



Bureau of Justice Statistics Technical Brief

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Reporting by Prosecutors' Offices to Repositories of Criminal History Records

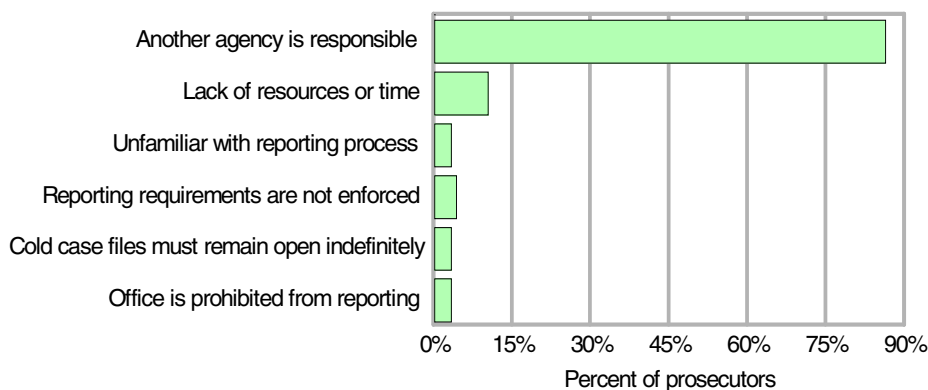
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States maintained criminal history records on over 64 million individuals in 2001, but some of those records had reduced usefulness because they were missing crucial information. Bureau of Justice Statistics (BJS) surveys find that in nearly every State, a proportion of criminal history records lack a final disposition, which indicates the outcome of an arrest.

In the process that creates a criminal history record, the arresting agency, the prosecutor, the court, and the correctional authority may provide the final disposition. For this report, BJS examined whether State court prosecutors ensure record completeness by regularly providing final disposition information (such as their declinations to prosecute) to State repositories.

In 2003 the American Prosecutors Research Institute (APRI) conducted a survey for BJS of chief prosecutors. The survey was mailed to a representative sample of 308 State prosecutors. Of these, 141 (46%) responded. The findings reported here are not statistically representative of State prosecutors nationwide.

Reasons that offices of chief prosecutors provide for not regularly reporting final case dispositions to State criminal history repositories, 2003



Prosecutors could provide more than one reason why their offices did not supply the State criminal record repository with final dispositions of their cases. The figure is based on responses from 73 offices.

BJS' statutory mandate includes the responsibility to provide for research and improvements in the completeness of criminal history record information and information systems. In response to this mandate, BJS commissioned APRI to accomplish two tasks:

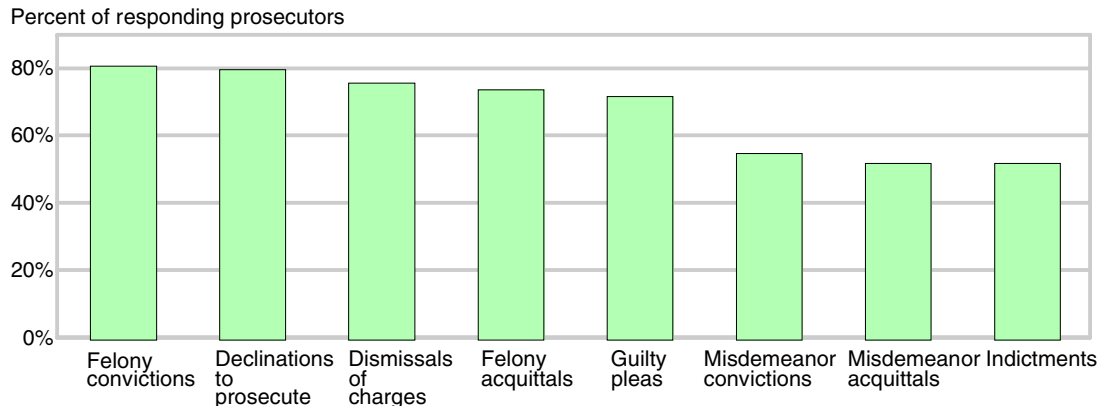
- Assess the degree to which State court prosecutors transmit final case dispositions to State repositories
- Identify reasons why prosecutors do not transmit final dispositions.

Half of prosecutors report disposition information

Forty-seven percent of the 141 responding State court prosecutors indicated that they regularly submit final disposition information to a Federal, State, or local agency maintaining criminal history records.

When prosecutors were asked to identify the reasons why they did not provide final disposition information, 86% stated that another agency in the jurisdiction was responsible for submitting the information.

Types of final case dispositions that offices of chief prosecutors provide to State criminal history repositories, 2003



Note: Based on responses from 58 offices.

Additional reasons explained why prosecutors did not report dispositions; however, none was dominant. Approximately 10% of prosecutors indicated that a lack of resources prevented them from providing disposition information to the repository. Other reasons included poor enforcement of disposition reporting requirements (4%), unfamiliarity with the disposition reporting process (3%), State or local authorities have directed the prosecutors not to submit disposition information (3%), and the requirement that "cold" case files remain open indefinitely (3%). Prosecutors were allowed to select more than one reason for not providing final dispositions to State repositories.

Dispositions reported to many agencies

Although State repositories are most frequently the recipients of final dispositions from prosecutors, they are not the only recipients. In 2003 nearly 3 in 4 prosecutors reported that they provide final case disposition information to the State's criminal history repository; nearly 2 in 4 prosecutors provide it to State or local police departments; 1 in 4 prosecutors provide it to local or county criminal history repositories; and 1 in 6 provide it to the FBI.

Prosecutors more likely to report felony cases than misdemeanors

The type of case disposition reported most frequently to the repository was a felony conviction (81% of respondents), followed by a declination to prosecute (80%), the dismissal of charges (76%), a felony acquittal (74%), and a guilty plea (72%). When prosecutors report final disposition information to repositories, half of them report misdemeanor convictions, misdemeanor acquittals, or indictments.

Approximately a quarter of prosecutors who report final dispositions provide information on parole or probation violations, arrests, arrest warrants, court determinations of mental status, commitments to a mental institution by a court, imposition of protection orders, or requirements for sex offender registration.

Declinations to prosecute take 20 days on average to reach repositories

Prosecutors were asked about the amount of time between when the office learns of a case declination and the submission of the declination information to the State repository. According to responding prosecutors, declinations took 20 days on average to be submitted to the repository; however, some prosecutors transmitted electronically in real time and others took a year to transmit.

The most significant factor affecting the timely transmission of declination information to the repository is the volume of work confronting State court prosecutors. More than 4 out of 5 prosecutors cited a heavy workload as the primary impediment to reporting declinations. Forty percent of prosecutors cited the lack of adequate human resources, and 20% of prosecutors identified the lack of technology as impediments. Prosecutors were allowed to select more than one factor for not providing declinations to State repositories.

Most prosecutors (62%) reported that their office did not audit the accuracy and completeness of case declination information sent to the repository. Eleven percent of prosecutors checked for accuracy and completeness on a regular basis, and 26% conducted audits as time and resources permitted.

Prosecutors reported that the transmission of declinations is generally handled by mailing or faxing paper records to the repository, rather than using electronic mail or the Internet. Just over 70% of the responding prosecutors relied on mail or fax to report declinations. E-mail or the Internet was used at about half that rate (by 38% of responding prosecutors). Other methods of transmission included metal tape (6%) and telephone (2%).

For those State court prosecutors who regularly reported their declinations to prosecute to criminal history repositories, 35% reported them on a daily basis, 18% reported weekly, 16% reported monthly, and 2% reported declinations annually. Nearly 30% of reporting prosecutors had no established time interval for reporting declinations and indicated that the information is provided as needed or as time permits.

Fewer than 1 in 5 prosecutors received formal training from the FBI or other law enforcement agencies regarding the submission of declination information to criminal history repositories. Most prosecutors (53%) received no training at all on this subject.

Other actions by prosecutors contribute to missing dispositions

APRI examined three events which may increase the likelihood of a criminal charge being recorded without a final disposition recorded with it: cases may be consolidated with other cases, pleas may cause certain charges to be dropped, and cases may be placed on hold until the prosecutor accumulates more compelling evidence.

Case consolidations largely unreported to repositories

Criminal records may feature criminal charges that have no dispositions attached because the charge was part of one case that was consolidated into another case. When prosecutors consolidate charges from several cases into a single case, nearly all prosecutors (92%) report this consolidation to the courts, but only 40% report it to the criminal history repository.

Almost two-thirds of plea negotiation results reported to repositories

Criminal records may contain charges that lack dispositions because the charge was eventually dropped as part of a plea negotiation between the defendant and the prosecutor. When plea negotiations result in charges being disposed of, 85% of prosecutors report that the charges were disposed of to the courts and 63% report it to the repository.

Less than half the cases closed as "cold" reported to repositories

Criminal records may contain an arrest that has no disposition because the case has become "cold" or dormant due to insufficient evidence, unavailability of witnesses, or other reasons. Three-fourths of the responding prosecutors have deferred the prosecution of a case while awaiting the availability of evidence or witnesses. Nearly half of prosecutors operate under procedures that may consider a "cold" case to be closed under certain circumstances. When it is decided that a cold case is officially closed, 28% of prosecutors report this information to the court and 44% report it to the repository.

Methodology

This brief summarizes the results of work performed under BJS Cooperative Agreement 2002-RB-CX-K001 by the American Prosecutors Research Institute (APRI). The findings and conclusions from this research do not necessarily reflect the views and policies of BJS or the Department of Justice.

APRI administered questionnaires in May 2003 to a nationally representative sample of 308 chief litigating prosecutors in State court systems. Data collection concluded in July 2003. APRI utilized a sampling frame devised by BJS for the 1996 National Survey of Prosecutors. A chief litigating prosecutor is an official, usually locally elected and typically with the title of district attorney or county attorney, who is in charge of a prosecutorial district made up of one or more counties, and who conducts or supervises the prosecution of felony cases in a State court system. Prosecutors in courts of limited jurisdiction, such as municipal prosecutors, were not included in the survey.

Sample

APRI received 141 surveys from chief prosecutors' offices for a response rate of 46%. The average population of the jurisdictions represented by the responding prosecutors was 782,344. The responding chief prosecutors' offices averaged 73 full time prosecutors, 4 part-time prosecutors, 18 full time investigators, 83 other full time staff, and 6 part-time staff. Chief prosecutors offices in the West contributed 23% of the completed surveys, the Midwest 24%, the South 29%, and the East 24%.