

U.S. Department of Justice
Office of Justice Programs

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**Access to
Criminal History Records
by TASC Programs:
A Report on Current Practice
and Statutory Authority**

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**Bureau of
Justice
Assistance**

MONOGRAPH

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U.S. Department of Justice
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**Bureau of
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U.S. Department of Justice
Office of Justice Programs
Bureau of Justice Assistance

Office of the Director

Washington, D.C. 20531

Access to criminal history record information (CHRI) is regulated by state criminal history record repositories. These repositories serve as the central state offices for creating, maintaining and disseminating official criminal history records. Generally, CHRI is strictly limited by federal statutes and by varying state statutes. Noncriminal justice agencies typically have little access to CHRI for purposes other than conducting research or pre-employment screening.

Treatment Alternatives to Street Crime (TASC) programs, of which there are approximately 100 currently operating in 18 states, identify substance abusing criminal offenders, assess the nature of their substance abuse problem, refer offenders to appropriate treatment providers and monitor the individual's performance. Many TASC programs rely on CHRI to perform screening and monitoring functions, to make informed decisions about referrals to treatment agencies, and to study long-term recidivism patterns in their local areas.

The purpose of this report is to document the actual practices and legal provisions involved in TASC program access to CHRI. TASC programs and state central repositories were surveyed and a comprehensive review of state laws and regulations regarding access to CHRI was conducted. The report summarizes the results of the surveys and provides a state-by-state catalog of the relevant dissemination laws and regulations in the 53 jurisdictions.

I hope you will find this document useful in applying CHRI data to TASC and other offender case management program decisionmaking.

Sincerely,

A handwritten signature in cursive script that reads "Jerry Regier".

Gerald F. (Jerry) Regier
Acting Director, BJA

Acknowledgments

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We would like to thank the respondents from each state central repository and TASC program who participated in the surveys that were conducted for this report.

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Introduction

Treatment Alternatives to Street Crime (TASC) programs were established in response to the socially pervasive problem of substance abuse. Such abuse presents chronic problems to virtually all criminal justice agencies — draining scarce law enforcement resources, increasing court congestion and swelling prison populations. TASC programs identify substance-abusing criminal offenders (and nonoffenders in limited cases), assess the nature of their substance abuse problem, refer clients to an appropriate treatment provider and monitor the client's performance. A TASC program intervenes at various stages of the criminal justice process to offer alternatives to prosecution, pretrial detention and post-trial incarceration.

The general goals of TASC programs include:

- decreasing the incidence of drug-related crime;
- reducing court caseloads and congestion by diverting offenders into appropriate, pre-trial treatment;
- decreasing problems in local detention facilities associated with arrestees who manifest withdrawal symptoms; and
- interrupting the drug use/street crime cycle, thereby assisting the drug-dependent offender in becoming a self-sufficient, law-abiding citizen.

There are almost 100 TASC programs currently operating in 18 states and the Commonwealth of Puerto Rico.¹ These programs presently function both as state and local governmental agencies and as private, non-profit and for-profit corporations.

TASC programs generally view criminal history record information (CHRI) as essential information in screening clients for program participation and in monitoring their caseloads. Many programs also rely upon CHRI

to make informed decisions about referrals to treatment agencies; to assess clients for individual treatment programs; and to study long-term recidivism patterns of cases.

Access to CHRI is regulated by state criminal history record repositories. (Every state in the nation has a repository, as does the District of Columbia, the Commonwealth of Puerto Rico and the U.S. Virgin Islands.) These repositories serve as the central state offices for creating, maintaining and disseminating official criminal history records. Generally, dissemination of CHRI is strictly limited by federal statutes and by state statutes which vary from jurisdiction to jurisdiction. Noncriminal justice agencies typically have little access to CHRI for purposes other than conducting research or pre-employment screening. Because many TASC programs are private corporations or exist in state or local agencies that are generally not defined as "criminal justice" — frequently a required affiliation for access to CHRI — they historically have been denied access to CHRI held by state repositories.

The purpose of this report is to document the actual practices and legal provisions involved in TASC program access to CHRI. In support of this, SEARCH surveyed state central repositories and TASC programs and conducted a comprehensive review of state laws and regulations that regulate access to CHRI. The report summarizes the results of the surveys and provides a state-by-state catalog of the relevant dissemination laws and regulations in the 53 jurisdictions.

Part One of this report details the survey results, first of the state central repositories and then of the TASC programs. State central repositories were surveyed to determine what policies and procedures exist at the state level for disseminating CHRI to TASC case management programs. This survey was sent to the central repositories of all 50 states, the District of Columbia, Puerto Rico, and the Virgin Islands. The second survey was sent to 96 TASC programs nationwide and to two TASC administrative offices to determine the existing barriers that block TASC programs from obtaining the criminal history records of clients for screening, referral and monitoring purposes.

¹ States where TASC programs exist as of January 1990, and the number of programs in each jurisdiction, are: Alabama (1), Arizona (3), California (1), Florida (28), Illinois (1), Indiana (1), Maryland (2), Maine (3), Michigan (1), New York (9), North Carolina (11), Oklahoma (7), Oregon (2), Pennsylvania (13), Puerto Rico (3), Rhode Island (1), Texas (1), Virginia (1), and Washington (7).

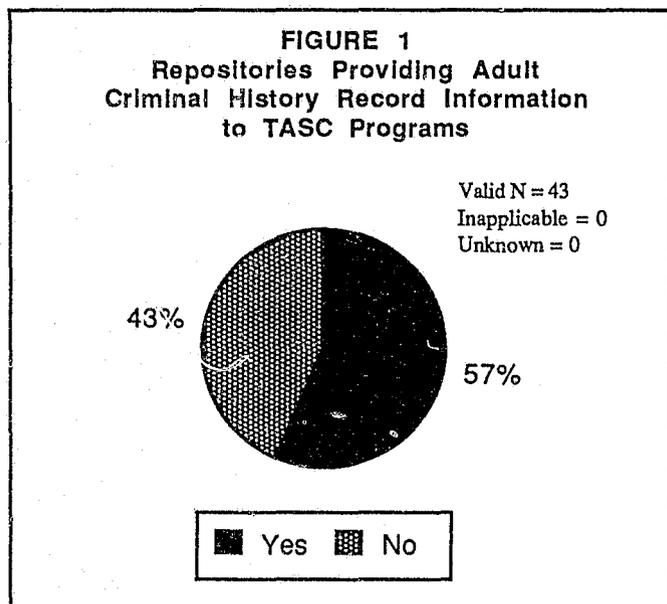
Part Two of this report details the statutory and regulatory authority within each state and territory that prohibits or facilitates dissemination of CHRI for TASC program and treatment purposes. Copies of the SEARCH surveys of state central repositories and TASC programs are provided in the appendices.

Access to Criminal History Records by TASC Programs: A Report on Current Practice and Statutory Authority can be read as a companion report to *A Quantitative Analysis of Two TASC Programs*, both of which were developed by SEARCH under a cooperative agreement from the Bureau of Justice Assistance. The analytical research report used data from two TASC programs to evaluate program effectiveness and to demonstrate how CHRI can be linked to TASC case records for research purposes and to show the usefulness of CHRI data to TASC program decisionmaking.

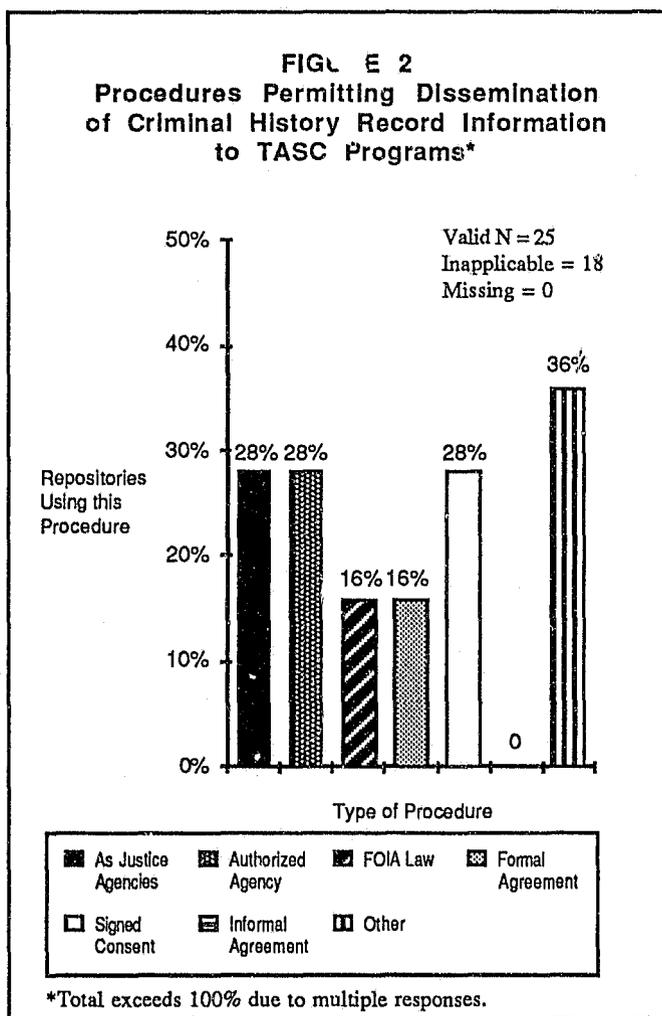
Part One: Survey Results

Section A. State Central Repositories

Of the 53 state and territorial central repositories which were sent surveys, a total of 43 repositories, or 81 percent, responded. Ten single and multiple-part questions regarding adult and juvenile records were posed in order to assess the availability of criminal history record information to TASC programs.²



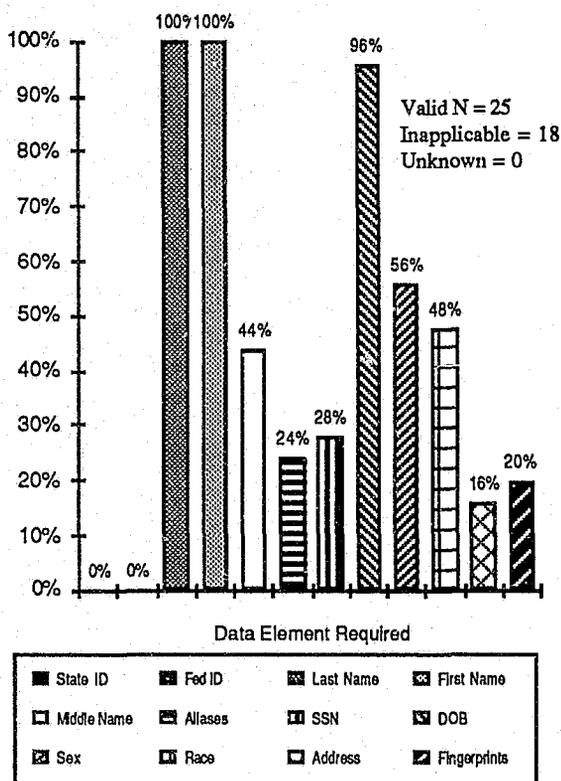
Level of CHRI Dissemination to TASC
The majority of repository respondents (57 percent) indicated that adult CHRI may be provided under certain conditions to TASC programs. (See Figure 1.)



The procedures under which TASC programs may obtain CHRI include: state statutes or regulations which define TASC programs as "criminal justice agencies" (28 percent); statutes or regulations which define TASC programs as authorized recipients even though they are not defined as "criminal justice agencies" (28 percent); an "open records" or "Freedom of Information Act" request (16 percent); a standard agreement between the repository and the TASC program (16 percent); a waiver or consent of the record subject (28 percent); or through other procedures, such as a court order (36 percent). (See Figure 2.)

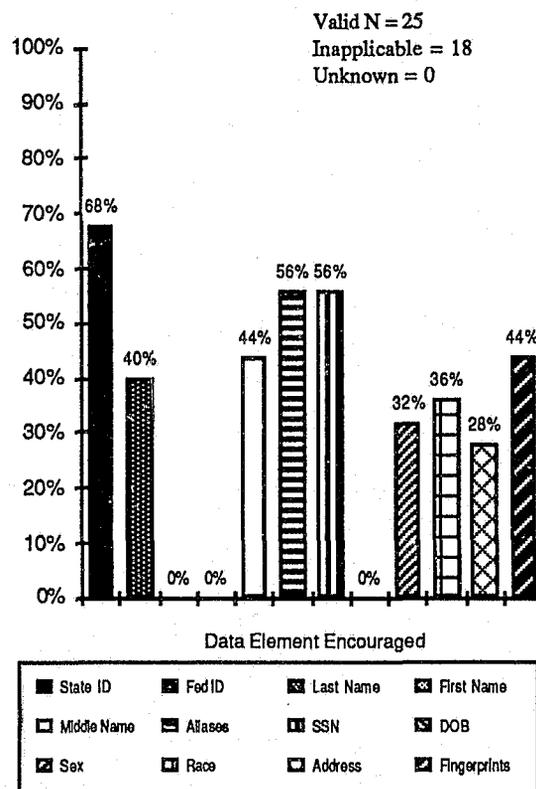
² The survey instrument is included in this report as Appendix A.

FIGURE 3
Percentage of Repositories
Requiring Data Elements to
Conduct a Criminal History
Records Check



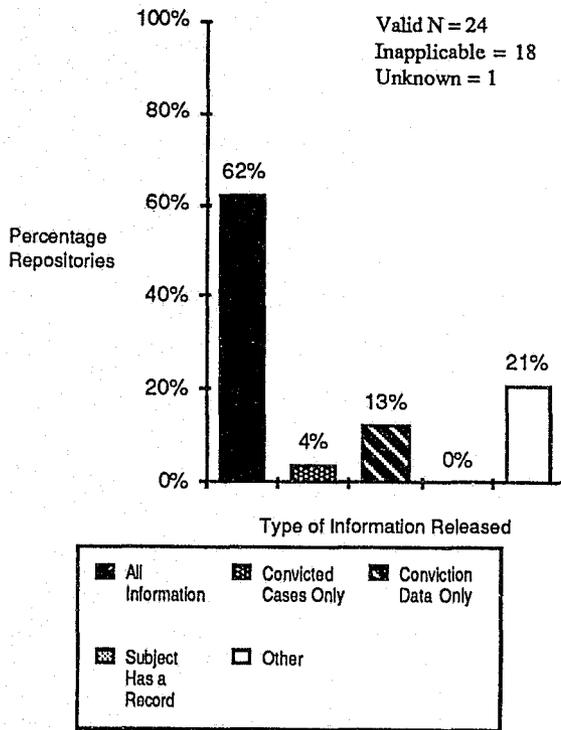
Data Elements Required for a Records Check
 Repositories require that various data elements be provided before a criminal history records check is conducted. At a minimum, all repositories require that requesters provide the first and last names of the record subject. Most also require that the subject's date of birth be provided (96 percent). More than half require that requesters provide the sex of the subject (56 percent). One-fifth of the repositories require the submission of fingerprints in addition to other data (20 percent). (See Figure 3.)

FIGURE 4
Percentage of Repositories
Encouraging Specified Data
Elements to Conduct a Criminal
History Records Check



Specific data elements that repositories encourage requesters to submit, but that are not required, include the subject's state identification number (if previously arrested), aliases, and the subject's social security number. Almost one-half of the repositories (44 percent) encourage the submission of fingerprints with the request for criminal history record information. (See Figure 4.)

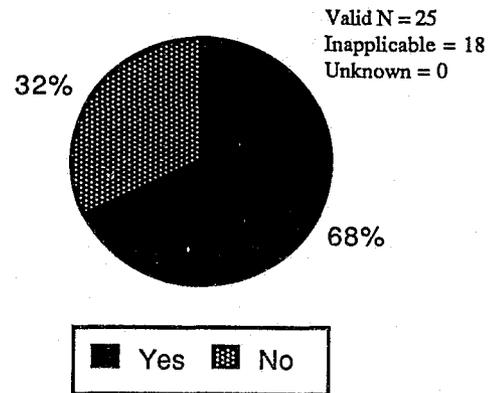
FIGURE 5
Type of Information
Provided by Repositories



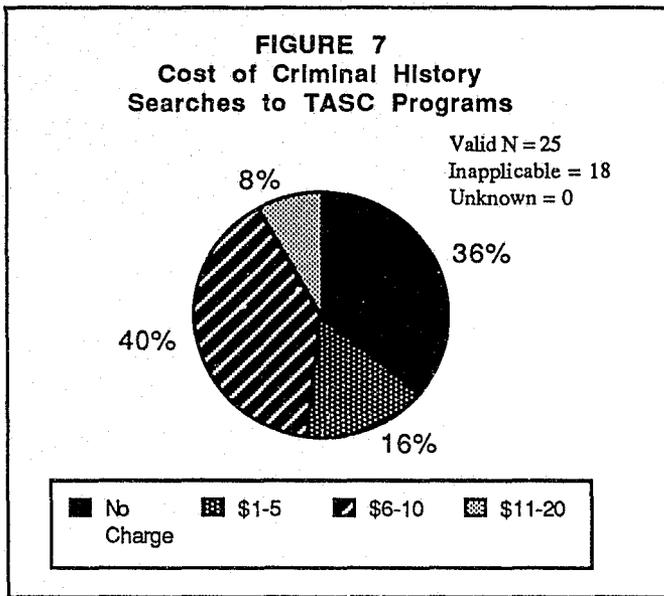
Type of CHRI Released

In most cases (62 percent), the repository will provide the requester with the complete criminal history record, including nonconviction information. Still others provide the requester with only conviction data. (See Figure 5.)

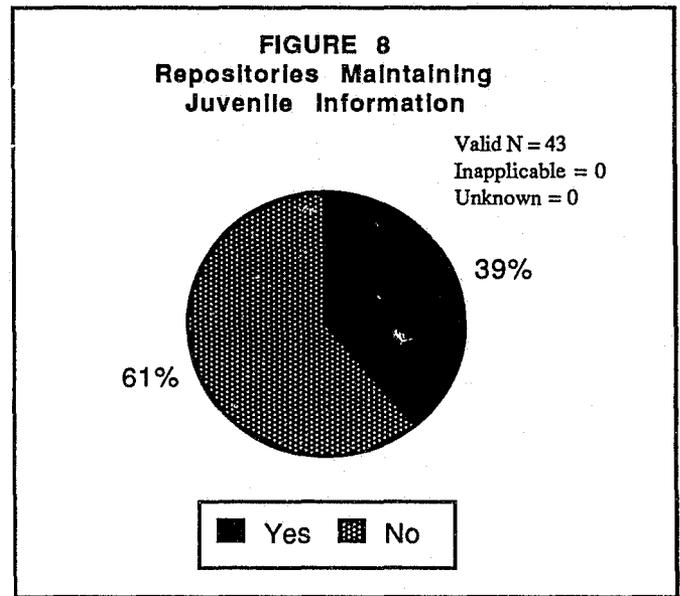
FIGURE 6
Repositories Providing CHRI on
Record Subjects Not Currently in
the Criminal Justice System



Most repositories that provide CHRI to TASC programs will also provide the information on record subjects who are not currently in the criminal justice system. These persons may have come to the TASC program as simply "walk-in" clients (nonoffenders) and are not awaiting disposition of a charge. (See Figure 6.)

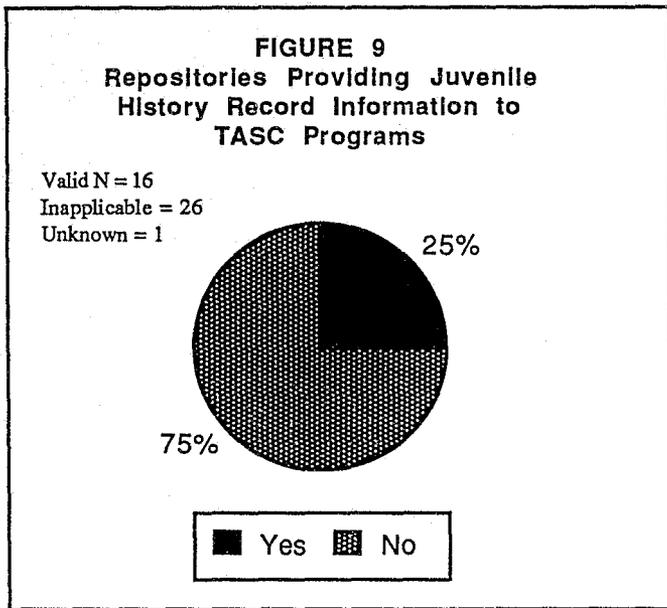


Cost of Searches to TASC Programs
 Repositories frequently charge fees for conducting CHRI checks, although 36 percent reported that they do not charge at all. The fee schedule is usually structured to cover the repository's cost of performing the records check. The amount of the fee varies from a low of \$3.00 per name to a high of \$20.00 per name.³ (See Figure 7.)



Juvenile Information Maintained
 State central repositories typically are repositories for adult criminal history records, including records of juveniles who are tried as adults. Over a third of the repositories, however, also maintain in their data systems juvenile records on juvenile subjects. (See Figure 8.)

³ In a 1989 survey conducted by SEARCH, central state repositories indicated that fees for processing noncriminal justice requests ranged from \$2.00 to \$35.00 per record search. SEARCH Group, Inc., "Noncriminal Justice User Fees," unpublished survey (March 1989).



Juvenile History Information Released

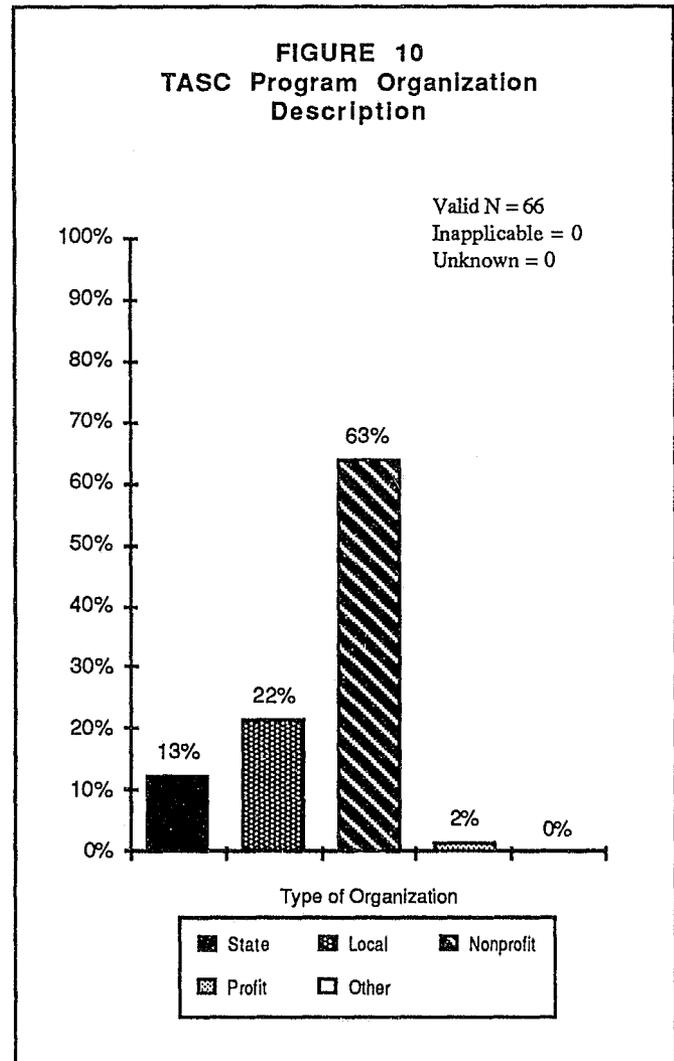
Access to records of juveniles has traditionally been more restricted than the dissemination procedures for adult records. Of the repositories which maintain juvenile data in their systems, one-fourth will provide juvenile history information to TASC programs. (See Figure 9.)

Only five state repositories permit dissemination of juvenile history information to TASC programs. Of those, two (40 percent) allow access because the TASC program is considered a criminal justice agency authorized to receive the information; one (20 percent) releases the information with the consent of the record subject and parent or guardian; one (20 percent) releases the information pursuant to a Freedom of Information Act or open records law which permits dissemination; and the remaining one (20 percent) releases the information under some other procedure (in this case, under statutory authority that allows the disseminating agency to release information in furtherance of offender rehabilitation).

The type of juvenile information released to TASC programs varies. Two repositories release all information, one releases only conviction (adjudication) information, and two others release other information, such as information which indicates that the juvenile was committed to a juvenile correctional facility.

Section B. TASC Programs

Of the 98 TASC programs and administrative offices surveyed, 66 programs, or 67 percent, responded to the survey. Thirteen questions, including single and multiple-part questions, were posed.⁴ The purpose of the survey was to determine the practical barriers that exist for TASC programs in obtaining criminal history records of clients and to look at the legal and procedural avenues used by TASC programs to obtain CHRI.



Type of Organization

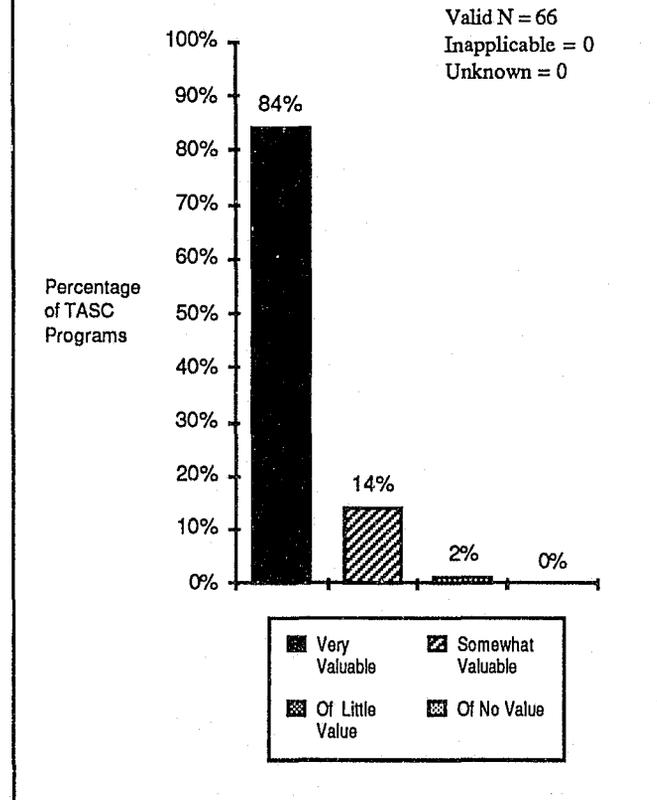
Almost two-thirds (63 percent) of the responding TASC programs are organized as private, nonprofit corporations. Other types of programs include local governmental departments or agencies, or a subunit

⁴ The survey instrument is included in this report as Appendix B.

thereof (22 percent); state governmental departments or agencies, or a subunit thereof (13 percent); and private, for-profit corporations. Two-thirds (65 percent) of the programs (the private, nonprofit and for-profit organizations) would fall outside general statutory definitions of a criminal justice agency.⁵ (See Figure 10.)

The statutory scheme of states which allows criminal justice agencies liberal access to CHRI also typically restricts by statute — or some other regulatory procedure — noncriminal justice agencies' access to CHRI.

FIGURE 11
Value of CHRI to
TASC Programs



Use of CHRI by TASC Programs

Respondents were asked the extent to which they found CHRI valuable in screening clients for participation in their programs by indicating whether the information was “very valuable,” “somewhat valuable,” “of little value,” or of “no value.” The vast majority of programs (84 percent) responded that the information was “very valuable.” Most of the remainder of the respondents found the information “somewhat valuable” (14 percent). Only 2 percent found the information “of little value.” (See Figure 11.)

⁵ See, e.g., DEL. CODE tit. 11, § 8502 (3), as follows: “Criminal justice agency” shall mean:

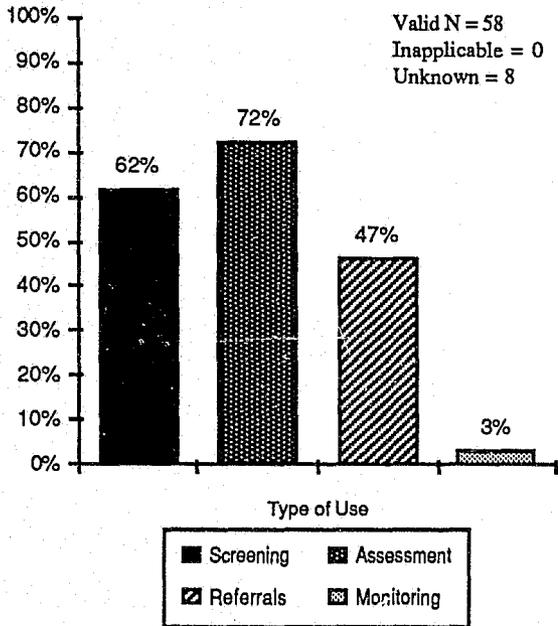
a. Every court of this State and of every political subdivision thereof;

b. A government agency or any sub-unit thereof which performs the administration of criminal justice pursuant to statute or executive order, and which allocates a substantial part of its annual budget to the administration of criminal justice. Such agencies shall include, but not be limited to, the following:

1. The Delaware State Police;
2. All law-enforcement agencies and police departments of any political subdivision of this state;
3. The State Department of Justice;
4. The Office of the Solicitor of the City of Wilmington; and
5. The Department of Correction.

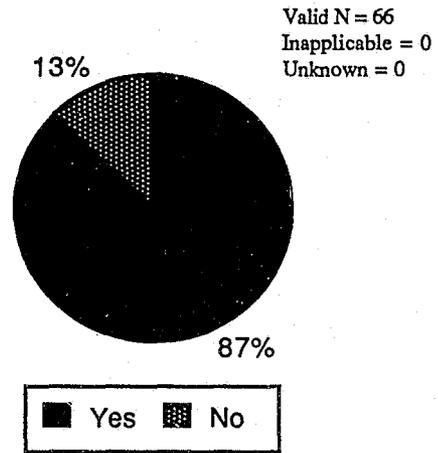
See also Part Two on this report *infra*.

FIGURE 12
Primary Uses of CHRI
by TASC Programs



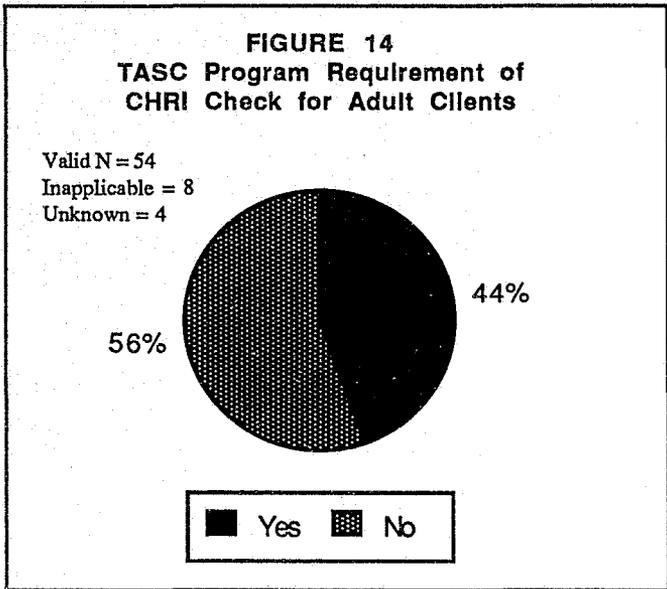
TASC programs use CHRI primarily for assessing appropriate treatment placement (72 percent) and screening for client eligibility in the program (62 percent). CHRI is also used to make referrals to appropriate treatment programs (47 percent) and, to a much lesser extent, to monitor client cases (3 percent). (See Figure 12.)

FIGURE 13
Access by TASC Programs
to CHRI

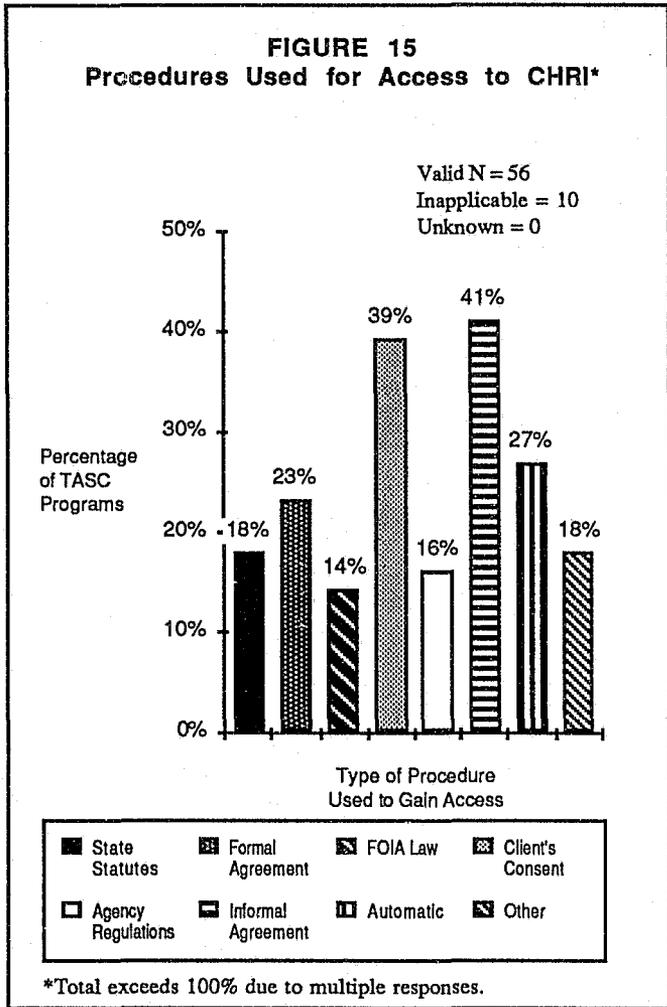


Current TASC Access to CHRI

Although the majority of TASC programs are private corporations which typically would be considered non-criminal justice entities, most TASC programs (87 percent) nevertheless indicate that they have access to some form of CHRI (not including criminal history information voluntarily reported by program clients). A total of 13 percent, or eight TASC programs, indicated that their programs had no access to adult CHRI. (See Figure 13.)



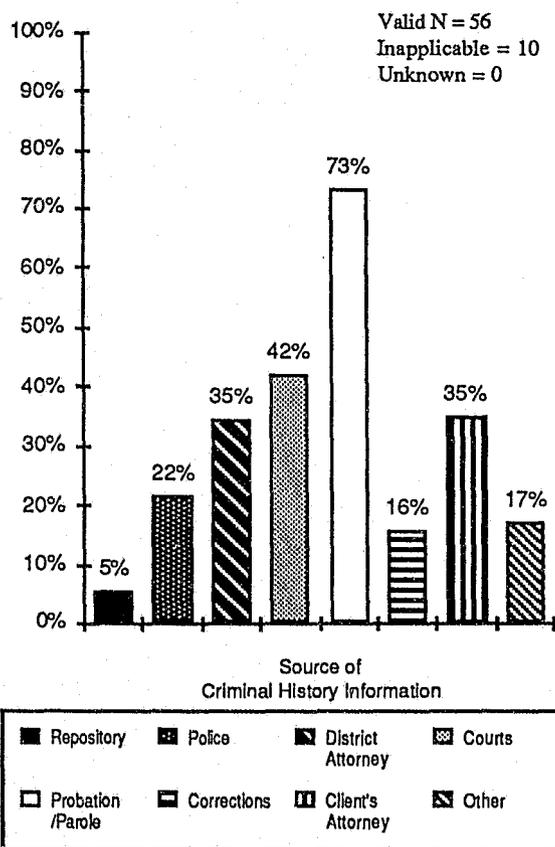
Slightly less than half (44 percent) of the respondents said they require a criminal history records check for each adult client served by their program. (See Figure 14.)



TASC programs obtain CHRI through a number of statutory and procedural avenues. The procedures used most frequently are by informal agreement or understanding between the TASC program and the agency to which the request is made (41 percent) and by obtaining a signed consent from clients permitting access to their records (39 percent).

Other ways CHRI is obtained include: automatically from the agency that refers the client to the program (27 percent); under a standard agreement between the TASC program and the provider of the criminal history information (23 percent); under state statutes or regulations authorizing access (18 percent); under agency regulations or procedures (16 percent); and under an "open records" or "Freedom of Information Act" statute (14 percent). An additional 18 percent of the responses included other procedures, such as obtaining information pursuant to a court order. (See Figure 15.)

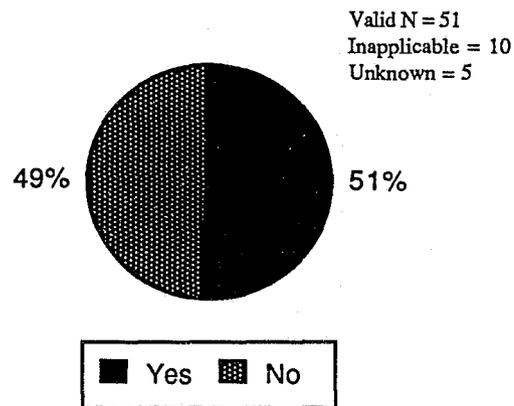
FIGURE 16
Sources of CHRI Used
by TASC Programs*



*Total exceeds 100% due to multiple responses.

The state central repositories, which maintain the state's official criminal history records, are the least-used source for CHRI obtained by TASC programs. Only 5 percent of the respondents indicated that they obtained records from the state central repository. The most frequent providers of CHRI to TASC programs are probation and parole agencies (73 percent). Other entities that provide CHRI to TASC programs are courts (42 percent); district attorneys offices (35 percent); the client's attorney (35 percent); police departments (22 percent); and correctional agencies (16 percent). An additional 17 percent of the respondents indicated that they received CHRI from other sources, such as social services agencies. (See Figure 16.)

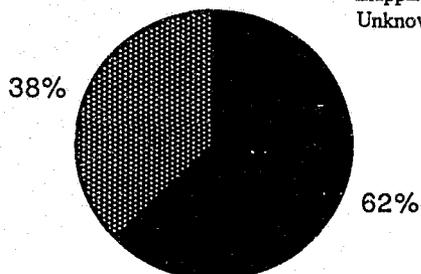
FIGURE 17
Ability to Obtain CHRI on
Persons Outside Criminal Justice
System



Respondents are almost equally divided in their ability to obtain CHRI on TASC clients who are nonoffenders, such as persons who enter a TASC program on their own initiative. Fifty-one percent of the respondents are able to obtain the information, while 49 percent are not. (See Figure 17).

FIGURE 18
TASC Programs Serving
Juvenile Clients

Valid N = 66
Inapplicable = 0
Unknown = 0

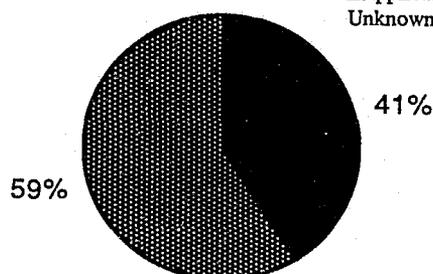


■ Yes ■ No

Access to Juvenile History Information
The majority of TASC programs (62 percent) provide services to both adult and juvenile clients. Slightly over one-third of the programs (38 percent) serve only adults. (See Figure 18.)

FIGURE 20
Requirement of Juvenile History
Check of Juvenile Clients

Valid N = 32
Inapplicable = 33
Unknown = 1

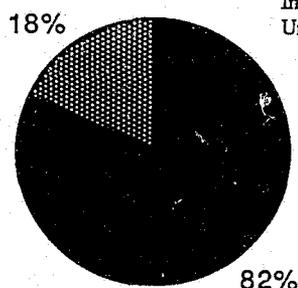


■ Yes ■ No

A total of 19 programs (59 percent) *do not* require a juvenile history records check on the juvenile clients served by the program. The remainder of the programs (41 percent) *do* have such a requirement. (See Figure 20).

FIGURE 19
Access to Juvenile History
Information by TASC Programs

Valid N = 39
Inapplicable = 26
Unknown = 1



■ Yes ■ No

Of the 39 responding TASC programs that provide services to both adults and juveniles, most programs (82 percent) have access to juvenile history information other than information voluntarily submitted by TASC clients. Seven of the 39 programs, or 18 percent, do not have access to juvenile history information of juvenile clients served by the program. (See Figure 19.)

FIGURE 21
Procedures Used for Juvenile
History Access

Valid N = 33
 Inapplicable = 33
 Unknown = 0

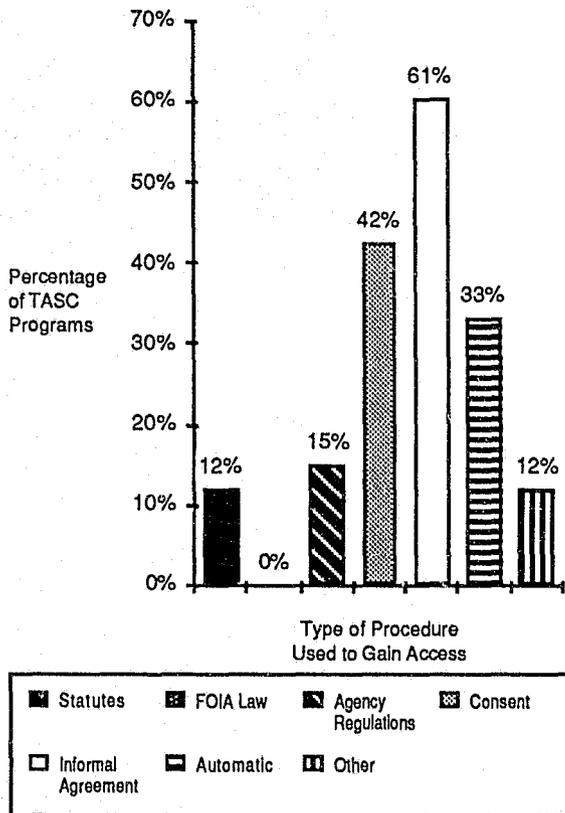
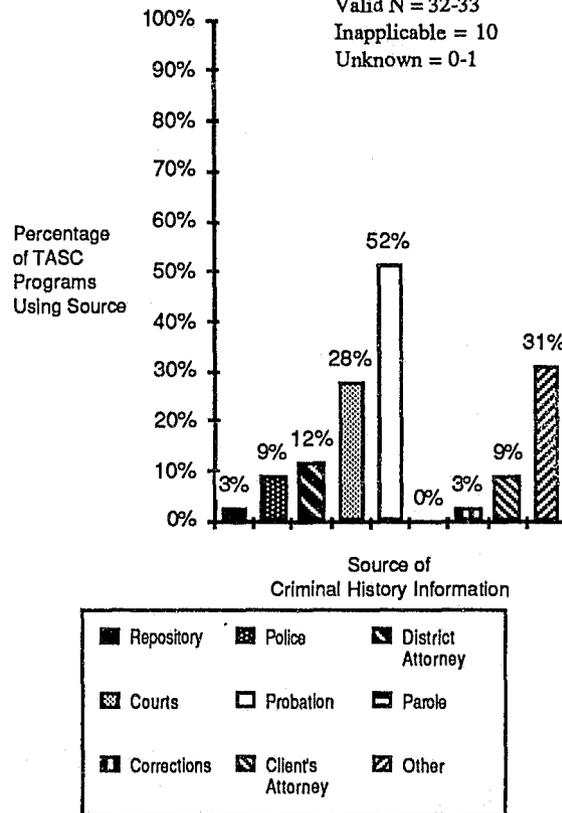


FIGURE 22
Sources of Juvenile History
Information Used by TASC Programs

Valid N = 32-33
 Inapplicable = 10
 Unknown = 0-1



Most juvenile history information is obtained under an informal agreement or understanding between the TASC program and the responding agency (61 percent). Other procedures used to gain access to juvenile history records include: by a consent form signed by the client and/or the client's parent or guardian (42 percent); automatically provided by the referring agency (33 percent); under agency administration regulations or procedures (15 percent); and under state statutes authorizing TASC program access (12 percent). An additional 12 percent of the programs obtain juvenile history information by other procedures, such as by juvenile court order or from juvenile court counselors. (See Figure 21.)

Like the adult records, most juvenile history information is obtained from probation agencies (52 percent). Information is also obtained from the courts (28 percent); the district attorney's office (12 percent); the police (9 percent); and the juvenile client's attorney (9 percent). Again, one of the least-used resources for the information is the state central repository (3 percent), along with correctional agencies (3 percent). An additional 31 percent obtained juvenile history information from other sources, such as from juvenile court counselors, other juvenile officers or social services agencies. (See Figure 22.)

Section C. Survey Conclusions

Obtaining criminal history data from state central repositories may be a problem for many TASC programs because, as the survey indicates, almost half of the repositories will not release their information to TASC programs. To the extent that the refusal results from systemwide constraints, such as statutory restrictions, this may represent a substantial obstacle to access for TASC programs.

As indicated by the TASC Program survey results, however, TASC programs are able to gather CHRI from agencies other than the state central repository. This has provided some relief for TASC programs in terms of being able to develop a comprehensive profile of a potential client for screening and assessment purposes. Although most TASC programs are private, nonprofit organizations, they have established procedures for obtaining the criminal history records of their clients. This information is typically provided by a criminal justice agency, such as a probation office, at the same time the client is referred to TASC. Because TASC programs usually do not obtain the official criminal history record directly from the state repository, however, the information they receive may not be as complete and accurate as possible.

Part Two: Statutory Authority

Although criminal history record information is valuable in screening persons for possible TASC program participation and in assessing them for appropriate treatment, access to the official criminal history record maintained by the state central repository is often restricted. Both statutory law and administrative regulations in all but a very few states impose limitations on the dissemination of CHRI.⁶ The limitations vary from permitting public access to all conviction information to an absolute prohibition on the release of any CHRI to any agency other than a narrowly-defined criminal justice agency. In all states, however, CHRI is available to criminal justice agencies; the criteria for what constitutes a criminal justice agency, however, may vary.

The statutory review which follows contains relevant dissemination laws and regulations from each of the 50 states, the District of Columbia, the Commonwealth of Puerto Rico, and the U.S. Virgin Islands (referred to collectively as "states"). For each of the states, the review contains a statutory or regulatory definition of "criminal justice agency," if any; a brief narrative description of the CHRI dissemination laws in that state; and the text of the laws and regulations described.⁷ In addition, other key terms may be defined as appropriate. (These include, for example, definitions of "law enforcement," "administration of justice," "noncriminal justice" and "qualified agencies.")

As noted earlier, criminal justice agencies enjoy access to CHRI in all states. If a TASC program fits within a state's definition of a criminal justice agency, the program may obtain CHRI from the state central repository. In some cases, a user's agreement or compliance with other administrative procedures is also required. On the other hand, if the TASC program is not a criminal justice agency or is a private agency, access to CHRI will depend on the state's provisions for dissemination to noncriminal justice agencies or to the private sector.

In most cases, state laws apply to records held by the state central repository; however, some state statutes also regulate dissemination by local criminal justice agencies as well. In those cases, TASC programs may also be limited in the ability to obtain CHRI from agencies on an informal basis.

⁶ Florida, Oklahoma and Wisconsin.

⁷ The narrative description, written by the author, appears in italics. The information following the narrative is the verbatim text of the relevant statutes or regulations; to preserve the original appearance of the text, minor differences in spelling and style from state-to-state were not corrected. In some cases, nonrelevant portions of the laws and regulations were not included; this exclusion is indicated by ellipsis marks (...) and asterisks (*).

ALABAMA

Criminal Justice Agency Defined

CRIMINAL JUSTICE AGENCIES. Such term shall include those public agencies at all levels of government which perform as their principal function activities or planning for such activities relating to the identification, apprehension, prosecution, adjudication or rehabilitation of civil, traffic and criminal offenders. ALA. CODE § 41-9-590(1) (1982).

Purpose: This regulation defines terms used in ACJIC [Alabama Criminal Justice Information Center] privacy and security regulations.

The term "criminal justice agencies" means only those public agencies, or subunits thereof, at all levels of government which perform as their principal function activities (1) relating to the detection, apprehension, detention, pretrial release, post-trial release, prosecution, adjudication, correctional supervision, or rehabilitation of criminal offenders; or (2) relating to the collection, storage, and dissemination of criminal justice records. ALA. ADMIN CODE, Privacy & Security Reg. 002(1).

Dissemination Provisions

By statute and/or regulation, conviction and arrest information is available to criminal justice agencies, governmental noncriminal justice agencies, and designated segments of the private sector, such as screening for foster and adoptive parents. Non-conviction information is available only to criminal justice agencies

The commission [Alabama Criminal Justice Information Center Commission], acting through the director of the Alabama criminal justice information center, shall:

Make available, upon request, to all criminal justice agencies in this state, to all federal criminal justice and criminal identification agencies and to state criminal justice and criminal identification agencies in other states any information in the files of the ACJIC which will aid those agencies in crime fighting; for this purpose the ACJIC shall operate 24 hours per day, seven days per week. ALA. CODE § 41-9-621(6) (1988).

Information in a criminal history, other than physical and identifying data, shall be limited to those offenses in which a conviction was obtained or to data relating to the current cycle of criminal justice administration if the

subject has not yet completed that cycle. ALA. CODE § 41-9-639 (1982).

The ACJIC shall not disseminate any information concerning any person to any criminal justice agencies outside of the state of Alabama unless said information pertains to a conviction of the person. ALA. CODE § 41-9-641 (1982).

Nothing in this article shall be construed to give authority to any person, agency or corporation or other legal entity to invade the privacy of any citizen as defined by the Constitution, the legislature or the courts other than of the extent provided in this article.

Disclosure of criminal histories or other information that may directly or otherwise lead to the identification of the individual to whom such information pertains may not be made to any person, agency, corporation or other legal entity that has neither the "need to know" nor the "right to know:" as determined by the commission pursuant to section 41-9-594. ALA. CODE § 41-9-642 (1982).

Purpose: This regulation defines criminal history information usage and dissemination for information collected, stored, processed, or disseminated by the ACJIC.

1. Agencies authorized access to criminal history record information:

A. Criminal Justice Agencies

Criminal justice agencies, upon completion of a Privacy and Security Agreement as specified in paragraph 2 of this regulation, shall be authorized direct access to criminal history record information for the following purposes:

- (1) Functions related to the administration of criminal justice.
- (2) Criminal justice agency pre-employment screening.

Criminal history record information may be disseminated directly to Federal agencies and agencies of other states only if they are criminal justice agencies within the meaning of these regulations.

B. Noncriminal Justice Agencies

The following types of noncriminal justice agencies may be authorized indirect access to criminal history

record information upon approval by the appropriate authority and completion of a Privacy and Security Agreement:

(1) Agencies authorized by State or Federal statute, executive order, local ordinance, or court order to have access to criminal history information shall be granted indirect access to such information. Dissemination will be through the ACJIC or designated criminal justice agencies. Application for access to criminal history information under this paragraph shall be addressed to the Director, ACJIC.

(2) Agencies or individuals may be authorized access to criminal history record information for the express purpose of research, evaluative or statistical activities pursuant to a specific agreement with the ACJIC and with the approval of the ACJIC Director. Individuals or agencies seeking access under this paragraph shall submit to the ACJIC a completed research design that assures the security and confidentiality of the data. Dissemination of criminal records pursuant to this paragraph will be through the ACJIC.

* * *

Application for records under this Section shall be in writing to the Director, ACJIC. Fees shall be charged for disseminating such records which will raise an amount of revenue which approximates, as nearly as practicable, the direct and indirect cost to the State providing the information.

(5) Agencies or individuals not otherwise authorized access to criminal history record information collected, stored, processed, or disseminated by the ACJIC, may be authorized indirect access to such information upon a demonstrated need and right to access and utilize such records. Application for access under this paragraph shall be in writing to the ACJIC Director. Upon request by the applicant or upon the ACJIC's own motion, the Privacy and Security Committee shall conduct public hearings at which it may receive evidence and hear statements concerning the application for access to criminal history record information. Access to information under this paragraph will be through the ACJIC or designated criminal justice agencies. ALA. ADMIN. CODE, Privacy & Security Reg. 003(1).

ALASKA

Criminal Justice Agency Defined

"[C]riminal justice agency" means a law enforcement agency in this state that collects, stores, processes, or disseminates criminal justice information. ALASKA ADMIN. CODE tit. 6, § 60.900 (1982).

Law Enforcement Defined

"[L]aw enforcement" means any activity relating to crime prevention, control or reduction or the enforcement of the criminal prevention, control or reduction or the enforcement of the criminal law, including, but not limited to, police efforts to prevent, control or reduce crime or to apprehend criminals, activities of criminal prosecution, courts, public defender, corrections, probation or parole authorities. ALASKA STAT. § 12.62.070(6) (1988).

Dissemination Provisions

Depending upon the type of agency and the type of information requested, the state of Alaska permits dissemination of conviction, nonconviction, and arrest information to criminal justice agencies and governmental, noncriminal justice agencies. The private sector is able to obtain criminal history information only under restricted circumstances.

Except as provided in (b) [research purposes] and (c) [individual's right to inspect own record] of this section, access to specified classes of criminal justice information in criminal justice information systems is available only to individual law enforcement agencies according to the specific needs of the agency under regulations established by the commission under AS 12.62.010. Criminal justice information may be used only for law enforcement purposes or for those additional lawful purposes necessary to the proper enforcement or administration of other provisions of law as the commission may prescribe by regulations established under AS 12.62.010. No criminal justice information may be disseminated to an agency before the commission determines the agency's eligibility to receive that information. ALASKA STAT. §12.62.030(a) (1984).

The following agencies may, to the extent authorized by the agency collecting the information, have access to the following categories of criminal justice information through the Alaska justice information system:

(1) Department of Public Safety: 6 AAC 60.020(1) - (20), (22), and (26);

(2) local Alaska police departments: 6 AAC 60.020(1) - (20), (22), and (26);

(3) Alaska State Court System: 6 AAC 60.020(1) - (12), (14) - (20), (22), and (26);

(4) division of corrections of the Department of Health and Social Services: 6 AAC 60.020(1) - (20), (22), and (26);

(5) Alaska Board of Parole of the Department of Health and Social Services: 6 AAC 60.020(1) - (20), (22), and (26);

(6) Department of Law and local prosecution agencies: 6 AAC 60.020(1) - (12), (14) - (20), (22), and (26);

(7) Alaska Public Defender Agency: 6 AAC 60.020(1) - (11), (14) - (20), (22), and (26), if the information has been collected with reference to an individual represented by the agency; access by the Alaska Public Defender Agency is authorized only upon the condition that the agency, subject to 6 AAC 60.070, will make information that refers to an individual available to any attorney not employed by the agency, who certifies that he represents that individual in a criminal prosecution and that the information to be released relates to that prosecution; for the release of the information, the Alaska Public Defender Agency may impose a nominal fee, reflective of the administrative costs involved and consistent with any applicable regulations adopted by the governor regarding provision of information ... ALASKA ADMIN. CODE tit.6, § 60.060 (1982).

When necessary for the administration or enforcement of state, municipal, or federal law, an individual, agency, or other entity, not listed in (a) [agencies listed in 6 AAC 60.060, attorney representing a defendant, individual on own behalf] of this section, may receive criminal history record information upon the approval of the commission or, in the interim between commission meetings, the chairman of the commission. Upon appropriate approval, and before receiving information, the individual, agency, or other entity must sign a contractual agreement approved by the commission or the chairman that specifically limits the use of that data to those legitimate purposes for which access was granted, ensures the security and confidentiality of data consistent with this chapter, and provides sanctions for violations of the agreement or the provisions of this chapter. The commission will, in its discretion, at any time, disapprove dissemination to any individual, agency, or other entity and rescind any agreement entered into under this subsection. In the interim between commission meetings, the chairman of

the commission may disapprove dissemination and rescind such an agreement. ALASKA ADMIN. CODE tit. 6, §60.070 (c) (1982).

ARIZONA

Criminal Justice Agency Defined

Criminal justice agency is defined in two chapters in the Arizona Revised Statutes: Chapter 12, Public Safety, and Chapter 17, Criminal Justice Information System. The content of the definitions varies slightly.

“Criminal justice agency” means courts or a government agency or any subunit thereof which performs any of the following activities: detection, apprehension, detention, pretrial release, post-trial release, prosecution, adjudication, correctional supervision, or rehabilitation of accused persons or criminal offenders. ARIZ. REV. STAT. ANN. § 41-1701(3) (1985) [Public Safety].

“Criminal justice agency” means any court or government agency or division of such agency which performs the administration of criminal justice pursuant to statutory authority or executive order and which allocates a substantial part of its budget to the administration of criminal justice. ARIZ. REV. STAT. ANN. § 41-2201(4) (1988) [Criminal Justice Information System].

Dissemination Provisions

Arizona law permits dissemination of criminal justice information only to criminal justice agencies and others specifically authorized by statute, such as employers of persons who regularly deal with youth.

The criminal identification section shall:

Provide information from its records to criminal justice agencies of the federal government, the state or its political subdivisions upon request by the chief officer of such agency or his authorized representative. Such information shall be used only for purposes of the administration of criminal justice. ARIZ. REV. STAT. ANN. § 41-1750(B)(5) (1988).

The manager [of the criminal justice information system] shall:

Provide criminal justice agencies with criminal history record information for operational and management purposes in accordance with the rules and regulations established by the board governing the dissemination of

such information. ARIZ. REV. STAT. ANN.
§ 41-2204(6) (1988).

ARKANSAS

Criminal Justice Agency
Not defined by statute.

Dissemination Provisions

Criminal history record information is available to criminal justice agencies and regulatory agencies with specific statutory authority.

The Center [Criminal Justice and Highway Safety Information Center] shall make criminal records on person [persons] available only to criminal justice agencies in their official capacity, to regulatory agencies with specific statutory authority of access, and to any person or his attorney, who has reason to believe that a criminal history record is being kept on him, or wherein the criminal defendant is charged with either a misdemeanor or felony. Upon the application of the person or his attorney, it shall be mandatory, upon proper and sufficient identification of the person, for the Criminal Justice and Highway Safety Information Center to make available to said person or his attorney records on the person making said application. The Supervisory Board shall establish regulations and policies to carry out the review and challenge procedures in accordance with this Act. ARK. STAT. ANN. § 5-1102 (1976).

CALIFORNIA

Criminal Justice Agency Defined

"Criminal Justice Agency" means a public agency or component thereof which performs a criminal justice activity as its principal function. CAL. ADMIN. CODE tit. 11 (Law), § 701(a) (1985).

Dissemination Provisions

The California Penal Code provides for dissemination of criminal history records by both local and state criminal justice agencies. Dissemination is strictly regulated.

(a) (1) The Department of Justice shall maintain state summary criminal history information.

(2) As used in this section:

(i) "State summary criminal history information" means the master record of information compiled by the Attorney General pertaining to the identification and criminal history of any person, such as name, date of birth, physical description, fingerprints, date of arrests, arresting agencies and booking numbers, charges, dispositions, and similar data about such person.

(ii) "State summary criminal history information" does not refer to records and data compiled by criminal justice agencies other than the Attorney General, nor does it refer to records of complaints to or investigations conducted by, or records of intelligence information or security procedures of, the office of the Attorney General and the Department of Justice.

(b) The Attorney General shall furnish state summary criminal history information to any of the following, when needed in the course of their duties

* * *

(5) To any person when disclosure is requested by a probation, parole, or peace officer with the consent of the subject of the state summary criminal history information and for purposes of furthering the rehabilitation of the subject.

* * *

(11) The subject of the state summary criminal history information

(12) Any person or entity when access is expressly authorized by statute when such criminal history information is required to implement a statute or regulation that expressly refers to specific criminal conduct applicable to the subject person of the state summary criminal history information, and contains requirements or exclusions, or both, expressly based upon such specified criminal conduct. CAL. PENAL CODE § 11105 (Deering 1989).

(a) As used in this section:

(1) "Local summary criminal history information" means the master record of information compiled by any local criminal justice agency pursuant to Chapter 2 (commencing with Section 13100) of Title 3 of Part 4 of the Penal Code pertaining to the identification and criminal history of any person, such as name, date of birth, physical description, dates of arrests, arresting

agencies and booking numbers, charges, dispositions, and similar data about such person.

(2) "Local summary criminal history information" does not refer to records and data compiled by criminal justice agencies other than that local agency, nor does it refer to records of complaints to or investigations conducted by, or records of intelligence information or security procedures of, the local agency.

(3) "Local agency" means a local criminal justice agency.

(b) A local agency shall furnish local summary criminal history information to any of the following, when needed in the course of their duties

(9) Any agency, officer, or official of the state when such criminal history information is required to implement a statute, a regulation, or an ordinance that expressly refers to specific criminal conduct applicable to the subject person of the local summary criminal history information, and contains requirements or exclusions, or both, expressly based upon such specified criminal conduct.

* * *

(11) The subject of the local summary criminal history information.

(12) Any person or entity when access is expressly authorized by statute when such criminal history information is required to implement a statute, a regulation, or an ordinance that expressly refers to specific criminal conduct applicable to the subject person of the local summary criminal history information, and contains requirements or exclusions, or both, expressly based upon such specified criminal conduct. CAL. PENAL CODE § 13300 (Deering 1989).

COLORADO

Criminal Justice Agency Defined

"Criminal justice agency" means any court with criminal jurisdiction and any agency of the state or of any county, city and county, home rule, city and county, home rule city or county, city, town, territorial charter city, governing boards of institutions of higher education, school district, special district, judicial district, or law enforcement authority which performs any activity directly relating to the detection or investigation of crime; the apprehension, pretrial

release, post trial release, prosecution, correctional supervision, rehabilitation, evaluation, or treatment of accused persons or criminal offenders; or criminal identification activities or the collection, storage or dissemination of arrest and criminal records information. COLO. REV. STAT. § 24-72-302(3) (1988).

Dissemination Provisions

Inspection of criminal justice records may be permitted to any person subject to specified restrictions, such as the prohibition of inspecting intelligence information.

[A]ll criminal justice records, at the discretion of the official custodian, may be open for inspection by any person at reasonable times, except as otherwise provided by law, and the official custodian of any such records may make such rules and regulations with reference to the inspection of such records as are reasonably necessary for the protection of such records and the prevention of unnecessary interference with the regular discharge of the duties of the custodian or his office. COLO. REV. STAT. § 24-72-304(1) (1988).

(1) The custodian of criminal justice records may allow any person to inspect such records or any portion thereof except on the basis of any one of the following grounds or as provided in subsection (5) of this section:

(a) Such inspection would be contrary to any state statute;

(b) Such inspection is prohibited by rules promulgated by the supreme court or by the order of any court COLO. REV. STAT. § 24-72-305 (1988).

CONNECTICUT

Criminal Justice Agency Defined

"Criminal justice agency" means any court with criminal jurisdiction, the department of motor vehicles, or any other governmental agency created by statute which is authorized by law and engages, in fact, as its principal function in activities constituting the administration of criminal justice; including but not limited to, organized municipal police departments, the division of state police, department of correction, office of adult probation, state's attorneys, assistant state's attorneys, deputy assistant state's attorneys, parole board, pardon board, bail commissioners and chief medical examiner. It shall also include any component of a public, non-criminal justice agency if such component is treated by statute and is authorized by law and, in fact, engages in

activities constituting the administration of criminal justice as its principal function. CONN. GEN. STAT. § 54-142 g(b) (West 1985).

Dissemination Provisions

Criminal justice information held at the State Police Bureau of Identification is available to criminal justice officials. In addition, criminal history record information which is not nonconviction information is available to any person.

Information contained in the files of the state police bureau of identification relative to the commission of crime by any person shall be considered privileged and shall not be disclosed for any personal purpose or in any civil court proceedings except upon a written order of the judge of an established court wherein such civil proceedings are had. All information contained in the files of the state police bureau of identification relative to criminal records and personal history of persons convicted of crime shall be available at all times to all peace officers engaged in the detection of crime, to all prosecuting officials and probation officers for the purpose of furthering the ends of public justice CONN. GEN. STAT. ANN. § 29-16 (West 1989).

(a) Each person or agency holding criminal history record information shall establish reasonable hours and places of inspection of such information.

(b) Criminal history record information other than nonconviction information, shall be available to the public unless otherwise prescribed by law CONN. GEN. STAT. ANN. § 54-142k (West 1985).

DELAWARE

Criminal Justice Agency Defined

"Criminal justice agency" shall mean:

- a. Every court of this State and of every political subdivision thereof;
- b. A government agency or any sub-unit thereof which performs the administration of criminal justice pursuant to statute or executive order, and which allocates a substantial part of its annual budget to the administration of criminal justice. Such agencies shall include, but not be limited to, the following:
 1. The Delaware State Police;
 2. All law-enforcement agencies and police departments of any political subdivision of this state;

3. The State Department of Justice;
4. The Office of the Solicitor of the City of Wilmington; and
5. The Department of Correction. DEL. CODE tit. 11, § 8502(3) (1988).

Administration of Criminal Justice Defined

"Administration of criminal justice" shall mean performance of any of the following activities: Detection, apprehension, detention, pre-trial release, post-trial release, prosecution, adjudication, correction supervision, or rehabilitation of accused persons or criminal offenders, criminal identification activities, and the collections, storage and dissemination of criminal history record information. DEL. CODE ANN. tit. 11, § 8502(1) (1988).

Dissemination Provisions

Criminal history information in Delaware may be disseminated to criminal justice agencies and record subjects, and the public defender when representing a record subject. Information may also be provided to noncriminal justice requesters who are specifically granted access by statute and who have entered into a user's agreement with the State Bureau of Identification.

(a) Upon application, the Bureau [State Bureau of Identification] shall furnish a copy of all information available pertaining to the identification and criminal history of any person or persons of whom the Bureau has a record to:

(1) Criminal justice agencies and/or courts of the State or of any political subdivision thereof or to any similar agency and/or court in any State or of the United States or of any foreign country for purposes of the administration of criminal justice and/or criminal justice employment;

(2) Any person or his attorney of record who requests a copy of his or her own Delaware criminal history record, provided that such person;

a. Submits to a reasonable procedure established by standards set forth by the Superintendent of the State Police to identify one's self as the person whose record this individual seeks; and

b. Pays a reasonable fee as set by the Superintendent, payable to the Delaware State Police;

(3) The State Public Defender when he requests information about an individual for whom he is attorney of record.

(b) Upon application, the Bureau shall, based on the availability of resources and priorities set by the Superintendent of State Police, furnish information pertaining to the identification and criminal history of any person or persons of whom the Bureau has a record, provided that the requesting agency or individual submits to a reasonable procedure established by standards set forth by the Superintendent of the State Police to identify the person whose record is sought. These provisions shall apply to the dissemination of criminal history record information to:

(1) Individuals and public bodies for any purpose authorized by Delaware state statute or executive order, court rule or decision or order;

(2) Individuals and agencies pursuant to a specific agreement with a criminal justice agency to provide services required for the administration of criminal justice pursuant to that agreement. Said agreement shall embody a user agreement as prescribed in § 8514 of this title ... DEL. CODE tit. 11, § 8513 (1988).

(a) Use of criminal history record information disseminated to noncriminal justice agencies shall be restricted to the purpose for which it was given.

(b) No criminal justice agency shall disseminate criminal history record information to any person or agency pursuant to § 8513 (a)(3) and (b)(1), (2) and (3) of this title unless said person or agency enters into a user agreement with the Bureau, which agreement shall:

(1) Specifically authorize access to the data or information;

(2) Limit the use of the data or information to purpose for which it was given;

(3) Ensure the security and confidentiality of the data or information consistent with this chapter ... DEL. CODE tit 11, § 8514 (1988).

Although no application for information has been made to the Bureau as provided in § 8513 of this title, the Bureau may transmit such information as the Director, in his discretion, designates to such persons as are authorized by § 8513 of this title to make application for it and as are designated by the Director. DEL. CODE tit. 11, § 8516 (1988).

DISTRICT OF COLUMBIA

Law Enforcement Agent Defined

The term "law enforcement agent" shall be limited in this context to persons having cognizance of criminal investigations or of criminal proceedings directly involving the individuals to whom the requested records relate. The term includes judges, prosecutors, defense attorneys (with respect to the records of their client defendants), police officers, federal agents having the power of arrest, clerks of courts, penal and probation officers and the like. D.C. Mun. Regs. tit. 10, § 1004.2.

The term "law enforcement agent" does not include private detectives and investigators; personnel investigators, directors and officers; private security agents or others who do not ordinarily participate in the process involving the detection, apprehension, trial or punishment of criminal offenders. D.C. Mun. Regs. tit. 10, § 1004.3.

Dissemination Provisions

The so-called "Duncan Ordinance" (D.C. Municipal Regulations, title 10, §§ 1004.1-1004.5) restricts access to arrest records; however, the District of Columbia Court of Appeals in Newspapers, Inc. v. Metropolitan Police Department, 546 A.2d 990 (D.C. 1988), determined that the Duncan Ordinance did not qualify as a "statute" under exemptions of the District of Columbia Freedom of Information Act (D.C. Code Ann. § 1-1524(a)(6)), thereby permitting disclosure of arrest records to the general public. The court, however, did not strike down the ordinance.

Unexpurgated adult arrest records, as provided under D.C. Code, Section 4-134a [§4-132, D.C. Code, 1981 ed.], shall be released to law enforcement agents upon request, without cost and without the authorization of the persons to whom those records relate and without any other prerequisite, provided that the law enforcement agents represent that those records are to be used for law enforcement purposes. D.C. Mun. Reg. tit. 10, §1004.1.

Subject to the provisions of §§ 1004.1 - 1004.3, adult arrest records, as provided under D.C. Code, Section 4-134a [§4-132, D.C. Code, 1981 ed.], shall be released in a form which reveals only entries relating to offenses committed not more than 10 years prior to the date upon which those records are requested; except that, where an offender has been imprisoned during all or part of the preceding 10-year period, the record shall

include entries relating to the earlier conviction. D.C. Mun. Regs. tit. 10, § 1004.5.

(a) Any person has a right to inspect, and at his or her discretion, to copy any public record of the Mayor or an agency, except as otherwise expressly provided by section 1-1524, in accordance with reasonable rules that shall be issued by the Mayor or an agency after notice and comment, concerning the time and place of access.

(b) The Mayor or an agency may establish and collect fees not to exceed the actual cost of searching for or making copies of records, but in no instance shall the total fee for searching exceed 10 dollars for each request. For purposes of this subsection, "request" means a single demand for any number of documents made at one time to an individual agency. Documents may be furnished without charge or at a reduced charge where the Mayor or agency determines that waiver or reduction of the fee is in the public interest because furnishing the information can be considered as primarily benefiting the general public. Notwithstanding the foregoing, fees shall not be charged for examination and review by the Mayor or an agency to determine if such documents are subject to disclosure. D.C. CODE ANN. § 1-1522 (1987).

(a) The following matters may be exempt from disclosure under the provisions of this subchapter:

* * *

(2) Information of a personal nature where the public disclosure thereof would constitute a clearly unwarranted invasion of personal privacy;

(3) Investigatory records compiled for law enforcement purposes, but only to the extent that the production of such records would —

(A) interfere with enforcement proceedings,

(B) deprive a person of a right to a fair trial or an impartial adjudication,

(C) constitute an unwarranted invasion of personal privacy ... ,

* * *

(6) Information specifically exempted from disclosure by statute (other than this section), provided that such statute —

(A) requires that the matters be withheld from the public in such a manner as to leave no discretion on the issue, or

(B) establishes particular criteria for withholding or refers to particular types of matters to be withheld ... D.C. Code Ann. § 1-1524 (1987).

FLORIDA

Criminal Justice Agency Defined

"Criminal justice agency" means:

(a) A court; or

(b) A governmental agency or subunit thereof which performs the administration of criminal justice pursuant to a statute or rule of court and which allocates a substantial part of its annual budget to the administration of criminal justice. FLA. STAT. § 943.045(10) (1988).

Administration of Criminal Justice Defined

"Administration of criminal justice" means performing functions of detection, apprehension, detention, pretrial release, posttrial release, prosecution, adjudication, correctional supervision, or rehabilitation of accused persons or criminal offenders by governmental agencies. The administration of criminal justice includes criminal identification activities and the collection, processing, storage, and dissemination of criminal justice information by governmental agencies. FLA. STAT. § 943.045(2) (1985).

Dissemination Provisions

Since 1977, Florida has permitted dissemination of all intrastate criminal history information to any member of the public upon payment of the applicable fee. Records are disseminated in a priority order established by statute and regulation.

(3) Criminal history information compiled by the Division of Criminal Justice Information Systems from intrastate sources shall be available on a priority basis to criminal justice agencies for criminal justice purposes free of charge and, otherwise, to governmental agencies not qualified as criminal justice agencies on an approximate-cost basis. After providing the division with all known identifying information, persons in the private sector may be provided criminal history information upon tender of fees as established by rule of the Department of Law Enforcement. Such fees shall approximate the actual cost of producing the record information. Fees may be waived by the Executive Director of the Department of Law Enforcement for good cause shown.

(4) Criminal justice information provided by the Department of Law Enforcement shall be used only for the purpose stated in the request. FLA. STAT. § 943.053(3)-(4) (1985).

(1) Requests for Florida criminal history records contained in the systems of the Florida Department of Law Enforcement are to be directed to the following address:

Florida Department of Law Enforcement
Division of Criminal Justice Information Systems
Post Office Box 1489
Tallahassee, Florida 32302

(2) All requests will be subject to processing in the following declining order of priorities:

(a) Requests from law enforcement and criminal justice agencies for criminal justice purposes, including criminal justice agency applicant processing;

(b) Requests for a personal record review pursuant to section 11C-8.001, FAC;

(c) Requests from the Judicial Qualifications Commission, the Governor, and the President of the Senate or the appropriate Senate standing committee, select committee or subcommittee thereof relating to the appointment of officers;

(d) Requests from non-criminal justice agencies having specific statutory authority to receive criminal history information;

(e) Requests from other governmental agencies relying upon the Public Records Law (Ch. 119, F.S.);

(f) Requests from private individuals, businesses or organizations relying upon the Public Records Law.

(3) There shall be no charge for conducting record checks under (2) (a) through (c). A processing fee \$10 shall be charged for each subject inquired upon under subsections (2)(d) through (f) unless the Executive Director of the Department determines that conducting the record check would be in the interest of law enforcement of criminal justice or if the fee is otherwise waivable, as provided in subsection 943.053(3), F.S. However, the Department of Health and Rehabilitative Services' vendors shall be charged a fee of \$5.00 for each subject inquired upon.

(4) The processing fee of \$10 shall not be deemed tendered by a non-governmental agency until actual receipt and acceptance thereof by the Department. FLA. ADMIN. CODE ANN. r. 11-C-6.004.

GEORGIA

Criminal Justice Agency Defined

"Criminal justice agencies" means those public agencies at all levels of government which perform as their principal function activities relating to the apprehension, prosecution, adjudication, or rehabilitation of criminal offenders. GA. CODE ANN. § 35-3-30(3) (1987).

Dissemination Provisions

Georgia law provides for dissemination of criminal justice information by the Georgia Crime Information Center to criminal justice agencies and government agencies for specified criminal justice purposes. Private sector and other governmental agencies may also obtain criminal justice information upon presentation of positive identification (fingerprints) or with consent of the record subject. Local agencies are also permitted to disseminate information to the private sector and other governmental agencies with either positive identification or consent of the record subject.

Make available upon request, to all local and state criminal justice agencies, all federal criminal justice agencies, and criminal justice agencies in other states any information in the files of the center which will aid those agencies in the performance of their official duties. For this purpose the center [Georgia Crime Information Center] shall operate on a 24 hour basis, seven days a week. Such information when authorized by the council [Georgia Crime Information Center Council] may also be made available to any other agency of the state or political subdivision of the state and to any other federal agency upon assurance by the agency concerned that the information is to be used for official purposes only in the prevention or detection of crime or the apprehension of criminal offenders GA. CODE ANN. § 35-3-33(10) (1987).

(a) The center shall be authorized to:

(1) Make criminal history records maintained by the center available to private persons and businesses under the following conditions:

(A) Private individuals and businesses requesting criminal history records shall, at the time of the request, provide the fingerprints of the person whose records are requested or provide a signed and notarized consent of the person whose records are requested on a form prescribed by the center which shall include such person's full name, address, social security number, and date of birth; and

(B) The center may not provide records of arrests, charges, and sentences for crimes relating to first offenders pursuant to Article 3 of Chapter 8 of Title 42 in cases where offenders have been exonerated and discharged without court adjudications of guilt, except as specifically authorized by law ...

* * *

(d) Local criminal justice agencies may disseminate criminal history records, without fingerprint comparison or prior contact with the center, to private individuals and businesses under the same conditions as set forth in paragraph (1) of subsection (a) of this Code section and may charge fees as needed to reimburse such agencies for their direct and indirect costs related to the providing of such disseminations. GA. CODE ANN. § 35-3-34 (1988).

(a) The center shall be authorized to:

(1) Make criminal history records maintained by the center available to public agencies, political subdivisions, authorities, and instrumentalities, including state or federal licensing and regulatory agencies or their designated representatives, under the following conditions:

(A) Public agencies or political subdivisions shall, at the time of the request, provide the fingerprints of the person whose records are requested or provide a signed and notarized consent of the person whose records are requested on a form prescribed by the center which shall include such person's full name, address, social security number, and date of birth; and

(B) The center may not provide records of arrests, charges, or sentences for crimes relating to first offenders pursuant to Article 3 of Chapter 8 of Title 42 in cases where offenders have been exonerated and discharged without court adjudications of guilt, except as specifically authorized by law ...

* * *

(d) Local criminal justice agencies may disseminate criminal history records to public agencies, political subdivisions, authorities, and instrumentalities, including state or federal licensing and regulatory agencies under the same conditions as set forth in paragraph (1) of subsection (a) of this Code section and may charge fees as necessary to reimburse such agencies for their direct and indirect costs associated with providing such disseminations. GA. CODE ANN. § 35-3-35 (1988).

HAWAII

Criminal Justice Agency Defined

"Criminal justice agency" means:

(A) Courts; or

(B) A government agency or any subunit thereof which performs the administration of criminal justice pursuant to a statute or executive order, and which allocates a substantial part of its annual budget to the administration of criminal justice ... HAW. REV. STAT. § 846-1 (1985).

Administration of Criminal Justice Defined

"Administration of criminal justice" means performance of any of the following activities: detection; apprehension; detention; pretrial release; post-trial release; prosecution; adjudication; correctional supervision; or rehabilitation of accused persons or criminal offenders; and includes criminal identification activities and the collection, storage, and dissemination of criminal history record information; but does not include crime prevention activities or criminal defense functions ... HAW. REV. STAT § 846-1 (1985).

Dissemination Provisions

Dissemination of nonconviction data is restricted pursuant to state statute. No such restrictions apply, however, to conviction information.

Dissemination of nonconviction data shall be limited, whether directly or through any intermediary, only to:

(1) Criminal justice agencies, for purposes of the administration of criminal justice and criminal justice agency employment;

* * *

(3) Individuals and agencies pursuant to a specific agreement with a criminal justice agency to provide services required for the administration of criminal justice pursuant to that agreement, provided that such agreement shall specifically authorize access to data, limit the use of data to purposes for which given, and insure the security and confidentiality of the data consistent with the provisions of this chapter;

* * *

(5) Individuals and agencies for any purpose authorized by statute, ordinance, executive order, or court rule, decision, or order, as construed by appropriate state or local officials or agencies ...

* * *

These dissemination limitations do not apply to conviction data.

Criminal history record information disseminated to non-criminal justice agencies shall be used only for the purposes for which it was given.

No agency or individual shall confirm the existence or nonexistence of criminal history record information to any person or agency that would not be eligible to receive the information itself. HAW. REV. STAT. § 846-9 (1985).

IDAHO

Criminal Justice Agency Defined
Not defined by statute.

Dissemination Provisions
By regulation, Idaho permits the dissemination of conviction data to any person, while the dissemination of nonconviction data is restricted.

1. Conviction and non-conviction data will be released for criminal justice purposes to any criminal justice agency or law enforcement agency; or any federal, state or local agency authorized by statute, ordinance, executive order, court order, rule or decision to receive such information.
2. Conviction data contained in the criminal history records of the Criminal Identification Bureau [CIB] shall be released to anyone, providing they furnish:
 - a. the name of the requestor,
 - b. the name of the record subject, a release signed by the record subject and any one of the following:
 1. the fingerprints of the record subject or,
 2. the State Identification Number (SID) assigned to the record subject by CIB or,
 3. Date of Birth or,
 4. Social Security Account Number (SSAN)
3. Agencies having a continuous need for criminal history record information will be required to sign a User Agreement with CIB. The User Agreement will be used to facilitate the billing process. A "continuous need" is a requirement for five or more criminal history record checks per month ... Idaho Regs. § 5.4-2.

ILLINOIS

Criminal Justice System Defined

The term "criminal justice system" includes all activities by public agencies pertaining to the prevention or reduction of crime or enforcement of the criminal law, and particularly, but without limitation, the prevention, detection, and investigation of crime; the apprehension of offenders; the protection of victims and witnesses; the administration of juvenile justice; the prosecution and defense of criminal cases; the trial, conviction, and sentencing of offenders; as well as the correction and rehabilitation of offenders, which includes imprisonment, probation, parole and treatment. ILL. REV. STAT. ch. 38, para. 210-3(a) (1988).

Dissemination Provisions

Current Illinois law prohibits the dissemination of criminal history record information to noncriminal justice agencies unless specifically authorized by statute.

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

[I]f an individual requests the Department to release information as to the existence or nonexistence of any criminal record he might have, the Department shall do so upon determining that the person for whom the record is to be released is actually the person making the request ... ILL. REV. STAT. ch. 38, para. 206-7 (1988).

On July 1, 1990, the Illinois Uniform Conviction Information Act will become effective. The following provisions are excerpted from that act:

Criminal Justice Agency Defined

"Criminal justice agency" means (1) a government agency or any subunit thereof which is authorized to administer the criminal laws and which allocates a substantial part of its annual budget for that purpose, or (2) an agency supported by public funds which is

authorized as its principal function to administer the criminal laws and which is officially designated by the Department as a criminal justice agency for purposes of this Act [Illinois Uniform Conviction Information Act]. ILL. REV. STAT. ch. 38, para. 1603(H) (1988).

Administer the Criminal Laws Defined

The phrase "administer the criminal laws" includes any of the following activities: intelligence gathering, surveillance, criminal investigation, crime detection and prevention (including research), apprehension, detention, pretrial or post-trial release, prosecution, the correctional supervision or rehabilitation of accused persons or criminal offenders, criminal identification activities, or the collection, maintenance or dissemination of criminal history record information. ILL. REV. STAT. ch. 38, para. 1603(B) (1988).

Non-Criminal Justice Agency Defined

"Non-criminal justice agency" means a State agency, Federal agency, or unit of local government that is not a criminal justice agency. The term does not refer to private individuals, corporations, or non-governmental agencies or organizations. ILL. REV. STAT. ch. 38, para. 1603(M) (1988).

Requester Defined

"Requester" means any private individual, corporation, organization, employer, employment agency, labor organization, or non-criminal justice agency that has made a written application pursuant to this Act to obtain conviction information maintained in the files of the Department of State Police regarding a particular individual. ILL. REV. STAT. ch. 38, para. 1603 (N) (1988).

Dissemination Provisions

Private citizens, as well as state and local governments, will have access to felony and serious misdemeanor conviction records.

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

disclosure of such information. ILL. REV. STAT. ch. 38, para. 1605 (1988).

INDIANA

Criminal Justice Agency Defined

"Criminal justice agency" means any agency or department of any level of government which performs as its principal function the apprehension, prosecution, adjudication, incarceration, or rehabilitation of criminal offenders. IND. CODE ANN. § 5-2-4-1(c) (Burns 1982).

Dissemination Provisions

Access to criminal history data is permitted to other criminal justice agencies and to specific categories of noncriminal justice requesters.

Any criminal justice agency may provide criminal history data to, or receive criminal history data from, any other criminal justice agency. The department [Indiana State Police] shall provide criminal history data to any criminal justice agency making a request if the council [Security and Privacy Council] determines that the agency has complied with this chapter. IND. CODE ANN. § 5-2-5-4 (Burns 1982).

On request, law enforcement agencies shall release, or allow inspection of, a limited criminal history to noncriminal justice organizations or individuals only if the subject of the request:

* * *

(4) Is in the process of being apprehended by a law enforcement agency;

(5) Is placed under arrest for the alleged commission of a crime;

* * *

(7) Is the subject of judicial decision or determination with respect to the setting of bond, plea bargaining, sentencing, or probation ... IND. CODE ANN. § 5-2-5-5 (Burns 1988).

IOWA

Criminal Justice Agency Defined

"Criminal justice agency" means an agency or department of any level of government or an entity wholly owned, financed, or controlled by one or more

such agencies or departments which performs as its principal function the apprehension, prosecution, adjudication, incarceration, or rehabilitation of criminal offenders. IOWA CODE ANN. § 692.1(10) (West 1989).

Dissemination Provisions

Criminal history record information may be disseminated only to criminal justice and governmental, noncriminal justice agencies pursuant to both statute and regulation.

1. [T]he department [of Public Safety] and bureau [Division of Criminal Investigation and Bureau of Identification] may provide copies or communicate information from criminal history data only to the following:

- a. Criminal justice agencies.
- b. Other public agencies as authorized by the commissioner of public safety.

* * *

3. Persons authorized to receive information under subsection 1 shall request and may receive criminal history data only when both of the following apply:

- a. The data is for official purposes in connection with prescribed duties
- b. The request for data is based upon name, fingerprints, or other individual identifying characteristics.

* * *

6. The department may charge a fee to any non-law enforcement agency to conduct criminal history record checks and otherwise administer this section and other sections of the Code providing access to criminal history records. IOWA CODE ANN. § 692.2 (West 1989).

Information contained in the identification section of the bureau is not a public record and is released only to criminal justice agencies or public agencies authorized and approved by the confidential records council. IOWA ADMIN. CODE r. 680-11.3.

KANSAS

Criminal Justice Agency Defined

"Criminal justice agency" means any government agency or subdivision of any such agency which is authorized by law to exercise the power of arrest,

detention, prosecution, adjudication, correctional supervision, rehabilitation or release of persons suspected, charged or convicted of a crime and which allocates a substantial portion of its annual budget to any of these functions. The term includes, but is not limited to, the following agencies, when exercising jurisdiction over criminal matters or criminal history record information:

- (1) State, county, municipal and railroad police departments, sheriffs' offices and county-wide law enforcement agencies, correctional facilities, jails and detention centers;
- (2) the offices of the attorney general, county or district attorneys and any other office in which are located persons authorized by law to prosecute persons accused of criminal offenses;
- (3) the district courts, the court of appeals, the supreme court, the municipal courts and the offices of the clerks of these courts. KAN. STAT. ANN. § 22-4701(c) (1988).

Dissemination Provisions

Dissemination of all criminal history record information is regulated by statute and by implementing regulations. Conviction information may be released to anyone pursuant to regulations, while both statute and regulation restrict dissemination of nonconviction information.

Criminal justice agencies may provide non-conviction criminal history record information to the following:

- (a) other criminal justice agencies;
 - (b) those authorized by court order or subpoena
- KAN. ADMIN. REGS. § 10-12-2.

* * *

(a) A criminal justice agency and the central repository may not disseminate criminal history record information except in strict accordance with laws including applicable rules and regulations adopted pursuant to this act. A criminal justice agency may not request such information from the central repository or another criminal justice agency unless it has a legitimate need for the information.

(b) Noncriminal justice persons and agencies may receive criminal history record information for such purposes and under such conditions as may be authorized by law, including rules and regulations adopted

pursuant to this act KAN. STAT. ANN. § 22-4707 (1988).

Dissemination of conviction records. Upon a written request by an individual, a criminal justice agency may provide any conviction information in its possession. All such requests for conviction records shall include as part of the written request the full legal name, sex, race and date of birth of the individual in question. KAN. ADMIN. REGS. § 10-12-1.

Dissemination of criminal history record information. Criminal justice agencies may provide criminal history record information to the following:

- (a) Other criminal justice agencies;
- (b) Those authorized by court order or subpoena ... KAN. ADMIN. REGS. 10-12-2.

KENTUCKY

Criminal Justice Agency Defined

"Criminal justice agency" means: (1) courts; (2) a government agency or any subunit thereof which performs the administration of criminal justice pursuant to a statute or executive order, and which allocates a substantial part of its annual budget to the administration of criminal justice. The term criminal justice agency shall be inclusive of but not limited to: the Attorney General, sheriff departments, law enforcement agencies of a county or municipality, coroner, jailer, prosecuting attorney, probation officer, parole officer, warden or superintendent of a prison, reformatory, correctional school, mental hospital or institution of the retarded; state police, state fire marshal, board of alcoholic beverage control; department for human resources; department of transportation; department of corrections; and every other person or criminal justice agency, except the court of justice, public or private, dealing with crimes or criminals or with delinquency or delinquents. 502 KY. ADMIN. REGS. 30:010(3).

Administration of Criminal Justice Defined

"Administration of criminal justice" means performance of any of the following activities: detection, apprehension, detention, pre-trial release, post-trial release, prosecution, adjudication, correctional supervision, or rehabilitation of accused persons or criminal offenders. The administration of criminal justice shall include criminal identification activities and the collection, storage, and dissemination of CHRI. 502 KY. ADMIN. REGS. 30:010(4).

Dissemination Provisions

Centralized criminal history record information collected and compiled by the Kentucky Department of Justice is not available to the public; however, such information may be available at its source from local criminal justice agencies.

Centralized criminal history records are not subject to public inspection. Centralized history records mean information on individuals collected and compiled by the justice cabinet from criminal justice agencies and maintained in a central location consisting of identifiable descriptions and notations of arrests, detentions, indictments, information, or other formal criminal charges and any disposition arising therefrom, including sentencing, correctional supervision and release. Such information is restricted to that recorded as the result of the initiation of criminal proceedings or any proceeding related thereto. Nothing in this subsection shall apply to documents maintained by criminal justice agencies which are the source of information collected by the justice cabinet. Criminal justice agencies shall retain such documents and no official thereof shall willfully conceal or destroy any record with intent to violate the provisions of this section. KY. REV. STAT. ANN. § 17.150(4) (Baldwin 1988).

Section 1. Dissemination of Criminal History Record Information. Use of CHRI disseminated to non-criminal justice agencies shall be limited to the purpose for which it was given. No agency or individual shall confirm the existence or non-existence of CHRI to any person or agency that would not be eligible to receive the information itself. Policies on dissemination of CHRI shall be regulated by the specific category of criminal history record information. Those categories shall be inclusive of, but not limited to:

(1) "Non-conviction Data", as defined by 502 KAR 30:010(6) shall with the exception of the computerized Kentucky State Police files, accessed by an open record request directly to the Department of State Police, be limited, whether directly or through an intermediary, only to:

- (a) Criminal justice agencies for purposes of the administration of criminal justice and criminal justice agency employment;
- (b) Individuals and agencies for any purpose authorized by statute, ordinance, executive order, or court order, as determined by the General Counsel, Justice Cabinet.

(c) Individuals and agencies pursuant to a specific agreement as outlined in 502 KAR 30:040 [user agreements to be signed by all criminal justice agencies] with the Department of State Police, to provide services required for the administration of criminal justice pursuant to that agreement.

* * *

(2) "Non-conviction Data", from the computerized Kentucky State Police files shall be disseminated, by the Department of State Police only, pursuant to Chapter 61 [Public Records] ... 502 KY. ADMIN. REGS. 30:060.

(1) The following public records are excluded from the application of KRS 61.870 to 61.884 [Public Records] and shall be subject to inspection only upon order of a court of competent jurisdiction:

(a) Public records containing information of a personal nature where the public disclosure thereof would constitute a clearly unwarranted invasion of personal privacy. KY. REV. STAT. ANN. § 61.878 (Baldwin 1988).

LOUISIANA

Criminal Justice Agency Defined

The term "criminal justice agency" means any government agency or subunit thereof, or private agency which, through statutory authorization or a legal formal agreement with a governmental unit or agency has the power of investigation, arrest, detention, prosecution, adjudication, treatment, supervision, rehabilitation or release of persons suspected, charged, or convicted of a crime; or which collects, stores, processes, transmits, or disseminates criminal history record or crime information. LA. REV. STAT. ANN. § 15-576(3) (West 1989).

Dissemination Provisions

The Louisiana Bureau of Criminal Identification and Information may disseminate criminal history information to criminal justice agencies and certain other designated agencies. Pursuant to regulation, nonconviction data may be disseminated only for the purposes of criminal justice activity and employment. The Louisiana Public Records Law provides for dissemination of conviction data.

The bureau [Louisiana Bureau of Criminal Identification and Information] shall make available upon request, or at such other times as the deputy secretary shall

designate, to any eligible criminal justice agency and the Louisiana Department of Health and Human Resources ... any information contained in the criminal history record and identification files of the bureau. LA. REV. STAT. ANN. § 15-587 (A)(1) (West 1989).

Nothing in this Chapter shall be construed to require disclosures of records, or the information contained therein, held by the offices of the attorney general, district attorneys, sheriffs, police departments, Department of Public Safety, marshals, investigators ... correctional agencies, or intelligence agencies of the state, which records are:

* * *

The records of the arrest of a person, other than the report of the officer or officers investigating a complaint, until a final judgment of conviction or the acceptance of a plea of guilty by a court of competent jurisdiction. However, the initial report of the officer or officers investigating a complaint, but not to apply to any follow-up or subsequent report or investigation, records of the booking of a person as provided in Louisiana Code of Criminal Procedure Article 228, records of the issuance of a summons or citation, and records of the filing of a bill of information shall be a public record. LA. REV. STAT. ANN. § 44-3(A)(4)(a) (West 1989).

These regulations impose no restrictions on the dissemination of CHRI where the court transactions or dispositions have included a conviction or convictions. However, where CHRI contains non-conviction data, i.e. where records contain arrest data, citation, summons or bill(s) of information which have not resulted in a conviction or guilty plea, and acquittals; dismissals; information that a matter was not referred for prosecution, that the prosecutor has not commenced criminal proceedings, that proceedings have been indefinitely postponed; and records of arrest unaccompanied by disposition that are more than one year old and in which no prosecution is actively pending, these regulations now impose restrictions against dissemination of that portion of CHRI containing non-conviction data to non-criminal justice agencies not otherwise permitted access to such information by state statute ... LA. ADMIN. CODE tit. 1, § 18:6(3).

Non-conviction data may only be disseminated to:

A. Criminal justice agencies for criminal justice activity and employment ... LA. ADMIN. CODE tit. 1, § 18:6(3).

MAINE

Criminal Justice Agency Defined

Criminal justice agency. "Criminal justice agency" means a federal, state, district, county or local government agency or any subunit thereof which performs the administration of criminal justice under a statute or executive order and which allocates a substantial part of its annual budget to the administration of criminal justice. Courts shall be deemed to be criminal justice agencies. ME. REV. STAT. tit 16, § 611(4) (1983).

Administration of Criminal Justice Defined

Administration of criminal justice. "Administration of criminal justice" means detection, apprehension, detention, pre-trial release, post-trial release, prosecution, adjudication, correctional supervision or rehabilitation of accused persons or criminal offenders. It includes criminal identification activities and the collection, storage and dissemination of criminal history record information. ME. REV. STAT. tit. 16, § 611(1) (1983).

Dissemination Provisions

Conviction information is available to any person for any purpose. Nonconviction data may be disseminated only to criminal justice agencies or requesters specifically authorized by state statute or other rule or order.

[D]issemination of non-conviction data by a criminal justice agency, whether directly or through any intermediary, shall be limited to:

1. **Criminal justice agencies.** Other criminal justice agencies for the purpose of the administration of criminal justice and criminal justice agency employment;
2. **Under express authorization.** Any person for any purpose when expressly authorized by statute, executive order, court rule, court decision or court order. Express authorization shall mean language in the statute, executive order, or court rule, decision or order which specifically speaks of non-conviction data or specifically refers to one or more of the types of non-conviction data ... ME. REV. STAT. tit. 16, § 613 (1983).

Conviction data may be disseminated to any person for any purpose. ME. REV. STAT. tit. 16, § 615 (1983).

Arrest data is also available under Maine law if it concerns a current event or is derived from police blotters or court docket entries.

Nothing in this subchapter shall be construed to prohibit a criminal justice agency from:

- A. Disclosing to the public criminal history record information related to an offense for which a person is currently within the criminal justice system;
- B. Confirming prior criminal history record information to the public, in response to a specific inquiry that includes a specific name, date and charge or disposition, provided that the information disclosed is based upon data excluded by subsection 2 [*inter alia*, police blotters, court docket entries]. The disclosing criminal justice agency shall disclose therewith any and all criminal history record information in its possession which indicates the disposition of the arrest, detention or formal charges ... ME. REV. STAT. tit. 16, § 612(3) (1983).

MARYLAND

Criminal Justice Agency Defined

"Criminal justice agency" means any government agency or subunit of any such agency which is authorized by law to exercise the power of arrest, detention, prosecution, adjudication, correctional supervision, custodial treatment or confinement under Title 12 of the Health-General Article, rehabilitation, or release of persons suspected, charged, or convicted of a crime or relieved of criminal punishment by a verdict of not criminally responsible and which allocates a substantial portion of its annual budget to any of these functions. The term does not include the Juvenile Services Agency or a juvenile court, but it does include the following agencies, when exercising jurisdiction over criminal matters or alternative dispositions of criminal matters, or criminal history record information:

- (1) State, county and municipal police departments and agencies, sheriffs' offices, correctional facilities, jails, and detention centers ... MD. ANN. CODE art 27, §743(f) (1988).

Dissemination Provisions

The statutory authority for the promulgation of regulations governing dissemination of criminal history

record information is found in MD. ANN. CODE art. 27, § 746. Regulations promulgated pursuant to that statute restrict dissemination to noncriminal justice agencies except under specific circumstances. Criminal justice agencies may obtain the information so long as it relates to their purpose for operation.

B. Subject to the provisions of §F, below, the CRCR [Criminal Records Central Repository] and a criminal justice agency shall disseminate CHRI [criminal history record information], be it conviction or non-conviction criminal history record information, to a criminal justice agency upon a request made in accordance with applicable regulations adopted by the Secretary. A criminal justice agency may request this information from the CRCR or another criminal justice agency only if it has a need for the information:

(1) In the performance of its function as a criminal justice agency ...

* * *

F. The following non-criminal justice persons and agencies may receive from CRCR conviction and non-conviction CHRI for the purpose and under the conditions stated:

* * *

(4). The Juvenile Services Administration may receive this information for the purposes of an investigation pursuant to the disposition of a juvenile case ...

* * *

(7) A person or agency under contract with a criminal justice agency to provide specific services required by the criminal justice agency to perform any of its criminal justice functions may, pursuant to an agreement with the Secretary, receive this information necessary in order to carry out its contract. MD. CODE REG. tit. 12, § 10.

MASSACHUSETTS

Criminal Justice Agency Defined

"Criminal justice agencies", those agencies at all levels of government which perform as their principal function, activities relating to (a) crime prevention, including research or the sponsorship of research; (b) the apprehension, prosecution, adjudication, incarceration, or rehabilitation of criminal offenders; or (c) the collection, storage, dissemination or usage of

criminal offender record information. MASS. GEN. LAWS ANN. ch. 6, § 167 (West 1986).

Dissemination Provisions

Criminal history record information is available to three categories of requesters: (1) criminal justice agencies; (2) agencies and individuals specifically authorized by statute, and (3) other agencies and individuals approved by the Criminal History Systems Board and the Security and Privacy Council.

[C]riminal offender record information, and where present, evaluative information, shall be disseminated, whether directly or through any intermediary, only to (a) criminal justice agencies; (b) such other agencies and individuals required to have access to such information by statute ... Notwithstanding the provisions of this section or chapter sixty-six A, the following shall be public records: (1) police daily logs, arrest registers, or other similar records compiled chronologically, provided that no alphabetical arrestee, suspect, or similar index is available to the public, directly or indirectly; (2) chronologically maintained court records of public judicial proceedings, provided that no alphabetical or similar index of criminal defendants is available to the public, directly or indirectly; and (3) published records of public court or administrative proceedings, and of public judicial administrative or legislative proceedings; and (c) any other agencies and individuals where it has been determined that the public interest in disseminating such information to these parties clearly outweighs the interest in security and privacy. The extent of such access shall be limited to that necessary for the actual performance of the criminal justice duties of criminal justice agencies under clause (a); to that necessary for the actual performance of the statutory duties of agencies and individuals granted access under clause (b); and to that necessary for the actual performance of the actions or duties sustaining the public interest as to agencies or individuals granted access under clause (c).

The board [Criminal History Systems Board] shall, after consultation with the council [Security and Privacy Council], certify those agencies and individuals requesting access to criminal offender record information that qualify for such access under clauses (a) or (b) of this section, and shall specify for each such agency or individual certified, the extent of its access. The board shall make a finding in writing of eligibility, or noneligibility of each such agency or individual which requests such access. No such information shall

be disseminated to any agency or individual prior to the board's determination of eligibility, or, in cases in which the board's decision is appealed, prior to the final judgment of a court of competent jurisdiction that such agency or individual is so eligible.

No agency or individual shall have access to criminal offender record information under clause (c), unless a majority of the board, and a majority of the council, each voting as a separate body, determines and certifies that the public interest in disseminating such information to such party clearly outweighs the interest in security and privacy. The extent of access to such information under clause (c) shall be determined by majority vote of persons comprising the membership of the board and the council voting as a single group at a duly scheduled board meeting. Certification for access under clause (c) may be either access to information relating to a specific identifiable individual or individuals, on a single occasion; or a general grant of access for a specified period of time not to exceed two years. A general grant of access need not relate to a request for access by the party or parties to be certified. Except as otherwise provided in this paragraph the procedure and requirements for certifying agencies and individuals under clause (c) shall be according to the provisions of the preceding paragraphs of this section.

Dissemination of criminal offender record information shall, except as provided in this section and for purposes of research programs approved under section one hundred and seventy-four, be permitted only if the inquiry is based upon name, fingerprints, or other personal identifying characteristics. The board shall adopt rules to prevent dissemination of such information where inquiries are based upon categories of offense or data elements other than said characteristics; provided, however, that access by criminal justice agencies to criminal offender record information on the basis of data elements other than personal identifying characteristics, including but not limited to, categories of offense, mode of operation, photographs and physical descriptive data generally, shall be permissible, except as may be limited by the regulations of the board. MASS. GEN. LAWS ANN. ch. 6, § 172 (West 1986).

(1) In order to obtain certification as a criminal justice agency pursuant to M.G.L. c. 6, s. 172(a), the agency requesting such certification must show that it conforms to the definition of "Criminal Justice Agency" which appears in M.G.L. c. 6, s. 167 and 803 CMR 2.03.

(2) Only those officials and employees of Criminal Justice Agencies as determined by the administrative heads of such agencies to require CORI [Criminal Offender Record Information] for the actual performance of their criminal justice duties shall have access to CORI. Such administrative heads shall maintain for inspection by the CHSB [Criminal History Systems Board], a list of such authorized employees by position, title, or name.

(3) Consultants and contractors to criminal justice agencies shall complete a written agreement to use CORI only as permitted by M.G.L. c. 6, s. 167 and s. 178 and these regulations. Such agreements shall be held by the criminal justice agency and the CHSB MASS. REG. CODE tit. 803, § 3.02.

(1) In order to obtain certification pursuant to M.G.L. c. 6, s. 172 (b), a noncriminal justice agency must show that it is required to have access to CORI by statute. MASS. REGS. CODE tit. 803, § 3.03.

MICHIGAN

Criminal Justice Agency Defined

(i) "Criminal justice agency" means either of the following:

- (i) A court
- (ii) A governmental agency, or any subunit thereof, which engages in the administration of criminal justice pursuant to a statute or executive order and which allocates a substantial part of its annual budget for the administration of criminal justice. MICH. ADMIN. CODE § 28.5101, r. 101 (i).

Administration of Criminal Justice Defined

(b) "Administration of criminal justice" means the performance of any of the following activities:

- (i) Detection, apprehension, detention, pretrial release, posttrial release, prosecution, adjudication, correctional supervision, or rehabilitation of accused persons or criminal offenders.
- (ii) Identification of criminals.
- (iii) Collection, storage, and dissemination of criminal history record information. MICH. ADMIN. CODE § 28.5101, r. 101(b).

Dissemination Provisions

By regulation, information from the state's law enforcement computer system (LEIN) is only available to criminal justice agencies or other governmental agencies with the purpose of the administration of criminal justice.

Access to LEIN [Law Enforcement Information Network] data shall be restricted to the following agencies:

- (a) A criminal justice agency.
- (b) A nongovernmental agency that is statutorily vested with arrest powers and whose primary function is the administration of criminal justice MICH. ADMIN. CODE § 28.5201, r. 201.

MINNESOTA

Criminal Justice Agency Defined

"[C]riminal justice agency" shall mean an agency of the state or an agency of a political subdivision charged with detection, enforcement, prosecution, adjudication or incarceration in respect to the criminal or traffic laws of this state. MINN. STAT. ANN. § 299C.46 Subd. 2 (West 1989).

Dissemination Provisions

Criminal history data is not public, although specific information collected by law enforcement agencies is public at the original source.

Subdivision 1. Application. This section shall apply to agencies which carry on a law enforcement function, including but not limited to municipal police departments, county sheriff departments, fire departments, the bureau of criminal apprehension, the Minnesota state patrol, the board of peace officer standards and training, and the department of commerce.

Subd. 2. Arrest data. The following data created or collected by law enforcement agencies which documents any actions taken by them to cite, arrest, incarcerate or otherwise substantially deprive an adult individual of liberty shall be public at all times in the originating agency:

- (a) Time, date and place of the action;
- (b) Any resistance encountered by the agency;
- (c) Any pursuit engaged in by the agency;

- (d) Whether any weapons were used by the agency or other individual;
- (e) The charge, arrest or search warrants, or other legal basis for the action;
- (f) The identities of the agencies, units within the agencies and individual persons taking the action;
- (g) Whether and where the individual is being held in custody or is being incarcerated by the agency;
- (h) The date, time and legal basis for any transfer of custody and the identify of the agency or person who received custody;
- (i) The date, time and legal basis for any release from custody or incarceration;
- (j) The name, age, sex and last known address of an adult person or the age and sex of any juvenile person cited, arrested, incarcerated or otherwise substantially deprived of liberty;
- (k) Whether the agency employed wiretaps or other eavesdropping techniques, unless the release of this specific data would jeopardize an ongoing investigation;
- (l) The manner in which the agencies received the information that led to the arrest and the names of individuals who supplied the information unless the identities of those individuals qualify for protection under subdivision 10; and
- (m) Response or incident report number.

* * *

Subd. 9. Public access. When data is classified as public under this section, a law enforcement agency shall not be required to make the actual physical data available to the public if it is not administratively feasible to segregate the public data from the confidential. However, the agency must make the information described as public data available to the public in a reasonable manner. When investigative data becomes inactive, as described in subdivision 5, the actual physical data associated with that investigation, including the public data, shall be available for public access MINN. STAT. ANN. § 13.82 (West 1988).

Subdivision 1. Definition. For purposes of this section "criminal history data" means all data maintained in criminal history records compiled by the bureau of criminal apprehension and disseminated through the criminal justice information system, including, but not limited to fingerprints, photographs, identification data,

arrest data, prosecution data, criminal court data, custody and supervision data.

Subd. 2. Classification. Criminal history data maintained by agencies, political subdivisions and statewide systems are classified as private [not public; accessible to data subject], pursuant to section 13.02, subdivision 12.

Sub. 3. Limitation. Nothing in this section shall limit public access to data made public by section 13.82. MINN. STAT. ANN. § 13.87 (West 1988).

MISSISSIPPI

Criminal Justice Agency Defined

"Criminal justice agencies" shall mean public agencies at all levels of government which perform as their principal function activities relating to the apprehension, prosecution, adjudication or rehabilitation of criminal offenders. MISS. CODE ANN. § 45-27-3(a) (1981).

Dissemination Provisions

Criminal history data is available to criminal justice agencies and to other governmental agencies which use the information for certain criminal justice purposes.

Criminal history data is made available only to criminal justice agencies to the extent that it will assist the agencies in carrying out their duties.

(1) The Mississippi Justice Information Center shall:

* * *

(d) Make available, upon request, to all local and state criminal justice agencies, to all federal criminal justice agencies and to criminal justice agencies in other states any information in the files of the center which will aid such agencies in the performance of their official duties Such information, when authorized by the director of the center, may also be made available to any other agency of this state or any political subdivision thereof and to any federal agency, upon assurance by the agency concerned that the information is to be used for official purposes only in the prevention or detection of crime or the apprehension of criminal offenders. MISS. CODE ANN. § 45-27-7 (1981).

MISSOURI

Criminal Justice Agency Defined

Not defined by statute.

Administration of Criminal Justice Defined

[T]he following terms mean:

"Administration of criminal justice", performance of any of the following activities: detection, apprehension, detention, pretrial release, post-trial release, prosecution, adjudication, correctional supervision, or rehabilitation of accused persons of criminal offenders. The administration of criminal justice shall include criminal identification activities and the collection, storage, and dissemination of criminal history record information, including fingerprint searches, photographs, and other indicia of identification. MO. REV. STAT. § 43.500(7) (1989).

Dissemination Provisions

Missouri law directs the Director of the Department of Public Safety to promulgate rules regarding access to criminal history information. In addition to criminal justice agencies, only agencies specifically authorized by statute for such purposes as licensing and employment may obtain criminal history record information.

The director of the department of public safety shall, in accordance with the provisions of chapter 536, R.S.Mo., establish such rules and regulations as are necessary to implement the provisions of sections 43.500 to 43.530. All collection and dissemination of criminal history information shall be in compliance with chapter 610, R.S.Mo., and applicable federal laws or regulations. Such rules shall relate to the collection of criminal history information from or dissemination of such information to criminal justice, noncriminal justice, and private agencies or citizens both in this and other states. MO. REV. STAT. § 43.509 (1989).

The Missouri State Highway Patrol shall prepare and execute user agreements with criminal justice agencies to control the access and dissemination of criminal history record information received from the central repository. MO. CODE REGS. § 3.1.2.

The Missouri State Highway Patrol shall prepare and execute user agreements with authorized non-criminal justice agencies to control the access and dissemination of criminal history record information received from the central repository. MO. CODE REGS. § 3.1.3.

MONTANA

Criminal Justice Agency Defined

"Criminal justice agency" means:

- (a) any court with criminal jurisdiction;
- (b) any state or local government agency designated by statute or by a governor's executive order to perform as its principal function the administration of criminal justice; or
- (c) any local government agency not included under subsection (7) (b) that performs as its principal function the administration of criminal justice pursuant to an ordinance or local executive order. MONT. CODE ANN. § 44-5-103(7) (1987).

Administration of Criminal Justice Defined

"Administration of criminal justice" means the performance of any of the following activities: detection, apprehension, detention, pretrial release, posttrial release, prosecution, adjudication, correctional supervision, or rehabilitation of accused persons or criminal offenders. It includes criminal identification activities and the collection, storage, and dissemination of criminal justice information. MONT. CODE ANN. § 44-5-103(2) (1987).

Dissemination Provisions

Certain conviction information, including deferred sentences and deferred prosecutions, are available to the public. Dissemination of other criminal history data is restricted and may require the consent of the record subject.

- (1) There are no restrictions on the dissemination of public criminal justice information except for the following:
 - (a) Whenever a record or index is compiled by name or universal identifier from a manual or automated system, only information about convictions, deferred prosecutions, or deferred sentences is available to the public.
 - (b) Whenever the conviction record reflects only misdemeanors or deferred prosecutions and whenever there are no convictions except for traffic, regulatory, or fish and game offenses for a period of 5 years from the date of the last conviction, no record or index may be disseminated pursuant to subsection (1)(a). However, the original documents are available to the public from the originating criminal justice agency.

(2) All public criminal justice information is available from the agency that is the source of the original documents and that is authorized to maintain the documents according to applicable law. These documents shall be open, subject to the restrictions in this section, during the normal business hours of the agency. A reasonable charge may be made by a criminal justice agency for providing a copy of public criminal justice information. MONT. CODE ANN. § 44-5-301 (1987).

Criminal history record information may not be disseminated to agencies other than criminal justice agencies unless:

- (1) the information is disseminated with the consent or at the request of the individual about whom it relates according to procedures specified in 44-5-214 and 44-5-215;
 - (2) a district court considers dissemination necessary;
- * * *
- (4) the agency receiving the information is authorized by law to receive it. MONT. CODE ANN. § 44-5-302 (1987).

Dissemination of confidential criminal justice information is restricted to criminal justice agencies or to those authorized by law to receive it. A criminal justice agency that accepts confidential criminal justice information assumes equal responsibility for the security of such information with the originating agency. Whenever confidential criminal justice information is disseminated, it must be designated as confidential. MONT. CODE ANN. § 44-5-303 (1987).

NEBRASKA

Criminal Justice Agency Defined

Criminal justice agency shall mean:

- (1) Courts; and
- (2) A government agency or any subunit thereof which performs the administration of criminal justice pursuant to a statute or executive order and which allocates a substantial part of its annual budget to the administration of criminal justice. NEB. REV. STAT. § 29-3509 (1985).

Administration of Criminal Justice Defined

Administration of criminal justice shall mean performance of any of the following activities:

Detection, apprehension, detention, pretrial release, pretrial diversion, posttrial release, prosecution, adjudication, correctional supervision, or rehabilitation of accused persons or criminal offenders. The administration of criminal justice shall include criminal identification activities and the collection, storage, and dissemination of criminal history record information. NEB. REV. STAT. § 29-3504 (1985).

Dissemination Provisions

Criminal history record information, except arrests which are neither completed nor pending after one year, are available to the public.

Complete criminal history record information maintained by a criminal justice agency shall be a public record open to inspection and copying by any person during normal business hours and at such other times as may be established by the agency maintaining the record. Criminal justice agencies may adopt such regulations with regard to inspection and copying of records as are reasonably necessary for the physical protection of the records and the prevention of unnecessary interference with the discharge of the duties of the agency. NEB. REV. STAT. § 29-3520 (1985).

That part of criminal history record information consisting of a notation of an arrest, when after an interval of one year active prosecution is neither completed nor pending, shall not be disseminated to persons other than criminal justice agencies except when the subject of the record:

(1) Is currently the subject of prosecution or correctional control as the result of a separate arrest;

* * *

(3) Has made a notarized request for the release of such record to a specific persons ... NEB. REV. STAT. § 29-3523 (1985).

NEVADA

Criminal Justice Agency Defined

"Agency of criminal justice" means:

(1) Any court; and

(2) Any governmental agency which performs a function in the administration of criminal justice pursuant to a statute or executive order, and which allocates a substantial part of its budget to a function in

the administration of criminal justice. NEV. REV. STAT ANN. § 179A.030 (Michie 1986).

Administration of Criminal Justice Defined

"Administration of criminal justice" means detection, apprehension, detention, release pending trial or after trial, prosecution, adjudication, correctional supervision or rehabilitation of accused persons or criminal offenders, and includes criminal identification activities and the collection, storage and dissemination of records of criminal history. NEV. REV. STAT. ANN. § 179A.020 (Michie 1986).

Dissemination Provisions

Conviction-only information may be disseminated to any person. Dissemination of other criminal history record information is restricted to certain agencies, including criminal justice agencies, agencies administering criminal justice, agencies and individuals specifically authorized by statute, and the record subject or his attorney.

(1) The following records of criminal history may be disseminated by an agency of criminal justice without any restriction pursuant to this chapter:

(a) Any which reflect records of conviction only; and

(b) Any which pertain to an incident for which a person is currently within the system of criminal justice, including parole or probation.

(2) Without any restriction pursuant to this chapter, a record of criminal history or the absence of such a record may be:

(a) Disclosed among agencies which maintain a system for the mutual exchange of criminal records.

(b) Furnished by one agency to another to administer the system of criminal justice, including the furnishing of information by a police department to a district attorney ...

* * *

(5) Records of criminal history must be disseminated by an agency of criminal justice upon request, to the following persons or governmental entities for the following purposes:

(a) The person who is the subject of the record of criminal history for the purposes of NRS 179A.150.

(b) The person who is the subject of the record of criminal history or his attorney of record when the subject is a party in a judicial, administrative, licensing,

disciplinary or other proceeding to which the information is relevant.

* * *

(f) Persons and agencies authorized by statute, ordinance, executive order, court rule, court decision or court order as construed by appropriate state or local officers or agencies.

(g) any person or governmental entity which has entered into a contract to provide services to an agency of criminal justice relating to the administration of criminal justice, if authorized by the contract, and if the contract also specifies that the information will be used only for stated purposes and that it will be otherwise confidential in accordance with state and federal law and regulation NEV. REV. STAT. ANN. § 179A.100 (Michie 1988).

NEW HAMPSHIRE

Criminal Justice Agency Defined
Not defined by statute.

Dissemination Provisions

State statute authorizes the Director of Division of State Police, upon approval of the Commissioner of Safety, to promulgate rules and regulations regarding the security and inspection of criminal history record data. The Standard Operating Procedure (SOP) of the State Police sets forth the limits.

With the approval of the commissioner of safety, the director [of the Division of State Police] shall adopt rules under RSA 541-A as may be necessary to secure records and other information relative to persons who have been convicted of a felony or an attempt to commit a felony within the state, or who are known to be habitual criminals, or who have been placed under arrest in criminal proceedings. Such records and information shall not be open to the inspection of any person except those who may be authorized to inspect the same by the director N.H. REV. STAT. ANN. § 106-B:14 (I) (1988).

Limits on Dissemination

A. The BCI [Bureau of Criminal Identification] recognizes three classes of criminal history record information;

1. All data available at the Central repository including, but not limited to, raw arrest data, data containing not guilty and not processed findings, incomplete data, data

regarding dispositions (supported or unsupported by arrest date), date regarding juvenile arrests and/or dispositions, and acknowledgement that a criminal record does not exist.

2. All of #1 above with the exception of juvenile date [data].

3. Data containing documented arrests with guilty dispositions, and data containing guilty dispositions only, as well as the acknowledgement that a record does not exist.

B. Dissemination of the above classes of data are limited to the following:

1. Police departments - class 2

2. Other criminal justice agencies - class 3

3. Non-criminal justice agencies with statutory requirements or an executive order allowing access - class 3.

4. Agencies approved by the Director, Division of State Police, under his statutory authority - class 3.

5. Individuals and agencies pursuant of a specific agreement with the State Police to provide services required for the administration of criminal justice pursuant to that agreement. The agreement specifically authorizes access to data, limits the use of data to purposes for which given, insures the security and confidentiality of the data consistent with these regulations and provides sanctions for violation thereof - class 1.

6. Individuals and agencies whether authorized by court order or court rule - class 1.

* * *

8. Any person, agency, or institution approved for dissemination by the Director under his statutory authority who has written authorization from the person whose record they are interested in obtaining - class 2.

9. Any individual may obtain his own record upon satisfactory identification - class 1.

C. Dissemination

1. Dissemination of criminal history record information to criminal justice agencies will require that the agencies have a certification form of file at the BCI. This certificate form will have to be on file before information can be given out. Once a form is on file, no further certification form will be required for these criminal justice agencies.

2. Non-criminal justice agencies approved for dissemination by the Director under his statutory

authority, or those authorized by statute, will be required to complete a certification on a yearly basis Standard Operating Procedure, Division of State Police, Bureau of Criminal Identification, Rule II.3.

NEW JERSEY

Criminal Justice Agency Defined
Not defined by statute.

Dissemination Provisions

Access to criminal history information is determined by state policy and by policy of the Attorney General. Criminal justice agencies are permitted access to criminal history information. Governmental noncriminal justice agencies authorized by statute, order or rule may obtain nonconviction information and arrest information of less than one year if no disposition is available.

NEW MEXICO

Criminal Justice Agency Defined
Not defined by statute.

Dissemination Provisions

Law enforcement agencies are permitted to exchange information, including arrest information. Other information is available only pursuant to statutory provisions regarding public records.

Every citizen of this state has a right to inspect any public records of this state except:

* * *

E. as otherwise provided by law. N.M. STAT. ANN. § 14-2-1 (1978-88).

The arrest record information maintained by the state or any of its political subdivisions pertaining to any person charged with the commission of any crime shall be confidential and dissemination or the revealing the contents thereof, except as provided in the Arrest Record Information Act [29-10-1 to 29-10-8 NMSA 1978], is unlawful. N.M. STAT. ANN § 29-10-4 (1984).

A law enforcement agency may disseminate arrest record information to a federal, state or local government law enforcement agency Nothing in the Arrest Record Information Act ... prohibits direct

access by the attorney general, the district attorney, the crime victims reparations commission or the courts to such information where it is deemed necessary in the performance of their functions under law N.M. STAT. ANN. § 29-10-5 (1984).

A. Upon satisfactory verification of his identify, any individual may inspect, in person, through counsel or through his authorized agent, arrest record information maintained by [a] law enforcement agency concerning him N.M. STAT. ANN. § 29-10-6 (1984).

A. The provisions of the Arrest Record Information Act [29-10-1 to 29-10-8 NMSA 1978] do not apply to criminal history record information contained in:

* * *

- (2) original records of entry such as police blotters maintained by criminal justice agencies, compiled chronologically and required by law or long-standing custom to be made public, if such records are organized on a chronological basis;
- (3) court records of public judicial proceedings;
- (4) published court or administrative opinions or public judicial, administrative or legislative proceedings;
- (5) records of traffic offenses and accident reports;
- (6) announcements of executive clemency

* * *

B. Nothing in this act [29-10-1 to 29-10-8 NMSA 1978] prevents a law enforcement agency from disclosing to the public arrest record information related to the offense for which an adult individual is currently within the criminal justice system. Nor is a law enforcement agency prohibited from confirming prior arrest record information to members of the news media or any other person, upon specific inquiry as to whether a named individual was arrested, detained, indicted or whether an information or other formal charge was filed, on a specified date, if the arrest record information disclosed is based on data enumerated by Subsection A of this section. N.M. STAT. ANN. § 29-10-7 (1984).

NEW YORK

Qualified Agencies Defined

"Qualified agencies" means courts in the united court system, the administrative board of the judicial

conference, probation departments, sheriffs' officers, district attorneys' offices, the state department of correctional services, the state division of probation, the department of correction of any municipality ... and departments having responsibility for enforcement of the general criminal laws of the state. N.Y. EXEC. LAW § 835(9) (McKinney 1989).

Criminal Justice Function Defined

"Criminal justice function" means the prevention, detection and investigation of the commission of an offense, the apprehension of a person for the alleged commission of an offense, the detention, release on recognizance or bail of a person charged with an offense prior to disposition of the charge, the prosecution and defense of a person charged with an offense, the detention, release on recognizance or bail of a person convicted of an offense prior to sentencing, the sentencing of offenders, probations, incarceration, parole, and proceedings in a court subsequent to a judgement of conviction relating thereto. N.Y. EXEC. LAW § 835(10) (McKinney 1982).

Dissemination Provisions

The division [Division of Criminal Justice Services] shall have the following functions, powers and duties:

* * *

6. Establish, through electronic data processing and related procedures, a central data facility with a communication network serving qualified agencies anywhere in the state, so that they may, upon such terms and conditions as the commissioner, and the appropriate officials of such qualified agencies shall agree, contribute information and have access to information contained in the central data facility, which shall include but not be limited to such information as criminal record, personal appearance data, fingerprints, photographs, and handwriting samples N.Y. EXEC. LAW § 837 (McKinney 1982).

Each agency shall, in accordance with its published rules, make available for public inspection and copying all records, except that such agency may deny access to records or portions thereof that:

(a) are specifically exempted from disclosure by state or federal statute;

(b) if disclosed would constitute an unwarranted invasion of personal privacy ... ;

* * *

(e) are compiled for law enforcement purposes and which, if disclosed, would:

i. interfere with law enforcement investigation or judicial proceedings;

ii. deprive a person of a right to a fair trial or impartial adjudication N.Y. PUB. OFF. LAW § 87(2) (McKinney 1988).

NORTH CAROLINA

Criminal Justice Agency Defined

"Criminal justice agency" means the courts or a government agency or any subunit thereof which performs the administration of criminal justice pursuant to statute. N.C. ADMIN. CODE tit. 12, r. 4A.0105(5) (September 1986).

Administration of Criminal Justice Defined

"Administration of criminal justice" means performance of any of the following activities: detection, apprehension, detention, pretrial release, post-trial release, prosecution, adjudication, correctional supervision, or rehabilitation of accused criminal offenders. N.C. ADMIN. CODE tit. 12, r. 4A.0105(6) (September 1986). (Also referenced in N.C. GEN. STAT. § 114-19.1 (1987)).

Dissemination Provisions

Pursuant to regulations, criminal history information is available only to authorized criminal justice agencies. The defendant's attorney may also have access to the defendant's record. Noncriminal justice use is restricted to such purposes as research, licensing and employment.

(a) [C]riminal history record information obtained from or through PIN [Police Information Network], NCIC, or NLETS shall not be disseminated to anyone outside of authorized criminal justice agencies

(b) Criminal history record information is available to authorized criminal justice agencies only on a "need-to-know" or "right-to-know" basis, as defined in 12 NCAC 4A.0105. N.C. ADMIN. CODE tit. 12, § r. 4C.0206 (September 1986).

An attorney who has entered an appearance in a criminal case pursuant to G.S. 15A-141 is entitled to access to information available through the Police Information Network N.C. ADMIN. CODE tit. 12, r. 4.0204 (September 1986).

NORTH DAKOTA

Criminal Justice Agency Defined

"Criminal justice agency" means any government law enforcement agency or entity authorized by law to provide information regarding, or to exercise the powers of, arrest, detention, prosecution, adjudication, correctional supervision, rehabilitation, or release of persons suspected in, charged with, or convicted of, a crime. N.D. CENT. CODE § 12-60-16.1(4) (1989).

Noncriminal Justice Agency Defined

"Noncriminal justice agency" means an entity that is not a criminal justice agency. N.D. CENT. CODE § 12-60-16.1(6) (1989).

Dissemination Provisions

Criminal history record information is available to criminal justice agencies. Other requesters may obtain conviction information and information on reportable events less than one year old upon meeting certain statutorily mandated requirements.

The bureau [Bureau of Criminal Investigation] and other criminal justice agencies shall disclose criminal history record information:

1. To a criminal justice agency that requests the information for its functions as a criminal justice agency or for use in hiring or retaining its employees.
2. To a court, on request, to aid in a decision concerning sentence, probation, or release pending trials or appeal.
3. Pursuant to a judicial, legislative, or administrative agency subpoena issued in this state.
4. As otherwise expressly required by law. N.D. CENT. CODE § 12-60-16.5 (1989).

Only the bureau may disseminate criminal history record information to parties not described in section 12-60-16.5. The dissemination may be made only if all the following requirements are met:

1. The information has not been purged or sealed.
2. The information is of a conviction, or the information is of a reportable event occurring within one year preceding the request.
3. The request is written and contains:
 - a. The name of the requester.
 - b. The name of the record subject.

c. At least two items of information used by the bureau to retrieve criminal history records, including;

- (1) The fingerprints of the record subject
 - (2) The state identification number assigned to the record subject by the bureau.
 - (3) The social security number of the record subject.
 - (4) The date of birth of the record subject.
 - (5) A specific reportable event identified by date and either agency or court.
4. The identifying information supporting a request for a criminal history record does not match the record of more than one individual. N.D. CENT. CODE § 12-60-16.6 (1989).

OHIO

Criminal Justice Agency Defined

Not defined by statute.

Dissemination Provisions

The attorney general is empowered by statute to adopt rules relating to the dissemination of criminal history information. Regulations permit the dissemination of conviction information to any person upon compliance with a request procedure.

(A) Any person may obtain information concerning the criminal record of any other person maintained at the Bureau of Criminal Identification and Investigation by submitting the following:

- (1) The complete name, current address, and other identifying characteristics of the individual whose records are sought;
- (2) A complete set of fingerprints of the individual whose records are sought;
- (3) The signed consent of the individual whose records are sought;
- (4) A check in the amount of three dollars payable to the Bureau of Criminal Identification and Investigation. Law enforcement officers as defined in division (K) of Section 2901.01 of the revised code will be exempt from this fee.

(B) The foregoing shall be submitted to the "Bureau of Criminal Identification and Investigation, P.O. Box 365, London, Ohio 43140."

(C) "Other identifying characteristics" means date of birth, social security number, height, weight, sex, race, and nationality. OHIO ADMIN. CODE § 109:5-1-01 (1984).

OKLAHOMA

Criminal Justice Agency Defined *Not defined by statute.*

Dissemination Provisions

In 1985, Oklahoma adopted an open records statute which requires law enforcement agencies to make all arrest and conviction information available for public inspection. Under the act, the Oklahoma State Bureau of Investigation, which collects criminal history information, is defined as a "law enforcement agency". (OKLA. STAT. ANN. tit. 51, §24A.3 (5) (West 1989)).

A. Law enforcement agencies shall make available for public inspection, if kept, the following records:

1. An arrestee description, including the name, date of birth, address, race, sex, physical description, and occupation of the arrestee;
2. Facts concerning the arrest, including the cause of arrest and the name of the arresting officer.
3. Conviction information including the name of any person convicted of a criminal offense;
4. Disposition of all warrants, including orders signed by a judge of any court commanding a law enforcement officer to arrest a particular person;
5. A chronological list of incidents, including initial offense report information showing the offense, date, time, general location, officer and a brief summary of what occurred;
6. A crime summary, including a departmental summary of crimes reported and public calls for service by classification or nature and number;

* * *

8. Jail registers, including jail blotter data or jail booking information recorded on persons at the time of incarceration showing the name of each prisoner with the date and cause of his commitment, the authority committing him, whether committed for a criminal offense, a description of his person, and the date or manner of his discharge or escape.

B. Except for the records listed in subsection A of this section and those made open by other state or local laws, law enforcement agencies may deny access to law enforcement records except where a court finds that the public interest or the interest of an individual outweighs the reason for denial ... OKLA. STAT. ANN. tit. 51, § 24A.8 (West 1988).

OREGON

Criminal Justice Agency Defined *"Criminal Justice Agency" means:*

- (a) The Governor;
- (b) Courts of criminal jurisdiction;
- (c) The Attorney General;
- (d) District attorneys, city attorneys with criminal prosecutive functions and public defender organizations established under ORS chapter 151;
- (e) Law enforcement agencies;
- (f) The Corrections Division;
- (g) The State Board of Parole; and
- (h) Any other state or local agency designated by order of the Governor. OR. REV. STAT. § 181.010 (9) (1985).

Dissemination Provisions

Oregon adopted an open records statute in 1981 which allows dissemination to any person of conviction information and arrest information if less than one year old. Public access, however, is conditioned upon notice to the record subject.

The department shall adopt rules ... establishing procedures:

- (1) To provide access to criminal offender information by criminal justice agencies and by other state and local agencies.
- (2) (a) To permit a person or agency not included in subsection (1) of this section to inquire as to whether the department has compiled criminal offender information on an individual.
- (b) To provide that any person making an inquiry under paragraph (a) of this subsection furnish the department with such information known to the inquirer as will assist the department in identifying and notifying the

individual about whom the information is sought
OR. REV. STAT. § 181.555 (1985).

(1) When a person or agency, other than a criminal justice agency or a law enforcement agency, pursuant to ORS 181.555 (2), requests from the department criminal offender information regarding an individual, if the department's compiled criminal offender information on the individual contains records of any conviction, or of any arrest less than one year old on which there has been no acquittal or dismissal, the department shall respond to the request as follows:

(a) The department shall send prompt written notice of the request to the individual about whom the request has been made. The department shall address the notice to the individual's last address known to the department and to the individual's address, if any, supplied by the person making the request. However, the department has no obligation to insure that the addresses are current. The notice shall state that the department has received a request for information concerning the individual and shall identify the person or agency making the request. Notice to the individual about whom the request is made shall include:

(A) A copy of all information to be supplied to the person or agency making the request;

(B) Notice to the individual of the manner in which the individual may become informed of the procedures adopted under ORS 181.555 (3) for challenging inaccurate criminal offender information; and

(C) Notice to the individual of the manner in which the individual may become informed of rights, if any, under Title VII of the Civil Rights Act of 1964, and notice that discrimination by an employer on the basis of arrest records alone may violate federal civil rights law and that the individual may obtain further information by contacting the Bureau of Labor and Industries.

(b) Fourteen days after sending notice to the individual about whom the request is made, the department shall deliver to the person or agency making the request the following information if held regarding any convictions and any arrests less than one year old on which the records show no acquittal or dismissal:

(A) Date of arrest.

(B) Offense for which arrest was made.

(C) Arresting agency.

(D) Court of origin.

(E) Disposition, including sentence imposed, date of parole if any and parole revocations if any.

(c) The department shall deliver only the data authorized under paragraph (b) of this subsection.

(d) The department shall inform the person or agency requesting the criminal offender information that the department's response is being furnished only on the basis of similarity of names and description and that identification is not confirmed by fingerprints.

* * *

(4) Nothing in ORS 181.066, 181.540, 181.555 or this section is intended to prevent the department from charging a reasonable fee, pursuant to ORS 192.440, for responding to a criminal offender information inquiry or for making information available under ORS 181.555 or this section. OR REV. STAT. § 181.555 (1985).

PENNSYLVANIA

Criminal Justice Agency Defined

"Criminal justice agency." Any court, including the minor judiciary, with criminal jurisdiction or any other governmental agency, or subunit thereof, created by statute or by the State or Federal constitutions, specifically authorized to perform as its principal function the administration of criminal justice, and which allocates a substantial portion of its annual budget to such function. Criminal justice agencies include, but are not limited to: organized State and municipal police departments, local detention facilities, county, regional and State correctional facilities, probation agencies, district or prosecuting attorneys, parole boards, pardon boards and such agencies or subunits thereof, as are declared by the Attorney General to be criminal justice agencies as determined by a review of applicable statutes and the State and Federal constitutions or both. 18 PA. CONS. STAT. § 9102 (1983).

Administration of Criminal Justice Defined

"Administration of criminal justice". The activities directly concerned with the prevention, control or reduction of crime, the apprehension, detention, pretrial release, post-trial release, prosecution, adjudication, correctional supervision or rehabilitation of accused persons or criminal offenders; criminal identification activities; or the collection, storage, dissemination or usage of criminal history record information. 18 PA. CONS. STAT. § 9102 (1983).

Dissemination Provisions

Pennsylvania's dissemination law applies to all criminal justice agencies within the state. Criminal history information may be disseminated to any criminal justice agency. Limited information may also be disseminated by state or local police departments to noncriminal justice requesters.

(a) Dissemination to criminal justice agencies.

— Criminal history record information maintained by any criminal justice agency shall be disseminated without charge to any criminal justice agency or to any noncriminal justice agency that is providing a service for which a criminal justice agency is responsible.

(b) Dissemination to noncriminal justice agencies and individuals. — Criminal history record information shall be disseminated by a State or local police department to any individual or noncriminal justice agency only upon request:

(1) A fee may be charged by a State or local police department for each request for criminal history record information by an individual or noncriminal justice agency.

(2) Before a State or local police department disseminates criminal history record information to an individual or noncriminal justice agency, it shall extract from the record all notations of arrests, indictments or other information relating to the initiation of criminal proceedings where:

- (i) three years have elapsed from the date of arrest;
- (ii) no conviction has occurred; and
- (iii) no proceedings are pending seeking a conviction.

* * *

(e) Dissemination procedures. — Criminal justice agencies may establish reasonable procedures for the dissemination of criminal history record information ... 18 PA. CONS. STAT. § 9121 (1983).

PUERTO RICO

Criminal Justice Agency Defined

Criminal Justice Agency — means the Puerto Rico Police, the Justice Department, the Courts Administration and the Corrections Administration when and to the extent in which they participate in the administration of criminal justice. P.R. R. & REGS. CJIS, § 5(f) (1983).

Criminal Justice Administration Defined

Criminal Justice Administration — are those functions which are carried out by the Criminal Justice Agencies, such as: the determination of probable cause for the arrest, fixing of bail, preliminary hearing, filing of accusation, judgement, verdict, sentence and imprisonment. This term includes the activity of criminal identification and the gathering, storing and dissemination of the OBTS/CCH information. P.R. R. & REGS. CJIS, § 5(e) (1983).

Dissemination Provisions

Criminal history information is available to criminal justice agencies on a "need-to-know" basis. Dissemination is also authorized if permitted by statute or court or executive order.

Limits to the dissemination of information contained in the OBTS/CCH [Offender- Based Tracking System/ Computerized Criminal Histories].

a) It shall be the exclusive prerogative of the criminal justice agencies to have access to the OBTS/CCH in the CJIS horizontal system, as these are defined in Section 3 (b) of these Regulations, based on the need to know, which is inherent to its functions, in order to carry out the administration of criminal justice or for the evaluation of any candidates applying for jobs in said agencies.

b) No data from the OBTS/CCH within the vertical system of a criminal justice agency shall be disseminated outside of that agency unless there be an exception such as stated on Section 4.

c) The CJIS Executive Board or upon whom it delegates, will be able to authorize the dissemination of information contained in the OBTS/CCH if it has been properly requested before and based on the following situations:

(1) Individuals and agencies for any purpose authorized by law, statute, executive order, court order or court decision, as interpreted by the proper local agencies or officials.

(2) Individuals and agencies with which the CJIS Executive Board has made a contract to provide services related to the administration of criminal justice which is the object of the agreement. The contract shall specifically authorize the access to necessary information, it shall limit its use to the agreed upon purpose, it shall keep the safety and privacy of the information in a manner which is consistent with this

Regulation, and it shall provide sanctions for violations thereof.

* * *

d) The burden of establishing the need to know and the justification or authority to obtain access to the OBTS/CCH falls upon the individual or agency so requesting it.

* * *

f) Any individual or agency to whom access has been granted under articles 2 and 3 of subsection (c) in this Section shall establish his identity and authorization for access when and where it would be required by the CJIS Administration Director or by the person in charge of the CJIS Data Center or of the authorized terminal.

* * *

h) The information on conviction can be disseminated through criminal record certificate, which shall contain guilty verdict data, files in each person's record that by reason of having been sentenced in any court of the Commonwealth of Puerto Rico, has a record in PROMIS. Any person, whose identify has been previously verified, or his appointed attorney, can require and obtain his own criminal record certificate. Likewise, any party to a criminal or civil case can require and obtain the criminal record certificate of party or witness in the case at hand, by means of a court order. The Criminal Record Certificate must contain information related to the person's full name on behalf of whom the record is issued, the number of the case, the court at which the sentence was decreed, date of sentence, offense for which he was condemned, penalty imposed, whether the sentence finds itself at an appeal stage, date of record, signature of official issuing the record. P.R. R. & REGS. CJIS, § 8 (1978, as amended 1983).

A. The provisions of this Regulation shall be applied to all government personnel that intervene in the carrying out of the System, as well as in administering it or supervising it, be that through the gathering of information, its processing, evaluation or through the dissemination of the System's information; it shall be applied to any person that may have access, authorized by the Board or by the carry out scientific research; also to any person that requests and receives information included in the records of the PROMIS system and all the criminal justice agencies.

B. These Regulations apply to the information contained in the PROMIS system, which include

information about the offenders tracking while they are in the criminal justice process and the criminal history of such individuals, subdividing PROMIS in OBTS (Offender Base Tracking System) and the CCH (Computerized Criminal History). The applicability of this regulation is subject to the following exceptions:

- a) Posters, announcements or list for identifying or arresting fugitives or wanted persons.
- b) The original admission records kept by criminal justice agencies, such as the Police Incident Book, chronologically compiled and whose dissemination is required by law or by tradition.
- c) Court records on public judicial procedures.
- d) Published judicial or administrative opinions.
- e) Record of traffic violations kept by the Transportation and Public Works Department for purposes of issuing, suspending, revoking or renewing driver's licenses.
- f) Executive Clemency Announcements.
- g) Information related to the accusations for which the individual is presently within the criminal justice system.
- h) Information which confirms the criminal record, disseminated to the news media or to any other person through specific questions on whether a certain individual was arrested, accused, convicted or acquitted on a specific date. P.R. R. & REGS. CJIS, § 4 (1983).

RHODE ISLAND

Criminal Justice Agency Defined
Not defined by statute.

Dissemination Provisions

Criminal history information is available to law enforcement agencies and attorneys of record in criminal cases. Noncriminal justice access is restricted to such purposes as employment background checks mandated by statute.

There shall be a division of criminal identification in the department of the attorney-general to be in charge of a chief who shall be appointed by the attorney-general to serve at the pleasure of the attorney-general, and who shall devote all his time to the duties of his office In addition to availability of records to law enforcement agencies and officers, the records shall be made available to any attorney of record in any criminal

action, and any officials of businesses which are required by federal or state law or regulation to effectuate a criminal background check of potential or prospective employees. Such information shall be confidential and shall be used only by the employer for the employee's application of employment. R.I. GEN. LAWS § 12-1-4 (1981).

SOUTH CAROLINA

Criminal Justice Agency Defined

"Criminal Justice Agency" means a court, or any other governmental agency or subunit through which as its principal function performs the administration of criminal justice pursuant to a statute or executive order, and which allocates a substantial part of its annual budget to the administration of criminal justice. S.C. CODE REGS. § 73-20(B) (1988).

Administration of Criminal Justice Defined

"Administration of Criminal Justice" means performance of any activity directly involving the detection, apprehension, detention, pretrial release, posttrial release, prosecution, adjudication, correctional supervision, or rehabilitation of accused persons or criminal offenders or the collection, storage, and dissemination of criminal history record information. S.C. CODE REGS. § 73-20(A) (1988).

Dissemination Provisions

General statutory authority is given to the State Law Enforcement Division to promulgate rules and regulations relating to criminal information. All criminal history record information is available to criminal justice agencies. Conviction information and arrest information less than one year old is available to the private sector and to governmental, noncriminal justice agencies which meet certain criteria. In addition, nonconviction information may be disseminated to statutorily-authorized requesters.

A. SLED/CJICS [State Law Enforcement Division/Criminal Justice Information and Communication System] will operate and maintain a criminal justice information system which will support the collection, storage, retrieval and dissemination of all criminal history record information, both intrastate and interstate. SLED/CJICS will make available, upon request, to bona-fide city, county or state criminal justice agencies any information which will aid these agencies in the performance of their official duties; provided that the dissemination of such information

would not be a violation of state or federal laws and regulations restricting its use for reasons of privacy and security. This will include conviction and non-conviction data.

B. User agency agrees to abide by all laws, rules and regulations concerning collection, storage, retrieval and dissemination of criminal justice information.

C. All criminal justice agencies who desire to exchange criminal history record information with the SLED/CJICS shall execute a standard user agreement.

D. User agency agrees to indemnify and save harmless SLED/CJICS and its officials and employees from and against any and all claims, demands, actions, suits and proceedings by others, against all liability to others, including but not limited to any liability for damages by reason of or arising out of any false arrest or imprisonment, or any cause of action whatsoever, or against any loss, cost, expense, and damage, resulting therefrom, arising out of or involving any action, inaction, slander or libel on the part of the user agency in the exercise or enjoyment of this agreement.

E. The SLED/CJICS may disseminate certain criminal history record information to private persons, authorized governmental entities, businesses and commercial establishments or their designated representatives. The CHRI disseminated shall be exclusively limited, without exception, to records of adjudications of guilt. An adjudication of guilt shall mean a judgement or sentence that determines the defendant is guilty of a violation of a criminal statute. It shall include the notation of arrest and conviction, and if known, the sentence or fine imposed, all available probation, parole and release information pertinent to the charge.

Criminal history record information concerning an arrest shall not be disseminated if an interval of one year has elapsed from the date of that arrest and no disposition of the charge has been recorded and no indictment or accusation has been returned. Use of criminal history record information disseminated to noncriminal justice agencies under these rules and federal regulations shall be limited to the purposes for which it was given and may not be disseminated further.

(1) Criteria for dissemination to noncriminal justice agencies:

(a) Identification based on full name, race, sex, date of birth, and social security number, if available. Criminal history information disseminated based on these characteristics will be so noted: social security number will

only be used in performing criminal history record searches after the individual has been informed that his/her social security number is to be used and the individual agrees.

(b) Identification based on the submission of fingerprints. In order for a noncriminal justice agency to receive a positive identification criminal history record search, it will be necessary for the applicant to submit a complete set of legible fingerprints to the Criminal Records Department. These fingerprints shall be made using black ink and recorded on the standard FBI applicant fingerprint card (FBI form number FD258). The fingerprint card shall be completed and include all identifying data.

(2) Costs

(a) Private persons, authorized governmental entities, businesses and commercial establishments or their designated representatives shall be charged a reasonable fee for performing the criminal history record request. The fee will be established by the State Law Enforcement Division and shall not exceed the actual cost of searching, processing and producing copies of the disseminations as determined by the State Law Enforcement Division. The South Carolina State Law Enforcement Division maintains the privilege to change the fee for this service without notice and without amending these rules as the cost might dictate.

(b) Method of Payment

Payment shall be made to the South Carolina State Law Enforcement Division excluding cash, personalized checks, credit cards or other methods not conducive to Division's accounting policies.

(3) All requests for criminal history record information by non-criminal justice agencies shall be made in writing S.C. CODE REGS. § 73-23 (1988).

The following limitations apply to dissemination of nonconviction data as of December 31, 1977:

A. Criminal justice agencies for purposes of the administration of criminal justice and criminal justice agency employment.

B. Individuals and agencies for any purpose authorized by statute, ordinance, executive order, or court rule, decision, or order, as construed by appropriate state or local officials or agencies.

C. Individuals and agencies pursuant to a specific agreement with a criminal justice agency to provide services required for the administration of criminal

justice pursuant to that agreement. The agreement shall specifically authorize access to data, limit the use of data to purposes for which given, ensure the security and confidentiality of the data consistent with these regulations, and provide sanctions for violation thereof. S.C. CODE REGS. § 73-24 (1988).

SOUTH DAKOTA

Criminal Justice Agency Defined

(2) "Criminal Justice Agency" means a governmental agency or subunit which performs any of the following activities: collection and dissemination of criminal history records information, detection, apprehension, detention, pretrial release, post-trial release, prosecution, adjudication, correctional supervision or rehabilitation of persons accused of or convicted of a criminal offense. S.D. ADMIN. R. 2:02:01:01(2).

Dissemination Provisions

By both statute and regulation, criminal history information may be disseminated only to criminal justice agencies. Others may obtain criminal history record information by court order.

Upon request therefor and payment of the reasonable cost, the director [of the Bureau of Criminal Statistics] shall furnish a copy of all available information and of records pertaining to the identification and history of any person or persons of whom the bureau has a record, to any similar governmental bureau, sheriff, chief of police, prosecuting attorney, attorney general ... or to the judge of any court, before whom such person is being prosecuted, or has been tried and convicted, or by whom such person may have been paroled. S.D. CODIFIED LAWS ANN. § 23-6-9 (1988).

The Governor, and persons specifically authorized by the director, shall have access to the files and records of the bureau. No such file or record of information shall be given out or made public except as provided in this chapter, or except by order of court S.D. CODIFIED LAWS ANN. § 23-6-14 (1988).

Pursuant to SDCL 23-6-14, and without being limited to the following, the director specifically authorizes access to information in the state registry to the following, for official purposes to:

* * *

2. Criminal Justice Agencies for the Administration of Criminal Justice.

* * *

5. Pursuant to court orders. S.D. ADMIN. R. 2:02:03:06.

TENNESSEE

Criminal Justice Agency Defined
Not defined by statute.

Dissemination Provisions

Except in very limited circumstances authorized by statute, such as applicants for work with certain child care agencies or background investigations for gubernatorial appointments to positions of trust, dissemination of criminal history records to other than law enforcement agencies is prohibited.

TEXAS

Criminal Justice Agency Defined
Not defined by statute.

Dissemination Provisions

Criminal history records are available only to criminal justice agencies and others specifically authorized by statute, such as the Texas Rehabilitation Commission. Conviction information is available to governmental agencies charged with the responsibility of licensing or regulating businesses, trades, or professions. Although Texas does have an Open Records Act, based upon case law, the Attorney General has found criminal history record information to be exempt from the public disclosure provisions of the Act. Op. Attorney Gen. 127 (May 14, 1976) and Op. Attorney Gen. 144 (Sept. 24, 1976).

UTAH

Criminal Justice Agency Defined

"Criminal justice agency" means courts or a government agency or subdivision of it, which administers criminal justice under a statute, executive order, or local ordinance, and which allocates greater than 50% of its annual budget to the administration of criminal justice. UTAH CODE ANN. § 77-26-16 (1)(c) (1989).

Administration of Criminal Justice Defined

"Administration of criminal justice" means performance of any of the following: detection, apprehension, detention, pre-trial release, prosecution, adjudication, correctional supervision, or rehabilitation of accused persons or criminal offenders. UTAH CODE ANN. § 77-26-16(1)(a) (1989).

Dissemination Provisions

Criminal history information is available to criminal justice agencies and to noncriminal justice agencies if authorized by statute, order or rule.

Dissemination of criminal history record information from bureau files shall be limited as follows:

- (a) To criminal justice agencies for purposes of administration of criminal justice and for employment screening by criminal justice agencies;
- (b) To non-criminal justice agencies or individuals for any purpose authorized by statute, executive order, court rule, court order, or local ordinance;

* * *

- (d) To agencies or individuals pursuant to a specific agreement with a criminal justice agency to provide services required for the administration of criminal justice. The agreement shall specifically authorize access to data, limit the use of the data to purposes for which given, and insure the security and confidentiality of the data ... UTAH CODE ANN. § 77-26-16 (2) (1989).

VERMONT

Criminal Justice Agency Defined

Criminal justice agencies shall be:

- (1) Courts, and;
- (2) Governmental agencies, divisions or sub-units thereof, which perform the administration of justice pursuant to a statute, executive order, municipal charter or ordinance and allocate 50%, or more, of the funds budgeted and appropriated annually to them for criminal justice administration purposes.
- (3) The administration of criminal justice shall be defined as any of the following activities: detection, apprehension, adjudication, correctional supervision, or rehabilitation of accused persons, or criminal offenders, criminal identification, collection, storage and dissemination of criminal history record information

and nonconviction data but shall not include criminal defense functions, crime prevention activities and programs, drug addiction treatment, or similar programs unless these have been specifically charged with the rehabilitation of offenders by statute or executive order. VT. ADMIN. PROC. COMP. CRIMINAL INFORMATION CENTER § 4.10 (h) (1960).

Dissemination Provisions

Criminal justice agencies are authorized to have access to criminal history record information. Noncriminal justice requesters may obtain criminal history information for the purpose of implementing a law or executive order.

NON-CRIMINAL JUSTICE or other agencies and individuals (to include public and private agencies, corporation, companies, associations or boards and commissions) may be authorized to receive criminal history record information and nonconviction data. Non-criminal justice agencies and individuals are defined as any agency, or employee thereof, not specifically engaged in any activity as defined in Section 4.10 (h) (3). The regulations permit other public or private agencies to have access to criminal history record information and nonconviction data to implement a statute, ordinance, municipal charter, or executive order that refers to criminal conduct and contains exclusions or requirements based on such conduct. VT. ADMIN. PROC. COMP. CRIMINAL INFORMATION CENTER § 4.10(i) (1969).

Criminal justice agencies, and agents thereof, may obtain criminal history record information and nonconviction data from the VCIC [Vermont Criminal Information Center]. All requests shall be by full name and date of birth of the subject. The requestor shall state his/her name and the name of the agency represented and shall clearly state the specific purpose for which the information will be used or further disseminated Inquiry may be made by telephone, in writing or by computer terminal. Telephone inquiry, however, shall be restricted to in-state (Vermont) criminal justice agencies only and the Vermont Crime Information Center shall employ a call-back system to identify the agency and caller based upon a listing of authorized telephone numbers and persons provided to, and approved by, the Director. Use of private, party line and phone booth telephone numbers is prohibited. All telephone authorization lists shall be in the form of a request addressed to the Director, on agency letterhead,

properly signed by a department head or equivalent authority.

(1) The VCIC may refuse to disseminate criminal history record and nonconviction information if, in the discretion of the Director: the purpose of the request lacks proper justification; the identity of the requestor as an authorized agency or person cannot be satisfactorily established; the proposed use of information requested is inconsistent with or prohibited by these regulations, state or federal law, municipal ordinance, charter, other regulation or executive order; is inconsistent with the provisions of Rule 16, Vermont Rules of Criminal Procedure; is prohibited by court order or rule.

(2) Upon satisfactory identification of an individual appearing in person at the VCIC, criminal history record information and nonconviction data may be released.

(3) Written requests shall be on agency letterhead, signed by a department head, or equivalent authority.

(4) Computer terminal inquiries by in-state terminal, NLETS and NCIC terminal shall be deemed to have satisfied the requirement for written requests. In-state terminal requests shall require automatic terminal identification as part of the system design.

(5) Criminal history record information and nonconviction data obtained from the VCIC shall only be valid for time and date issued.

(6) The director may decline to disseminate record data which he has determined to be inaccurate until such time as errors have been corrected.

(7) Information requests from any prosecutor shall be forwarded directly to the requestor by registered mail, return receipt requested, or conveyed by hand upon personal appearance at VCIC.

(8) The VCIC shall refuse to forward criminal history record information and nonconviction data to other than the original requestor. VT. ADMIN. PROC. COMP. CRIMINAL INFORMATION CENTER § 6.30(a) (1969).

VIRGIN ISLANDS

Pursuant to the territorial law of the Virgin Islands, criminal history data is confidential and is not subject to the dissemination provisions of the public records law.

The following public records shall be kept confidential, unless otherwise ordered by a court, by the lawful

custodian of the records, or by another person duly authorized to release information:

* * *

9. Criminal identification files of the Department of Public Safety. However, records of current and prior arrests shall be public records. V.I. CODE ANN. tit. 3, § 881(g) (1989).

VIRGINIA

Criminal Justice Agency Defined

"Criminal justice agency" means a court or any other governmental agency or subunit thereof which as its principal function performs the administration of criminal justice and any other agency or subunit thereof which performs criminal justice activities, but only to the extent that it does so. VA. CODE ANN. § 9-169(3) (1989).

Administration of Criminal Justice Defined

"Administration of criminal justice" means performance of any activity directly involving the detection, apprehension, detention, pretrial release, post-trial release, prosecution, adjudication, correctional supervision, or rehabilitation of accused persons or criminal offenders or the collection, storage, and dissemination of criminal history record information. VA. CODE ANN. § 9-169(1) (1989).

Dissemination Provisions

Criminal history information is available to criminal justice agencies. Conviction information and information less than one year old may also be disseminated to noncriminal justice requesters when necessary to implement a law or executive order. Criminal history information is also available to the record subject.

Criminal history record information shall be disseminated, whether directly or through an intermediary, only in accordance with § 19.2-389. VA. CODE ANN. § 9-187 (1989).

A. Criminal history record information shall be disseminated, whether directly or through an intermediary, only to:

1. Authorized officers or employees of criminal justice agencies, as defined by § 9-169, for purposes of the administration of criminal justice ... ;

2. Such other individuals and agencies which require criminal history record information to implement a state or federal statute or executive order of the President of the United States or Governor that expressly refers to criminal conduct and contains requirements and/or exclusions expressly based upon such conduct, except that information concerning the arrest of an individual may not be disseminated to a noncriminal justice agency or individual if an interval of one year has elapsed from the date of the arrest and no disposition of the charge has been recorded and no active prosecution of the charge is pending;

3. Individuals and agencies pursuant to a specific agreement with a criminal justice agency to provide services required for the administration of criminal justice pursuant to that agreement which shall specifically authorize access to data, limit the use of data to purposes for which given, and ensure the security and confidentiality of the data;

* * *

11. A person requesting a copy of his own criminal history record information

Notwithstanding any other provision of this chapter to the contrary, upon a written request sworn to before an officer authorized to take acknowledgements, the Central Criminal Records Exchange or the criminal justice agency in cases of offenses not required to be reported to the Exchange, shall furnish a copy of conviction data covering the person named in the request to the person making the request; however, such person on whom the data is being obtained shall consent in writing, under oath, to the making of such request. A person receiving a copy of his own conviction data may utilize or further disseminate that data as he deems appropriate. In the event no conviction data is maintained on the data subject, the person making the request shall be furnished at his cost a certification to that effect.

B. Use of criminal history record information disseminated to noncriminal justice agencies under this section shall be limited to the purposes for which it was given and may not be disseminated further VA. CODE ANN. § 19.2-389 (1988).

Virginia Regulations further provide that fees may be charged to noncriminal justice agencies.

Criminal justice agencies may charge a reasonable fee for search time expended and copying when dissemination of criminal history record information is

requested by a non-criminal justice agency or individual. The schedule of fees to be charged shall be posted. Va. Regs. Reg. 240-02-1.4.

WASHINGTON

Criminal Justice Agency Defined

"Criminal justice agency" means: (a) A court; or (b) a government agency which performs the administration of criminal justice pursuant to a statute or executive order and which allocates a substantial part of its annual budget to the administration of criminal justice. WASH. REV. CODE ANN. § 10.97.050(5) (1980).

Administration of Criminal Justice Defined

"The administration of criminal justice" means performance of any of the following activities: Detection, apprehension, detention, pretrial release, post-trial release, prosecution, adjudication, correctional supervision, or rehabilitation of accused persons or criminal offenders. The term also includes criminal identification activities and the collection, storage, dissemination of criminal history record information, and the compensation of victims of crime. WASH. REV. CODE ANN. § 10.97.050(6) (1980).

Dissemination Provisions

Conviction information and information regarding a current offense is available to any person. All criminal history record information may be disseminated to criminal justice agencies and to others when necessary to implement a statute, rule or order.

(1) Conviction records may be disseminated without restriction.

(2) Any criminal history record information which pertains to an incident for which a person is currently being processed by the criminal justice system, including the entire period of correctional supervision extending through final discharge from parole, when applicable, may be disseminated without restriction.

(3) Criminal history record information which includes nonconviction data may be disseminated by a criminal justice agency to another criminal justice agency for any purpose associated with the administration of criminal justice, or in connection with the employment of the subject of the record by a criminal justice or juvenile justice agency. A criminal justice agency may respond to any inquiry from another criminal justice agency without any obligation to ascertain the purpose for

which the information is to be used by the agency making the inquiry.

(4) Criminal history record information which includes nonconviction data may be disseminated by a criminal justice agency to implement a statute, ordinance, executive order, or a court rule, decision, or order which expressly refers to records of arrest, charges, or allegations of criminal conduct or other nonconviction data and authorizes or directs that it be available or accessible for a specific purpose.

(5) Criminal history record information which includes nonconviction data may be disseminated to individuals and agencies pursuant to a contract with a criminal justice agency to provide services related to the administration of criminal justice. Such contract must specifically authorize access to criminal history record information, but need not specifically state that access to nonconviction data is included. The agreement must limit the use of the criminal history record information to stated purposes and insure the confidentiality and security of the information consistent with state law and any applicable federal statutes and regulations WASH. REV. CODE ANN. § 10.97.050 (1980).

WEST VIRGINIA

Criminal Justice Agency Defined

Not defined by statute.

Dissemination Provisions

Criminal history information is available to criminal justice agencies and to noncriminal justice requesters upon written consent of the record subject.

(c) The criminal identification bureau may furnish fingerprints, photographs, records or other information to authorized law-enforcement and governmental agencies of the United States and its territories, of foreign countries duly authorized to receive the same, of other states within the United States and of the State of West Virginia upon proper request stating that the fingerprints, photographs, records or other information requested are necessary in the interest of and will be used solely in the administration of official duties and the criminal laws.

(d) The criminal identification bureau may furnish, with the approval of the superintendent, fingerprints, photographs, records or other information to any private or public agency, person, firm, association, corporation or other organization, other than a law-

enforcement or governmental agency as to which the provisions of subsection (c) of this section shall govern and control, but all requests under the provisions of this subsection (d) for such fingerprints, photographs, records or other information must be accompanied by a written authorization signed and acknowledged by the person whose fingerprints, photographs, records or other information is to be released. W.VA. CODE § 15-2-24 (1985).

WISCONSIN

Criminal Justice Agency Defined
Not defined by statute.

Dissemination Provisions

Wisconsin is one of a handful of states with an open records law. In 1917, the public record statute was enacted. Until 1979 when the Wisconsin Supreme Court in Newspaper, Inc. v. Breier, 279 N.W.2d 179 (Wis. 1979), held that statutory and common law interests in the disclosure of certain law enforcement records outweighed privacy claims, the public record law had not been applied to criminal justice officials if they could cite reasons 7 for withholding the records. The statutory exemption for some law enforcement records, i.e., relating to investigations, still exists, but is narrowly construed for purposes of withholding information. WIS. STAT. ANN. § 19.36 (West 1986).

State law does permit the imposition of fees for criminal history checks for noncriminal justice purposes.

[T]he department of justice shall impose the following fees for criminal history searches for purposes unrelated to criminal justice:

- (a) For each record check requested by a governmental agency or nonprofit organization, \$2.
- (b) For each record check by any other requester, \$10.
- (2) The department of justice shall not impose fees for criminal history searches for purposes related to criminal justice. WIS. STAT. ANN. § 165.82 (1989).

WYOMING

Criminal Justice Agency Defined

"Criminal justice agency" means any agency or institution of state or local government other than the office of the public defender which performs as part of its principal function, activities relating to:

- (A) The apprehension, investigation, prosecution, adjudication, incarceration, supervision or rehabilitation of criminal offenders;
- (B) The collection, maintenance, storage, dissemination or use of criminal history record information ... WYO. STAT. § 7-19-103 (a)(iii)(1987).

Dissemination Provisions

Criminal history record information dissemination is available to criminal justice agencies, certain other governmental agencies specified by statute, and the record subject. In some cases, positive identification may be required. Upon proof of consent of the record subject, an individual's criminal history may be released to any applicant.

- (a) Criminal history record information shall be disseminated by criminal justice agencies in this state, whether directly or through any intermediary, only to:
 - (i) Other criminal justice agencies;
 - (ii) Any person designated for the purpose provided by W.S. 14-6-227 [juvenile court predisposition study and report];
 - (iii) The division of public assistance and social services of the department of health and social services
 - (iv) Other governmental agencies as authorized by the laws of the United States or any state or by executive order.
- * * *
- (vi) Any record subject as provided by W.S. 7-19-109.

* * *

- (c) All applications or requests to the division for criminal history record information submitted by the record subject or any other person except a criminal justice agency or the division of public assistance and social services, shall be accompanied by the record subject's fingerprints in addition to any other information required by the division.

* * *

- (k) Notwithstanding subsection (a) of this section, the division may disseminate criminal history record information concerning a record subject, or may confirm that no criminal history record information exists relating to a named individual, if:
 - (i) The applicant submits proof satisfactory to the division that the individual whose record is being

checked consents to the release of the information to the applicant;

(ii) The application is made through a criminal justice agency in this state authorized to access criminal history record information maintained by the division which application shall then be forwarded to the division by the criminal justice agency; and

(iii) The applicant pays the fees required by W.S. 7-19-108. WYO. STAT. § 7-19-106 (1987).

(a) The division may charge the record subject or any other person or noncriminal justice agency qualified to receive criminal history record information, a reasonable application fee of not more than fifteen dollars (\$15.00) for processing of fingerprints and other information submitted for a criminal history records check, except:

(i) No fee shall be charged to criminal justice agencies or the division of public assistance and social services....

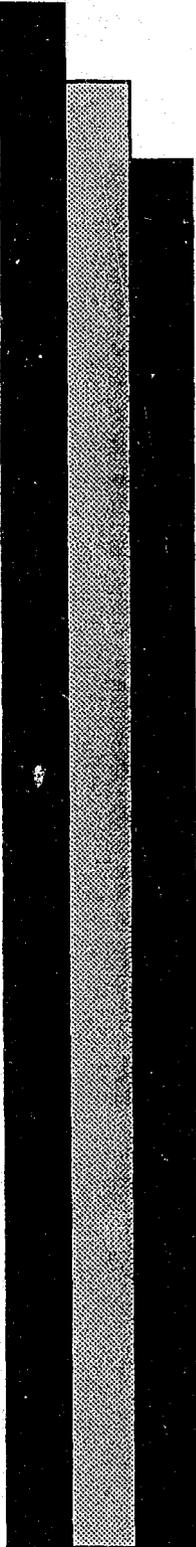
(b) Criminal justice agencies which fingerprint applicants at the request of noncriminal justice agencies for criminal history record information may charge a reasonable fee of not more than five dollars (\$5.00) for fingerprinting. Fees collected under this subsection shall be credited to the state general fund or to the general fund of the appropriate county or municipality. WYO. STAT. § 7-19-108 (1987).

Appendices

- A. *Survey of State Central Repositories*
- B. *Survey of TASC Programs*

Appendix A:

Survey of State Central Repositories



Survey of State Central Repositories: Access to Criminal History Record Information by TASC Programs

This survey is part of a grant which consists of two major projects, one which will assess the statutory and regulatory authority to restrict access to criminal history record information by Treatment Alternatives to Street Crime ("TASC") programs and one which will assess the post-program performance of TASC participants. TASC programs and other case management programs serve to identify substance abusing offenders and to provide community treatment of those offenders with proper monitoring.

This is a survey of the 53 state/territorial criminal history repositories. The purpose of this survey is to determine what policies and procedures exist for disseminating criminal history record information held by state central repositories to case management programs. The results of this survey will be used for several purposes, including to provide a catalog of the statutory/regulatory authority of each state to grant or restrict access by case management programs to criminal history record information. Questions in the survey refer to the 12 months immediately preceding the date of this survey. This survey can be completed in approximately 15 minutes.

Please return the completed survey in the enclosed self-addressed, stamped envelope no later than August 1, 1988.

If you have any questions or need assistance in responding to the survey, please contact:

Sheila J. Barton
Director, Law and Policy Program
SEARCH Group, Inc.
925 Secret River Drive, Suite H
Sacramento, California 95831
(916) 392-2550

Part 1 — Release of Adult Data to TASC Programs

This section asks questions about the release of adult data. Adult criminal history data is defined as information collected by criminal justice agencies consisting of identifiable descriptions and notations of arrests, detentions, indictments, informations, or other formal criminal charges, and any disposition arising therefrom, sentencing, correctional supervision, and release.

1.1 Are there *any* conditions under which your agency provides adult criminal history data to a TASC program?

No. (Please skip to question 2.1 on page 4.)

Yes.

1.2 Under which of the following procedures does your agency provide criminal history record information to TASC programs? (Please check all that apply.)

Pursuant to state statute and/or regulations which define TASC programs as "criminal justice agencies."

Pursuant to state statutes and/or regulations which define TASC programs as authorized recipients even though they are not defined as "criminal justice agencies."

Pursuant to an "Open Records" or "Freedom of Information" request.

Pursuant to a standard agreement between your agency and the TASC program. (Please attach a copy of your standard agreement form.)

Pursuant to a waiver and/or signed consent of the record subject.

Pursuant to an informal agreement or understanding between the TASC program and this repository.

Pursuant to other procedures. Please specify:

1.3 In a request for a criminal records check, please indicate the data items a requester is either required or encouraged to include:

Data Item	Required	Encouraged
State Criminal Identification Numbers	<input type="checkbox"/>	<input type="checkbox"/>
Federal Criminal Identification Numbers	<input type="checkbox"/>	<input type="checkbox"/>
Last name	<input type="checkbox"/>	<input type="checkbox"/>
First name	<input type="checkbox"/>	<input type="checkbox"/>
Middle name	<input type="checkbox"/>	<input type="checkbox"/>
Aliases	<input type="checkbox"/>	<input type="checkbox"/>
Social Security Number	<input type="checkbox"/>	<input type="checkbox"/>
Date of birth	<input type="checkbox"/>	<input type="checkbox"/>
Sex	<input type="checkbox"/>	<input type="checkbox"/>
Race	<input type="checkbox"/>	<input type="checkbox"/>
Address	<input type="checkbox"/>	<input type="checkbox"/>
Fingerprints	<input type="checkbox"/>	<input type="checkbox"/>
Fingerprint classification	<input type="checkbox"/>	<input type="checkbox"/>
Other, please specify:		
_____	<input type="checkbox"/>	<input type="checkbox"/>
_____	<input type="checkbox"/>	<input type="checkbox"/>
_____	<input type="checkbox"/>	<input type="checkbox"/>
_____	<input type="checkbox"/>	<input type="checkbox"/>
_____	<input type="checkbox"/>	<input type="checkbox"/>

1.4 Assuming a requested search generates a hit, what information do you provide the requester? (Please check the one answer which best describes your practice.)

- The complete, adult criminal history record, including nonconviction information.
- All information associated with any event which resulted in a conviction.
- Conviction information only.
- Only the fact that a hit occurred.
- Only the following information: _____

1.5 Do you provide criminal history record information to TASC programs on record subjects who are *not* currently in the criminal justice system? (For example, on subjects who may have come to the TASC program and are not currently awaiting disposition of a charge or awaiting sentencing.)

No.

Yes.

1.6 Are TASC programs charged a fee for criminal history record information checks?

No.

Yes. If yes, please specify the cost (for example, \$5 per hit or \$2 per name submitted).

\$_____ per:_____

Part 2 — Release of Juvenile Data to TASC Programs

This section asks questions about the release of juvenile information. For purposes of this survey, such information includes acts, which if committed by an adult, would be criminal offenses. The term "juvenile information" refers to all information on a data system that relates to a precipitating act for which the record subject was processed as a juvenile. It does not refer to the age of the record subject at the time the request for access to the data was made.

2.1 Does your agency maintain juvenile information in its data system?

No. (Please skip to question 3.1 on page 6.)

Yes.

2.2 Does your agency provide juvenile history record information to TASC programs?

No. (Please skip to question 3.1 on page 6.)

Yes.

2.3 Under which of the following procedures does your agency provide juvenile information to TASC programs? (Please check all that apply.)

- Pursuant to state statute and/or regulations which define TASC programs as "criminal justice agencies."
- Pursuant to state statutes and/or regulations which define TASC programs as authorized recipients even though they are not defined as "criminal justice agencies."
- Pursuant to an "Open Records" or "Freedom of Information" request.
- Pursuant to a standard agreement between your agency and the TASC program. (Please attach a copy of your standard agreement form.)
- Pursuant to a waiver and/or signed consent of the record subject and/or his parents or guardians.
- Pursuant to an informal agreement or understanding between your agency and the TASC program.
- Pursuant to other procedures. Please specify:

2.4 Assuming a requested search generates a hit, what information do you provide the requester? (Please check the answer which most closely describes your practice.)

- The complete juvenile and adult criminal history record, including nonconviction information.
- All juvenile and adult criminal history information associated with any event which resulted in a conviction.
- Juvenile and adult conviction information only.
- Only the fact that a juvenile or adult hit occurred.
- Only the following information:

Part 3 — Agency Data

Please complete the information in this section regarding your agency. While all responses will remain completely confidential and we do not currently plan follow-up contacts as part of this survey, this information would be very helpful in the event such follow-up becomes necessary.

3.1 Person Completing Survey _____

3.2 Telephone Number _____

3.3 Agency Name _____

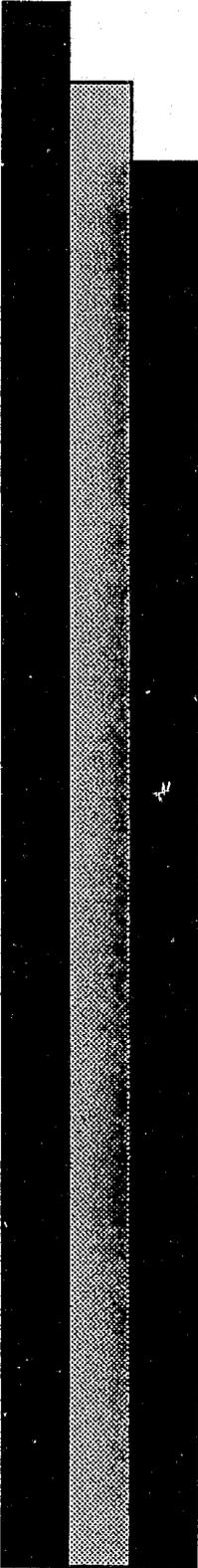
3.4 City _____

3.5 State _____

Thank you for your assistance.

Appendix B:

Survey of TASC Programs



Survey of TASC Programs: Access to Criminal History Record Information of Clients

This survey is part of a two-part project which will assess the statutory authority to restrict access by TASC programs to criminal history record information and will assess the post-program performance of TASC participants. The purpose of this survey is to determine what barriers may presently exist for TASC programs in obtaining the criminal history records of clients. This survey of over 100 TASC programs collects data about the legal and procedural avenues used by TASC programs to obtain criminal history information.

The results of this survey will be used for several purposes, including cataloging the statutory/regulatory authority of each state to grant or restrict access to criminal history record information, providing information for a model agreement between a state criminal history repository and a TASC program, and providing the basis for draft model legislation which may authorize access to criminal history record information by TASC programs where access is currently restricted. Questions in the survey refer to the 12 months immediately preceding the date of this survey. This survey can be completed in approximately 15 minutes.

Please return the completed survey in the enclosed self-addressed, stamped envelope no later than August 1, 1988.

If you have any questions or need assistance in responding to the survey, please contact:

*Sheila J. Barton
Director, Law and Policy Program
SEARCH Group, Inc.
925 Secret River Drive, Suite H
Sacramento, California 95831
(916) 392-2550*

Part 1 — Charter of Program

TASC programs exist in a wide variety of organizational environments which can affect their access to criminal history record information.

1.1 Please check the type of organization that best describes your TASC program.

- A state governmental department or agency or a sub-unit of same.
- A local governmental department or agency or a sub-unit of same.
- A private, nonprofit corporation.
- A private, for profit corporation.
- Other, please specify:

1.2 Many TASC programs find criminal history record information valuable in screening clients. Please indicate below the extent to which you find criminal history record information valuable in screening clients.

- | | |
|--|--|
| <input type="checkbox"/> Very valuable | <input type="checkbox"/> Of little value |
| <input type="checkbox"/> Somewhat valuable | <input type="checkbox"/> Of no value |

1.3 Please describe your primary uses of criminal history data record information, e.g., screening for client eligibility, referral and/or treatment screening:

Part 2 — Obtaining Criminal History Data on Adult TASC Clients

This section asks about obtaining adult criminal history data. Adult criminal history data is defined as information collected by criminal justice agencies consisting of identifiable descriptions and notations of arrests, detentions, indictments, informations, or other formal criminal charges, and any disposition arising therefrom, sentencing, correctional supervision, and release.

2.1 Does your program have access to criminal history information on your adult clients (not including self-reports by clients)?

- Yes. No. (Please skip to question 3.1 on page 4.)

2.2 Do you require a criminal history records check for each adult client you serve?

- Yes. No.

2.3 Under which of the following procedures does your agency obtain criminal history records on your adult clients? (Please check all that apply.)

- The TASC program has authority to request criminal history records from the state central repository or criminal justice agencies pursuant to state statute or regulations.
- Criminal history record information is received pursuant to a standard agreement between your program and the provider of the criminal history information. (Please attach a copy of your standard agreement form.)
- The request is made by your program pursuant to an "Open Records" or "Freedom of Information" statute.
- Criminal history records are requested pursuant to a consent form signed by the client. (Please attach a copy of the consent form used by your program.)
- Criminal history record information is received pursuant to agency administrative regulations or procedures.
- The request is made pursuant to an informal agreement or understanding between your program and the responding agency.
- Criminal history record information is provided automatically by the agency referring the client to your program.
- Other, please specify: _____

2.4 From which agencies do you obtain criminal history information? (Please indicate the percentage of record checks conducted with each of the following agencies.)

- | | |
|--------------------------------------|------------------------------|
| _____ % State central repository | _____ % Probation |
| _____ % Police | _____ % Parole |
| _____ % District Attorney/Prosecutor | _____ % Corrections facility |
| _____ % Courts | _____ % Client's attorney |
| _____ % Other, please specify: _____ | |
| _____ | |

2.5 Can you obtain criminal history record information on individuals who are *not* in the criminal justice system? (For example, individuals who have come to the program on their own and are not currently awaiting disposition of a charge or awaiting sentencing.)

No.

Yes.

Part 3 — Obtaining Juvenile History Data on TASC Clients

This section asks questions about obtaining juvenile information. For purposes of this survey, such information includes acts, which if committed by an adult, would be criminal offenses. The term "juvenile information" refers to all information on a data system that relates to a precipitating act for which the record subject was processed as a juvenile. It does not refer to the age of the record subject at the time the request for access to the data was made.

3.1 Does your program provide services to juveniles?

No. (If no, please skip to question 4.1 on page 6.)

Yes.

3.2 Does your program have access to juvenile history information on your juvenile clients (not including self-reports)?

No. (Please skip to question 4.1 on page 6.)

Yes.

3.3 Do you require a juvenile history records check for each juvenile client you serve?

No.

Yes.

3.4 Under which of the following procedures does your agency obtain the juvenile-criminal history records of your clients? (Please check all that apply.)

- The TASC program has the authority pursuant to statute or regulations, to request juvenile history records.
- The request is made pursuant to an "Open Records" or "Freedom of Information" statute.
- The request is made pursuant to agency administrative regulations or procedures.
- Juvenile history records are requested pursuant to a consent form signed by the client and/or his parent or guardian. (Please attach a copy of the consent form used by your program.)
- The request is made pursuant to an informal agreement or understanding between your program and the responding agency.
- Juvenile history data is provided automatically by the agency referring the client to your program.
- Other, please specify: _____

3.5 From which agencies do you obtain juvenile history information of your clients? (Please indicate the percentage of record checks conducted with each of the following agencies.)

- | | |
|--------------------------------------|------------------------------|
| _____ % State central repository | _____ % Probation |
| _____ % Police | _____ % Parole |
| _____ % District Attorney/Prosecutor | _____ % Corrections facility |
| _____ % Courts | _____ % Client's attorney |
| _____ % Other, please specify: _____ | |
| _____ | |

Part 4 — Program Data

Please complete the information in this section regarding your program. While all responses will remain completely confidential and we do not currently plan follow-up contacts as part of this survey, this information would be very helpful in the event such follow-up becomes necessary.

4.1 Person Completing Survey _____

4.2 Telephone Number _____

4.3 Agency Name _____

4.4 City _____

4.5 State _____

Thank you for your assistance.

The Bureau of Justice Assistance

BJA Announces its New Clearinghouse

To fulfill its mission under the Anti-Drug Abuse Act of 1988, the Bureau of Justice Assistance (BJA) provides funds and technical assistance to State and local governments to control crime and drug abuse and to improve the criminal justice system.

In support of these activities, BJA has created the **Bureau of Justice Assistance Clearinghouse**, a component of the National Criminal Justice Reference Service (NCJRS). The Clearinghouse informs State and local criminal justice practitioners about BJA products and programs.

The following BJA publications, now available from the Clearinghouse, provide a wealth of useful information on some of the most critical issues affecting criminal justice and will be valuable additions to your professional library.

An Invitation to Project DARE: Drug Abuse Resistance Education, Program Brief. NCJ 114802. Free.

Building Integrity and Reducing Drug Corruption in Police Departments, Monograph. NCJ 120652. Free.

Drug Recognition Program, Monograph. NCJ 117432. Free.

Electronic Monitoring in Intensive Probation and Parole Programs, Monograph. NCJ 116319. Free.

Estimating the Costs of Drug Testing in Pretrial Services Programs, Monograph. NCJ 118317. Free.

FY 1988 Report on Drug Control, Executive Summary. NCJ 118277. Free.

FY 1988 Report on Drug Control, Full Report. NCJ 117435. \$6.50. Call for ordering information.

Prosecution Management Support System, Program Brief. NCJ 117093. Free.

Reducing Crime by Reducing Drug Abuse: A Manual for Police Chiefs and Sheriffs, Manual. NCJ 113110. Free.

Treatment Alternatives to Street Crime (TASC): Participant's Manual, Training Manual. NCJ 116322. Free.

Treatment Alternatives to Street Crime (TASC), Program Brief. NCJ 116321. Free.

Treatment Alternatives to Street Crime (TASC) Resource Catalog, Resource Guide. NCJ 119847. Free.

Urinalysis as Part of a Treatment Alternatives to Street Crime (TASC) Program, Monograph. NCJ 115416. Free.

Wisconsin Drug Abuse Treatment Unit, Monograph. NCJ 120655. Free.

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or write: BJA Clearinghouse/NCJRS, Box 6000, Rockville, MD 20850**