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U.S. Department of Justice

Office of Policy Development

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Assistant Attorney General

Washington, D.C. 20530

April 21, 1997

MEMORANDUM FOR THE ATTORNEY GENERAL

THROUGH: THE DEPUTY ATTORNEY GENERAL

THROUGH: THE ASSOCIATE ATTORNEY GENERAL

FROM: Eleanor D. Acheson *EAS*  
Assistant Attorney General

Jan M. Chaiken, Ph.D.  
Director  
Bureau of Justice Statistics

SUBJECT: Status of State Criminal History Record Systems

PURPOSE: To provide a progress report on the status of state criminal history record systems and state participation in the Interstate Identification Index (III).



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FROM: Eleanor D. Acheson *EJA*  
Assistant Attorney General

Jan M. Chaiken, Ph.D  
Director  
Bureau of Justice Statistics

SUBJECT: Status of State Record Systems

This memorandum responds to your request for a report on the status of state criminal history record systems. The following information and chart (attached) expand on OPD's April 19, 1997 memorandum, which provided a progress report on the development of the National Instant Criminal Background Check System (NICS) and on the Department's efforts to improve state criminal history record systems. As you know, effective implementation of the NICS depends on access to state criminal history information via the Interstate Identification Index (III) and on state criminal history records' containing conviction information.

The findings of the most recent survey of the status of criminal history records conducted by the Bureau of Justice Statistics (BJS) are presented below. The next scheduled update to the survey, now planned for Spring 1998, will focus on year end 1997 data. In the interim, we propose that the Attorney General send a letter (attached) to the Governor of each state requesting additional data on state III participation and compliance with the 80% completeness standard.

In considering the data below, it should be noted that the impact of federal funding is just beginning to be felt. The National Criminal History Improvement Program (NCHIP) was established in FY 1995 and the first awards were effective in September of that year. The second round of awards was made in September of 1996. The data for year end 1995, therefore, only minimally reflect the impact of this funding. In light of the time lag associated with system design, hardware procurement and personnel training, it can be anticipated that the impact of the NCHIP awards will be most evident over the coming years.

The number of criminal history records that contain conviction information and are instantly available through the national system has risen steadily since the late 1980's. In 1989, only 20 states were members of the III. By year end 1993, 26 states were III participants. (See column 1 on attached chart). At the start of 1997, 32 states participated, and it is estimated that 39 states will be members by the end of 1997.<sup>1</sup> (See column 2 on attached chart). In 1993, only 16 states (representing about 19% of the people living in the U.S.) had conviction information available for 80% or more of their criminal history records. Two years later, 20 states and the District of Columbia, representing about a third of the nation's population met this 80% standard. (See columns 3 and 4 on attached chart). Recent records are defined as records that indicate an arrest within the past five years. In order to maximize the impact of federal funding, NCHIP funds were focused on improving these records.

In 1994, states were asked to estimate the year by which they would participate in III and have conviction information available for 80% or more of their recent criminal history records. At that time, the states had neither started NCHIP programs nor been advised of the level of NCHIP funds which would be available and the estimates may have been overly optimistic. All states except New Mexico and Hawaii estimated that they would participate in III by the end of 1998, when NICS becomes operational. (As noted above, it is now anticipated that New Mexico will join III by the end of 1997). Thirty-four states representing almost 60% of the population, also estimated that they would meet the 80% completeness standard for recent records by that date. (See column 5 on attached chart).

As stated above, we propose that the Attorney General send a letter to the Governor of each state requesting additional data on state III participation and compliance with the 80% completeness standard. The data gathered from such a letter

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<sup>1</sup> States BJS estimates will be III participants by year end 1997: Arizona, Kansas, Maryland, Nebraska, New Hampshire, New Mexico, and Wisconsin.

would reflect state experience over the past three years. Those estimates, when reviewed together with information generated from monitoring and phone contacts, should provide a more realistic measure of the extent to which states will meet the III and 80% standard by the date for NICS implementation.

(attachments)

# Status of Criminal History Records

## III Participation

## 80% Completeness of Recent Records

| State                             | Year End 12/93 | April 97 | Year End 12/93 | Year End 12/95 | 1994 AG's Letter.<br>80% by 12/98 |
|-----------------------------------|----------------|----------|----------------|----------------|-----------------------------------|
| Alabama                           |                | X        | X              | X              |                                   |
| Alaska                            | X              | X        | X              | X              |                                   |
| American Samoa                    |                |          |                |                | X                                 |
| Arizona                           |                |          |                |                |                                   |
| Arkansas                          |                | X        |                |                | X                                 |
| California                        | X              | X        |                |                |                                   |
| Colorado                          | X              | X        |                |                | X                                 |
| Connecticut                       | X              | X        |                |                | X                                 |
| Delaware                          | X              | X        |                | X              | X                                 |
| D.C.                              |                |          |                |                | X                                 |
| Florida                           | X              | X        |                | X              |                                   |
| Georgia                           | X              | X        |                |                |                                   |
| Guam                              |                |          |                |                |                                   |
| Hawaii                            |                |          |                |                |                                   |
| Idaho                             | X              | X        |                | X              |                                   |
| Illinois                          | X              | X        |                |                | X                                 |
| Indiana                           |                |          |                |                | X                                 |
| Iowa                              |                | X        | X              | X              | X                                 |
| Kansas                            |                |          |                |                | X                                 |
| Kentucky                          |                |          |                |                | X                                 |
| Louisiana                         |                |          |                |                | X                                 |
| Maine                             |                |          | X              | X              | X                                 |
| Maryland                          |                |          |                | X              |                                   |
| Massachusetts                     |                |          | X              | X              | X                                 |
| Michigan                          | X              | X        | X              | X              |                                   |
| Minnesota                         | X              | X        |                |                | X                                 |
| Mississippi                       |                |          |                |                | X                                 |
| Missouri                          | X              | X        |                |                |                                   |
| Montana                           | X              | X        | X              | X              | X                                 |
| Nebraska                          |                |          |                |                | X                                 |
| Nevada                            | X              | X        |                |                | X                                 |
| New Hampshire                     |                |          |                | X              |                                   |
| New Jersey                        | X              | X        | X              | X              | X                                 |
| New Mexico                        |                |          |                |                |                                   |
| New York                          | X              | X        |                | X              | X                                 |
| North Carolina                    | X              | X        | X              | X              | X                                 |
| North Dakota                      |                | X        | X              | X              |                                   |
| Ohio                              | X              | X        |                |                | X                                 |
| Oklahoma                          |                | X        |                |                |                                   |
| Oregon                            | X              | X        |                |                |                                   |
| Pennsylvania                      | X              | X        |                |                |                                   |
| Puerto Rico                       |                |          |                |                | X                                 |
| Rhode Island                      |                |          | X              |                | X                                 |
| South Carolina                    | X              | X        | X              | X              | X                                 |
| South Dakota                      |                | X        | X              | X              |                                   |
| Tennessee                         |                |          |                |                |                                   |
| Texas                             | X              | X        |                |                | X                                 |
| Trust Territory of<br>the Pacific |                |          |                |                |                                   |
| Utah                              | X              | X        | X              |                | X                                 |
| Vermont                           |                |          | X              |                |                                   |
| Virgin Islands                    |                |          |                | X              |                                   |
| Virginia                          | X              | X        |                | X              | X                                 |
| Washington                        | X              | X        |                |                | X                                 |
| West Virginia                     |                |          |                |                |                                   |
| Wisconsin                         |                |          |                |                |                                   |
| Wyoming                           | X              | X        | X              | X              | X                                 |
| Totals                            | 26             | 32       | 16             | 21             | 34                                |

Dear Governor.....:

As you know, the Department of Justice has been assisting states' efforts to ensure that criminal history records, that is records of arrests and subsequent dispositions, are computerized, complete, up-to-date, and available instantly in response to interstate inquiries. I view this as an important step for protecting the safety of the nation's population against criminal activity.

Under the National Criminal History Improvement Program (NCHIP), which is administered by the Bureau of Justice Statistics, funds totaling over \$112 Million have already been awarded in direct state grants to improve the quality and availability of state records. At least one award under this program has been made to the agency in each state which was designated by the Governor to administer the NCHIP program. The designated agency in (insert name of state) is (insert name of NCHIP agency). To date, (insert name of state) has received (insert total amount awarded to state under NCHIP).

As part of the effort to improve the nation's criminal history records, the Brady Handgun Violence Prevention Act (Brady Act) (18 U.S.C. 922 note), in Sections 103 (a) (2) and (3), directed that the Attorney General "investigate the criminal record system of each State...., determine for each State a timetable by which the State should be able to provide criminal records on an online capacity basis to the national system,...(and)...notify each state of the determination...(within 60 days of the Act's effective date)." In addition, the National Child Protection Act of 1993 (Child Protection Act) (42 U.S.C. 5119), in section 5119 (b) (1) and (2), required that the Attorney General review state records and establish timetables indicating when each state would be able to provide child abuse records online through the national system. The Child Protection Act, as amended in 1994, also stipulated that such timetables ensure that 80% of records with identifiable child abuse offenses within the past 5 years be complete with dispositions by December 1998 (the original deadline date was December 1996).

On May 27, 1994, and June 20, 1994, I wrote to each state concerning these timetables. A copy of my letters to you (or your predecessor) are attached for your convenience. I am writing now to ask you to bring me up to date with information which describes the extent to which your state has met, or will be in a position to meet, the timetable goals established in 1994. To minimize the administrative burden, I have indicated below the selected information which, I believe, will indicate the progress which is being made in each state.

Specifically, since participation in the Interstate Identification Index (III) is critical to ensuring the instant availability of complete records to the national system, please indicate the year by which your state should be able to join III. Similarly, since background check criteria almost always require findings of convictions, rather than arrests, please indicate the year by which your state estimates that arrests within the

past 5 years will be complete with dispositions at the 80% and 50% level. Lastly, please indicate if your state will meet the Child Protection Act requirements by ensuring an 80% completeness level for all recent records, or, if not, the year in which your state will meet the 80% standard for recent arrests involving child abuse offenses. If, of course, your state has already joined III or met a given standard for record completeness, an indication of this achievement, without relevant dates, will be adequate.

Section 103 (b) of the Brady Act requires that the National Instant Criminal Background Check System (NICS) be established no later than November 1998, at which time the 5-day waiting period associated with the interim presale firearm background check system will be eliminated. The Department of Justice is working to ensure that the NICS is as effective as possible and to focus available resources on this objective. The information you provide in response to this letter will be assembled with the information provided by other states to help us assess the current status of criminal history records and to plan for the anticipated start of the NICS.

I appreciate your assistance in this matter. If you have any questions, please contact Jan Chaiken, director of the Bureau of Justice Statistics, at (202) 307-0765.

Sincerely,

Janet Reno

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## Bureau of Justice Statistics

# Survey of State Procedures Related to Firearm Sales

Alabama, Alaska, Arizona, Arkansas, California, Colorado, Connecticut, Delaware, District of Columbia, Florida, Georgia, Hawaii, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, Nevada, New Hampshire, New Jersey, New Mexico, New York, North Carolina, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, Utah, Vermont, Virginia, Washington, West Virginia, Wyoming, American Samoa, Puerto Rico, The Virgin Islands

**LIST OF STATES SUBJECT TO THE FEDERAL FIVE DAY WAITING PERIOD OR  
STATES HAVING ALTERNATIVE SYSTEMS AS DEFINED IN THE LAW**

As of 05-30-97

**STATES WHICH MUST COMPLY WITH THE FEDERAL 5-DAY WAITING PERIOD**

|              |                 |                 |
|--------------|-----------------|-----------------|
| Alabama      | Mississippi **  | [ Puerto Rico ] |
| Alaska **    | Montana **      | Rhode Island    |
| Arizona **   | Nevada          | South Carolina  |
| Arkansas**   | New Mexico      | South Dakota ** |
| Kansas       | North Dakota ** | Texas **        |
| Kentucky     | Ohio            | Vermont         |
| Louisiana ** | Oklahoma **     | West Virginia   |
| Maine        | Pennsylvania ** | Wyoming **      |

\*\* In these States, the Federal 5-day waiting period does not apply to transfers of handguns to persons holding valid permits/licenses to carry handguns issued within 5 years of the proposed purchase.

**STATES WHICH MEET ONE OF THE ALTERNATIVES TO THE FEDERAL 5-DAY WAITING PERIOD**

|                |    |                                      |
|----------------|----|--------------------------------------|
| California     | -- | Permit or other approval-type system |
| Connecticut    | -- | Permit or other approval-type system |
| Delaware       | -- | "Instant check"                      |
| Florida        | -- | "Instant check"                      |
| Guam           | -- | Permit or other approval-type system |
| Hawaii         | -- | Permit or other approval-type system |
| Illinois       | -- | Permit and "Instant check"           |
| Indiana        | -- | Permit or other approval-type system |
| Iowa           | -- | Permit or other approval-type system |
| Maryland       | -- | Permit or other approval-type system |
| Massachusetts  | -- | Permit or other approval-type system |
| Michigan       | -- | Permit or other approval-type system |
| Missouri       | -- | Permit or other approval-type system |
| Nebraska       | -- | Permit or other approval-type system |
| New Jersey     | -- | Permit or other approval-type system |
| New York       | -- | Permit or other approval-type system |
| Oregon         | -- | Permit/Instant Check                 |
| Virginia       | -- | "Instant check"                      |
| Virgin Islands | -- | Permit or other approval-type system |
| Wisconsin      | -- | "Instant check"                      |

**STATES ORIGINALLY SUBJECT TO THE FEDERAL 5-DAY WAITING PERIOD  
THAT NOW HAVE SYSTEMS THAT MEET THE ALTERNATE REQUIREMENTS**

|                |                    |    |                                          |
|----------------|--------------------|----|------------------------------------------|
| Colorado       | Beginning 03-01-94 | -- | "Instant check"                          |
| Georgia        | Beginning 01-01-96 | -- | "Instant check"                          |
| Idaho          | Beginning 06-27-94 | -- | "Instant check"/ permit (permit 5-15-95) |
| Minnesota      | Beginning 08-01-94 | -- | Permit or other approval-type system     |
| New Hampshire  | Beginning 01-01-95 | -- | "Instant check"                          |
| North Carolina | Beginning 12-01-95 | -- | Permit or other approval-type system     |
| Tennessee      | Beginning 05-10-94 | -- | Permit or other approval-type system     |
| Utah           | Beginning 03-01-94 | -- | "Instant check"                          |
| Washington     | Beginning 06-06-96 | -- | Permit or other approval-type system     |

Note: Louisiana status was incorrect on previous list.