Number 20040179

Appendix VI: GAO Contacts and Staff Acknowledgments

GAO Contacts

Laurie E. Ekstrand, (202) 512-8777
Danny R. Burton, (214) 777-5600

Staff Acknowledgments

In addition to the above, Grace Coleman, Geoffrey Hamilton, Michael H. Harmond, Kevin L. Jackson, Jan B. Montgomery, Jerome T. Sandau, Linda Kay Willard, and Ellen T. Wolfe made key contributions to this report.

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