

**REVIEW OF THE
CRIMINAL OFFENSE REPORTING PROCESS
RICHMOND, VIRGINIA**

**REPORT ON AUDIT
FOR THE YEAR ENDED
JUNE 30, 1999**

***AUDITOR OF
PUBLIC
ACCOUNTS***



COMMONWEALTH OF VIRGINIA

AUDIT SUMMARY

The Auditor of Public Accounts has reviewed the criminal offense reporting process used by law enforcement agencies, courts, and correctional facilities within the Commonwealth to determine the accuracy and completeness of criminal offender information forwarded to the Department of State Police for inclusion in the Central Criminal Records Exchange.

Our sample of 812 individual records found the Central Criminal Records Exchange's database had an accuracy rate of 85 percent and a completeness rate of 59 percent. We found the following weaknesses in the reporting process.

- No entity has oversight authority to enforce reporting compliance;
- Not all arresting agencies, court clerks, and correctional facilities fulfill their statutory criminal history information reporting requirements;
- Reporting, for many agencies, is not an automated process;
- The Central Criminal Records Exchange needs to improve its follow-up procedures when it receives incomplete or inaccurate reports; and
- There are only a limited number of courts that provide case disposition data to the Central Criminal Records Exchange electronically.

Our recommendations include:

- The General Assembly may wish to consider establishing oversight authority to enforce reporting compliance;
- The General Assembly may wish to consider providing an estimated \$10 million in funding to completely automate the criminal information reporting process;
- The Central Criminal Records Exchange should improve its procedures to resolve erroneous or incomplete reports timely; and
- The Central Criminal Records Exchange and the Supreme Court should work to develop processes that would allow all courts to provide case dispositions electronically.

November 29, 1999

The Honorable Vincent F. Callahan, Jr.
Co-Chairman, House Appropriations
Committee

The Honorable V. Earl Dickinson
Co-Chairman, House Appropriations
Committee

The Honorable John H. Chichester
Co-Chairman, Senate Finance Committee

The Honorable Stanley C. Walker
Co-Chairman, Senate Finance Committee

Gentlemen:

The Auditor of Public Accounts has reviewed the criminal offense reporting process used by law enforcement agencies, courts, and correctional facilities within the Commonwealth to determine the accuracy and completeness of criminal offender information forwarded to the Department of State Police for inclusion in the Central Criminal Records Exchange.

Conclusion

Our sample of 812 individual records found the Central Criminal Records Exchange's database had an accuracy rate of 85 percent and a completeness rate of 59 percent. We found the following weaknesses in the reporting process.

It appears that although statutorily required to do so, law enforcement agencies, courts, and correctional facilities do not consistently report applicable arrest, case disposition, or correctional status information. We can attribute this to several factors, which include:

- No entity has oversight authority to enforce reporting compliance;
- Reporting, for many agencies, is not an automated process;
- The Central Criminal Records Exchange needs to improve its follow-up procedures when it receives incomplete or inaccurate reports; and
- There are only a limited number of courts that provide case disposition data to the Central Criminal Records Exchange electronically.

To improve the reporting, completeness, and accuracy of criminal information, we recommend that:

- The General Assembly may wish to consider establishing oversight authority to enforce reporting compliance;
- The General Assembly may wish to consider providing an estimated \$10 million in funding to completely automate the criminal information reporting process;
- The Central Criminal Records Exchange should improve its procedures to resolve erroneous or incomplete reports timely; and
- The Central Criminal Records Exchange and the Supreme Court should work to develop processes that would allow all courts to provide case dispositions electronically.

EXIT CONFERENCE

We discussed this report with representatives of the Department of State Police and the Executive Secretary of the Supreme Court of Virginia on November 22, 1999.

AUDITOR OF PUBLIC ACCOUNTS

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Purpose of the Study

Chapter 935 of the 1999 Acts of Assembly required that the Auditor of Public Accounts conduct a review of the reporting, completeness, and accuracy of criminal offender information forwarded to the Department of State Police for inclusion into the Central Criminal Records Exchange.

Further, the Auditor of Public Accounts and the Executive Secretary of the Supreme Court of Virginia shall review these findings jointly and issue a report that will include any findings and recommendations to improve the reporting, completeness, and accuracy of the information.

Methodology

In conducting this review, we researched reporting requirements in the Code of Virginia and compared criminal case data from the Supreme Court of Virginia's Case Management System (CMS) to that in the State Police Computerized Criminal History (CCH) database. We reviewed the manual and automated reporting processes used by law enforcement agencies, courts, and correctional facilities. Finally, we conducted interviews with court and Central Criminal Record Exchange personnel.

In our comparison of data in the two databases, we randomly selected charges from 116 circuit courts that use CMS. Each charge selected had a final disposition determined during the six-month period from July 1, 1998 to December 31, 1998.

Background

In 1966, the General Assembly established the Central Criminal Records Exchange (the Exchange) as a function within the Office of the Attorney General to receive, classify, and file criminal history record information. Initially the Exchange maintained fingerprint records from both the Department of State Police and the Department of Corrections. In 1968, law enforcement officials, clerks of courts, and corrections officials became statutorily required to submit criminal data. Reportable information includes arrest data and fingerprints from law enforcement agencies, final criminal case disposition and sentencing data from courts, and confinement data from correctional facilities.

In 1970, the Exchange became a section within the Department of State Police. Today, the Exchange maintains over 1.2 million criminal records. The Exchange receives and processes over 330,000 charges and nearly 300,000 case dispositions annually.

As the sole criminal record repository in the Commonwealth of Virginia, the Exchange makes information available to criminal justice entities at the local, state, and national levels. Criminal justice officials use criminal history records in a wide range of decisions including determining an individual's propensity for violence; a judge's review prior to sentencing; assigning an inmate's custody level; determining an individual's probation or parole status; or to support criminal justice initiatives such as computerized firearms transaction programs at the state and national levels.

The Exchange also performs criminal record searches for selected non-criminal justice entities and individuals for employment and/or licensure purposes. Section 19.2-389 of the Code of Virginia governs the search and release of criminal record data. Authorized users include hospital pharmacies, adult home care facilities, and childcare centers.

Reporting Requirements

The Code of Virginia establishes reporting requirements for certain criminal offenses. Reportable offenses include treason, felonies, misdemeanors under Title 54.1 (Professions and Occupations), and most misdemeanors punishable by confinement in jail under Title 18.2 (Crimes and Offenses) or Title 19.2 (Criminal Procedures).

Law enforcement officials must submit a report to the Exchange whenever they arrest an individual for a reportable offense. However, when an individual is arrested and subsequently released on a summons, the report is not submitted until the case is adjudicated with one of the following outcomes: conviction (and the conviction is upheld after any appeal); acquittal by reason of insanity; or dismissal under the First Offender Drug Probation statute.

Clerks of courts must report the case dispositions of those individuals arrested for reportable offenses. Dispositions may include acquittal, dismissal, indefinite postponement, nolle prosequi, or conviction.

Correctional officials must report any commitment, release, or escape from a state or local correctional facility for anyone convicted of a reportable offense. A parole or probation agency must also report commitment or releases.

Finally, the Secretary of the Commonwealth must report any pardon, reprieve, or commutation of sentence of an individual convicted of a reportable offense.

The Reporting Process

Arrest Data

Arrest data goes to the Exchange through both manual and electronic means. The majority of law enforcement agencies within the Commonwealth use a manual reporting process in which the arresting officer completes a pre-printed CCRE form for each reportable offense charged. The arresting officer sends one copy of the form with the fingerprints to the Exchange. Another copy goes to the jurisdictional court clerk.

This process is inefficient because the design of the CCRE form allows the reporting of only a single charge. In those cases where an individual has multiple reportable offenses, the arresting officer must complete multiple CCRE forms repeating each time the offender identification and demographic data. This can be a time-consuming process.

The Department of State Police believes the current form provides efficiency by allowing the arresting officer to triplicate forms simultaneously. They stated that in the past multiple charges on one form have caused problems with court disposition reporting.

While the exchange makes available to all law enforcement offices a listing of all reportable offenses, another drawback of the process is the reliance on the arresting officer to know reportable offenses.

Forty-one law enforcement agencies use LiveScan, an automated booking system, to submit arrest and fingerprint data. According to the Exchange, the approximate 400 arrests transmitted via LiveScan daily comprise 60 percent of their incoming reports. Unlike the pre-printed form in the manual process, the LiveScan form can include up to fifteen offenses. The form automatically goes to the Exchange, which ensures the prompt reporting of the arrest data. LiveScan also produces a court disposition form for each reportable offense, which goes with arrest documents to the jurisdictional court clerk. LiveScan uses an automated lookup table to determine what are the reportable offenses, which significantly reduces reporting errors. Also, LiveScan reduces keying errors because its use eliminates manual data entry at the Exchange.

Case Disposition Data

The Courts send the case disposition data to the Exchange both manually and electronically. The majority of courts report disposition data manually using the court's copy of the CCRE form coming from the arresting officer.

In the manual reporting process, court clerk reporting compliance depends highly upon the arresting agency performing their statutory reporting responsibilities. When the CCRE form has not been received from the arresting officer, the court clerk cannot submit case disposition data without first contacting the arresting agency to try to get the CCRE form.

Many clerks stated that they take no action, if they do not receive the CCRE form from the arresting officer. Others admitted that they do not know whether any specific offense is reportable. In any case, the clerk cannot initiate the reporting process even if aware that an offense should be reported to the Exchange.

In the Commonwealth, less than 20 circuit courts submit case disposition data electronically via a weekly tape transfer that uploads Case Management System data to the Exchange's Computerized Criminal History database. For those reportable case dispositions, the clerk enters the control number from the CCRE form. CMS accumulates reportable dispositions and generates a listing of those reports containing incomplete data. This feature gives clerks an opportunity to review and correct data errors before submission to the Exchange.

When the clerk has not received an arrest form and does not know the control number, the clerk enters a generic number to signify the absence of the arrest information. Unlike the manual process, the clerk may report case dispositions despite the absence of the CCRE form from the arresting officer.

Confinement Data

All confinement data at the Exchange is reported manually using a CCRE confinement form. The Exchange considers confinement data completely separate and posts information without regard to whether it has received the arrest and/or case disposition. The Exchange does not have procedures to follow-up on missing confinement data.

According to Exchange personnel, only facilities within the Department of Corrections report initial confinement data. Reporting is neither consistent nor timely. Further, no correctional facilities (neither Corrections nor local and regional jails) report changes in an individual's confinement status or release/parole as required. A few years ago the Exchange determined that approximately 5,000 to 7,000 inmate confinements are not reported in CCH annually because of the absence of fingerprints from local and regional correctional facilities. They attributed this to the elimination of full-time positions, which classify inmates at local jails. We did not confirm this with the Department of Corrections.

Processing Criminal Information at the Exchange

The Exchange uses several systems to record, store, and distribute criminal data. All arrest and court disposition data resides in the Computerized Criminal History (CCH) database, accompanied by fingerprints in the Automated Fingerprint Identification System (AFIS.)

After updating the CCH database, the information becomes available on the Virginia Criminal Identification Network (VCIN), which provides criminal history, wanted, and motor vehicle information to law enforcement agencies statewide. VCIN also provides the Commonwealth's tie-in to the National Criminal Information Center (NCIC.)

Arrest Data

The Exchange uses the Networked AFIS Transaction Management system (NATMS) to process most arrest reports. In the manual process, a data entry clerk enters all information from the CCRE form into NATMS. Once completed and released, NATMS electronically updates the CCH database.

The Exchange finds that it cannot enter all arrest data into CCH. Some CCRE forms contain incomplete or illegible information, or there are unreadable fingerprints. In these instances, the Exchange returns the CCRE form to the arresting officer. The Exchange does not keep a record of forms sent back to the arresting officer, and therefore, cannot track a form to monitor its correction and return.

Arrest data, which comes electronically via LiveScan, flows through NATMS as well. Once electronically processed, the system prints a CCRE arrest form and fingerprint card at the Exchange and a CCRE case disposition form at the booking agency.

Case Disposition Data

As discussed earlier, some courts can submit information electronically. In the manual process, the Exchange uses the document control number from the CCRE form to match case disposition data with the corresponding arrest data. When they match, the Exchange enters case disposition data into the record in the CCH database.

When the Exchange receives a CCRE form from the court clerk but not the arresting officer, they do not attempt to contact the arresting agency to obtain the missing data. Instead, they hold the disposition data for up to several months awaiting arrest data, which might never arrive.

The Exchange, in these cases, will establish a new record or update an existing record with the disposition data if the court's copy of the CCRE form has a legible thumbprint. When creating a new record, the Exchange flags the record to show that a full set of fingerprints is not available. If the Exchange receives the arrest form later, it updates the record. If the thumbprint is not legible, the Exchange shreds misdemeanor dispositions, but still sends the felony dispositions to the State Board of Elections.

The Exchange must report information to the State Board of Elections, since convicted felons are ineligible voters unless their rights are restored.

We noted that the electronic case disposition reporting process has been under development since 1989. The transition to this process has been slow. Indeed, up until this year, only ten circuit courts could electronically submit disposition reports. The Exchange explained that, with agreement from the Supreme Court, they opted to limit the number of courts participating in the tape transfer until such time that the Department of State Police could develop and implement a tracking and monitoring system.

The Exchange found that it rejected a large number of records in the tape transfer because the court clerks were using the generic document control numbers. As explained earlier, when a court clerk does not have the CCRE document control number, they enter a generic document control number. Record rejections require a significant amount of human intervention at the Exchange.

The Exchange has recently developed a tracking and monitoring system, which they feel, will alleviate some of the workload caused by electronic record rejections. They are hopeful that the electronic reporting interface will facilitate expansion to additional courts once the tracking and monitoring system becomes fully operational.

Findings and Recommendations

Findings

In determining whether the information maintained in the Central Criminal Records Exchange CCH database is accurate and complete, we found that 41 percent of the reportable cases in our CMS sample did not have a corresponding record in CCH.

Of those cases that were in both databases, we found that:

- Two percent did not have the offense listed in CCH;
- Thirteen percent had a different offense listed in CCH;
- Five percent did not have case disposition data listed in CCH;
- Fourteen percent had a different case disposition in CCH; and,
- Ninety-four percent of the records denoting a sentence of confinement in CMS had no confinement data listed in CCH.

Although we could not determine the specific causes of the discrepancies in the CCH database, various factors could have contributed to the inaccurate or missing data. It is apparent however, that there are several weaknesses in the reporting process. The biggest weakness occurs whenever arresting agencies, court clerks, or correctional officials fail to report or report inaccurate or incomplete information. Hindering data providers is their inability to report electronically.

Often the Exchange's attempts to obtain missing dispositions from courts are hindered by court clerks' inability or, in some cases, unwillingness to provide necessary assistance.

Recommendations

The Code of Virginia assigned the Central Criminal Record Exchange the tasks of receiving, classifying, and filing criminal history information. In this role, the Exchange acts as a repository for criminal information. Under authority granted by the Code of Virginia, the Criminal Justice Services Board has promulgated regulations relating to criminal history record information, which are administrative in nature. There are no sanctions for those agencies or officials who fail to comply with their statutory reporting requirements. ***The General Assembly may wish to consider establishing oversight authority to effectively oversee the criminal information reporting process in the Commonwealth.***

Without increasing the electronic reporting and filing of information, we do not believe that substantial improvement of the current process is achievable. In addition, the cost of implementing controls in the current environment to improve accuracy could prove cost prohibitive by placing substantial administrative burden on all providers of information in this process.

The Department of State Police estimates the cost of providing arresting agencies statewide with LiveScan capabilities at approximately \$10 million and an additional annual maintenance cost is \$1.8 million. However, not all arresting agencies may need LiveScan, since the actual booking of offenders may occur at regional jails or other facilities. Further, certain localities may not have the volume of activity to support the cost of LiveScan. In these circumstances, the State Police could use its network to provide the electronic transfer of information by automating the form.

The cost to expand the Supreme Court's Case Management System interface with the State Police Computerized Criminal History database to all courts using CMS would be minimal and only requires expanding the capture of CMS data from additional courts. ***The General Assembly may wish to consider providing sufficient resources to automate the criminal information reporting process as much as possible.***

The Exchange needs to improve its procedures to resolve incomplete or erroneous information received in the reporting process. For example, the Exchange does not attempt to obtain arrest data from a law enforcement agency even when they have already received case disposition information from a court clerk. They merely hold the case disposition for several months awaiting receipt of a report from the arresting agency. The Exchange does not attempt to identify the arresting agency. In many instances, the Exchange never adds the information to the database. ***The Exchange should develop and implement effective follow-up procedures to resolve incomplete or inaccurate records.***

The Exchange and the Supreme Court only have a limited number of courts that provide case disposition data electronically. ***The Exchange and the Supreme Court should work to develop processes to exchange electronic case dispositions for all courts.***

Reporting of confinement data is neither consistent nor timely. Only Department of Corrections facilities report initial confinement data and no one reports changes in confinement status or release on parole or probation. ***All correctional facilities should report initial confinement, changes in confinement status, and any release on parole or probation, as required by the Code of Virginia.***