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Doris Meissner,

Commissioner, Immigration and Naturalization Service.

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DEPARTMENT OF JUSTICE

Office of Justice Programs

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National Criminal History Improvement Program (NCHIP)

AGENCY: Office of Justice Programs, Bureau of Justice Statistics, Justice.

ACTION: Notice of Program Plan.

SUMMARY: The Bureau of Justice Statistics (BJS) is publishing this notice to announce the continuation of the National Criminal History Improvement Program (NCHIP) in Fiscal Year 1997. Copies of this Announcement can also be found at <http://www.ojp.usdoj.gov/bjs/>.

FOR FURTHER INFORMATION CONTACT: Carol G. Kaplan at (202) 307-0759 (this is not a toll-free number).

SUPPLEMENTARY INFORMATION:

The Program Implements the Grant Provisions of

- The Brady Handgun Violence Prevention Act (Brady Act), Public Law 103-159, 107 Stat. 1536 (1993), codified as amended at 18 U.S.C. Sections 921 *et seq.*;

- The National Child Protection Act of 1993 (Child Protection Act), Public Law 103-209, 107 Stat. 2490 (1993), codified as amended at 42 U.S.C. Sections 3759, 5101 note, 5119, 5119a, 5119b, 5119c;

- Those provisions of the Omnibus Crime Control and Safe Streets Act of 1968 (Omnibus Act), Public Law 90-351, 82 Stat. 197 (1968), codified as amended at 42 U.S.C. Sections 3711 *et seq.*, as amended; and the Violent Crime Control and Law Enforcement Act of 1994 (Violent Crime Control Act), Public Law 103-322, 108 Stat. 1796 (1994), codified as amended at 42 U.S.C. Sections 13701 *et seq.*, which pertain to the establishment, maintenance, analysis, or use of criminal history records and criminal record systems; and,

- Related legislation pertaining to the identification, collection, analysis and interstate exchange of records relating to domestic violence and stalking (including protective orders) and to the

establishment of, and exchange of data between, sexual offender registries.

The NCHIP Program to Date

The NCHIP program, administered by the Bureau of Justice Statistics, was initiated in 1995. During FY 1995 and 1996, from the total appropriation of \$126.5 Million, direct awards were made to all states and eligible territories in an amount totaling over \$112 Million. Six million dollars was also transferred to the FBI for implementation of the Federal segment of the National Instant Criminal Background Check System (NICS) which will provide instant interstate access to records prohibiting the sale of a firearm. About \$5 Million was awarded to provide direct technical assistance to states, to evaluate the program, and to collect statistics and research data on presale firearm programs.

To date, under the NCHIP program, all States have received funds to upgrade criminal record systems (including establishing and upgrading Automated Fingerprint Identification Systems (AFIS)) and to support efforts to participate in the FBI's Interstate Identification Index (III) which permits instant exchange of criminal records among the States. Eighteen States also received additional funding under the Advanced State Award Program to initiate efforts to identify persons other than felons who are prohibited from purchasing firearms.

Consistent with the 1996 appropriation language, beginning in 1996, NCHIP program funds could also be used by States to upgrade record systems to identify and flag persons convicted of child, elderly and disabled abuse offenses. Funds could also be used to offset some of the costs of providing rapid and reliable background checks on individuals who wish to work with these sensitive populations.

Additionally, starting in 1996, NCHIP program funds could be used to develop and implement procedures for classifying and entering data regarding stalking and domestic violence (including protective orders) into local, State, and national crime information databases consistent with the provisions of the Violence Against Women Act (VAWA).

The 1997 Program

Consistent with the 1997 appropriation, funds awarded under the 1997 NCHIP program may be used to improve criminal record systems, to support interstate exchange of records through the FBI, and for authorized purposes consistent with the NCPA and the identified sections of the VAWA, as

described above, and, more fully, in later sections of this Announcement.

Commitment to Participation in the Interstate Identification Index (III)

Participation by all States in the Interstate Identification Index (III) is critical to ensuring that the most accurate and complete criminal records are available instantly in response to background check inquiries regarding persons seeking positions involving national security, persons with responsibility for children, the elderly or the disabled, and persons attempting to purchase firearms. Instant interstate availability of complete records is also vital to supporting effective law enforcement strategies involving pretrial release, determinate sentencing, and correctional assignment.

Section 103(b) of the Brady Act requires that the National Instant Criminal Background Check System (NICS) become operational in November 1998. At that time, Federal "waiting period" requirements will no longer be applicable and presale firearm inquiries will be based on an inquiry to the NICS. Effective operation of the NICS requires that complete State criminal records be instantly available to the NICS system through the III.

At present, 32 states are participants in III. In response to a survey conducted by the Attorney General pursuant to the Brady Act, the majority of the remaining states indicated that they would become III participants before the November 1998 date for NICS implementation. In light of the importance of III participation, BJS has identified III participation as a priority goal of the 1997 program and anticipates that States which are not currently III members will focus 1997 NCHIP funds on activities which further this goal.

The 1997 Awards

Awards may be for up to 12 months. States will have the flexibility to begin activities under the award as early as October 1, 1997 and as late as the summer of 1998. Activities must be completed by June 1, 1999.

The NCHIP program was designed as a multi-year effort and States were asked to submit three-year plans as part of the FY 1995 application. Since FY 1997 NCHIP funds will support continuing implementation of these multi-year programs as well as new or ongoing efforts relating to domestic violence, stalking and child/elderly/disabled abuse, applicants are encouraged to incorporate or reference pages of previously submitted materials, when appropriate.

For designated State agencies to be eligible for 1997 NCHIP funds, an

application must be submitted to the Bureau of Justice Statistics by August 1, 1997.

Coordination With the BJA Byrne Program

Guidelines governing use of Byrne Formula funds pursuant to the 5% set-aside established under Section 509 of the Omnibus Crime Control and Safe Streets Act of 1968, as amended, were issued on February 23, 1995, by the Bureau of Justice Assistance (BJA), in consultation with BJS. The Byrne Guidelines should be considered together with this program announcement in developing a State's program to meet the goals of the Brady Act and the Child Protection Act.

Program Goals

The goal of the NCHIP grant program is to improve the nation's public safety by—

- Facilitating the accurate and timely identification of persons who are ineligible to purchase a firearm;
- Ensuring that persons with responsibility for child care, elder care, or care of the disabled do not have disqualifying criminal records;
- Improving access to protection orders and records of people wanted for stalking and domestic violence; and
- Enhancing the quality, completeness and accessibility of the nation's criminal history record systems and the extent to which such records can be used and analyzed for criminal justice related purposes.

More specifically, NCHIP is designed to assist States—

- To expand and enhance participation in the FBI's Interstate Identification Index (III) and the National Instant Criminal Background Check System (NICS);
- To meet timetables for criminal history record completeness and participation in the III, as established for each State by the Attorney General;
- To improve the level of criminal history record automation, accuracy, completeness, and flagging;
- To develop and implement procedures for accessing records of persons other than felons who are ineligible to purchase firearms;
- To identify (through interface with the National Incident-Based Reporting System [NIBRS] where necessary) records of crimes involving use of a handgun and/or abuse of children, elderly, or disabled persons;
- To identify, classify, collect, and maintain (through interface with the National Crime Information Center [NCIC] and the III where necessary) protection orders, warrants, arrests, and

convictions of persons violating protection orders intended to protect victims of stalking and domestic violence and to support the development of state sex offender registries and the interface with a national sex offender registry; and,

- To ensure that States develop the capability to monitor and assess State progress in meeting legislative and programmatic goals.

To ensure that all NCHIP-funded efforts support the development of the national criminal record system, the program will be closely coordinated with the FBI, the Bureau of Justice Assistance, and the Bureau of Alcohol, Tobacco and Firearms (BATF).

Funding under the NCHIP program is available to both those States which are subject to the 5-day waiting period (Brady States) and those States which are operating under an alternative system pursuant to approval of BATF (Brady Alternative States).

Legislative Background

Section 106 (b) of the Brady Act, provides that—

The Attorney General, through the Bureau of Justice Statistics, shall, subject to appropriations and with preference to States that as of the date of enactment of this Act have the lowest percent currency of case dispositions in computerized criminal history files, make a grant to each State to be used (A) for the creation of a computerized criminal history record system or improvement of an existing system; (B) to improve accessibility to the national instant criminal background system; and (C) upon establishment of the national system, to assist the State in the transmittal of criminal records to the national system.

The provisions of 18 U.S.C. 922 (g) and (n), as amended by the Violent Crime Control Act and the "Lautenberg amendment", prohibit the sale of firearms to an individual who—

- (1) Is under indictment for, or has been convicted in any court, of a crime punishable by imprisonment for a term exceeding one year;
- (2) Is a fugitive from justice;
- (3) Is an unlawful user of, or addicted to, any controlled substance;
- (4) Has been adjudicated as a mental defective or been committed to a mental institution;
- (5) Is an alien who is illegally or unlawfully in the United States;
- (6) Was discharged from the Armed Forces under dishonorable conditions;
- (7) Has renounced his United States citizenship;
- (8) Is subject to a court order restraining them from harassing, stalking, or threatening an intimate partner or child; or

(9) Has been convicted in any court of a misdemeanor crime of domestic violence.

Category (9), included as the "Lautenberg amendment" in the Omnibus Consolidated Appropriations Act of 1997, P.L. 104-208, 110 Stat 3009 and became effective on October 1, 1996. See Appendix A of this Announcement for text of the amendment which includes applicable definitions.

The Brady Act, enacted in November 1993 and effective in February 1994, requires that licensed firearm dealers request a presale check on all potential handgun purchasers by the chief law enforcement officer in the purchaser's residence community to determine, based on available records, if the individual is legally prohibited from purchase of the firearm under the provisions of 18 U.S.C. Section 922 or State law. The sale may not be completed for 5 days unless the dealer receives an approval before that time. The 5 day waiting period requirement terminates by November 1998, at which time presale inquiries for all firearms will be made only to the National Instant Criminal Background Check System (NICS). Section 103 of the Brady Act provides that NICS will supply information on "whether receipt of a firearm * * * would violate (18 U.S.C. Section 922) or State law." As noted above, Section 106(b) of the Brady Act establishes a grant program to assist States in upgrading criminal record systems and in improving access to, and, interface with, the NICS system.

In addition, Section 106(a) of the Brady Act amended Section 509(d) of the Omnibus Act to specifically provide that funds from the 5% set-aside under the Byrne Formula grant program may be spent for "the improvement of State record systems and the sharing * * * of records * * * for the purposes of implementing * * * (the Brady Act)."

The Child Protection Act, as amended by the Violent Crime Control Act, requires that records of abuse against children be transmitted to the FBI's national record system. The Child Protection Act also encourages States to adopt legislation requiring background checks on individuals prior to assuming responsibility for care of children, the elderly, or the disabled. Section 4 of the Act establishes a grant program to assist States in upgrading records to meet the requirements of the Act. Under the definition set forth in Section 5(3) of the Act, "child abuse crimes" include crimes under any law of the State and are not limited to felonies.

Both the Brady and Child Protection Acts required the Attorney General to

survey the status of State criminal history records and develop timetables for States to achieve complete and automated records. The survey was conducted during March 1994, and Governors were advised of timetables by the Attorney General in letters of May and June 1994. The letters indicated that compliance with timetable goals and the ability to join III by November 1998, assumed availability of grant funds under each Act.

The National Stalker and Domestic Violence Reduction program (Stalker Reduction), Section 40602 of the Violence Against Women Act (VAWA), Public Law 103-322, 108 Stat. 1902-1955 (1994), codified as amended at 42 U.S.C. 14031, which was included in the Violent Crime Control Act, authorized a program to assist States in entering data on stalking and domestic violence into local, State, and national data-bases. The Act emphasizes the importance of ensuring that data on convictions for these crimes are included in databases being developed with Federal funds.

Section 40606 of VAWA authorized technical assistance and training in furtherance of the purposes of the Stalker Reduction program. This section also allows for the evaluation of programs that receive funds under this provision.

The NCHIP program implements the requirements of the programs established in the Brady Act, Child Protection Act, and the Domestic Violence/Stalker Reduction provisions of VAWA.

Appropriation

Section 106(b) of the Brady Act authorized \$200 million for the grant program; the Child Protection Act authorized \$20 million; Section 40603 of the Violent Crime Control Act authorized a total of \$6 million over three years for the Domestic Violence/Stalker Reduction program included in VAWA.

An appropriation of \$100 million was made to implement Section 106(b) of the Brady Act for FY 1995, to be available until expended. No appropriation was made for activities authorized under the Child Protection Act or the Domestic Violence/Stalker Reduction provisions of VAWA FY 1995.

An appropriation of \$25 million was made in FY 1996 to continue implementation of Section 106(b) of the Brady Act and to implement Section 4(b) of the Child Protection Act. In addition, an appropriation of \$1.5 million was made in FY 1996 for the

Domestic Violence/Stalker Reduction program.

In FY 1997, an appropriation of \$50 million was made to further continue the implementation of Section 106(b) of the Brady Act and Section 4(b) of the Child Protection Act. For purposes relating to Domestic Violence/Stalker Reduction, an appropriation of \$1.75 million was also made in FY 1997. In light of the overlap between Brady, Child Protection, and Domestic Violence/Stalker Reduction, these appropriations are combined under NCHIP.

To date, approximately \$5 million has been awarded for purposes authorized under the NCPA and the Domestic Violence/Stalker Reduction provisions of the VAWA. In recognition of the importance of these issues, up to \$14 million of the 1997 appropriation will be awarded for these purposes.

Program Strategy

The 1995 NCHIP program covered criminal history records improvements.

The 1996 NCHIP program also permitted funds to be used to assist States in identifying people who commit felony and serious misdemeanor offenses against children, the elderly, and/or the disabled, improving the process for classifying and entering data regarding stalking and domestic violence (including protective orders) into local, State, and national crime information databases, and covering costs associated with conducting background checks on individuals who wish to work with sensitive populations.

In 1997, the program will continue efforts to enhance State computerized criminal history records in support of the Interstate Identification Index and the NICS, to develop and implement methods to collect and flag records of persons convicted of offenses against children, the elderly, or the disabled and persons subject to a domestic violence protective order, and, to upgrade the process of entering into local, State, and national crime databases, data relating to stalking and domestic violence.

In light of the importance to all states of efforts relating to domestic violence, all states will receive an equal amount (\$30K) from the 1997 appropriation under the VAWA (\$1.75 Million). States were advised that an early award could be made for this amount and all seven states that opted to apply early received an award of \$30 thousand. The remaining applicant states will each receive up to \$30 K for these purposes as part of their 1997 NCHIP award. Subject to overall funding limits, states

may, however, allocate a greater portion of their NCHIP award for such purposes.

Application and Award Process

Eligibility Requirements

Only one application will be accepted from each State. The application must be submitted by the agency previously designated by the Governor or by a successor agency designated by the Governor in writing to BJS. A State may, however, choose to submit its application as part of a multi-state consortium or other entity. In such case, the application should include a statement of commitment from each State and be signed by an individual designated by the Governor of each participating State. The application should also indicate specific responsibilities, and include a separate budget, for each State. States may receive successive awards over time, assuming availability of funds.

A grant will be made to each eligible applicant State with funds from the 1997 appropriation. All states, including states previously designated as "priority States", are eligible to receive funds for activities relating to criminal records improvement, as well as the additional purposes authorized under the Child Protection Act and the Domestic Violence/Stalker Reduction legislation, as described in this Announcement.

States may submit an application even though funds remain unexpended under the previous NCHIP awards. In such case, the application should describe the efforts undertaken to date, the specific reasons that funds remain unexpended, and the anticipated time when funds will be expended.

Applications must contain a start date and end date which fall between October 1, 1997 and June 1, 1999. FY 1997 projects may overlap with FY 1996 projects or the projects may run consecutively.

Program Narrative

In addition to the requirements set forth in Appendix A, the NCHIP application should include the following four parts. Since, however, this is the third year of funding under the NCHIP program, States may, at their option, satisfy requirements noted below by referencing or summarizing previous applications.

Part I. Background

This section should include a short update of current efforts relating to criminal history record improvement funded under the BJS NCHIP, Advanced State Award Program (ASAP), Criminal History Record Improvements (CHRI)

programs, and the BJA Byrne 5% set-aside or with State funds over the past year. Where applicable, the section should also include a reference to projects which will, or may be, funded under the State Identification Systems Formula Grant program (SIS) administered by the BJA. The discussion should also specify total funds received under the BJS and Byrne programs and the funds remaining at the time of application.

Part II. Identification of Needs

This part should discuss any evaluative efforts undertaken to identify the key areas of weakness in the State's criminal record system since submission of the last NCHIP application. The application should also indicate those areas which must be addressed in order to enable the state to identify ineligible firearm purchasers, persons ineligible to hold positions involving children, the elderly, or the disabled, and people wanted, arrested, or convicted of stalking and/or domestic violence offenses including protective orders.

States which are currently not members of III must include a section identifying the tasks remaining to permit III participation as soon as possible.

Part III. NCHIP Effort

This section should describe the activities to be undertaken with NCHIP funds over the 12-month period. Specifically, each application should indicate the activities proposed, how these activities relate to efforts funded under the 1995 and 1996 award, and the results that will be achieved from 1997 funding. In order to permit assessment of State progress in meeting grant goals, Part III should also set forth measurable benchmarks or goals for each proposed activity.

States which are not members of III must include a description and time table for activities which are specifically designed to permit such participation.

Part III of the application should also describe any efforts to be supported to monitor State compliance with legislative or programmatic goals through ongoing audits or other means such as statistical analysis, comparison between Computerized Criminal History (CCH) records and NIBRS or Uniform Crime Reporting (UCR) data. Studies relating to handgun use or sales approval, if proposed, should be described in this section.

In addition, to ensure program continuity and emphasize the importance of judicial efforts in meeting newly established record requirements,

the application should indicate the level of funds which will be made directly available to the courts where the courts are the appropriate source for data on dispositions or other record data.

Domestic Violence/Stalking: All states except those which have already received an "early" award, are eligible to receive \$30 K for purposes authorized under the domestic violence/stalker reduction program, as described in this Announcement. Section 3 of the application should describe the activities to be undertaken with these funds. As noted above, BJS will allocate up to a total of \$14 million in FY 1997 funds for activities eligible for funding under either the Domestic Violence/Stalking provisions or the NCPA. Because funds are limited, all requests for funds in this area may not be funded to the full extent.

Section 40602(b) of the Violent Crime Control Act states that in order to be eligible to receive a funds for Domestic Violence/Stalker Reduction program activities, a State shall certify that it has, or intends to establish, a program that enters into the National Crime Information Center the following records:

- Warrants for the arrest of persons violating protection orders intended to protect victims from stalking or domestic violence;
- Arrests or convictions of persons violating protection or domestic violence orders; and
- Protection orders for the protection of persons from stalking or domestic violence.

The Bureau of Justice Statistics will coordinate the Domestic Violence/Stalker Reduction portion of NCHIP with the Violence Against Women Office (VAWA) at the Department of Justice.

Part IV. Coordination Between NCHIP and the Byrne 5% Set-Aside and State Identification Systems (SIS) Formula Grant Program

Funds under the Byrne Formula 5% set-aside program are available to support the improvement of record systems and to meet the goals of the Brady and Child Protection Acts.

The Bureau of Justice Statistics and the Bureau of Justice Assistance have jointly agreed that close and continuing coordination between the NCHIP and Byrne 5% set-aside program is critical to meeting the goals of the Brady Act, and the National Child Protection Act. Such coordinated efforts are also necessary to ensure the development of an effective interstate criminal history record system to meet the needs of law enforcement, the criminal justice community and the

increasing number of non-criminal justice users of criminal history record information. To achieve this goal, BJS and BJA prepared Guidelines governing use of the Byrne 5% set-aside funds. The Guidelines were issued February 23, 1995, to State Administrative Agencies that receive and distribute Byrne formula grant funds.

BJS expects that program plans for projects to be funded under NCHIP and the Byrne 5% set-aside will be coordinated by the State agencies responsible for these programs in order to avoid overlap and maximize funding effectiveness. Where costs of a proposed activity exceed NCHIP available funds or are unallowable under NCHIP, the State might, for example, use Byrne funds to fill remaining needs. This joint effort, we believe, will maximize the effectiveness of both of these programs.

In May 1997, BJA announced the State Identification Systems Formula Grant Program (SIS) under which states are eligible to apply for funds to "establish, develop, update or upgrade—(A) computerized identification systems that are compatible and integrated with the databases of the National Crime Information Center (NCIC) of the FBI; (B) the capability to analyze * * * DNA * * * in a forensic laboratory in ways that are compatible and integrated with the combined DNA Identification System (CODIS) of the FBI; and, (c) automated fingerprint identification systems that are compatible and integrated with the Integrated Automated Fingerprint Identification System (IAFIS) of the FBI". To ensure coordination between these programs, information copies of the proposed activities to be funded under the SIS program will be provided to BJS for inclusion as part of the state's NCHIP file.

Award Period and Budget

The application may be for up to 12 months. States will have the flexibility to begin activities under the award as early as October 1, 1997 and as late as the summer of 1998. Activities must be completed by June 1, 1999.

The budget should provide details for expenses in required categories and by individual task (see Appendix A, Application content). The application should identify those agencies to receive direct funding and indicate the fiscal arrangements to accomplish fund transfer.

Application Submission and Due Dates

Applications may be submitted at any time after publication of this announcement. Applications must be

received by August 1, 1997, to be eligible for funding from the FY 1997 appropriation.

To minimize administrative burdens, States may re-submit parts of previous proposals which did not receive funds under previous NCHIP awards accompanied by a current budget.

Review Criteria

States should understand that full funding may not be possible for all proposed activities. Allocation of funds will be based on the amount requested and the following factors:

(1) The extent to which the plan supports State efforts to become a III participant and to meet the timetables established for the State by the Attorney General.

(2) The extent to which improvements in the State system, by virtue of record numbers, levels of technical development, or operating procedures, will have a major impact on availability of records throughout the national system;

(3) The proposed use or enhancement of innovative procedures which may be of value to other jurisdictions;

(4) The technical feasibility of the proposal and the extent to which the proposal appears reasonable in light of the State's current level of system development and statutory framework;

(5) Amount awarded under FY 1995 and 1996 NCHIP programs;

(6) The extent to which the state has fulfilled goals of previous NCHIP grants, expended funds awarded in previous grants, and demonstrated a commitment to record improvement through activities under the FY 1995 and 1996 NCHIP program;

(7) State commitment to the national record system as evidenced by membership in III, and participation in the FBI's National Fingerprint File (NFF), Felon Identification in Firearms Sales (FIFS) programs, etc., and the current status of development of its CCH;

(8) Reasonableness of the budget;

(9) Evidence of State progress in meeting record improvement and background check goals as measured in terms of audits, and data collection relating to presale firearm checks and background checks on persons seeking positions involving children, the aged and the disabled;

(10) Appropriate focus on criminal history data improvement regarding protection orders and crimes against children, the elderly, and the disabled;

(11) Nature of the proposed expenditures;

(12) The extent to which the plan reflects constructive interface between

relevant components of the State organization and/or multi state systems; and

(13) The reasonableness of the relationship between the proposed activities and the current status of the State system, in terms of technical development, legislation, current fiscal demands, and future operating costs; and

The program does not require either "hard" (cash) or "soft" (in-kind) match. Indications of State support, however, may be interpreted as expressions of commitment by the State to the program.

All applicants must agree to participate in evaluations sponsored by the federal government. Applicants must also agree to provide data relating to Brady Act activity to the Firearm Inquiry Statistics (FIST) program in the format designated by the FIST program.

Allowable Costs

Allowable expenses are detailed below. All expenses are allowable only to the extent that they directly relate to programs described in the application's program narrative.

(1) Participation in III: This is a key goal, and costs should be related to achieving full participation. Covered costs include, but are not limited to, costs associated with automation of the database (see limitations in [4] below), synchronization of records between State and FBI, and development of necessary software and hardware enabling electronic access on an intrastate or interstate basis.

(2) Database enhancement: Improving the quality, completeness and accuracy of criminal history records is a key goal of the NCHIP effort. Allowable costs include the costs associated with implementing improved record capture procedures, establishing more effective accuracy controls, and ensuring that records of all criminal events that start with an arrest or indictment are included in the database.

In addition to felony records, funds may be used to capture data on domestic violence misdemeanors, and to ensure that data on persons convicted of child, elderly, and disabled abuse and/or stalking and domestic violence offenses (including protective orders and violations thereof) are included in the database.

States which are currently participants in III may also use limited funds to identify and develop access to data on other categories of persons prohibited from firearm purchase under recent amendments to the Gun Control Act, as incorporated in the Brady Act. States proposing use of funds for these

purposes must demonstrate in the application that results of applicable pilot efforts supported under the NCHIP Advanced State Award Program (ASAP) have been considered and that necessary protections for individual privacy will be incorporated in the proposed procedures. Information about current NCHIP supported efforts in these areas, and relevant state contacts, is available through the BJS Internet site.

(3) Improved disposition capture: Automated interface between the criminal history repository and the courts, prosecutors, and/or corrections agencies is encouraged. Funds provided to courts or prosecutors for these purposes are allowable only to the extent that the function to be supported is related to the capture of disposition or other data relating to the offender record (for example, full costs associated with establishment of court MIS systems are not allowable under the NCHIP program).

(4) Record automation: These are allowable costs only with respect to records where the subject has been arrested, indicted, convicted, or released from confinement within 5 years of the date of automation. As appropriate, allowable costs also include costs associated with system design in States with non-automated systems or in States proposing to enhance system operation to include access to non-CCH databases.

(5) Flagging of records: Upgrading the accessibility of records, through flagging, for presale and preemployment checks is an important activity. Allowable costs include costs of flagging, or algorithms used for flagging, felony records and records of persons with convictions for crimes involving children, the elderly, and/or the disabled, and persons convicted of crimes involving domestic violence and/or stalking. Costs may include the cost of technical record flagging as well as the costs associated with identification of records to be flagged (see [7] below regarding interface with NIBRS).

(6) AFIS/livescan: Automated Fingerprint Identification System (AFIS)/livescan equipment for local law enforcement agencies is allowable to improve the level of arrest and disposition reporting, but only where—

(1) The State repository system is automated, participating or looking toward participation in III, and has in place the technical capability to accept AFIS transmissions, and

(2) Sufficient traffic can be demonstrated to justify the cost, possibly through the use of regional systems.

AFIS/livescan in squad cars is not allowable since field inquiries are not a factor in checks under either the Brady Act or the Child Protection Act. Additionally, since data are not generally input to the system by the field unit, AFIS in the squad car would not support record improvement or completeness. AFIS/livescan for use in courts is allowable to support record completeness. The same conditions regarding repository capability and levels of traffic are also applicable to costs in this category.

Costs associated with AFIS/livescan communication from the repository to the FBI national system (IAFIS) are allowable but only where the State can demonstrate adequate levels of record completeness (both arrest and disposition) and current membership in III.

States should understand that Byrne 5% set-aside funds are available for AFIS/livescan, and that, accordingly, use of NCHIP funds for AFIS or livescan will only be allowable when justified as appropriate given the overall status of the State system, its participation in the national system and its planned use of Byrne 5% set-aside funds. This is particularly relevant with respect to State proposals to use NCHIP funds to cover costs of local livescan equipment.

(7) Interface with NIBRS: Funds may be used to interface with any State data system which is compatible with NIBRS for purposes of identifying persons convicted of crimes against children, the elderly, or the disabled, involving domestic violence and/or stalking, and/or identification of records involving firearm crimes for operational or research purposes. NCHIP funds are not available, however, to develop the NIBRS database.

(8) Research, evaluation, monitoring, and audits: Costs associated with research or evaluation efforts are allowable to the extent that they are directly associated with a project approved in the application. Costs associated with monitoring State compliance with legislative or programmatic goals, through ongoing or periodic audits or other procedures, are allowable and encouraged. The purchase of equipment such as modems and the necessary communications and data software for storing and transmitting evaluative data between States and to BJS or other designated federal agencies is an allowable expense.

(9) Conversion of juvenile records to the adult system: The Attorney General has recently amended Federal Regulations to allow the FBI to accept juvenile records if submitted by the

State or local arresting agency. Expenditures to interface juvenile and adult records are allowable if consistent with relevant State law and undertaken to further the goals of the NCHIP program.

(10) Missing dispositions backlog reduction: These costs are allowable to improve the level of disposition reporting but only where limited to records with arrests within the past 5 years. States must also propose a strategy to prevent future backlogs from developing.

(11) Equipment upgrades: Upgrade costs are allowable where related to improving availability of data and where appropriate given the level of data completeness, participation in III, etc. Replacement costs will be considered but States are encouraged to contribute some portion of the total costs.

(12) Training, participation in seminars and meetings: Limited funds may be used to cover costs of training and participation in State, regional, or national seminars or conferences (including travel, where necessary).

(13) Expenditures related to presale handgun background checks: Funds are allowable to cover costs incurred by a governmental agency for equipment or development of capability required to conduct presale background checks. This "governmental agency" limitation may be waived in a very limited number of cases where the State has implemented a functioning background check system and can demonstrate that the vast preponderance of inquiries are made by a limited number of dealers, that technical and procedural safeguards have been established to protect the privacy of potential purchasers, and that the equipment to be provided to dealers would be of use for operation under the permanent system. Waivers will only be considered in States which are participants in III and which have achieved high levels of automation and record completeness.

NCHIP funds may not be used to cover costs of conducting presale background checks.

(14) Reducing cost of background checks: States may use funds to develop and implement technologies that lower costs of conducting background checks. These funds may also be used to pay all or part of the cost to the State of conducting background checks on persons who are employed by or volunteer with a public, not-for-profit, or other voluntary organization to reduce the amount of fees charged for such background checks.

(15) Allowable activities relating to implementation of the Child Protection

Act and the Domestic Violence and Stalker Reduction provisions of the VAWA:

Capturing domestic violence and/or stalking protection orders;

Flagging of child abuse records, crimes against children, the elderly and the disabled, convictions for domestic violence and/or stalking, and domestic violence protection orders;

Incorporating serious misdemeanor offenses against children, the elderly and the disabled into existing criminal history records;

Offsetting the cost of certain background checks, including development and implementation of technological and procedural advances;

Improving processes for entering data regarding stalking and domestic violence into local, State, and national crime information data bases.

The Bureau of Justice Statistics will shortly initiate efforts to develop standard definitions of domestic violence and child abuse. States proposing to use funds for flagging or to interface with NIBRS to identify convictions for domestic violence and/or stalking, domestic violence protection orders, or crimes against children must coordinate their efforts with BJS.

Text of "Lautenberg Amendment"

The "Lautenberg Amendment" amends the Federal Gun Control Act to prohibit the transfer of firearms to a person convicted of a "misdemeanor crime of domestic violence." The text of the amendment is set forth below.

Section 668. Gun Ban for Individuals Convicted of a Misdemeanor Crime of Domestic Violence

(a) Definition.—Section 921(a) of title 18, United States Code, is amended by adding at the end of the following:

"(33)(A) Except as provided in subparagraph (c), the term 'misdemeanor crime of domestic violence' means an offense that—

"(i) is a misdemeanor under Federal or State law; and

"(ii) has, as an element, the use or attempted use of physical force, or the threatened use of a deadly weapon, committed by a current or former spouse, parent, or guardian of the victim, by a person who is cohabiting with or has cohabited with the victim as a spouse, parent, or guardian, or by a person similarly situated to a spouse, parent, or guardian of the victim.

"(B)(i) A person shall not be considered to have been convicted of such an offense for purposes of this chapter, unless—

"(I) the person was represented by counsel in the case, or knowingly and intelligently waived the right to counsel in the case; and

"(II) in the case of a prosecution for an offense described in this paragraph for which a person was entitled to a jury trial in the

jurisdiction in which the case was tried, either—

“(aa) the case was tried by a jury, or
“(bb) the person knowingly and intelligently waived the right to have the case tried by a jury, by guilty plea or otherwise.

“(ii) A person shall not be considered to have been convicted of such an offense for purposes of this chapter if the conviction has been expunged or set aside, or is an offense for which the person has been pardoned or has had civil rights restored (if the law of the applicable jurisdiction provides for the loss of civil rights under such an offense) unless the pardon, expungement, or restoration of civil rights expressly provides that the person may not ship, transport, possess, or receive firearms.”

(b) Prohibitions.—

(1) Section 922(d) of such title is amended—

(A) by striking “or” at the end of paragraph (7);

(B) by striking the period at the end of paragraph (8) and inserting “; or”; and

(C) by inserting after paragraph (8) the following:

“(9) has been convicted in any court of a misdemeanor crime of domestic violence”.

(2) Section 922(g) of such title is amended—

(A) by striking “or” at the end of paragraph (7);

(B) by striking the period at the end of paragraph (8) and inserting “; or”; and

(C) by inserting after paragraph (8) the following:

“(9) has been convicted in any court of a misdemeanor crime of domestic violence”.

(3) Section 922(s)(3)(B)(i) of such title is amended by inserting “, and has not been convicted in any court of a misdemeanor crime of domestic violence” before this semicolon.

(c) Government Entities Not Excepted.—Section 925(a)(1) of such title is amended by inserting “sections 922(d)(9) and 922(g)(9) and” after “except for”.

Application and Administrative Requirements

Application Content

All applicants must submit:

- Standard Form 424, Application for Federal Assistance.

- Standard Form 424A, Budget Information.

- OJP Form 4000/3 (Rev. 1-93), Program Narrative and Assurances.

- OJP Form 4061/6 Certifications.

- OJP Form 7120/1 (Rev. 1-93),

Accounting System and Financial Capability Questionnaire (to be submitted by applicants who have not previously received Federal funds).

Applicants are requested to submit an original and two copies of the application and certifications to the following address:

Application Coordinator

Bureau of Justice Statistics, 633 Indiana Avenue, NW., Washington, DC 20531, Phone: (202) 616-3500

Standard Form 424 (SF-424). The SF-424, a one page sheet with 18 items, serves as a cover sheet for the entire application. This form is required for every application for Federal assistance. No Application can be Accepted Without a Completed, Signed Original SF-424. Directions to complete each item are included on the back of the form.

Standard Form 424A (SF-424A). All applications must include SF-424A, Budget Information for all years of project activity. Applicants should ensure that all appropriate columns and rows balance. Directions to complete this form are found on page 3 of SF-424A.

Detailed budget. Applicants must provide a detailed justification for all costs including the basis for computation of these costs. For example, the detailed budget would include the salaries of staff involved in the project and the portion of those salaries to be paid from the award; fringe benefits paid to each staff person; travel costs related to the project; equipment to be purchased with the award funds; and supplies required to complete the project.

Budget narrative. The budget narrative closely follows the content of the detailed budget. The narrative should relate the items budgeted to specific tasks and allowable cost categories and should provide a justification and explanation for the budgeted items including the criteria and data used to arrive at the estimates for each budget category. Please note applications that include noncompetitive contracts for the provision of specific services must contain a sole source justification for any procurement in excess of \$100,000.

The budget narrative should indicate amounts to be made available to agencies other than the grant recipient (for example, the agency with responsibility for CCH, the courts, local agencies.)

Applicants for grants must submit a budget narrative on separate sheets. The budget narrative should detail by budget category for Federal and non-Federal (in-kind and cash) share. The purpose of the budget narrative is to relate items budgeted to project activities and to provide justification and explanation for budget items, including criteria and data used to arrive at the estimates for each budget category. The following information is provided to assist the applicant in developing the budget narrative.

a. *Personnel category.* List each position by title (and name of employee if available), show annual salary rate

and percentage of time to be devoted to the project by the employee. Compensation paid for employees engaged in federally assisted activities must be consistent with that paid for similar work in other activities of the applicant.

b. *Fringe benefits category.* Indicate each type of benefit included and explain how the total cost allowable for employees assigned to the project is computed.

c. *Travel category.* Itemize travel expenses of project personnel by purpose (e.g., faculty to training site, field interviews, advisory group meetings, etc.) And show basis or computation (e.g., “Five trips for x purpose at \$80 average cost—\$50 transportation and two days per diem at \$15” or “Six people to 30-day meeting at \$70 transportation and \$45 subsistence.”) In training projects where travel and subsistence for trainees is included, this should be separately listed indicating the number of trainees and the unit costs involved.

(1) Identify the tentative location of all training sessions, meetings, and other travel.

(2) Applicants should consult such references as the Official Airline Guide and the Hotel and Motel Redbook in projecting travel costs to obtain competitive rates.

d. *Equipment.* List each type of equipment to be purchased or rented with unit or monthly costs.

e. *Supplies.* List items within this category by major type (office supplies, training materials, research forms, postage) and show basis for computation. Provide unit or monthly estimates.

f. *Contractual category.* State the selection basis for any contract or subcontract or prospective contract or subcontract (including construction services and equipment).

For individuals to be reimbursed for personal services on a fee basis, list by name or type of consultant or service, the proposed fee (by day, week, or hour) and the amounts of time to be devoted to such services.

For construction contracts and organization (including professional associations and education institutions performing professional services), indicate the type of service to be performed and the estimated contract cost data.

g. *Construction category.* Describe construction or renovation which will be accomplished using grant funds and the method used to calculate cost.

h. *Other category.* Include under “other” such items as rent, reproduction, telephone, and janitorial

or security services. List items by major type with basis of computation shown. (Provide square footage and cost per square foot for rent—provide local and long distance telephone charges separately.)

i. *Indirect charges category.* The Agency may accept an indirect cost rate previously approved for an applicant by a Federal agency. Applicants must enclose a copy of the approved rate agreement with the grant application.

j. *Program income.* If applicable, provide a detailed estimate of the amount of program income to be generated during the grant period and its proposed application (to reduce the cost of the project or to increase the scope of the project). Also, describe the source of program income, listing the rental rates to be obtained, sale prices of publications supported by grant funds, and registration fees charged for particular sessions. If scholarships (covering, for example, registration fees) are awarded by the organization to certain conference attendees, the application should identify the percentage of all attendees that are projected as "scholarship" cases and the precise criteria for their selection.

Program narrative. All applications must include a program narrative which fully describes the expected design and implementation of the proposed program. OJP Form 4000/3 (Rev. 1-93) provides additional detailed instructions for preparing the program narrative.

The narrative should include a time line of activities indicating, for each proposed activity, the projected duration of the activity, expected completion date, and any products expected.

The application should include a description of the roles and responsibilities of key organizational and/or functional components involved in project activities; and a list of key personnel responsible for managing and implementing the major elements of the program.

Assurances. OJP Form 4000/3 (Rev 1-93) must be included in the application submission. If submitting this form separate from the SF-424, the applicant must sign and date the form to certify compliance with the Federal statutes, regulations, and requirements as cited.

Certification Regarding Lobbying; Debarment, Suspension, and Other Responsibility Matters; and Drug-Free Workplace. Applicants should refer to the regulations cited in OJP Form, 4061/6 to determine the certification to which they are required to attest. A copy of OJP Form 4061/6 can be obtained from the BJS Application Coordinator.

Applicants should also review the instructions for certification included in the regulations before completing this form. Signature of this form provides for compliance with certification requirements under 28 CFR. Part 69, "New Restrictions on Lobbying," and 28 CFR Part 67, "Government-wide Debarment and Suspension (Nonprocurement) and Government-wide Requirements for Drug-Free Workplace (Grants)." The certifications shall be treated as a material representation of fact upon which reliance will be placed when the U.S. Department of Justice determines to award the covered transaction, grant, or cooperative agreement.

Financial and Administrative Requirements

Discretionary grants are governed by the provisions of OMB Circulars applicable to financial assistance. The circulars, with additional information and guidance, are contained in the "Financial and Administrative Guide for Grants," Office of Justice Programs, Guideline Manual, M7100, available from the Office of Justice Programs. This guideline manual, provided upon request, is intended to assist grantees in the administration of funds and includes information on allowable costs, methods of payment, Federal rights of access to records, audit requirements, accounting systems, and financial records.

Complete and accurate information is required relative to the application, expenditure of funds, and program performance. The consequences of failure to comply with program guidelines and requirements will be determined at the discretion of the Department.

Civil Rights Obligations

All applicants for Federal financial assistance must sign Certified Assurances that they are in compliance with the Federal laws and regulations which prohibit discrimination in any program or activity that receives such Federal funds. Section 809(c), Omnibus Crime Control & Safe Streets Act of 1968, provides that:

No person in any State shall on the ground of race, color, religion, national origin, or sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under, or denied employment in connection with any program or activity funded in whole or in part with funds made available under this title.

Section 504 of the Rehabilitation Act of 1973, and Title II of the Americans

With Disabilities Act prohibit discrimination on the basis of disability.

The applicant agency must discuss how it will ensure nondiscriminatory practices as they relate to:

(1) Delivery of services or benefits—to ensure that individuals will not be denied access to services or benefits under the program or activity on the basis of race, color, religion, national origin, gender, age, or disability;

(2) Employment practices—to ensure that its personnel in the program or activity are selected for employment without regard to race, color, religion, national origin, gender, age, or disability; and

(3) Program participation—to ensure members of any planning, steering or advisory board, which is an integral part of the program or activity, are not excluded from participation on the basis of race, color, religion, national origin, gender, age or disability; and to encourage the selection of such members who are reflective of the diversity in the community to be served.

Audit Requirement

In October 1984, Congress passed the Single Audit Act of 1984. On April 12, 1985, the Office of Management and Budget issued Circular A-128, "Audits of State and Local Governments" which establishes regulations to implement the Act. OMB Circular A-128, "Audits of State and Local Governments," outlines the requirements for organizational audits which apply to BJS grantees.

Disclosure of Federal Participation

Section 8136 of the Department of Defense Appropriations Act (Stevens Amendment), enacted in October 1988, requires that, "when issuing statements, press releases for proposals, bid solicitations, and other documents describing projects or programs funded in whole or in part with Federal money, all grantees receiving Federal funds, including but not limited to State and local governments, shall clearly state (1) the percentage of the total cost of the program or project which will be financed with Federal money, and (2) the dollar amount of Federal funds for the project or program."

Intergovernmental Review of Federal Programs

Federal Executive Order 12372, "Intergovernmental Review of Federal Programs," allows States to establish a process for reviewing Federal programs in the State, to choose which programs they wish to review, to conduct such reviews, and to make their views known to the funding Federal agency through a State "single point of contact."

If the State has established a "single point of contact," and if the State has selected this program to be included in its review process, the applicant must send a copy of its letter or application to the State "single point of contact" at the same time that it is submitted to BJS. The letter or application submitted to BJS must indicate that this has been done. The State must complete its review within 60 days. The review period will begin on the date that the letter or application is officially received by BJS. If BJS does not receive comments from the State's "single point of contact" by the end of the review period, this will be interpreted as a "no comment" response.

If the State has not established a "single point of contact," or if it has not selected the BJS statistics development or criminal history improvement programs in its review process, this must be stated in the letter or application.

Dated: July 22, 1997.

Jan M. Chaiken,

Director, Bureau of Justice Statistics.

[FR Doc. 97-19676 Filed 7-24-97; 8:45 am]

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DEPARTMENT OF LABOR

Office of the Secretary

Submission for OMB Review; Comment Request

July 22, 1997.

The Department of Labor (DOL) has submitted the following public information collection requests (ICRs) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104-13, 44 U.S.C. Chapter 35). A copy of each individual ICR, with applicable

supporting documentation, may be obtained by calling the Department of Labor, Departmental Clearance Officer, Theresa M. O'Malley ({202} 219-5096 ext. 143) or by E-Mail to OMalley-Theresa@dol.gov. Individuals who use a telecommunications device for the deaf (TTY/TDD) may call {202} 219-4720 between 1:00 p.m. and 4:00 p.m. Eastern time, Monday-Friday.

Comments should be sent to Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for BLS, DM, ESA, ETA, MSHA, OSHA, PWBA, or VETS, Office of Management and Budget, Room 10235, Washington, DC 20503 ({202} 395-7316), on or before August 25, 1997.

The OMB is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
 - Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
 - Enhance the quality, utility, and clarity of the information to be collected; and
 - Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.
- Agency:* Employment Standards Administration.
Title: Optional Use Payroll Form Under the Davis-Bacon Act.
OMB Number: 1215-0028 (extension).
Frequency: Biennially.

Affected Public: Business or other for-profit; State, Local or Tribal Government.

Number of Respondents: 50.

Estimated Time Per Respondent: 45 minutes.

Total Burden Hours: 38.

Total Annualized capital/startup costs: 0.

Total annual costs (operating/maintaining systems or purchasing services): 0.

Description: The Form WH-1 is a voluntary use form used by the Department of Labor to collect data and prepare an economic report for the industry committee which sets industry wage rates in American Samoa.

Agency: Mine Safety and Health Administration.

Title: Fire Protection—Escape and Evacuation Plan.

OMB Number: 1219-0051 (reinstatement).

Frequency: On occasion.

Affected Public: Business or other for-profit.

Number of Respondents: 401.

Estimated Time Per Respondent: New plans=5 hours; revised plans=2.5 hours.

Total Burden Hours: 1,930.

Total Annualized capital/startup costs: 0.

Total annual costs (operating/maintaining systems or purchasing services): 0.

Description: Requires coal mine operators to establish and keep current a specific escape and evacuation plan to be followed in the event of a fire. The plan is used to instruct employees in the proper method of existing work areas.

Agency: Employment and Training Administration.

Title: Program Monitoring Report and Job Service Complaint Form.

OMB Number: 1205-0039 (revision).

Form	Affected public	Respondents	Frequency	Average time per response
Complaint Log Recordkeeping	Local Offices	168	15 times	25 minutes.
ETA 8429	Local Offices	2,520	One-time	8 minutes.
Outreach Log Recordkeeping	Local Offices	150	130 times	12 minutes.
ETA 5148	State Government	52	Quarterly	1 hour, 10 minutes.

Total Burden Hours: 5,530.

Total Annualized capital/startup costs: 0.

Total annual costs (operating/maintaining systems or purchasing services): 0.

Description: The Job Service forms are necessary as part of Federal Regulations at 20 CFR Parts 651, 653 and 658

published as a result of NAACP vs. Brock. The forms allow the United States Employment Service (USES) to track regulatory compliance of services provided to Migrant Seasonal

Farmworkers by the State Employment Service Agencies (SESA).

Theresa M. O'Malley,

Departmental Clearance Officer.

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