

IMMIGRATION AND NATURALIZATION SERVICE  
REPORTING PLAN FOR THE STATE OF TEXAS

PHASE II



Prepared by the Criminal Justice Policy Council  
on behalf of the Office of the Governor,  
Criminal Justice Division  
for submission to the United States Department of Justice,  
Bureau of Justice Assistance

July 2, 1992

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## REPORTING PLAN FOR THE STATE OF TEXAS

### PHASE II

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U.S. Department of Justice  
National Institute of Justice

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## BACKGROUND

## BACKGROUND

The Immigration Act of 1990 changed Section 503 of the Omnibus Crime Control and Safe Streets Act to require that criminal justice records identify aliens who are convicted and provide that information to the Immigration and Naturalization Service (INS). The United States Department of Justice, Bureau of Justice Assistance (BJA), in conjunction with the INS and state representatives developed the Guidance for the Improvement of Criminal Records which outlines the requirements for conforming with the federal law. The Guidance was published in the Federal Register for public comment and was adopted on December 10, 1991. States are required to have a coordination plan with INS as a condition for continued receipt of Edward Byrne Memorial State and Local Law Enforcement Assistance Formula Grants. Texas received \$25.5 million of these funds for federal fiscal year 1992.

This initiative to improve records will assist state and local governments in reducing recidivism by deporting criminally involved aliens upon release from prison. It will also reduce supervision costs by deporting convicted aliens sentenced to probation.

For purposes of reporting to INS, conviction is defined as a final criminal conviction of aliens or suspected aliens by a court of competent jurisdiction for which the offender has been sentenced. All direct appeal rights must also have been exhausted or waived or the appeal period must have lapsed.

## PLAN REQUIREMENTS

The Guidance for the Improvement of Criminal Justice Records sets forth the following requirements:

- The state must assure that it has established a plan under which it will provide without fee to INS, within 30 days of the date of conviction, notification of conviction of aliens who have been convicted of violating the criminal laws of the state. Convictions include felonies and deportable misdemeanors for which all appeals have been exhausted or waived. (Deportable offenses are listed in Appendix C of the Guidance.)
- States, or jurisdictions within states, which do not submit a plan or do not implement the plan to provide conviction records to INS are prohibited from receiving formula grant funds.

It should be noted that early drafts of the Guidance required the reporting of information on paper. The Criminal Justice Policy Council suggested to BJA staff that an electronic reporting process be allowed. The BJA was very receptive to this approach. There are still some details to be worked out, however, and the potential for paper reporting still exists. The final Guidance allows for the reporting documents to be in the form of printouts or electronic records. However, the INS currently has no system in place for electronic reporting. Therefore, states with electronic reporting may provide the required records in printout form to the INS District Office until a system for the electronic reporting of information can be established.

A two-phased plan development and submission process was developed by the Department of Justice:

- Phase I, to be implemented immediately, requires that INS be given conviction

records for aliens already sentenced to prison, including those held in local jails awaiting transfer to prison.

- Phase II requires establishment of mechanisms and procedures for the identification of alien status in criminal records and for providing to INS all conviction records of suspected aliens. This phase should be addressed as part of the required criminal justice records improvement plan, although it may be a separate section of the plan.

The Department of Justice established the following goal for measuring the completeness of records contained in the Criminal Justice Information System (CJIS):

At least 90% of the records of convictions should contain information on the Place of Birth of the offender and, if available, the Citizenship and Alien Identification Number.

As requested in BJA's Guidance for the Improvement of Criminal Justice Records, attainment of this goal is being addressed in a separate criminal records improvement plan (the Criminal Justice Records Improvement Plan for the State of Texas) being submitted to the Department of Justice. Appropriate data fields are being included in the new Texas Criminal Justice Information System (CJIS) to capture the data necessary to meet the INS reporting requirements.

## TEXAS CRIMINAL JUSTICE INFORMATION SYSTEM

The State of Texas has been working to improve the quality of criminal history records since 1987 when the Criminal Justice Policy Council began its analysis of the existing Computerized Criminal History (CCH) system. The results were reported in the 1988 Analysis of the Texas Computerized Criminal History System Database. In 1989, the Texas Legislature codified many of the Analysis' suggestions, creating Chapter 60, Code of Criminal Procedure, which mandates:

- Enhancements to the Computerized Criminal History (CCH) system managed by the Department of Public Safety (DPS);
- Creation of a Corrections Tracking System (CTS) to be managed by the Department of Criminal Justice (DCJ);
- Establishment of a link between the DPS's Enhanced CCH and the DCJ's CTS. This link defines the statewide Criminal Justice Information System;
- Coordination of all county criminal history record systems with the CJIS;
- Assignment of a CJIS tracking incident number to each arrest incident for felonies and Class A and B misdemeanors. The CJIS tracking incident number will follow the offender through the system;
- Encouragement of electronic reporting of data between local contributors and the state;
- Reporting to the CJIS by the agency with the offender under its jurisdiction
- Mandatory reporting to the state of all arrests for felonies and Class A and B misdemeanors;

- Mandatory reporting to the state of all court dispositions of arrests for felonies and Class A and B misdemeanors;
- Mandatory reporting to the state of status changes as the offender moves through the system;
- Collection of start and end dates by DCJ for each program, level of probation or parole supervision, and reason for termination from programs;
- Holding of at least three regional hearings in the State to allow input on local needs for the CJIS; and
- Implementation of the CJIS by January 1, 1993.

Texas policy makers want to develop a CJIS system design that meets federal requirements while accommodating existing state efforts. As the Texas CJIS is still in the development stage, the addition of new data fields to accomplish the INS reporting requirements was an easy task. The prospect of manual reporting of documents to INS is problematic, however, as it is contrary to current efforts to reduce duplicative reporting burdens placed on counties. The ultimate goal of the CJIS is to maximize computer resources and reduce manual and duplicative reporting by adopting electronic reporting.

A new federal funding initiative makes available to each state no less than five percent of block grant funds to be used for criminal records improvement. In Texas this funding will assist counties in developing the capability for electronic reporting of criminal justice information to the state CJIS. Since the state has been working towards the goal of statewide electronic reporting, this method of reporting to the INS is the preferred approach.

## SYSTEM GOAL

Following are some key provisions that help define the State's goal in designing an INS reporting system:

- The State of Texas has adopted mandatory reporting of suspect processing data from local jurisdictions to the state CJIS.
- The necessary data elements that INS wants to receive are included in the mandatory state reporting provisions.
- A major feature of the new CJIS is electronic data reporting which can greatly reduce the time and expense of paper reporting.
- Any federal mandatory reporting provisions should incorporate the effective use of current technology to reduce the fiscal burden of compliance.
- To date INS has accepted the concept of electronic reporting, as evidenced in the adopted version of the Guidance. There remains, however, the need to continue to monitor the evolution of guidelines and proposed regulations to be published in the Federal Register.

## PHASE I PLAN

Phase I of the Plan for Reporting Convicted Aliens, as defined in the Guidance for the Improvement of Criminal Justice Records, requires the following:

This phase should target serious offenders and should be implemented immediately. At a minimum, the State should provide INS with notification of conviction for aliens sentenced to prison, including those held in local jails awaiting placement in prison.

An alien inmate is defined as any inmate who is not a United States citizen, whether the person is in the United States legally or illegally.

The Texas Department of Criminal Justice (DCJ) is the State agency managing probation, prison and parole functions. DCJ's Institutional Division (ID) has a long standing cooperative relationship with the INS and has notified the proper INS district office upon identification of an incarcerated alien.

Currently, the State is in compliance with the Phase I requirement for aliens in prison. All inmates go through a reception and diagnostic process in which alien inmates are identified. The Institutional Division's Photo and Identification Department located at the Diagnostic Unit makes the determination of citizenship through information reported by the inmate and from any available official records.

Inmates identified as non-citizens or whose citizenship is determined to be questionable are reported to the INS for further investigation. Some inmates may have been born in United States territorial jurisdictions, such as Puerto Rico, Virgin Islands, Guam, or to United States military personnel in a military installation in another country and would be considered United States citizens. The Diagnostic Unit provides names of identified aliens to an INS representative who visits the Unit one day each week. The information is provided on a form completed by the Diagnostic Unit (see appendix). The representative interviews each inmate to investigate and establish citizenship status.

To formally notify INS of the results of the representative's interviews, each month the Institutional Division's Bureau of Classification and Records Office (BOC) sends a computer printout listing all identified alien inmates to the INS. Data elements reported are: name, DCJ-ID number, parole eligibility date, country of citizenship, and unit of assignment. The INS then files United States Immigration detainers on alien inmates who are deemed deportable.

## PAPER-READY CONVICTED FELONS IN COUNTY JAILS

Currently there is no notification process in place for alien inmates in county jails who are ready for transfer to DCJ-ID. There are 254 counties in Texas and a total of 242 operating county jails. DCJ-ID does not always have adequate information to determine whether an inmate in jail awaiting transfer is an alien. In spite of DCJ-ID receiving "pen packets" on some inmates held in local jails, the packet of information usually does not indicate whether an inmate is an alien. Unless official records already indicate that a convicted felon in jail is an alien, an interview with an inmate is necessary to determine whether he is a United States citizen. As previously described the interviews are conducted at the prison diagnostic unit.

This problem will, however, be rectified with implementation of the new CJIS. The new system will capture place of birth and alien identification number at the time of arrest. The central



repository will then have this information at the front end of offender processing and notification can be provided to INS and to DCJ in a timely manner. This process will be detailed in the Phase II plan to be submitted later.

## **NATURE OF INTERAGENCY AGREEMENT**

There is not a written agreement between INS and DCJ-ID on the process for notifying INS of aliens. There is, however, a long standing informal working cooperative agreement. DCJ-ID reports alien inmates to the INS. In turn the INS reviews and investigates the reported inmates and files detainers on those who are illegal aliens. INS has not requested any other information than what is already being provided. DCJ-ID works with two INS offices: the Houston INS office handles all male alien cases; the San Antonio INS office handles all female alien cases.

## **CURRENT REPORTING PROCEDURE**

Phase I of the Plan for Reporting Convicted Aliens, as defined in the Guidance for the Improvement of Criminal Justice Records, requires the following:

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## **PHASE II PLAN**

## PHASE II REPORTING PLAN

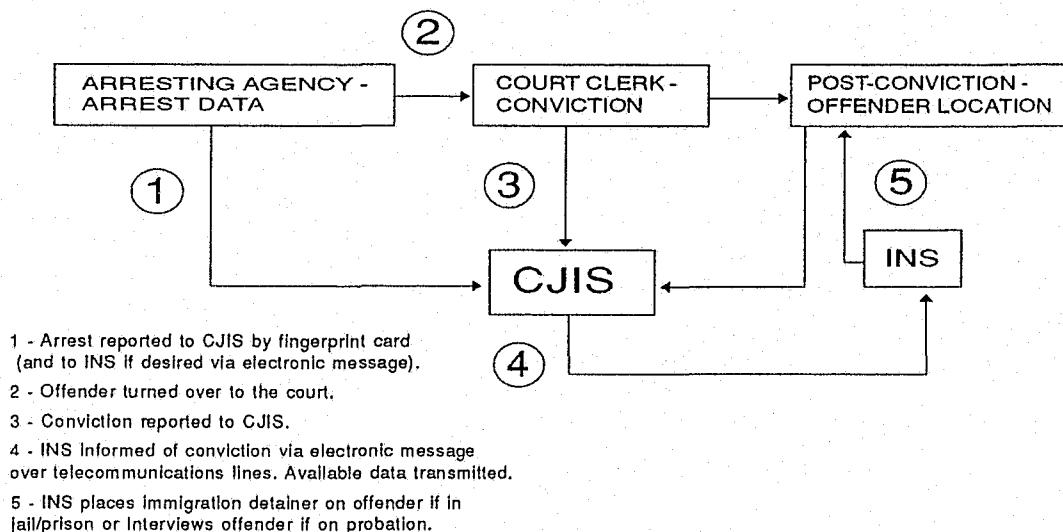
The Phase II plan for implementing INS reporting requirements will be submitted with the Criminal Justice Records Improvement plan. Electronic reporting between the CJIS and INS and alien identification are the prominent topics for Phase II. This section gives a brief overview of what will be addressed in the Phase II plan.

Chapter 60, Code of Criminal Procedure, requires a link from the DCJ's Computerized Tracking System to the CJIS. This link allows DCJ to report the status of convicted offenders and encourages electronic reporting of criminal history information to the CJIS. Since the State's goals are focussed toward fully implementing electronic reporting of offender status, the DCJ-ID is currently working toward implementing the electronic transfer of offender information, including alien status, to the Department of Justice.

In order to report alien convictions electronically the INS requires certain data elements to be included in the State's reporting system. The required data elements are "Place of Birth" and "Citizenship and Alien Identification Number". Under the new CJIS this information will be provided by the arresting agency in the Identification/Arrest segment of the new Incident Form, Fingerprint Card and Supplemental Form.

When a court reports a conviction of a suspected alien, the information will be transmitted electronically to the central repository where the CJIS system will flag these records. The INS will be provided an electronic notification from which they can begin their verification and processing of the offender.

### PROPOSED TEXAS SYSTEM DESIGN FOR IMPLEMENTING INS REPORTING



Criminal Justice Policy Council 6/24/91

## INTERIM STEPS

As any additional reports generated from the new CJIS will not be addressed until after the system is operational, there will be a period of time during which provision of the actual conviction record may be necessary.

The Criminal Justice Policy Council will continue to present a rational plan to the Department of Justice which emphasizes providing electronic records from the CJIS to INS. DPS is currently in the system conversion mode and counties, with the BJA 5% set-aside funds, must convert their data systems and build in electronic reporting capabilities. This situation requires that the state develop an interim reporting solution until electronic reporting is implemented.

The following strategies will be employed to attain compliance with the reporting requirements and allow the continued receipt of federal block grant funds:

- 1) The Office of the Governor will request the Chief Justice of the Texas Supreme Court to review the requirements and consider having the court adopt an applicable rule.
- 2) Should the Court determine that this issue should be addressed by the Legislature and decline to issue a rule, the Office of the Governor will prepare legislation mandating the court clerks to provide conviction records to INS without fee.

Both strategies will address the need for court clerks to use the INS reporting form until electronic reporting of disposition data is implemented. At that point the INS forms will not be required. The state will discuss with Texas INS the preferred record layout and will provide INS with a reasonable record layout.

## STATE CONTACT POINT

The Office of the Governor will serve as the State Contact Point should any problems arise with the interim manual reporting requirement or with the electronic reporting process when it becomes operational.

## COMPLIANCE WITH INS DATA ELEMENTS

The BJA Guidance identifies certain data elements which must be submitted to INS. On the next page in table form are the INS required data elements and an indication as to whether or not the data will be included in the Texas CJIS.

Data fields marked with a "Y" are included in the new Texas CJIS, while data fields marked with a "N" are not currently scheduled for inclusion in the new CJIS. In attempting to maintain a balance between local, state, and national needs, collection of data must address a perceived need. Many of the data items marked "N" have little value at the state level or are currently collected in an aggregate mode by the Texas Judicial Council. Data reported to the CJIS will be made available to INS as an electronic message from DPS for arrest and court data or from DCJ for probation or prison data. If the applicable INS office is not equipped to receive electronic messages, a computer print out will be sent to INS until on-line capabilities are installed. It should be noted that a formal request is being developed to request DPS to capture "Type of Trial" as this data element will be of interest to State policy makers wishing to model the system.

<u>Biographic Data</u>	<u>In Texas System</u>	<u>Where Captured</u>	<u>CJIS Field Name</u>
Name	Y	Arrest	Name
Aliases	Y	Arrest	Alias Name(s)
Immigration Number	Y	Arrest	Misc. Number/Alien Regis. Number
Social Security Number	Y	Arrest	Social Security Number
Other ID Number	Y	Arrest	DPS Number or FBI Number
Country of Birth	Y	Arrest	Place of Birth
Country of Citizenship	Y	Arrest	Citizenship
Date of Birth	Y	Arrest	Date of Birth
Place of Residence	Y	Arrest	(1) Street Address; (2) City; (3) State
Judge	N	Arrest	None
Counsel	N	Arrest	None

<u>Conviction Abstract</u>	<u>In Texas System</u>	<u>Where Captured</u>	<u>CJIS Field Name</u>
Name	Y	Arrest	Name
Aliases	Y	Arrest	Alias Name(s)
Date of Birth	Y	Arrest	Date of Birth
Name of Court	Y	Court	Court Name
Court ID Number	Y	Court	Court ORI
Judge	N	N/A	None
Counsel	N	N/A	None
Charge	Y	Court	Offense Code
Date of Offense	Y	Arrest	Date of Offense
Date of Conviction	Y	Court	Date (of Court Disposition)
Description of Crime	Y	Court	Offense
Level of Crime	Y	Court	Degree of Disposed Offense
Type of Controlled Dangerous Substance	Y	Court	Derived from Offense Code
Amount of Controlled Dangerous Substance	Y NCIC Code Ranges	Court	Derived from Offense Code
Type of Trial	N	N/A	None
Date Sentence Imposed	Y	Court	DOS
Sentence	Y	Court	6 Data Fields
Earliest Release Date	Y	DCJ	
Disposition of Appeal	Y	Court	FCD Final Court Disposition
Parole Violation	Y	CJIS	Derived from existing CJIS data
Prior Conviction Record	Y	CJIS	Derived from existing CJIS data
Prior Conviction Case Number	Y	CJIS	Derived from existing CJIS data

Y = Yes

N = No