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NON-CRIMINAL JUSTICE AGENCY ACCESS TO STATE AND LOCAL CRIMINAL HISTORY RECORD INFORMATION

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SEARCH Issue Briefs

SEARCH, the National Consortium for Justice Information and Statistics, provides support to state and local agencies in all aspects of information system planning, design, implementation and management. SEARCH has particularly strong experience in the area of privacy and security of criminal justice information. The privacy and security program is designed to support the successful implementation of privacy and security principles by clarifying national requirements and issues. This is accomplished through a grant from the Bureau of Justice Statistics, U.S. Department of Justice, which enables SEARCH to provide resources to guide and assist the states in how to respond to federal and state privacy requirements.

In order to maximize the use of information developed in the course of its varied studies and projects, SEARCH publishes issue briefs which review and discuss topics of current interest to privacy and security specialists. This paper is the sixth in the series.

This brief examines law and policy issues associated with the practice of accessing criminal history records for non-criminal justice purposes. As the title "issue brief" implies, this paper is not intended to, and does not, present a comprehensive or in-depth description or analysis. Rather, the paper presents a brief summary of relevant law and policy and a brief analysis of relevant policy issues. Accordingly, the issues posed by access to criminal history record data by any particular types of non-criminal justice entities, or the appropriateness of charging fees to such entities, are not explored in great detail.

Your suggestions for future topics are encouraged. Set your own agenda--tell us which security and privacy issues should be addressed in future issue briefs.

INTRODUCTION

This issue brief looks at a most controversial criminal history record information policy issue.* Should non-criminal justice agencies** be given access to criminal history record information. If so, what types of non-criminal justice agencies should have access to what types of criminal history record information, and under what conditions? Additionally, should non-criminal justice agencies have to pay a fee in order to obtain data.

Accordingly, this issue brief pays particular attention to the nature and frequency of such fee policies, and their effect upon non-criminal justice agency access.

In an effort to present a snapshot of specific disclosure and fee practices, SEARCH sent survey questionnaires to, and conducted follow-up telephone interviews with, officials of criminal history record repositories in 13 states.* These repositories were selected because they are among the best established in the nation, and because they are located in larger states. Although SEARCH did not select these repositories with advance knowledge about their fee policies or with design as to the content of their disclosure or fee policies, several interesting patterns and conclusions emerge and are set out in the body of this issue brief.

Background of the Debate Over Non-Criminal Justice Access

There has always been wide agreement that criminal history record information should be available, virtually without restriction, to criminal justice agencies for criminal justice purposes. But, there is disagreement as to whether criminal history record information should be available to non-criminal justice agencies.

Occasionally, this debate has even made headlines. In November 1970, for example, a local television station in Missouri disclosed that a nearby police department was misusing criminal history record information obtained from Kansas City's computerized criminal history information system. The police department obtained criminal history data from the

*Criminal history record information is defined in the Department of Justice regulations at 28 C.F.R. Part 20 as follows: "Information collected by criminal justice agencies on individuals consisting of identifiable descriptions and notations of arrests, detentions, indictments, informations, or other form of criminal charges, and any disposition arising therefrom, sentencing, correctional supervision and release." 28 C.F.R. § 20.3(b).

**Criminal Justice agency is defined to mean "(1) courts; (2) a government agency or any other 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." 28 C.F.R. § 20.3(c). Naturally, all entities that are not included in this definition are "non-criminal justice agencies."

*The term "repository" is used to refer to the state agency with authority to collect, retain and disseminate criminal history record data about all, or virtually all, in-state offenders. Today, almost every state has created such a repository.

The 13 states are: California, Florida, Georgia, Illinois, Maryland, Massachusetts, Michigan, New York, Ohio, Oregon, Pennsylvania, Texas and Virginia.

computer system and then passed it along to local businessmen and landlords. The purpose, according to the unabashed police chief, was to, "keep an eye on who is coming into town." All told, 32 persons with criminal history records were discovered.

When the media charged that, "for the computer data to be available to private interests suggests the Big Brother of Orwell's book..." the police chief defended his practice by noting that, "without the use of this computer, these 32 people would now be residents of our community."*

Arguments Supporting Disclosure

Although tempting, it is unwise to generalize very much about non-criminal justice access, because the character of discussion changes substantially depending upon the type of non-criminal agency making the request and the type of criminal history record information being sought. At one extreme, the media has argued on behalf of full public disclosure of most criminal history record information.**

For example, the media has argued that conviction record information should be freely available to the public. Their argument rests primarily on two premises: (1) persons who engage in criminal conduct forfeit a substantial measure of their right of privacy; and (2) the public has an acute and legitimate interest in the identity and conduct of individuals who violate society's criminal laws.

The media has also argued that non-conviction record information should be available, at least in most circumstances, to the media and the public.* The media usually cites two arguments in support of this claim: (1) that if the arrest or other non-conviction information is recent, the public interest in the event is high, and the extent to which the event is probative of the individual's character is correspondingly high; and (2) that the entry of a non-conviction disposition to a criminal charge often results from a negotiated plea of guilty to a lesser charge or results from some technical or legal deficiency in the state's case that is unrelated to the individual's conduct.

Arguments Supporting Confidentiality

Privacy proponents, of course, have a different view about media or public access to either conviction or non-conviction information. They point out that access to conviction information invariably stigmatizes the record subject and extinguishes any realistic possibility of rehabilitation. Sharing conviction record information with the media and the public, or even with employers, insurers, creditors, or other private sector decisionmakers has the practical effect of encasing the subject in a "record prison," thereby frustrating his ability to re-enter the job market or otherwise constructively participate in society.

Privacy proponents argue even more strenuously that non-conviction information ought not to be shared with the public or with private sector decisionmakers. They emphasize that individuals who have been acquitted or who have been arrested but never convicted, are innocent of any wrongdoing, and therefore it is unfair and improper to stigmatize them by disseminating their criminal history data.

In the late 1960's and early 1970's a number of courts endorsed this "pro-privacy" position. Judicial recognition of this point of view perhaps reached its high water mark in 1970 in a decision by the District of Columbia Court of Appeals entitled Menard v. Mitchell, 430 F.2d 486, 495 (D.C. Cir. 1970). On remand, 328 F. Supp. 718, 727 (D.D.C. 1971); 498 F.2d 1017 (D.C. Cir. 1974).

Menard was arrested for suspicion of burglary, but two days later charges were dropped. Menard subsequently sued the Federal Bureau of Investigation to purge his arrest record. The Menard court said that unless Menard were convicted, an order limiting dissemination might be appropriate to prohibit his arrest record from being shared with employers or other non-criminal justice agencies. On remand to the District Court, Judge Gerhardt Gesell emphasized that the use of criminal history record information for employment and other non-criminal justice purposes was improper and a violation of an individual's constitutional right of privacy.

*Westin and Baker, Data Banks in a Free Society, Quadrangle Press, 1972, p. 87.

**See, Privacy and Security of Criminal History Information: Privacy and the Media, Dept. of Justice, Bureau of Justice Statistics (1979), p. 17 et seq.

*Non-conviction information means records of arrests without dispositions plus dismissals and acquittals. More technically, the term is defined to mean, "arrest information without disposition if an interval of one year has elapsed from the date of the arrest and no active prosecution of the charges are pending; or information disclosing that the police have elected not to refer the matter to a prosecutor, or where a prosecutor has elected not to commence criminal proceedings, or where proceedings have been indefinitely postponed, as well as all acquittals and all dismissals." 28 C.F.R. § 20.3(k).

STATUTORY AND JUDICIAL DEVELOPMENTS

In recent years debate over non-criminal justice access to criminal history data has changed. Today, there is surprisingly little argument over the notion that conviction record information ought to be more or less publicly available. There is much discussion, however, about whether non-conviction information should be available to non-criminal justice agencies.

Also, the debate increasingly centers on the wisdom of disclosure to particular types of non-criminal justice agencies. In doing so the focus shifts from the question of should non-criminal justice agencies ever be given access, to the question of what special needs does the requestor have for criminal history data and is the requestor likely to use the data responsibly. Once we transcend the question of whether any non-criminal justice entity should be given access and instead review the merits of a particular requestor's need, the balance usually tips in favor of disclosure.

Statutory Framework for Disclosure

As of 1981, 43 states or territories had adopted statutes which permit the disclosure of conviction information to governmental non-criminal justice agencies.* Thirty-five states or territories permit the disclosure of non-conviction information to governmental non-criminal justice agencies.

At the same time, few state statutes expressly prohibit the release of criminal history record information to governmental non-criminal justice agencies. For example, only 4 states have adopted statutes which expressly prohibit the disclosure of conviction record information. Ten states'

*The statistics in this section are taken from the Bureau of Justice Statistics Bulletin, Survey of State Laws, Criminal Justice Information Policies, June 1982, pp. 3-4.

statutes expressly prohibit the disclosure of non-conviction information, and another 8 states' statutes expressly prohibit the disclosure of "arrest only" information.*

Private non-criminal justice agencies are less apt to enjoy statutory authorization for access than their governmental counterparts. Thirty-two state statutes expressly authorize the disclosure of conviction record information to certain specified types of private entities for particular purposes. Seven states have adopted statutes which expressly prohibit such access.

Twenty-five states have adopted statutes which authorize the dissemination of non-conviction information to certain specified types of private entities for particular purposes. Twenty-seven states (and there's a good deal of overlap here) also authorize the disclosure of arrest only records to private non-criminal justice agencies. By contrast, statutes in 14 states expressly prohibit the disclosure of non-conviction information, and statutes in 12 states expressly prohibit the disclosure of arrest only information, to private requestors.

Special Access Rights for Designated Non-Criminal Justice Requestors

In addition to adopting statutes which establish a general framework for disclosures to non-criminal justice entities, many states have statutorily or administratively identified certain types of non-criminal justice requestors and accorded them special access rights. National banking institutions, for example, enjoy special access rights in most jurisdictions, thanks to a federal law which authorizes the FBI to provide national banks with criminal history record data for employment purposes.* In addition, the states often give special access rights to federal agencies responsible for conducting security clearance investigations.

State Licensing Boards

Another category of governmental requestor which customarily receives special access rights are the various state occupational licensing boards. Their access has a potential effect on millions of individuals. National statistics about occupational licensing compiled in connection with a 1974 American Bar Association study, indicate that 7 million people are employed in licensed occupations.**

Licensing boards are often required to obtain criminal history records about applicants. As a result, statutes in numerous states expressly authorize occupational licensing boards to obtain criminal history record information from state and local criminal justice agencies.

Private Employers

A final category of non-criminal justice entity which is frequently accorded special access rights is private employers. For example, a review by SEARCH of the statutes of the 50 states (plus the District of Columbia, the Virgin Islands and Puerto Rico) undertaken in connection with the preparation of a publication entitled Criminal Justice Information Policy, Privacy and the Private Employer, published by the Bureau of Justice Statistics in 1981, found that 7 jurisdictions (Colorado, Connecticut, Georgia, Maine, New Mexico, Tennessee and Washington) have adopted statutes which give private employers authority to obtain conviction data. Another 9 jurisdictions (Florida, Kentucky, Minnesota, Montana, Nebraska, Nevada, Pennsylvania, the Virgin Islands and West Virginia) give private employers authority to obtain both conviction and non-conviction data.

Statutes in eleven states (Alabama, Arizona, Hawaii, Kansas, Louisiana, Maryland, Massachusetts, New Hampshire, South Carolina, South Dakota and Utah) delegate authority to some official body (such as a privacy and security council or the state repository) to review and approve requests for criminal history records made by non-criminal justice applicants, such as private employers.

Statutes in another 13 jurisdictions (Idaho, Indiana, Michigan, Mississippi, Missouri, New Jersey, North Dakota, Ohio, Oklahoma, Puerto Rico, Texas, Vermont and Wisconsin) do not address the issue of private employer access. Presumably, private employers in these jurisdictions may obtain access to criminal history records under the state's public record law or by virtue of administrative decisions made by criminal justice agencies.

Only 12 jurisdictions have adopted statutes that expressly prohibit access to criminal history records by private employers (Alaska, Arkansas, California, Delaware, District of Columbia, Iowa, New York, North Carolina, Oregon, Rhode Island, Virginia and Wyoming). Even in many of these states, certain classes of private employers are given access to certain types of criminal history record information for certain specified purposes and under specified conditions.

Judicial Developments

While the states have been actively legislating on this subject, the courts have been in full retreat. From the halcyon days of Menard v. Mitchell, the doctrine of a constitutional right of privacy in criminal history data has withered to such a point that today the Constitution is deemed to be silent on the subject.

Paul v. Davis, 424 U.S. 693 (1976) struck the death knell for the constitutional privacy doctrine, as it applied to criminal history records. In Paul, the Supreme Court rejected the claim that a sheriff department's disclosure of arrest only information about alleged shoplifters to merchants and the public violated the record subject's constitutional right of privacy.

The Court said that the constitutional right of privacy protects certain kinds of very personal conduct, usually related to marriage or procreation. Accordingly, Davis' claim did not fall within the ambit of constitutional privacy considerations, especially since Davis did not allege that he had suffered any "tangible" harm as a result of the dissemination. The Court concluded that the Constitution does not require criminal justice agencies to withhold information about matters, such as arrests, that are recorded in official records.

In the years since the decision in Paul v. Davis, the federal courts have held, without exception, that Paul v. Davis has "snuffed out" the concept that the disclosure of arrest information (and presumably conviction information) violates an individual's constitutional right of privacy.*

At the same time, however, the courts have also said that the Constitution does not require criminal justice agencies to release criminal history information to non-criminal justice agencies. The Supreme Court has said that nothing in the First Amendment (or presumably any other part of the Constitution) guarantees the press or the public a right of access to government-held information which is not part of a public record.**

*Although as a technical matter, arrest information is part of the category "non-conviction information," states are increasingly using the term "non-conviction information" to mean a record of arrest, together with a "favorable" disposition to the accused, either a dismissal, a nolle prosequi, or an acquittal. By contrast, states are using the term "arrest information" to mean a record of an arrest without any disposition whatsoever.

*Pub. L. 92-544 and Pub. L. _____.

**James E. Hunt, James E. Bower and Neal Miller, Laws, Licenses and the Offender's Right to Work: A Study of State Laws Restricting the Occupational Licensing of Former Offenders, ABA (974).

*See, U. S. Department of Justice, Bureau of Justice Statistics, Criminal Justice Information Policy, Privacy and the Private Employer, 1981, pp. 23-26.

**Branzburg v. Hayes, 408 U.S. § 665, 684 (1972).

POLICIES AND PRACTICES OF STATE CRIMINAL HISTORY RECORD REPOSITORIES

Because much of the state legislation merely creates a general framework within which state and local criminal justice agencies, and particularly the state repository, retain substantial discretion, SEARCH surveyed repositories in 13 states. Indeed, SEARCH's survey found that 3 of the 13 repositories have largely unfettered discretion to release criminal history data to any requestor which can establish to the repository's satisfaction that they have a valid need for the data. In the other states the repository's discretion is more circumscribed, but, nonetheless, is substantial.

SEARCH's survey found that all 13 repositories release conviction record information to at least some types of non-criminal justice requestors. In addition, 7 of the 13 repositories release non-conviction information to such requestors, and 10 repositories release arrest only record information to such requestors.

Repositories release criminal history record information, upon request, to the following types of non-criminal justice entities:

- all 13 repositories release criminal history data to state occupational and licensing agencies;
- 8 repositories release data to other state agencies;
- 12 repositories release data to various, local non-criminal justice agencies;
- 9 repositories release data to federal non-criminal justice agencies;
- 7 repositories release data to private employers;
- 6 repositories release data to government contractors;
- 6 repositories release data to members of national security exchanges;
- 8 repositories release data to banking institutions; and
- 6 repositories release data, at least under some circumstances, to private individuals (apart from instances in which the private individual seeks access to his own criminal history data).

Of course, the repositories often attach special conditions to their release of the data. Two types of special conditions are most common: a requirement that the recipient sign a "user's agreement" which sets out the terms under which the recipient can use and/or redisclose the information (6 repositories); a requirement that the recipient first obtain the subject's written consent to the disclosure (5 repositories). One repository requires only high volume requestors (and researchers) to sign user agreements. This is the only evidence in the SEARCH survey of a repository's access policies turning on the frequency or number of requests made by a particular requestor, or type of requestor.

The survey suggests that the imposition of special conditions for access may also turn on whether the non-criminal justice requestor is in or out of state. Repositories are more likely to require out-of-state requestors to sign user agreements and to pay fees.

Issues Raised by Charging Fees to Non-Criminal Justice Requestors

One of the most interesting and controversial issues arising out of non-criminal justice access to criminal history record information is whether these requestors should pay the repositories a fee in order to obtain criminal history data. This is a relatively new issue. In fact, of the 13 repositories surveyed by SEARCH, not one had charged non-criminal justice requestors fees prior to 1971. Perhaps as a consequence, little has been written about this subject.

Arguments Against Fees

Non-criminal justice requestors argue that it is inappropriate for repositories to charge them a fee for access on two grounds: (1) they have a vital need for the data but cannot afford to pay such fees; and (2) criminal justice agencies are seldom, if ever, charged a fee.* Spokesmen for non-criminal justice agencies contend that their need for the data is just as pressing and their purpose just as important as criminal justice agencies' need and purpose.

Indeed, representatives of non-criminal justice agencies point out that if their need and purpose were not valid the legislature or other policymaking body would not have given them authority to obtain the data in the first place. In view of the vital public purposes served by their access, non-criminal justice agency representatives argue that it is unfair and unwise to hold their access hostage to the payment of a fee.

Critics of fees also contend that such fees amount to double billing for private sector requestors because these requestors have already paid for the criminal history record service as taxpayers. When such fees are imposed on governmental non-criminal justice requestors, critics point out that the fees amount to nothing more than "robbing Peter to pay Paul," because, ultimately, the fee payment is made by the same taxpayers who have already paid for the service being purchased.

*The description of non-criminal justice agencies' arguments in opposition to fees has been gleaned from statements by spokesmen for numerous agencies made at conferences and meetings sponsored by SEARCH. Of course, this description is by no means a definitive summary of their point of view.

Arguments in Support of Fees

Naturally, representatives of criminal justice agencies and others who support payment of a fee by non-criminal justice requestors see the issues differently.* They argue that payment of a fee is both fair and necessary.

They contend that fees are fair, because requestors are seeking special services, and expensive services at that, not sought by other taxpayers. Therefore, they ought to pay for these services.

They dismiss claims that non-criminal justice requestors should not have to pay for a service which criminal justice requestors receive for free by noting that criminal history record information is created and maintained for the express purpose of sharing this data among criminal justice agencies. Furthermore, when a criminal justice agency shares data with another criminal justice agency, the agency understands that it will receive a reciprocal benefit. The agency will be able to obtain criminal history record information from criminal justice requestors on a reciprocal basis. By contrast, private or government non-criminal justice requestors have no way of reciprocating, except by payment of a fee.

Proponents of fees argue that fees are not only fair, they are necessary. The volume of criminal history requests, in general, and the volume of requests from non-criminal justice entities, in particular, is massive. For example, 7 of the 13 repositories responding to SEARCH's survey reported that the number of requests that they receive from non-criminal justice requestors constitutes 33 percent, or more, of their total criminal history record requests. Four of the 7 repositories indicate that the volume of non-criminal justice agency requests exceeds 55 percent of their total.

*This is not to imply that all, or even a majority, of state or local criminal justice officials support payment of fees by non-criminal justice requestors.

Furthermore, out of the 8 repositories which hazarded a guess as to the percentage by which the number of total requests they receive has increased over the last 10 years, 5 of the 8 tabbed the increase at 75 percent or greater. One repository claims a 240 percent increase in the number of access requests, and another repository claims an astounding 500 percent increase over the last 10 years.

Repository Practices Concerning Fees

Frequency of Fees

Given the explosion in the number of access requests and, in particular, non-criminal justice requests, it is not surprising that many criminal history record repositories have begun charging non-criminal justice requestors a fee for access to data. Ten out of the 13 repositories surveyed reported that they charge non-criminal justice agencies a fee for access requests. This represents 77 percent of the repositories surveyed. What's more, the remaining 3 repositories surveyed have plans under consideration to begin charging non-criminal justice agencies for responses to their criminal history access requests.

Types of Requestors Required to Pay Fees

Of the 10 states which indicated to SEARCH that they are currently charging a fee, none charges a fee to other criminal justice agencies for requests relating to criminal justice purposes. However, 2 of the states responded that they do charge a fee to other criminal justice agencies if the request is deemed to be for "non-criminal justice purposes." This usually means a request for employment purposes.

In 4 of the 10 states, a fee is charged to all non-criminal justice agency requestors, regardless of their identity or purpose. The other 6 states make distinctions among types of non-criminal justice requestors. For example, one state indicated that it charges private employers, but does not charge government agencies when they make requests for employment purposes. Another repository responded that it only charges a fee when the requestor is an individual who is seeking access to his own criminal history records. Another state applies a fee to all non-criminal justice agencies, except state licensing boards.

Dollar Level of Fees

Nine of the 10 states which charge fees reported that they charge a uniform fee in all applicable instances. For the most part, the fees are modest.

One state charges $2.00 per request;
Two states charge $3.00;
Two states charge $5.00;
One state charges $6.25;
One state charges $8.50; and
Two states charge $10.00.

The only state with a variable rate charges $6.00, $12.00 and $14.00, depending upon the type of record sought and the extent of processing involved.

Two of the repositories reported that the amount of the fee that they charge is prescribed by statute. In 5 other states, criminal justice agencies are required by law to charge a fee, but the amount of that fee is left to the agency's discretion. Another repository indicated that its authority for charging a fee derives from the repository's "general authority" to establish reasonable procedures for access to criminal history record information. The primary reason given by repositories for the imposition of a fee is--not surprisingly--the need to increase revenues in order to maintain existing services.

Effect of Fees on Access Requests

One of the most important issues relating to agency fee policies is what effect such policies will have upon the number and nature of non-criminal justice agency requests. The SEARCH survey does not provide definitive answers. Six out of the 10 repositories charging fees stated that at least some non-criminal justice agencies which previously received "free" service are now required to pay a fee.

Nevertheless, only one repository indicated that the number of requests for records has decreased since a fee was instituted. Three repositories said that they thought that their fee policies have had no appreciable effect on the volume or nature of requests. Four other repositories went even further and said that the volume of their non-criminal justice agency requests had actually increased since the imposition of fees. However, in 3 of those states, access to the repository was broadened to include new types of non-criminal justice agency requestors at about the same time that the repositories started charging fees.

Future Plans for Fees

As to future plans, the majority of the 10 survey states which are currently charging fees indicated that they have no policy changes under consideration. One repository, however, did indicate that it has plans to increase the fee. Another repository said that a plan is under consideration to require a broader range of types of non-criminal justice requestors to pay a fee. Finally, one repository reported that the state is considering a plan to permit the repository to credit its fee revenues to the repository's budget. The standard practice is to simply add the fee revenues to the state's general fund.

As for the 3 repositories responding to the SEARCH survey that are not now charging fees, 2 have draft legislation under consideration which would establish such fees. In one of these states the fees would be integral to a plan to make the repository self-supporting. In the third state, the repository is considering requiring certain other state agencies to enter into agreements obligating them to pay the repository a fee for responding to their requests.

CONCLUSION

Based on the SEARCH survey of 13 criminal history record repositories which are located in the larger states and are among the best established in the nation, three preliminary conclusions can be drawn.

First, fee requirements appear to be considerably more common than expected. Furthermore, the number of repositories throughout the nation charging fees is likely to increase.

Second, when repositories impose such fees, the fees are more likely than not to cover all non-criminal justice agency requestors, regardless of identity or purpose. And, the repository is likely to charge all such agencies at the same rate. Presumably, this uniformity makes the fee policies easy to administer. However, it may work a hardship on individual requestors or small businesses and on requestors which require the processing of a large volume of requests. Surprisingly, none of the repositories responding to the survey indicated that they offer volume discounts.

Third, it appears that the imposition of fees, at least at the relatively modest rates charged by the repositories responding to the SEARCH survey, have had little appreciable impact on the nature or volume of non-criminal justice agency requests. Since raising revenues for the agency or the state is thought to be the principal goal of such fee policies, there is some reason to expect that the amount of fee charges will increase.

More importantly, the criminal justice community must give further attention to the following policy issues and questions:

1. What purpose(s) should be served by charging fees?

2. For purposes of charging fees and setting fee amounts, should distinctions be drawn among different types of non-criminal justice requestors and, if so, on what basis?

3. Are there some types of non-criminal justice requestors who, like criminal justice requestors, should be spared the imposition of fees?

4. Should fee charges vary according to the identity and/or purpose of the requestor?

5. Should there be special fee policies for high volume requestors? For individuals and small organizational entities?

6. Should a distinction be made between in-state and out-of-state requestors?

7. What entity or entities should have discretion to impose fees and set their amount?

8. Should the level of fee charges defray the criminal justice agency's actual costs in processing the request?

To date, criminal justice as a community has done little in the area of these issues. Because fees for criminal justice history record services may become a permanent criminal justice practice, the profession should take a careful look at the issues identified in this issue brief. As a result, a purposeful, consistent and effective approach to the uses of criminal history records will emerge.

END