probation, the case will be dismissed. However, the Deputy Administrator agrees with Judge Bittner, who wrote, ''that provision of State law does not determine what is a ''conviction'' within the meaning of the Controlled Substances Act. This agency has previously held that a guilty plea is a conviction for purpose of these proceedings. Eric A. Baum, M.D., 53 Fed. Reg. 47272 (DEA 1988). I therefore find that (the) Respondent's conviction constitutes grounds for revoking his DEA registration pursuant to 21 U.S.C. 824(a)(2).''

Judge Bittner also found that the Respondent's continued registration was contrary to the public interest. In determining the public interest, Section 823(f) provides that the following factors be considered:

(1) The recommendation of the appropriate State licensing board or professional disciplinary authority.

(2) The applicant's experience in dispensing, or conducting research with respect to controlled substances.

(3) The applicant's conviction record under Federal or State laws relating to the manufacture, distribution, or dispensing of controlled substances.

(4) Compliance with applicable State, Federal, or local laws relating to controlled substances.

(5) Such other conduct which may threaten the public health or safety. These factors are to be considered in the disjunctive; the Deputy Administrator may rely on any one or a combination of factors and may give each factor the weight he deems appropriate in determining whether a registration should be revoked or an application for registration denied. See Henry J. Schwarz, Jr., M.D., 54 FR 16422 (1989).

In this case, the Deputy Administrator finds relevant factors one, four, and five in determining whether continuing the Respondent's registration would be inconsistent with the public interest. As to factor one, ''recommendation of the appropriate State licensing board,'' the record contains no direct recommendation from the Board to the DEA on this matter. However, it is significant that, after notification of the Respondent's entry of a guilty plea to possession of LSD in Minnesota, the Board suspended the Respondent's medical license for three months and placed it on probation for an additional four years.

As the factor four, the Respondent's ''(c)ompliance with applicable State, Federal, or local laws relating to controlled substances,'' and factor five, ''(s)uch other conduct which may threaten the public health or safety,'' the Deputy Administrator agrees with Judge Bittner's finding, given her credibility assessment of the Respondent and the Officer, that the Government has shown, by a preponderance of the evidence, that the Respondent consumed cocaine and searched for LSD in the presence of the officer on April 21, 1993. Although the Respondent argued that he would not engage in such conduct, given that he was providing random urine samples for drug screening, the Deputy Administrator finds his argument unpersuasive. The record shows that the first negative drug screening result was reported on November 6, 1993, and that the Board did not even issue its decision ordering random screening until July 11, 1994. Thus, there was no evidence of record showing that the Respondent was required to participate, or was voluntarily participating in, random drug testing on April 21, 1993.

Next, the Respondent testified that he was an unwilling participant in the CI's plan to distribute cocaine. However, the Deputy Administrator finds that the record supports an opposite conclusion. The transcripts of the Respondent's conversation with the CI and the Informant indicate the Respondent's actual desire to participate in the plan. The Respondent's reply to the CI's information concerning the 17 kilogram of cocaine transaction was ''I wish! * * * I need some money * * *'' Such a response showed his willingness to participate, if he had had the resources for the downpayment needed to obtain the controlled substance. Further, the Respondent's conversation with the Informant indicated that he did not participate in this proposed transaction because of a lack of means to distribute the controlled substance. The Deputy Administrator agrees with Judge Bittner's conclusion, that ''(t)hese statements are not those of someone who is uncertain as to why he is a party to a drug-related conversation.''

As to rehabilitation, the Deputy Administrator acknowledges the Respondent's evidence of his professional competency as an emergency room physician. Also, the Deputy Administrator notes that the Respondent argued that rehabilitative evidence exists, such as (1) a lack of positive urinalysis results, (2) the fact that he had never been in trouble before his illegal conduct in Minnesota, (3) the lack of substantiation of the allegations of drug or alcohol abuse, and (4) the Respondent's report of the CI's conduct to the local police. However, the Deputy Administrator also notes Judge Bittner's credibility finding, after observing the Respondent testify before her. Also, although the more recent drug testing evidence may show that the Respondent, while on probation and subject to random drug screening tests, has abstained from personal consumption of illegally obtained controlled substances, the Deputy Administrator is still concerned about the Respondent's willingness to participate in conversations concerning illegal drug transactions to others. Further, the Respondent showed no remorse concerning his prior documented misconduct. Rather, in his testimony before Judge Bittner, the Respondent continued to deny any intentional wrongdoing. In previous cases, when a Respondent failed to admit to the full extent of his involvement in documented misconduct involving controlled substances, the Deputy Administrator has then doubted such a Respondent's commitment to compliance with the Controlled Substances Act in future practice. See, e.g., Prince George Daniels, D.D.S., 60 FR 62,884 (1995). Given the totality of the circumstances in this case, the Deputy Administrator agrees with Judge Bittner's conclusion that he ''Respondent is not in a position to accept the responsibilities inherent in a DEA registration, and that his continued registration would be inconsistent with the public interest.''

The Respondent filed exceptions to Judge Bittner's opinion, taking exception with her finding concerning a felony ''conviction'' in Minnesota. The Deputy Administrator notes the Respondent's concern and made findings accordingly in this order. The remaining exceptions are of record and require no further comment.

Accordingly, the Deputy Administrator of the Drug Enforcement Administration, pursuant to the authority vested in him by 21 U.S.C. 823, and 28 C.F.R. 0.100(b) and 0.104, hereby orders that DEA Certificate of Registration BG1368516, previously issued to the Respondent, be, and it hereby is, revoked, and that any pending applications to renew the same are hereby denied. This order is effective June 24, 1996.

Dated: May 17, 1996.

Stephen H. Greene,

Deputy Administrator.

[FR Doc. 96–13051 Filed 5–23–96; 8:45 am]

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Bureau of Justice Statistics

[OJP No. 1080]

RIN 1121–ZA34

National Criminal History Improvement Program (''NCHIP'')

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

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 1996. The program implements the grant provisions of the Brady Handgun Violence Prevention Act (Brady Act), Pub. L. No. 103–159, 107 Stat. 1536 (1993), codified as amended at 18 U.S.C. 921 *et seq.*, the National Child Protection Act of 1993 (Child Protection Act), Pub. L. No. 103–209, 107 Stat. 2490 (1993), codified as amended at 42 U.S.C. 3759, 5101 note, 5119, 5119a, 5119b, 5119c, those provisions of the Omnibus Crime Control and Safe Streets Act of 1968 (Omnibus Act), Pub. L. No. 90–351, 82 Stat. 197 (1968), codified as amended at 42 U.S.C. 3711 *et seq.*, as amended, and the Violent Crime Control and Law Enforcement Act of 1994 (Violent Crime Control Act), Pub. L. No. 103–322, 108 Stat. 1796 (1994), codified as amended at 42 U.S.C. 13701 *et seq.* which pertain to the establishment, maintenance, or use of criminal history records and criminal record systems.

Under NCHIP, States were asked to submit three year plans in FY 1995. Every State received an award in 1995. Most States received partial funding last year. This program will provide additional funds in FY 1996 to assist States in continuing implementation of their multi-year programs and to address the Child Protection and National Stalker and Domestic Violence Reduction initiatives authorized under the new appropriation. Since the NCHIP program was designed as a multi-year effort, 1996 applications will be less comprehensive than applications in 1995. Applicants are encouraged to use portions of last year's application when appropriate, or to reference the application by topic and page number.

This program announcement describes procedures for awards which will be made under the NCHIP program with FY 1996 funds. Awards may be for up to 12 months. States will have the flexibility to begin activities under the award as early as September 1, 1996 and as late as the summer of 1997. Activities must be completed by June 1, 1998.

Updated 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.

DATES: Eligible states must submit applications on or before July 29, 1996.

ADDRESSES: Applications should be sent to Application Coordinator, the Bureau of Justice Statistics, 633 Indiana Avenue, N.W., 11th Floor, Washington, D.C. 20531.

FOR FURTHER INFORMATION CONTACT: Carol G. Kaplan, Chief, Criminal History Improvement Programs, (202) 307–0759. The BJS fax number is (202) 307–5846.

SUPPLEMENTARY INFORMATION:

The National Criminal History Improvement Program

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.

More specifically, NCHIP is designed to assist States:

- To meet timetables for criminal history record completeness and participation in the Federal Bureau of Investigations (FBI) Interstate Identification Index (III) established for each State by the Attorney General;
- To improve the level of criminal history record automation, accuracy, completeness, and flagging;
- To expand and enhance participation in the FBI's III and the National Instant Criminal Background Check System (NICS);
- 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 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, BJA, 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, 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; or

(8) Is subject to a court order restraining them from harassing, stalking, or threatening an intimate partner or child.

The latter category was added as part of the Violent Crime Control Act.

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. 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 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. 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 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) Pub. L. No. 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 Stalker Reduction provision 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 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 Child Protection or Stalker Reduction activities in 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 Stalker Reduction. In light of the overlap between Brady, Child Protection, and Stalker Reduction goals, these appropriations are combined under NCHIP.

Program Strategy

The 1995 NCHIP program covered criminal history records improvements. The 1996 program includes criminal history records improvements and expands to incorporate serious misdemeanors against children, the elderly, and the disabled, and improving access to domestic violence protection orders.

The 1996 NCHIP program also permits funds to be used to assist States in providing rapid, inexpensive, reliable background checks on individuals who wish to work with sensitive populations. This will include assisting States in identifying people who commit felony and serious misdemeanor offenses against children, the elderly, and/or the disabled. It also includes supporting background checks, and improving access to domestic violence protection orders.

Consistent with section 40602, the Stalker Reduction program, BJS is allowing funds to be used to help State and local governments improve the process for classifying and entering data regarding stalking and domestic violence into local, State, and national crime information databases.

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 State with funds from the 1996 appropriation. States other than ''priority States'' are eligible to receive funds for criminal records improvement, Child Protection, and Stalker Reduction activities. Priority States, which received three-year awards in FY 1995 for criminal records improvements, should apply for Child Protection and Stalker Reduction activities only.

States may submit an application even though funds remain unexpended under the 1995 award. Applications must contain a start date and end date which fall between September 1, 1996 and June 1, 1998. FY 1996 projects may overlap with FY 1995 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:

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), and Criminal History Record Improvements (CHRI) programs, and the BJA Byrne 5% set-aside or with State funds over the past year. The discussion should specify the amount of funds received under the BJS and Byrne programs and the funds remaining at the time of application. The section should also briefly describe accomplishments with these funds and the relationship to proposed FY 1996 NCHIP activities.

Part II. Identification of Needs

This part should discuss any recent evaluative efforts undertaken to identify the key areas of weakness in the State's criminal record system. Applications should include a short discussion of the State's ability to identify ineligible firearm purchasers, persons ineligible to hold positions involving children, the elderly, or the disabled, and data on protection orders and people wanted, arrested, or convicted of stalking and/or domestic violence. Among other things, this section may include areas that were either eligible for funds last year, but did not receive funding, or that were not eligible for funds because of the wording of the FY 1995 appropriation. Proposals described in your 1995 NCHIP application may be used or cited.

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 proceeding, how these activities relate to efforts funded under the 1995 award, and the results that will be achieved from 1996 funding.

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 furtherance of the Child Protection Act and the Stalker Reduction program, up to $6.5 million of the funds appropriated in FY 1996 for Brady, Child Protection, and Stalker Reduction may go towards the following Child Protection and Stalker Reduction activities:

- Capturing domestic violence and/or stalking protection orders;
- Flagging of child abuse records and 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 to volunteers for 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.

Section 4(b) of the Child Protection Act requires preference to be given to States that have in computerized criminal history files the lowest percentages of charges and dispositions of identifiable child abuse cases as of December 20, 1993. In accordance with this section of the Child Protection Act, the five ''priority States'' with the lowest percentages of charges and dispositions in their computerized criminal history files will be awarded a total of $1 million to be used for the Child Protection and Stalker Reduction activities listed above.

Section 40602(b) of the Violent Crime Control Act states that in order to be eligible to receive a grant under the Stalker Reduction program, 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 Stalker Reduction portion of NCHIP with the Violence Against Women Office (VAWO) at the Department of Justice.

Because funds are limited for FY 1996, not every State which requests funds for Child Protection and/or Stalker Reduction activities may receive funds for these purposes.

In light of the importance of complete and nationally accessible criminal records for the NICS instant check, Child Protection background checks, and to protect society against stalkers and domestic violence offenders, BJS, in reviewing applications requesting funds for Child Protection and Stalker Reduction tasks, will consider the extent to which the State has progressed in developing its State criminal records system and taken steps to achieve participation in the national system.

In order to permit assessment of State progress in meeting grant goals, Part III of all applications should set forth measurable benchmarks or goals for each proposed activity.

Part IV. Coordination Between NCHIP and the Byrne 5% Set-Aside 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.

Award Period

The application may be for up to 12 months. States will have the flexibility to begin activities under the award as early as September 1, 1996 and as late as the summer of 1997. Activities must be completed by June 1, 1998. 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 July 29, 1996, to be eligible for FY 1996 funding.

States that submitted applications with multiple year budgets for FY 1995 NCHIP funds and received funding for the first year (extended to two years on February 8, 1996), may re-submit the parts of their proposals which did not receive funds in 1995.

Allocation of Funds

All fifty States, including the District of Columbia, Puerto Rico, American Samoa, and Guam, received NCHIP FY 1995 awards. Certain III States received ASAP FY 1995 awards to assist in the identification of persons other than felons who are prohibited from purchasing firearms. Funds may be available in future years to implement those activities.

Awards under this program announcement may be made from the Brady, Child Protection, and Stalker Reduction appropriations, and from residual FY 1995 funds. The 1996 appropriation is 26.5 percent of the FY 1995 amount. Up to $6.5 million will go for Child Protection and Stalker Reduction activities.

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 proposed activities will enable the State 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 NCHIP program, including whether the State received funds as a priority State;

(6) Prior activity of the State with funds under the NCHIP, ASAP, Byrne, and CHRI programs;

(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) Documentation of a program or intention to establish a system to enter protection orders, and warrants, arrests, and convictions of people violating protection orders intended to protect victims from stalking or domestic violence (for States applying for Stalker Reduction activities);

(12) Nature of the proposed expenditures;

(13) The extent to which the plan reflects constructive interface between relevant components of the State organization and/or multi-state systems; and

(14) 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.

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, limited funds may be used to capture data on serious misdemeanors, and to ensure that data on persons wanted, arrested, and convicted of stalking and/or domestic abuse are included in the database. Use of funds for capture of data on misdemeanors and persons convicted of stalking will only be approved where the state has, or is actively undertaking efforts to upgrade, the basic elements of the criminal history record system.

(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.

The Bureau of Justice Statistics is conducting parallel 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.

Appendix A—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 C.F.R. 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.

Jan M. Chaiken,

Director, Bureau of Justice Statistics.

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DEPARTMENT OF LABOR

Employment and Training Administration

Notice of Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance and NAFTA Transitional Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974, as amended, the Department of Labor herein presents summaries of determinations regarding eligibility to apply for trade adjustment assistance for workers (TA–W) issued during the period of May, 1996.

In order for an affirmative determination to be made and a certification of eligibility to apply for worker adjustment assistance to be issued, each of the group eligibility requirements of Section 222 of the Act must be met.

(1) that a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated,

(2) that sales or production, or both, of the firm or subdivision have decreased absolutely, and

(3) that increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Negative Determinations for Worker Adjustment Assistance

In each of the following cases the investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA–W–31, 984; U.S. Can Co., Saddlebrook, NJ

TA–W–32, 026; Cassemco, Inc. Cookeville, TN

TA–W–32, 022; Campbell & Dann Mfg Co., Inc., Tullahoma, TM

TA–W–32, 125; AT&T Corp., NCR Corp., Viroqua, WI